

01                               STATEMENT UNDER OATH  
02   OF  
03                               ELBERT JAMES CLAY  
04  
05  
06  
07       Taken pursuant to Notice by Autumn D.  
08       Furby-Pritt, a Court Reporter and  
09       Notary Public in and for the State of  
10       West Virginia, at the Department of  
11       Environmental Protection, 1101 George  
12       Kostas Drive, Logan, West Virginia on  
13       Monday, March 27, 2006, at 11:12 a.m.

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

02  
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04 Assistant Inspector at Large  
05 West Virginia Office of Miners'  
06 Health, Safety & Training  
07 142 Industrial Drive  
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09  
10 ANTHONY BURKE  
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21 Health, Safety & Training  
22 1615 Washington Street, East  
23 Charleston, WV 25311-2126  
24  
25

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01 A P P E A R A N C E S (continued)  
02  
03 ALSO PRESENT:  
04 ARLIE A. WEBB

05 RONALD W. STAHLHUT  
06 DENNIS A. BEITER  
07 DERRICK TJERNLUND, P.E.  
08 CHARLES W. POGUE  
09 BETH SPENCE

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01 I N D E X

02

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

02           -----

03           MR. BURKE:

04           My name is Anthony  
05           Burke and I represent the Mine  
06           Safety & Health  
07           Administration, and we're an  
08           agency of the United States  
09           Department of Labor. And I'm  
10           a member of MSHA's accident  
11           investigation team, and we're

12 charged with investigating the  
13 accident that occurred at the  
14 Aracoma Coal Company, Inc.  
15 Aracoma Alma Mine Number One  
16 back on January the 19th,  
17 2006. This is a joint  
18 investigation that MSHA is  
19 conducting with the State of  
20 West Virginia. And I'll be  
21 asking the questions today for  
22 MSHA.

23 With me here today are  
24 other members of MSHA's team  
25 and the State's team. MSHA's

7

01 team includes various  
02 specialists and members of the  
03 Solicitor's office. And at  
04 this time, I would like to ask  
05 each of our team members to  
06 identify themselves for the  
07 record. And again, I am Tony  
08 Burke from Whitesburg,  
09 Kentucky.

10 MR. BEITER:

11 Denny Beiter from  
12 Triadelphia, West Virginia.

13 MR. WEBB:

14 Anthony Webb from

15 Pikeville, Kentucky.

16 MR. POGUE:

17 Charlie Pogue, MSHA,  
18 from Hunker, Pennsylvania.

19 MR. STAHLHUT:

20 Ron Stahlhut, MSHA,  
21 Vincennes, Indiana.

22 MR. TJERNLUND:

23 Derrick Tjernlund, MSHA  
24 tech support, Triadelphia.

25 MR. BURKE:

8

01 All right. Thank you.

02 Here with me today  
03 representing the State of West  
04 Virginia is Mr. Bill Tucker.  
05 And Mr. Tucker will be asking  
06 the questions for the State.  
07 And at this time, I'd like to  
08 ask Bill to introduce the  
09 State's team here today. And  
10 he's got a brief statement for  
11 you, too.

12 MR. TUCKER:

13 Thanks for coming in  
14 today.

15 MR. CLAY:

16 Uh-huh (yes).

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

9

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

09 Again, my name is Bill  
10 Tucker and I work for Miners'  
11 Health, Safety & Training out  
12 of the Oak Hill office.

13 MR. PHILLIPS:  
14 My name is C.A.  
15 Phillips. I'm the Deputy  
16 Director with the Office of  
17 Miners' Health, Safety &  
18 Training in Charleston, West  
19 Virginia. Thank you.

20 MR. BURKE:

21 Thank you all. This  
22 investigation is being  
23 conducted by MSHA and the  
24 State of West Virginia in an  
25 effort to gather information

10

01 to determine the cause of the  
02 accident and to help prevent  
03 this from happening somewhere  
04 in the future.

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

22 also be used in other  
23 enforcement proceedings.

24 I would like to thank  
25 you in advance for your

11

01 appearance here today. We  
02 appreciate your assistance in  
03 this investigation. The  
04 willingness of miners and mine  
05 operators to work with us is  
06 critical to our success in  
07 making the nation's mines  
08 safer.

09 This interview with Mr.  
10 Elbert Clay is being conducted  
11 under Section 103(a) of the  
12 Federal Mine Safety & Health  
13 Act of 1977 as a part of an  
14 investigation by the Mine  
15 Safety & Health Administration  
16 into the conditions, events  
17 and circumstances that  
18 surround the fatalities at the  
19 Aracoma Alma Number One Mine,  
20 located at Route 17 North,  
21 Bandmill Hollow Road,  
22 Stollings, West Virginia  
23 25646.

24 This interview is being

25 conducted at the State of West

12

01 Virginia Department of  
02 Environmental Protection,  
03 Division of Mining and  
04 Reclamation, located at 1101  
05 George Kostas Drive here in  
06 Logan, West Virginia. And the  
07 ZIP Code's 25601. And today  
08 is March the 27th, 2006.

09 And can I call you just  
10 Elbert?

11 MR. CLAY:

12 Yeah. You can call  
13 me ---.

14 MR. BURKE:

15 Elbert, we're going to  
16 start the interview by asking  
17 you a series of questions.  
18 And you can feel free at any  
19 time to clarify any statements  
20 that you make in response to  
21 the questions. And after  
22 we've finished asking these  
23 questions ---. If you don't  
24 understand something, just  
25 kindly slow us down and tell

13

01 us, you know, and we'll kindly  
02 ask you the question in a  
03 manner where you can easily  
04 understand it.

05       You're permitted to  
06 have a representative with you  
07 during this interview. And  
08 you may consult with your  
09 representative at any time.  
10 You may designate any person  
11 of your choosing to be your  
12 representative. Following the  
13 questions by MSHA and the  
14 State, this representative  
15 will be given the opportunity  
16 to ask questions for the  
17 purposes of clarification on  
18 areas that we've already  
19 discussed.

20       You know, your  
21 statement is completely  
22 voluntary. You may refuse to  
23 answer any question and end  
24 this interview at any time.  
25 If you do not understand a

14

01 question, just let me know.  
02 Like I said, I'll rephrase it  
03 and Bill will be the same ---

04 he'll do the same for you.  
05 Anything that we can do to  
06 assist you to gather the  
07 knowledge that you may have to  
08 help us. We really appreciate  
09 it.

10       You may request the  
11 opportunity to make a  
12 confidential statement, which  
13 we will withhold from the  
14 public to the extent allowed  
15 by law. Should you desire to  
16 give a confidential statement,  
17 you should advise me before I  
18 begin your interview so that I  
19 can reschedule your interview  
20 in order to properly consider  
21 your request. Would you like  
22 to have a confidential  
23 interview?

24       MR. CLAY:  
25       No, I'm fine.

15

01       MR. BURKE:  
02       Okay. A court reporter  
03 will record your interview and  
04 later produce a written  
05 transcript of this interview.

06 I ask that you state all your  
07 answers verbally, because she  
08 can't understand shaking your  
09 head no or nodding your head  
10 yes. So just say audibly in a  
11 good, loud voice so the folks  
12 in the back can hear you, too.

13 Neither this transcript  
14 of the interview nor the  
15 content of this interview will  
16 be released to the public or  
17 to the media until MSHA's  
18 final accident investigation  
19 report is issued or until  
20 required by a court order or  
21 until a public hearing takes  
22 place. If any part of your  
23 statement is based not on your  
24 own firsthand knowledge, but  
25 on information that you've

16

01 learned from someone else,  
02 please let us know and tell us  
03 that information as well.  
04 Answer each question as fully  
05 as you can, including any  
06 information that you learned  
07 from someone else. We may not  
08 ask the right questions to

09 obtain what you know about the  
10 accident. So if you've got  
11 any comments at the end, we'll  
12 give you an opportunity to  
13 speak, and you can let us know  
14 if there's anything that maybe  
15 we haven't asked that you'd  
16 like to add to it.

17 Do you have any  
18 questions at all about the how  
19 we're going to conduct the  
20 interview today?

21 MR. CLAY:

22 No, sir.

23 MR. BURKE:

24 All right. I'd like to  
25 ask for our clerk to

17

01 administer the oath, please.

02 -----

03 ELBERT JAMES CLAY, HAVING FIRST BEEN

04 DULY SWORN, TESTIFIED AS FOLLOWS:

05 -----

06 BY MR. BURKE:

07 Q. All right. Please state your  
08 full name, your mailing address and  
09 your phone number and spell your last  
10 name for the record.

11 A. [REDACTED]

17 Q. Okay. Are you appearing here  
18 today at this interview voluntarily?

19 A. Yes, sir.

20 Q. Okay. Has anyone made any  
21 promises to you for giving this  
22 statement or offered you any rewards  
23 in exchange for making this  
24 statement?

25 A. No, sir.

18

01 Q. Okay. Has anyone threatened  
02 you or warned you not to provide this  
03 statement?

04 A. No, sir.

05 Q. You do understand that you may  
06 refuse to answer any question or  
07 terminate this interview at any time?

08 A. Yes, sir.

09 Q. Okay. Do you have a  
10 representative with you today?

11 A. No, sir.

12 Q. Okay. To begin our questions,  
13 Elbert, were you ever interviewed by

14 the company immediately following the  
15 accident on January the 19th?

16 A. No.

17 Q. Did you ever attend the  
18 meeting that was conducted at a local  
19 grade school?

20 A. Yes.

21 Q. Could you tell us maybe what  
22 was discussed at that particular  
23 meeting?

24 A. They just described, you know,  
25 where the fire was at. And what they

19

01 was trying to do to get it under  
02 control. And I believe --- at the  
03 time, I believe --- it's been a while  
04 back. But I believe they said it was  
05 out at the time. And where they  
06 found Elvis' and Don's bodies at.  
07 And that we would be working, you  
08 know, trying to get everything ready  
09 to go back in according to what the  
10 inspectors would let us do.

11 Q. Okay.

12 A. That was basically all that  
13 was said.

14 Q. Okay. Were there any  
15 representatives from MSHA or the

16 State of West Virginia there at that  
17 meeting, inspectors that you could  
18 remember?

19 A. I don't know.

20 Q. Okay.

21 A. I wouldn't know if I'd seen  
22 them.

23 Q. Okay.

24 A. I don't know.

25 Q. Well, getting into a little

20

01 bit about your work history, how long  
02 have you worked there at the Alma  
03 Number One Mine?

04 A. Roughly a year and a half.

05 Q. A year and a half. And you're  
06 employed there at this time  
07 currently?

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

09 Q. What's your current job title  
10 there?

11 A. Headgate on the longwall.

12 Q. Okay. Describe a little bit  
13 about what a headgate man does. And  
14 for those that may not understand all  
15 these mining terms, they may want to  
16 read this.

17 A. Well, when the --- I take out  
18 belt structure. When the longwall

19 pushes down, I take it out. I start  
20 the line.

21 Q. Uh-huh (yes).

22 A. I start the pumps. Call out  
23 the production report every two  
24 hours.

25 Q. Uh-huh (yes).

21

01 A. Maybe do a little bit of outby  
02 work if a crib needs to be built or  
03 something. I'll go do that. Or help  
04 the utility man carry some bits down.  
05 I just basically just sit there and  
06 watch the coal come down the belt  
07 until it's time to take out the  
08 structure, drop down the monorail.

09 Q. Uh-huh (yes). Do you like  
10 that type of work?

11 A. Yes, sir.

12 Q. Are you a contractor or are  
13 you employed by Alma?

14 A. I'm employed with the company.

15 Q. Okay. How many total years of  
16 mining experience do you have  
17 altogether?

18 A. A year and a half.

19 Q. So all of your mining career  
20 has been right there at the ---

21 A. Yes.

22 Q. --- Alma Number One Mine? Did  
23 you work on the 19th of January?

24 A. No, sir.

25 Q. When was the shift before the

22

01 fire that you actually worked?

02 A. The 18th.

03 Q. Okay. And was that on the  
04 dayshift or the evening shift?

05 A. I believe it was on the  
06 evening shift.

07 Q. Okay. Briefly describe for me  
08 from the time you got there on the  
09 18th about how you'd go through your  
10 normal day, your normal routine.

11 A. I'd just go to my locker. Is  
12 that where you want me to start?

13 Q. Yep. That'd be good.

14 A. I just go to my locker and I'd  
15 get my boots on and, you know, my  
16 belt and hat and everything and go  
17 out. And when it comes time, we go  
18 down the elevator, go down to the box  
19 cut. We'd get our lights, get a jug  
20 of water, gloves if we need it,  
21 safety glasses if we need it. Then  
22 we'd just get on the mantrip. We'd  
23 go on up to the section. And then

24 we'd just start there. I walked over  
25 to the headgate to relieve the man

23

01 that was there before me. I'd just  
02 pick up where they left off.

03 Q. Okay. Looking at that  
04 particular job that you do, they  
05 continually produce coal, so you  
06 basically hot seat changeout?

07 A. Yes, sir.

08 Q. They're still running as you  
09 go underground?

10 A. Yes, sir.

11 Q. On the 18th, do you remember  
12 any problems of any type that they  
13 may have been having with the belts,  
14 to your knowledge, on the evening  
15 shift?

16 A. No, sir. I believe we ran  
17 decent that day, during that evening.

18 Q. Pretty decent?

19 A. If my memory's right. It's  
20 been a while back.

21 Q. Who's your boss there on the  
22 shift?

23 A. Anthony Gibson was when we was  
24 on the 18th.

25 Q. Okay. Anthony Gibson. Are

01 you one of those guys that swing back

02 and forth ---

03 A. Yes.

04 Q. --- to the dayshift and

05 evening shift?

06 A. Yes, sir.

07 Q. How does that work, exactly?

08 A. Every four days. We work four

09 --- we did work a four and two

10 schedule.

11 Q. Uh-huh (yes).

12 A. You'd work either dayshift for

13 four days, take two days off, then

14 you'd come back on evening shift.

15 And vice versa when you'd come off of

16 the evening shift.

17 Q. Okay. As far as I understood

18 you to say earlier that as the

19 shields push and as you retreat

20 backwards on the longwall face,

21 you're in charge of taking out

22 structure and ---?

23 A. Yes, sir.

24 Q. Have you ever noticed the belt

25 conveyer, any rubbing damage or

01 anything like that to the belt

02 itself, the rubber belt material? On

03 the 18th, would you observe anything  
04 like that?

05 A. Well, every now and then, you  
06 get a rock in your tailpiece and you  
07 just have to stop it and get it out.  
08 And that's all I noticed, was just  
09 that normal wear and tear.

10 Q. Uh-huh (yes). And I know the  
11 people can't see this. But looking  
12 at that belt during our  
13 investigation, a piece of rubber belt  
14 could be in the cradles ---

15 A. Uh-huh (yes).

16 Q. --- and it kind of gives it  
17 the V shape, that effect right there.  
18 The outer edges of the belt, have you  
19 ever had an opportunity to look at  
20 those in the last few days?

21 A. No, sir.

22 Q. And taking out structure, how  
23 far down do you go down the belt  
24 conveyor? Do you pretty well stay  
25 right there in that area?

26

01 A. Yes. I usually try to walk  
02 --- walk at least a break outby the  
03 gate box just to make sure  
04 everything's all right and if there's

05 anything I need to tell the foremen,  
06 you know, to come and check. I  
07 usually try to go a break outby at  
08 least once a shift. But I pretty  
09 generally stay right there within  
10 that area.

11 Q. Right. Within that one area.

12 Have you ever noticed what time they  
13 were mining coal, any excessive or  
14 high methane readings on the methane  
15 monitor during your shift?

16 A. Just whatever, you know, we  
17 have malfunctions.

18 Q. Uh-huh (yes).

19 A. You know, and our electricians  
20 will go fix it. But then the boss,  
21 well, I'd holler at the boss, say,  
22 we've got X amount of numbers showing  
23 on the screen, you know, go check it.  
24 They'd go check it with this spotter  
25 and everything was fine. The

27

01 electrician would check it and it  
02 either had water in it or a cut  
03 cable. And they'd just fix it and  
04 clear the problem up.

05 Q. Okay. Describe a little bit  
06 about that. I mean, what type of  
07 numbers were you looking at on the

08 methane monitor readout?

09 A. Well, the methane monitors  
10 that we have on the gate box now,  
11 they have three lights on them, a  
12 high, low, and a malfunction light.

13 Q. Uh-huh (yes).

14 A. And when the malfunction light  
15 would go off, say for example, it  
16 would read, say, 5.1, you know.

17 Q. Uh-huh (yes).

18 A. Well, everything cuts off, you  
19 know. Then I'd holler at the boss on  
20 the face phones, tell him to check  
21 everything. He'd go and he'd check  
22 everything. He'd holler,  
23 everything's fine. Then the  
24 electricians would come. They would  
25 check and make sure there wasn't

28

01 nothing wrong with the box itself,  
02 and they'd go check the sniffers  
03 either at the midface or on the tail.

04 Q. Uh-huh (yes).

05 A. And say for example the tail  
06 would have water in it. They would  
07 fix it. Then that would reset  
08 everything.

09 Q. Okay. So at some point in

10 time, some of those sensors may get  
11 water?

12 A. Yes.

13 Q. That kindly causes a  
14 malfunction with that?

15 A. Yes, sir. Or like if they  
16 pull a shield in, it cuts a wire or  
17 something.

18 Q. Does that normally shut the  
19 longwall down when that methane  
20 monitor gets to that level?

21 A. Yes, sir. Yes, sir.

22 Q. And you've seen that happen?

23 A. Yes, sir.

24 Q. Often or ---?

25 A. No. Not often at all.

29

01 Q. Just rare occasion?

02 A. Just rare occasions.

03 Q. Tell me a little bit about the  
04 tailgate side of the longwall there.  
05 Have you ever had opportunity to go  
06 down and look at that?

07 A. I don't venture down that far.

08 Q. You don't go down that far?

09 A. No, sir.

10 Q. Was you aware of the fact that  
11 the tailgate was blocked?

12 A. Yes, sir.

13 Q. Okay. In a normal course of  
14 today's business, if you were working  
15 there today, if that tailgate's  
16 blocked, what procedures do they  
17 implement?

18 A. Well, the boss usually tells  
19 us --- you know, he goes over our  
20 escapeway with us, tells us, you  
21 know, that they have extra rescuers  
22 on the face, you know, just be  
23 careful and watch out, you know.

24 Q. Do they store extra SCSRs?

25 A. Yes, sir.

30

01 Q. Okay. Describe a little bit  
02 about that. I know --- I think some  
03 of the guys have said that you all  
04 had some training about a week  
05 before.

06 A. Yes, sir.

07 Q. What kind of training did they  
08 give you on putting on your SCSRs and  
09 things of that nature?

10 A. They put us in the restroom at  
11 the Holden Grade School with the  
12 lights out and we had --- I believe  
13 it was two minutes to put the  
14 training unit on and to come back

15 outside. But before we went in, the  
16 instructor went over how you put it  
17 on, how you open it up and things to  
18 that nature.

19 Q. Did you make the cut in the  
20 two minutes?

21 A. Yes, sir, I believe I did.

22 Q. Did you?

23 A. Yeah.

24 Q. Does that put a lot of  
25 pressure on you, do you think?

31

01 A. Yeah.

02 Q. In an emergency situation, do  
03 you think you could get it on without  
04 any problem?

05 A. Never been faced with it, but  
06 I'm pretty sure I could.

07 Q. What about the blockage on the  
08 tailgate? Do you have any  
09 information about when that might  
10 have occurred?

11 A. No, sir.

12 Q. Do you have any knowledge  
13 about any auxiliary roof supports  
14 that might have been set in that  
15 area, like timbers or cribs or  
16 anything of that nature?

17 A. You mean since the fire or

18 before?

19 Q. Before.

20 A. I believe that they was ---  
21 might have been going to set some  
22 timbers down there or build some  
23 cribs. But I'm not for sure because  
24 I wouldn't --- I didn't personally do  
25 it. So I don't know. I think that

32

01 was the plan to, you know, support it  
02 somehow to get past it.

03 Q. Well, if you was going to do  
04 that and you was running a scoop, how  
05 would we get our supplies down in  
06 that part of the country? How would  
07 we get materials to that part of the  
08 tailgate in order to do that work?

09 A. Well, I'm really not for sure.  
10 But I would say that they would go up  
11 around the mother drive and come  
12 around and come down on the tail side  
13 and go up to the top of the hill and  
14 then come back down on Nine tailgate.

15 Q. Would you have any idea why a  
16 mine telephone is located at Nine  
17 tailgate in Number One entry, and  
18 that's looking inby near the longwall  
19 face? Do you have any idea why a

20 phone would be down there?  
21 A. Where at, now?  
22 Q. Down at the Nine tailgate  
23 entry in the Number One entry of Nine  
24 tailgate.  
25 A. I'm not for sure.

33

01 Q. Do you recollect or have any  
02 knowledge of how the airflow was  
03 being directed before the 19th down  
04 in that country? Nine tailgate?  
05 A. No, sir, I don't.  
06 Q. Okay.  
07 A. Like I said, I never venture  
08 down there.  
09 Q. You never had an opportunity  
10 to go down in that far, then?  
11 A. No, sir.  
12 Q. Well, let me ask you a  
13 question. Being there at the  
14 headgate of the longwall, if you  
15 worked the 18th, did you have any  
16 knowledge of the state inspector that  
17 had issued a violation or an order on  
18 the longwall on the 18th because of  
19 the reversal of the airflow?  
20 A. No, sir, I didn't.  
21 Q. That night, you say you worked  
22 evening shift the 19th?

23 A. Yes, sir.  
24 Q. Could you remember what  
25 direction the air --- was it coming

34

01 inby or going outby?

02 A. Well, I remember standing  
03 there at the gate box and I could  
04 look and see the head drive.

05 Q. Uh-huh (yes).

06 A. And at the last open break,  
07 you could see the air blowing the  
08 dust down the line, like when the  
09 shear would cut out on the head, it  
10 would blow it ---

11 Q. Outby.

12 A. --- down the line.

13 Q. Outby.

14 A. And go the way it was supposed  
15 to go. I seen that.

16 Q. Okay. Now, you're saying it  
17 blew it outby. Would that be down  
18 the longwall ---

19 A. Yes.

20 Q. --- belt?

21 A. No. It'd be going down the  
22 face.

23 Q. Down the face?

24 A. Yeah.

25 Q. Okay. Have you ever

35

01 experienced down there, on your job  
02 position, where you're at the  
03 headgate, have you ever seen the air  
04 reversed for any reason?

05 A. No, sir. Not that I can  
06 remember.

07 Q. Would you ever have any  
08 knowledge of why that air could be  
09 reversed? Do you know anything about  
10 ventilation?

11 A. Very little. I would just be  
12 speculating that maybe a door would  
13 be open or maybe a check curtain  
14 would be down or something. Maybe  
15 somebody had went through it, you  
16 know, and forgot to shut a door or  
17 something. I'd say that would do it.  
18 But I'm not really for sure.

19 Q. Since the fire, Elbert, have  
20 you heard any speculation or talk as  
21 to the causes that may have occurred  
22 that created this situation that  
23 we're in today?

24 A. Yeah. I heard that --- and  
25 this is all just hearsay. I heard

36

01 that a bearing caught on fire at the

02 mother drive. I heard that the belt  
03 rubbed the bearing and caused it to  
04 overheat. But it was all, again,  
05 with the bearing. It was basically  
06 about the --- all about the bearing.  
07 And the storage unit. I wasn't there  
08 that night. I don't know. You know,  
09 just like I said, it's going by  
10 hearsay.

11 Q. Yeah. Yeah. When was the  
12 last time you was at the mother drive  
13 that you can remember?

14 A. It's been a while back. I  
15 helped them set the water props  
16 that's up there now. I helped them  
17 set those.

18 Q. Okay.

19 A. That was the last time I was  
20 up there.

21 Q. So that would have been right  
22 after the fire, I guess?

23 A. Yes.

24 Q. Okay.

25 A. Shortly thereafter.

37

01 Q. Okay. Going back to your  
02 earlier testimony about what you do  
03 removing structure, as the longwall

04 pushes back, do you ever have an  
05 opportunity to remove pieces of the  
06 water line?  
07 A. No, sir.  
08 Q. You don't do anything with the  
09 water line?  
10 A. No, sir. No, sir.  
11 Q. Off the top of your head, do  
12 you have any idea where they might  
13 have any firefighting equipment at  
14 the headgate?  
15 A. Over at the S-1 sled. I have  
16 hoses at the headgate. It's not fire  
17 hoses.  
18 Q. Uh-huh (yes).  
19 A. But it can be used as one.  
20 They're washdown hoses that stretches  
21 a long ways. I have those. But I'd  
22 say it would be over at the S-1 sled.  
23 I've seen them over there and around  
24 the tool cars.  
25 Q. Okay. And do you remember, I  
38  
01 know it's been a long time since  
02 you've been in there, exactly where  
03 the water line was at for the  
04 longwall for the firefighting  
05 purposes?  
06 A. Well, the water for the

07 longwall comes down by the headgate.  
08 It's not a hard line. We got a hard  
09 line that goes into the mule train.  
10 But the water itself where the  
11 longwall comes down, the hoses on the  
12 monorail goes down the line. It goes  
13 through the headgate and goes down by  
14 the side of the stage loader and all  
15 that and cuts down the line.

16 Q. Have you ever connected those  
17 wash down hoses to a fire tap or a  
18 valve that would be used for  
19 firefighting purposes?

20 A. No, sir.

21 Q. Okay. If a fire were to break  
22 out in your area, where would you go  
23 to connect to some source of water to  
24 where you can hook your fire hose and  
25 actually put water on a fire?

39

01 A. Well, like I said, I had my  
02 washdown hose.

03 Q. Uh-huh (yes).

04 A. And I have two --- I guess you  
05 would say receptacles ---

06 Q. Uh-huh (yes).

07 A. --- they're at the gate box.

08 They're staple-like, you just plug

09     them in, put the staple in it, turn  
10     it on and go. That's right there at  
11     the gate box. And outby the gate  
12     box, it's been a while since I've  
13     been up there. But I believe that  
14     there's a fire connection on outby  
15     the gate box. I'm pretty sure they  
16     are.

17     Q. Okay. And do you feel pretty  
18     comfortable as a miner in that area  
19     that if someone hollered fire, fire,  
20     we need some water, that you could  
21     quickly get some water hooked up ---

22     A. Yes, sir.

23     Q. --- and get it to those folks?

24     A. Yes, sir.

25     Q. Have you ever had a reason to

40

01     hook up the water to fight a fire up  
02     there ---

03     A. No, sir.

04     Q. --- on the longwall? Have you  
05     ever heard of any other fires that  
06     may have occurred at the mine prior  
07     to this one on the 19th?

08     A. Uh-uh (no). No, sir.

09     Q. Never heard of any? Okay.

10     Your foreman, I guess, you know, have  
11     you ever watched him actually perform

12 an examination, like take hour  
13 readings or anything in that area?  
14 A. Yes, sir.  
15 Q. Has he ever had an opportunity  
16 to say, well, Elbert, I don't have  
17 enough air on the longwall? Have you  
18 ever had a problem getting  
19 ventilation there?  
20 A. Not that I'm aware of. I  
21 mean, I don't understand, you know,  
22 all the different numbers and  
23 readings that they do.  
24 Q. Yeah.  
25 A. But not that I know of.

41

01 Q. Okay. When was the last time  
02 you was at the longwall mother drive  
03 before the fire? Could you remember?  
04 A. I never was.  
05 Q. Never was?  
06 A. Before the fire, no, sir.  
07 Q. Uh-huh (yes). Did you ever  
08 work any on Two Section, or you  
09 pretty well ---?  
10 A. No, sir. I've been on the  
11 longwall since day one.  
12 Q. Okay. Talking a little bit,  
13 since you're at the headgate, about

14 CO alarms. And I guess you're the  
15 one that you told me earlier that you  
16 have to call out about every two  
17 hours?

18 A. Yes, sir.

19 Q. What's the reasoning behind  
20 that?

21 A. The company wants a production  
22 report, how many passes you got, how  
23 much downtime you have, you know,  
24 stuff like that.

25 Q. And that has to be done every

42

01 two hours?

02 A. Every two hours.

03 Q. Well, you're standing in a  
04 good position right there at the  
05 longwall headgate. Have you ever had  
06 a knowledge of a CO alarm going off  
07 anywhere in the mine and they ordered  
08 an evacuation? Do you remember  
09 anything like that?

10 A. No, sir.

11 Q. Have you ever actually heard a  
12 CO alarm from your headgate position?

13 A. It's pretty loud up there. So  
14 no. They holler at me all the time.  
15 I can't hear much of nothing up  
16 there.

17 Q. Do you know that there was a  
18 CO alarm box located at the headgate  
19 area?

20 A. Yes, sir.

21 Q. Where was that at?

22 A. It was located on the offside  
23 of the gate box.

24 Q. On the offside ---

25 A. Uh-huh (yes).

43

01 Q. --- of the gatebox. Could you  
02 physically see that from your work  
03 location?

04 A. You walk around all the time,  
05 yeah, you could see it. You could  
06 see it pretty good.

07 Q. Did you ever see a strobe  
08 light or a flashing light or hear a  
09 warning from that box at any time?

10 A. No, sir.

11 Q. Never in ---let's go back a  
12 year and a half. In that year and a  
13 half that you worked there, have you  
14 ever heard an alarm that you could  
15 remember?

16 A. I believe so.

17 Q. With all of the noise, could  
18 you audibly hear that if everything

19 was clicking along the way it  
20 normally does on any given production  
21 shift? Could you hear that?  
22 A. If they was loading coal, yes.  
23 You could see it. It has lights on  
24 the side of it.  
25 Q. Okay. How long's it been

44

01 since you've looked at that CO alarm  
02 box?  
03 A. I'd say the 18th.  
04 Q. Okay. So you actually knew  
05 where it was located ---  
06 A. Yes, sir.  
07 Q. --- that you had to crawl down  
08 and look behind the cribs and look on  
09 the back side of that box to see it?  
10 A. There was no cribs there.  
11 Q. Well, now there are.  
12 A. Yeah. Now there are, yeah.  
13 Q. Okay.  
14 A. Yeah.  
15 Q. That was --- on the 18th, they  
16 didn't have those cribs set there?  
17 A. No. No.  
18 Q. Okay. You had pretty easy  
19 access in and out.  
20 A. Yeah.  
21 Q. Now, it's a little bit harder

22 to get in there and look at that  
23 thing. But you've actually had an  
24 opportunity to actually see that box  
25 and know where it was located?

45

01 A. Yes, sir.

02 Q. Okay. I've got all these  
03 questions coming up here. You did  
04 hear an alarm during the last year,  
05 you did say that, didn't you?

06 A. Yes, sir.

07 Q. Could you remember ---?

08 A. Not so much hearing. I seen  
09 the lights.

10 Q. Okay.

11 A. It was a false alarm. Because  
12 I called the dispatcher because all  
13 that goes outside to him. And I  
14 called the dispatcher. And I had my  
15 electricians come and check  
16 everything. Hollered for the  
17 foreman. They come and checked  
18 everything. Everything was fine.

19 Q. Uh-huh (yes).

20 A. I think there was a wire loose  
21 or something somewhere.

22 Q. Okay.

23 A. I'm not for sure where.

24 Q. Do you remember about when  
25 that might have been?

46

01 A. No, sir.

02 Q. Okay.

03 A. I just remember seeing the  
04 lights on the side of the box go off.

05 Q. Okay. Did you ever work on  
06 the previous longwall panel? That  
07 would have, I guess, been number  
08 Eight?

09 A. Yes, sir. I was headgate  
10 operator on panel Eight.

11 Q. Do you ever have the knowledge  
12 or have you heard anyone talk about a  
13 fire that may have occurred at that  
14 tailpiece there on that particular  
15 panel at any time?

16 A. You mean at the stage loader  
17 tailpiece or at the mother drive  
18 tailpiece?

19 Q. Either or. Any fire on that  
20 beltline on that Number Eight  
21 headgate panel.

22 A. Again, that's been a while  
23 back. No, I have to say no. Like I  
24 said, that's been a while back.

25 Q. Okay. Going back one more and

47

01 then we're going to go over some  
02 questions about your escapeways and  
03 go up to the map and do a little bit  
04 of looking around.

05 A. Okay.

06 Q. When you said you heard that  
07 alarm or saw the light strobing on  
08 that ---

09 A. Uh-huh (yes).

10 Q. --- was that on the current  
11 location where you're at now on panel  
12 Nine, headgate Nine?

13 A. I don't believe so.

14 Q. Okay.

15 A. I don't think so.

16 Q. Would that have been back on  
17 the previous panel ---

18 A. Yes, sir.

19 Q. --- on panel Eight?

20 A. I'm pretty sure that it was on  
21 panel Eight.

22 Q. I know a lot of times, there's  
23 nuisance alarms that would occur on  
24 the CO system. Diesel equipment, a  
25 lot of factors factor into that. A

48

01 malfunctioning sensor.

02 Q. Uh-huh (yes).

03 A. If they get an alarm like  
04 that, does a dispatcher call you  
05 folks and let you know what's going  
06 on?  
07 A. Yes, sir.  
08 Q. Briefly describe, since you're  
09 right there answering that telephone,  
10 what he would say if he called in the  
11 instance like that, if you had an  
12 alarm.  
13 A. Well, he would call and say,  
14 you're having a CO alarm going off at  
15 the headgate. And he's showing, you  
16 know, that they have the CO alarm  
17 going off somewhere. And I'll just  
18 say the headgate, because I'm right  
19 there. And I'd say, okay. You know,  
20 I'd check everything myself, you  
21 know, and holler at the boss and  
22 holler at the electricians to come  
23 and check everything, you know. I've  
24 never had a problem. You know, just  
25 loose wire --- it was a loose wire  
49  
01 somewhere. I think it was down the  
02 monorail or ---  
03 Q. Yeah.  
04 A. --- something was mixed up  
05 there.

06 Q. Do they give you a detection  
07 device to where you can do your own  
08 gas tests?

09 A. No, sir.

10 Q. You don't have anything like  
11 that?

12 A. No, sir.

13 Q. So if he called and said that  
14 you had a sensor going off right  
15 there at your work location, what  
16 would you do if you didn't have an  
17 instrument to test for CO?

18 A. The foreman has one. I holler  
19 at the foreman. Everything that  
20 comes through me, I holler at him and  
21 let him know. Then he comes and  
22 checks it. He has his spotters that  
23 he comes and uses.

24 Q. Any time in the days prior to  
25 the fire on the 19th, could you

50

01 remember any physical problems with  
02 the belt where they were having  
03 electrical problems? Breakers,  
04 difficulties keeping the belt  
05 running? Anything that you could  
06 think of off the top of your head?

07 A. No, sir. Just our usual, you

08 know, like the gob switch, you know,  
09 drop box gobbed out. You know, just  
10 usable stuff like that. But nothing  
11 electrical. Nothing major, you know.

12 Q. I'm picking on your brain now.  
13 I'm trying to ask you to remember  
14 way, way back there.

15 A. Yeah.

16 Q. But the day whenever the shift  
17 was that you were working, you saw  
18 the strobe light on that CO system,  
19 did the dispatcher call you and tell  
20 you you had an alarm going off?

21 A. Yes, sir.

22 Q. Okay. So that shows that the  
23 system was operating properly?

24 A. Yes, sir.

25 Q. Was it a flashing light or an

51

01 audible alarm, or ---?

02 A. It had lights going down  
03 beside of it, like little dots ---

04 Q. Uh-huh (yes).

05 A. --- in a line going up and  
06 down the side of it. As far as  
07 hearing it, I wear ear protection.

08 Q. Uh-huh (yes).

09 A. And I don't think I heard  
10 anything. I seen it.

11 Q. Well, seeing those lights  
12 flashing, did the dispatcher call you  
13 prior to seeing those lights flash  
14 during or after could you remember?

15 A. I don't know if he called me  
16 before I seen them or after I seen  
17 them. I don't know. But I do know  
18 that he did call me.

19 Q. Okay. Now, who was the  
20 dispatcher during that time? Do you  
21 remember?

22 A. No, sir. I don't remember.

23 Q. Could you physically look down  
24 that entry and see those red lights,  
25 or was it flashing up against the rib

52

01 and you could see it against the rib?

02 A. Well, where it's at, I usually  
03 stand by the gate box. And then you  
04 have an opening beside of the gatebox  
05 going over to your water valves. And  
06 it's right in that area there in the  
07 opening that you can see it. As far  
08 as being off down the entry  
09 somewhere, I've never seen it, you  
10 know, it never flashed while I was  
11 down that way. So I couldn't say yea  
12 or nay on either one of that. You

13 know what I'm saying? I couldn't say  
14 I seen it when I didn't.

15 Q. Okay. Are you comfortable  
16 that in the event of a mine emergency  
17 or an emergency situation that  
18 someone would notify you in a timely  
19 manner?

20 A. Yes, sir.

21 Q. Since you've worked there in  
22 what, about a year and a half, have  
23 you ever had to evacuate the mine or  
24 leave the section for any reason?

25 A. No, sir.

53

01 Q. What have you heard about the  
02 events of the 19th? Have you talked  
03 to anyone or heard anything at all  
04 that would maybe help the  
05 investigation as to how long it took  
06 those guys to get off the face,  
07 anything about the notification of  
08 that mine?

09 A. I haven't heard much about  
10 that. I do know that Two Section  
11 come off and then the guys on the  
12 longwall, they got together there at  
13 the cut-through, up above the mule  
14 train, and they come out there. They  
15 went and come out that way. As far

16 as how long it took them, I don't  
17 know. I haven't heard anybody say.

18 Q. When did you first learn that  
19 we had two persons missing on the  
20 19th?

21 A. It was on the news. When I  
22 seen it that night on the news.

23 Q. Did that surprise you?

24 A. Yes, sir. It scared me.

25 Q. Based on what you saw, and

54

01 that's probably back on Eight  
02 longwall panel with the CO box, would  
03 you be able to be alerted that your  
04 sensor is activated in the event of a  
05 real emergency?

06 A. You mean if it detected CO?

07 Q. If it detected CO ---

08 A. Yes, sir.

09 Q. --- and actually started  
10 flashing, could you really see that?

11 A. Yes, sir.

12 Q. What about right now today on  
13 Nine headgate panel?

14 A. Well, there's cribs in there.  
15 You might be able to see it with the  
16 crib on --- I believe that there's a  
17 crib directly right there at the unit

18     itself, I believe.

19     Q.   Okay.  I guess what we're

20     looking to see, if an emergency

21     happens, could you look and see that

22     unit if you were on that longwall

23     face today and see some type of a

24     visual alarm?

25     A.   Yes, sir.  With the lights.

55

01     Q.   You're confident that you

02     could see those lights?

03     A.   Yes, sir.  You would see them

04     flashing.  Either bouncing off

05     the --- if there was a crib there, or

06     where, you know, it's dark in the

07     mines you could see the --- something

08     would --- it would catch your

09     attention where it would flash.

10     Q.   If the power is energized, do

11     you have fluorescent lights in that

12     same vicinity ---

13     A.   Yes, sir.

14     Q.   --- around your power boxes

15     and everything?

16     A.   Yes, sir.  At the headgate, I

17     do.

18     Q.   Do you think you'd still be

19     able to see those red lights, even

20     though that unit is behind the flow

21 gauge panel? What do you all call  
22 that with all your pressure gauges  
23 and ---? You've got a name ---.  
24 A. I've always just called it the  
25 glotter station.

56

01 Q. The glut or something like  
02 that they called it?

03 A. Yeah.

04 Q. The box is actually located  
05 next to the ground behind that today.

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

07 Q. You know, that's where it  
08 would be. So you feel confident that  
09 even though all the area's lit up,  
10 that you'd still be able to either  
11 hear it or see those lights flashing?

12 A. Yes, sir.

13 Q. Okay. I'll talk to you a

14 little bit now about escapeways.

15 Could you remember right off the top  
16 of your head the last time you had a  
17 practice escapeway drill?

18 A. No, sir.

19 Q. In the year and a half that

20 you've worked there, and pretty much  
21 most of it, from what you're saying,  
22 has been right there on the longwall

23 headgate. Have you ever had a  
24 practice escape drill?  
25 A. Off of the longwall itself?

57

01 Q. Yes.

02 A. No, sir. I don't think so.

03 Q. You've never participated in  
04 one?

05 A. No, sir.

06 Q. Do you know what that drill  
07 would consist of?

08 A. Roughly, I would say the  
09 foreman would tell you how to get off  
10 the face where your primary escapeway  
11 was at, how to go, where your self  
12 rescuers was, where your firefighting  
13 equipment was at. And maybe even  
14 walk you and show you.

15 Q. Okay. We're going to come up  
16 to the map here. And I need an  
17 exhibit number to call them. And  
18 discuss a few things about  
19 escapeways.

20 A. Do I come up with you?

21 Q. Yeah. Come right on up here  
22 and we'll talk a little bit about  
23 them. All right. We'll go to this  
24 map. And it shows about where your  
25 longwall's located. We're going to

01 call this Exhibit A-Clay. Now, the  
02 longwall's actually located ---  
03 crosscut 17 headgate's about right  
04 there right now. This is a little  
05 bit behind. But just inby about 14,  
06 15 feet or so inby crosscut 17, this  
07 is pretty well where you would have  
08 been on the 18th; correct?

09 (Clay Exhibit A marked  
10 for identification.)

11 A. Yes, sir.

12 BY MR. BURKE:

13 Q. And looking at just  
14 immediately inby crosscut number 17  
15 on the Number Nine headgate panel.  
16 Are you familiar with your escapeways  
17 out of the mine here?

18 A. Yes, sir. I believe I could  
19 --- actually, looking at the map, I'm  
20 not, you know, very well with a map.

21 Q. Uh-huh (yes).

22 A. But if we was there, yes, I  
23 could take you and show you, you  
24 know, how to get out. But actually  
25 looking at the map is a little

01 confusing.

02 Q. Have you ever had an  
03 opportunity to where someone folded  
04 out an escapeway map and went over  
05 and said, E.J., this is our  
06 escapeways, and this is the route  
07 that we would take and depart the  
08 section in the event of an emergency?

09 A. Yes, sir.

10 Q. Who's done that?

11 A. We had a safety meeting  
12 outside where we wait to go  
13 downstairs.

14 Q. Uh-huh (yes).

15 A. And they have a map on the  
16 table.

17 Q. Uh-huh (yes).

18 A. And they went over every  
19 section. I don't remember who it was  
20 that was going over it. But I do  
21 know that they took all the longwall  
22 guys and they said, this is where  
23 you're at, this is the way you go  
24 out. And they took Two Section and  
25 Three Section.

60

01 Q. Was that before or after the  
02 fire?

03 A. Before and after, I believe.

04 Q. Okay. If I give you a blue

05 marker, based on that knowledge,  
06 could you, from crosscut number 17,  
07 right here where your headgate and  
08 your power centers are all located  
09 down that monorail, could you draw me  
10 a line of how to get back to fresh  
11 air off the longwall panel to the  
12 best of your ability?

13 A. Do you want me to mark on the  
14 paper?

15 Q. Yeah. Just take it and mark  
16 me a continuous blue line.

17 MR. BURKE:

18 He's going to  
19 demonstrate in blue ink.

20 A. Okay. I would come over to  
21 the last open break, which would  
22 actually be down in here from where  
23 I'm at, the last open break. Do you  
24 want me to start from the face?

25 BY MR. BURKE:

61

01 Q. Now, the longwall face is  
02 right here right now.

03 A. The face is right here?

04 Q. Yeah. Immediately inby  
05 crosscut 17.

06 A. Okay.

07 Q. So that's your face right  
08 there.  
09 A. So I'll go right here.  
10 Q. Okay.  
11 A. So that's the last open break.  
12 Q. Okay.  
13 A. I'd come over here ---  
14 Q. Uh-huh (yes).  
15 A. --- to the last open over into  
16 my main intake. I'd come all the way  
17 up. I can't draw very good.  
18 Q. That's fine.  
19 A. I'd come all the way up to  
20 where we come through the cut-through  
21 where we come through, and I would  
22 get in my main intake and I would  
23 come all the way over here into my  
24 main intake over into here, which is,  
25 I believe, Four track, old Four

62

01 track.  
02 Q. Uh-huh (yes).  
03 A. Then I'd come all the way  
04 down. That would be my main intake.  
05 Q. Okay.  
06 A. Do you want me to draw it all  
07 the way down?  
08 Q. All the way down. That'd be  
09 the way you go outside; correct?

10 A. Yes, sir.

11 MR. BURKE:

12 Okay. He's indicated  
13 on Exhibit A at the longwall  
14 headgate, the current location  
15 around crosscut 17, that he  
16 come through that last open  
17 crosscut all the way over to  
18 Number Four entry. He turned  
19 right and proceeded outby, in  
20 an outby direction down the  
21 headgate entry. And I think  
22 they call this Number Two  
23 cutthrough.

24 A. I believe so.

25 MR. BURKE:

63

01 And he's in the Number  
02 Three entry of the Number Two  
03 cut-through, and he goes  
04 through the primary escapeway  
05 intake air course over into  
06 the north mains, into the  
07 Number Four entry and proceeds  
08 in an outby direction toward  
09 the surface.

10 BY MR. BURKE:

11 Q. And that is your primary

12 escapeway?

13 A. Like I said, looking at it on  
14 the map ---.

15 Q. Uh-huh (yes).

16 A. I can show you, you know,  
17 actually being in the mine. But  
18 actually looking at the map ---.

19 Q. Have you ever --- you was  
20 telling me, E.J., that you've never  
21 had an opportunity to have a practice  
22 escapeway drill or anything like  
23 that?

24 A. No. My crew walked out from  
25 the Threeway. Walked our primary

64

01 escapeway out from the Threeway,  
02 because we always travel this way.  
03 You know, that's the way we travel  
04 into the section. But actually  
05 walking it? No. You know, laid or  
06 stay back or something, you know, and  
07 walk out that way. But from the  
08 Threeway outside, we walked that.

09 Q. Tell me your route of travel  
10 down there. Did you go all the way  
11 out the doors where the fan shaft is  
12 at?

13 A. Yes, sir.

14 Q. And that would --- from the

15 Threeway, that would be the area ---

16 A. That would be the main entry.

17 Q. --- where you could turn

18 right-handed to go down toward Rum

19 Creek?

20 A. Uh-huh (yes).

21 Q. That's what you're calling the

22 Threeway?

23 A. Yes, sir.

24 Q. So you walked that area of

25 intake on the 18th?

65

01 A. Yes, sir. Our last night on

02 the face, we walked that.

03 Q. Okay.

04 A. That was our primary escapeway

05 out.

06 Q. Was that your entire crew?

07 A. Yes, sir.

08 Q. Where on your section here

09 would you have a map, something

10 similar to this that would show your

11 escape routes and ---?

12 A. You got one at the S-1 sled.

13 Which, this is the face. This,

14 roughly guessing, the S-1 sled would

15 be a break outby the face. I believe

16 there's one at the mule train, which

17 is ---. And the mule train's a few  
18 breaks up from the face.

19 Q. Okay.

20 A. And at the gate box, I  
21 believe.

22 Q. A lot of folks may not know  
23 what it is. But define what a mule  
24 train is.

25 A. That's where all the water and

66

01 the power and the emulsion all comes  
02 in. Then it all comes back down to  
03 the headgate and goes down the line.  
04 It sends everything down the line,  
05 the water, the emulsion, all the  
06 power.

07 Q. Uh-huh (yes). What time we're  
08 up here at the map, have you heard  
09 any speculation as to why all that  
10 smoke from this fire on this mother  
11 drive had polluted the intake air  
12 course of Two Section?

13 A. No, sir.

14 Q. Do you have any idea --- have  
15 you ever been in that part of the  
16 mine?

17 A. Not until after the fire.  
18 After the fire, I went to help them  
19 set things. I take it this here is

20 the mother drive where we've got to  
21 cross?

22 Q. Yes. And that's Seven tail.

23 A. I helped them set the water  
24 jacks in there. And that was the  
25 only time I was ever up there.

67

01 Q. Did you have any opportunity  
02 to come and wander around and look at  
03 things what time you was in there?

04 A. No, sir.

05 Q. Just pretty much right at the  
06 mother drive?

07 A. Right there setting jacks.

08 Q. Okay. We've got another map  
09 over here. Could I have another  
10 exhibit? We'll call this Exhibit  
11 B-Clay. And this pretty well, I  
12 think, shows the area that you were  
13 describing at the Threeway.

14 (Clay Exhibit B marked  
15 for identification.)

16 A. Yes.

17 BY MR. BURKE:

18 Q. Okay. Now, this is the area  
19 --- if you don't care, we're about  
20 right here at the longwall panel. If  
21 you want to mark ---?

22 A. Draw this again?

23 Q. Draw it again. On how you

24 come out here ---.

25 A. You want me to go all the way

68

01 down to the Threeway?

02 Q. Go all the way down and show

03 us how you went outside that night,

04 if you can.

05 A. Okay.

06 Q. Now, did you travel the entire

07 length of the intake air course that

08 night?

09 A. Yeah. That's our travelway.

10 We rode on our mantrip down to the

11 Threeway. I'm not really for sure

12 where the Threeway is on the map.

13 But it's in this area here somewhere.

14 Yep. 'Cause right there's the fan.

15 Right there's the Threeway.

16 Q. Okay.

17 A. And we walked from there,

18 which is our main intake, all the way

19 out.

20 Q. Uh-huh (yes).

21 A. And we went up underneath of

22 the fan.

23 Q. Putting you down and making

24 you work, aren't they?

25 A. Yeah. It's all right.

69

01 Q. Okay.

02 A. Well, wait a minute. I messed  
03 up. Where's the Number One Fourway?  
04 There's when we get over into the Two  
05 track.

06 Q. Do you know where the Number  
07 One Fourway and Number Two Fourways  
08 are located?

09 A. In the mine, yes, sir.  
10 Looking at the map, no, sir.

11 Q. This is Three Section that  
12 they're driving out in here; right?

13 A. This right here is Three  
14 Section?

15 Q. This is Three Section right  
16 here if that will help you locate it.

17 A. Number One Fourway, then,  
18 would be right in here somewhere.  
19 Because Number Two Fourway's right  
20 here. I'm pretty sure.

21 Q. Okay.

22 A. Between Five and ---.

23 Q. And that's the Number Six  
24 headgate?

25 A. It's Number Two, yes.

70

01 Q. Okay.

02 A. And we come right down by that

03 over into the Number One Fourway.

04 Again, I'm just a-guessing at the

05 map.

06 Q. Uh-huh (yes).

07 A. It would be in this area here

08 somewhere I would say. Right in

09 here. And then you get over into

10 your secondary escapeway, which is

11 the main travelway, Two track.

12 Q. Uh-huh (yes).

13 A. And then you come all the way

14 down here to the Threeway.

15 Q. Okay. So you didn't travel

16 the entire length of the intake?

17 A. No, sir.

18 Q. So where did you cross over

19 into the secondary?

20 A. At the Number One Fourway.

21 Q. Okay.

22 A. There's a set of doors that

23 you go through. And you just come

24 back down, go back toward outside.

25 Q. Okay. So that'd be like a

01 neutral or a secondary escapeway?

02 A. Yeah. That'd be the secondary

03 escapeway.

04 Q. Okay.

05 A. Do you want me to finish this?

06 Q. Yeah. This is your Threeway  
07 that you've indicated. That's the  
08 box cut. That would go back toward  
09 Rum Creek.

10 A. This is going back toward Rum  
11 Creek.

12 Q. Uh-huh (yes).

13 A. Now, you cross under the  
14 six-foot belt here at the Threeway.

15 Q. Uh-huh (yes).

16 A. And when you cross under the  
17 six-foot belt, you've got three  
18 overcasts that you go over. Right in  
19 a row. They take you out underneath  
20 of the fan. I messed up again. I'd  
21 be up in here. Right there's the  
22 Three overcast. That's the main  
23 intake.

24 Q. Uh-huh (yes).

25 A. And it takes you right out

72

01 over the --- coming down this way is  
02 the way we went.

03 Q. Uh-huh (yes).

04 A. Then when we got to this  
05 point, you veer off to the right.

06 And that takes you right underneath  
07 of the fan, right through a set of  
08 doors, right out to the box cut.

09 Q. That particular mine, if you  
10 could remember, is the escapeway  
11 marked in that area?

12 A. Yes. It's marked with green  
13 reflectors.

14 Q. And is there any signs or any  
15 postings of any type that would  
16 indicate left turns, right turns, or  
17 whatever?

18 A. No, sir. Not that I  
19 remembered on that day.

20 Q. Okay. If you want to --- you  
21 we went a little far.

22 A. Yeah. Went a little far.

23 Q. Just kindly scribble that one  
24 out there and we'll describe what  
25 you've done on the map here.

73

01 A. Okay. Is this fine?

02 Q. Yeah.

03 A. Okay.

04 Q. Okay. Now, talking about that  
05 Number One Fourway, is that  
06 immediately outby the Number One  
07 cut-through somewhere in this area  
08 right here. This is what they define

09 as Number One cut-through. This is  
10 Four Right or old Three Section that  
11 we're looking at.

12 A. Uh-huh (yes).

13 Q. This is your active longwall  
14 panel that you're on right now.

15 A. Uh-huh (yes).

16 Q. That's your mother drive belt,  
17 Number Seven belt and Number Six belt  
18 on out.

19 A. I believe that --- let's see.  
20 This one here's the Number Two ---

21 Q. Cut-through.

22 A. --- cut-through. This was  
23 Number One.

24 Q. Uh-huh (yes).

25 A. The Number One Fourway is

74

01 outby it.

02 Q. That would be Number Two  
03 Fourway?

04 A. Number Two Fourway's up in  
05 this area. I believe is up in this  
06 area somewhere.

07 Q. And indicating on the map  
08 Exhibit B, somewhere in the Six  
09 headgate area, in that vicinity?

10 A. Yes. Somewhere in the Six

11 Headgate area.

12 MR. BURKE:

13 Now, he is indicating  
14 on the map at crosscut 17 and  
15 Nine headgate, exactly  
16 duplicating his tracks. If  
17 you come over to the Number  
18 Three entry, turn right and  
19 come to the Number Two  
20 cut-through and turn left into  
21 the Number Three entry over to  
22 the north mains, the Number  
23 Four entry, and proceeded in  
24 the outby direction.

25 BY MR. BURKE:

75

01 Q. And at the Number One or  
02 Number Two Fourway, you got over into  
03 the secondary escapeway?

04 A. Number One, we got over into  
05 the secondary escapeway, which is old  
06 Two track, which is our main  
07 travelway into the mine.

08 Q. And you traveled that all the  
09 way outby to the Number One Threeway?

10 A. Out through the Threeway, yes,  
11 sir.

12 Q. Okay. Then you entered the  
13 intake air course and proceeded ---?

14 A. Yes. That's where we walked  
15 our escapeway out.  
16 Q. Okay. Is that the first time  
17 that you'd ever done anything like  
18 that?  
19 A. Walked in the escapeway out?  
20 Q. Uh-huh (yes).  
21 A. Yes, sir.  
22 Q. And you've been there about a  
23 year and a half?  
24 A. Yes, sir. I was told where it  
25 was at.

76

01 Q. Uh-huh (yes).  
02 A. But actually walking it, that  
03 was the first time.  
04 Q. Are you familiar with your  
05 mine emergency evacuation program in  
06 the event of an emergency, the order  
07 of events, what you need to do in the  
08 event of a mine fire or emergency?  
09 A. Not right offhand, no, sir.  
10 Q. Has anyone ever went over  
11 those procedures with you?  
12 A. Yes, sir. We had the safety  
13 training just a few days before the  
14 fire. Well, I believe it was the  
15 previous weekend. And they went over

16 all of that with us. But actually  
17 remembering it, no, sir, I don't.

18 Q. Okay. Could I get you to sign  
19 and date both of these maps for me,  
20 just ---?

21 A. Where do you want me to sign  
22 it?

23 Q. Just anywhere in there would  
24 be fine.

25 A. Initials fine or do you want

77

01 me to put my name?

02 Q. Your signature and today's  
03 date. It's March 27th.

04 A. March the 27th?

05 Q. Uh-huh (yes). I'll ask you a  
06 couple more, and then I'll turn it  
07 over to Bill. In your remembrance,  
08 what time you've been up on the  
09 headgate area, the longwall, in the  
10 last year and a half that you've  
11 worked there, looking at those  
12 methane monitor indicators, have you  
13 ever had two percent or more show up  
14 on those indicators?

15 A. Other than a malfunction, no,  
16 sir.

17 Q. Has anyone with a handheld  
18 detector ever found any methane on

19 the longwall face for any reason?

20 A. No, sir. Not that I'm aware  
21 of. The foremens usually check it  
22 regularly.

23 MR. BURKE:

24 Bill?

25 MR. TUCKER:

78

01 I just have a couple,  
02 Anthony.

03 MR. BURKE:

04 All right.

05 BY MR. TUCKER:

06 Q. You mentioned earlier about  
07 maybe one time on a previous panel,  
08 you'd heard a CO alarm?

09 A. Yes.

10 Q. Do you remember what shift you  
11 were on back in that period?

12 A. No, sir.

13 Q. Okay. Do you recall why you  
14 didn't work on the 19th?

15 A. It was our day off.

16 Q. Was that just a scheduled day  
17 off?

18 A. Yes, sir. It was our  
19 scheduled day off.

20 Q. Okay. On the belt, you're

21 right there by the belt all day as  
22 the belt's running.

23 A. Uh-huh (yes).

24 Q. Have you ever like seen  
25 flappers going by ---

79

01 A. Yes, sir.

02 Q. --- or hear them and have to  
03 shut the belt off and trim them?

04 A. Yes, sir.

05 Q. Do you have any idea why the  
06 belt would be damaged on the ends  
07 like that to where you'd have to,  
08 say, trim off ---?

09 A. No. I wouldn't know what  
10 would cause it. That'd be --- like I  
11 said, I get rocks in the tailpiece  
12 and the belt would rub them rocks.  
13 Maybe that would do it. But as far  
14 as actually what would cause it, I  
15 have no idea.

16 Q. How often do you say that that  
17 would occur? Do you have any idea?

18 A. Not very often. Not very  
19 often at all.

20 Q. Other than on the longwall  
21 section, are you aware of where fire  
22 hose would be located throughout the  
23 mine?

24 A. There's some at the belt  
25 heads. I've been working here

80

01 recently around the belt heads, you  
02 know, shoveling, stuff like that.  
03 There's fire hoses and firefighting  
04 equipment there. As far as like up  
05 on Two Section and on Three Section,  
06 I'm just a-guessing that they'd be on  
07 their belt heads and near their  
08 equipment, you know.

09 Q. As far as being at the belt  
10 heads, is that something you've just  
11 become aware of since you've been at  
12 work on outby?

13 A. Yes, sir. I've never ---.  
14 Yeah. I've never actually fooled  
15 with them before.

16 Q. As far as anybody showing you  
17 where they were at, the location?

18 A. Yeah.

19 Q. You've not had that?

20 A. No, sir.

21 Q. Okay. I know Anthony asked  
22 you a similar question about the  
23 previous fires. But since the fire  
24 on the 19th, have you heard any  
25 discussion or any comments about

01 previous fires at the mines?

02 A. No, sir.

03 Q. And again, I know that you

04 spoke some about methane levels on

05 the longwall. Do you know the --- of

06 any instances where you know that

07 there was methane detected ---

08 A. No, sir.

09 Q. --- on the longwall? When you

10 call out your two-hour report, who do

11 you call that out to?

12 A. The dispatcher.

13 Q. What's the delays you say that

14 you would call out the most on your

15 two-hour report, or some of the

16 delays you call out?

17 A. Cutting rock. You know,

18 taking out structure. Setting bits.

19 You know, maybe you got a busted hose

20 on the shield and it'd be down in

21 front of the shear. Have to get that

22 fixed before the shear can go through

23 it and we was down doing that. Just

24 pretty routine, you know, downtime.

25 Q. As far as belt delays, you

01 would call ---?

02 A. Yeah. We'd call that out,

03 too.

04 Q. Do you recall some of the belt  
05 delays, maybe, that you've had that  
06 may come to mind?

07 A. A rock box gobbing out. You  
08 know, a landmine alarm, something  
09 spilled out and hit it, knocked the  
10 belt off. Maybe a takeup, you know,  
11 going out or something like that had  
12 to be reset. But nothing --- other  
13 than that, no.

14 MR. TUCKER:

15 We just had another  
16 member of the State's team  
17 come into the room. So I'll  
18 ask her to identify herself  
19 for the record.

20 MS. SPENCE:

21 I'm Beth Spence with  
22 the Governor's office.

23 A. Howdy.

24 MR. TUCKER:

25 Thank you. I don't

83

01 have anything else. Thank  
02 you.

03 MR. BURKE:

04 Okay.

05 BY MR. BURKE:

06 Q. Elbert, just two or three more  
07 and we'll wrap up. In an average  
08 day, when everything's clicking  
09 pretty smooth, how many feet of  
10 advance do you get off that longwall?

11 A. You mean in a shift or a whole  
12 day?

13 Q. Both. How about a shift, on  
14 your shift, normally?

15 A. Usually we was running, say,  
16 five, six passes a shift. And that  
17 would be about 20 foot a shift,  
18 maybe, off of the head. That's what  
19 I see. They cut out and it's three  
20 and a half foot every time they push  
21 down. So I can give you the passes  
22 in terms of footage, you know.

23 Q. Okay.

24 A. But passes, usually five to  
25 six passes a shift if, you know,

84

01 things is going pretty good, decent.

02 Q. How wide's the longwall face  
03 there?

04 A. A thousand feet.

05 Q. Thousand feet. You talked  
06 about cutting rock. Define a little  
07 bit about that. What instance would

08 you have to cut rock? Is  
09 that ---?  
10 A. If you get in a roll or  
11 something, the coal seam rolls down,  
12 you'd have to cut some rock, you  
13 know. But I just go by what they  
14 call out on the report, you know.  
15 Q. Uh-huh (yes).  
16 A. I never go down the line  
17 hardly any. Farthest I ever get down  
18 is about 30 shield, 40 shield.  
19 Q. Okay. Do you keep a little  
20 daily log yourself of all your  
21 downtime and activities?  
22 A. Yes, sir. The foreman does it  
23 and then when he gives it to me, I  
24 write it down.  
25 Q. Okay. Do you keep a personal  
85  
01 notebook or any type of notebook  
02 yourself?  
03 A. No, sir.  
04 Q. You don't?  
05 A. No, sir.  
06 Q. Do you know if the tailgate  
07 was ahead or behind the longwall  
08 headgate? Do you have any knowledge  
09 how the angle is on the wall?

10 A. No, sir. I don't know which  
11 way it would go.

12 Q. Okay. I know we've shot a lot  
13 of questions at you today. And one  
14 thing that kindly bore in my mind,  
15 looking at the longwall belt itself,  
16 that is a five-foot rubber belt?

17 A. Five-foot belt, yes, sir.

18 Q. Five-foot belt. What size top  
19 cradles do you have in that?

20 A. Five-foot belt structure.

21 Q. Five-foot belt structure?

22 A. Yes, sir.

23 Q. So that ---?

24 A. That has actually been the  
25 size --- if you want the size, I've

86

01 never measured it to tell you the  
02 exact measurement. But it's for a  
03 five-foot belt.

04 Q. Have you ever noticed the  
05 bottom belt running back and forth  
06 like it's wanting to be out of train?

07 Have you ever noticed any training  
08 issues or ---?

09 A. Not the bottom, no, sir.

10 Q. How about the top?

11 A. Yes. But I control that with  
12 my tailpiece.

13 Q. Okay. You pretty well align  
14 the belt. How often do you have to  
15 do that?

16 A. Not very much if everything's  
17 --- you know, you get days, you know,  
18 to where they're pushing down a lot,  
19 you know. And if they push and you  
20 don't --- you're not right there  
21 watching it, you know, your belt  
22 might run up a little bit and you  
23 have to go adjust it. But it's not  
24 very often that you have to go and  
25 adjust it. Not very often at all.

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01 Q. Out of that five-foot belt  
02 when you're running a full pipe of  
03 coal, how much coal's on that  
04 conveyor? How much empty space do  
05 you have available on that belt?

06 A. If we're running real good,  
07 you've got several inches on either  
08 side, you know, up on the top.  
09 You've got several inches to play  
10 with there. I'd say five, six inches  
11 on each side. Maybe more.

12 Q. So the stage loading unit  
13 chokes it down to that point that you  
14 don't have a flood of coal coming out

15 all the time?

16 A. Yes, sir. Yes, sir.

17 Q. When you have to move that  
18 stage loading unit, does that have  
19 any effect on your bottom belt as the  
20 way that belt is trained? Or does  
21 that basically affect the top belt?

22 A. I'd say it does affect the  
23 bottom belt somewhat, but it's mainly  
24 the top where it comes out of the  
25 tailpiece and the stage loader dumps

88

01 the coal on it to keep it underneath  
02 of the skirts to keep it from gobbing  
03 out and messing your belt up.

04 Q. Do you ever talk to your other  
05 headgate operators and ask them what  
06 problems that they have during the  
07 course of a normal shift?

08 A. Yes, sir.

09 Q. Has any one of those guys ever  
10 told you that, we had problems out of  
11 the belt today or problems out of the  
12 methane monitor or ---? Do they  
13 convey that kind of information to  
14 you as a headgate operator?

15 A. Yes, sir. If they have any,  
16 yeah. Say for example, I'll go in  
17 and relieve the headgate man in front

18 of me. I'm coming in on second  
19 shift. He'll say, well, I had to  
20 adjust the belt a little bit today,  
21 you know, just as an example. I say  
22 okay, you know. Maybe I'm going to  
23 have a problem with it, you know.  
24 But like I said, there ain't too much  
25 trouble with the belt, you know,

89

01 keeping it in alignment, you know.

02 Q. Uh-huh (yes).

03 A. But if they do push and I'm  
04 not there to see it, you know, it  
05 does, you know, run up and you've got  
06 to go real quick and get to the  
07 levers or you're going to have a  
08 mess.

09 Q. Does that thing ever gob out  
10 on you?

11 A. Yes, sir. Yes, sir.

12 Q. Is it bad when it happens?

13 A. Oh, when it happens, it's big.

14 Q. Oh, goodness. I'd say.

15 A. Shoveling and everything else.

16 Q. Elbert, we've asked you a lot  
17 of questions today. Looking back at  
18 all that we've talked about with your  
19 escapeways and drills and CO sensors

20 and all these things that we've  
21 discussed, have you got anything that  
22 you might want to add? We may have  
23 not asked the question. Anything  
24 that bears on your mind that maybe  
25 you'd like to shed any light on

90

01 anything that would help us?

02 A. No. Like I said, I wasn't  
03 there that night, you know, when it  
04 happened. I'd just been up there  
05 around the mother drive setting them  
06 jacks and, you know, but I don't know  
07 really what happened. You know, I  
08 don't know what caused it.

09 Q. What do you think could have  
10 been done to prevent the accident?

11 A. I don't know. I don't know  
12 the circumstances involved in it. I  
13 don't know.

14 MR. BURKE:

15 Bill, do you have any  
16 questions?

17 MR. TUCKER:

18 Just one.

19 BY MR. TUCKER:

20 Q. Have you ever done any work at  
21 all down at the storage unit?

22 A. No, sir.

23 MR. TUCKER:

24 That's all I have.

25 MR. BURKE:

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01 Elbert, on behalf of  
02 MSHA, I'd like to thank you  
03 for appearing here today at  
04 this interview and answering  
05 all these questions that we've  
06 shot at you. Sharing your  
07 information about the mine.  
08 Your cooperation is very  
09 important to us as we work to  
10 determine the cause of this  
11 accident. If you wish, we'll  
12 give you a moment to reflect  
13 back on any of these questions  
14 and maybe anything that you  
15 would like to add as a closing  
16 statement to the interview.

17 A. No, I'm fine.

18 MR. BURKE:

19 We ask that you don't  
20 discuss this interview today  
21 with any person that may have  
22 already been interviewed or  
23 any person that we may ask to  
24 give a statement in the

25 future. This will ensure that

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01 we obtain everyone's  
02 independent memory of the  
03 events surrounding the  
04 accident. After questioning  
05 other witnesses and obtaining  
06 additional information, we may  
07 be asking you back for further  
08 questions, if need be. If at  
09 some later point, you have  
10 additional information  
11 regarding the accident that  
12 you'd like to share with us,  
13 Mr. Kenny Murray is our team  
14 leader. That's his business  
15 card. And of course, you know  
16 Mr. Webb behind you right  
17 there.

18 A. Okay.

19 MR. BURKE:

20 Contact one of those  
21 individuals and if something  
22 pops up in your mind that you  
23 might want to ask a question  
24 or have any other information,  
25 just give us a call. Bill?

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01 MR. TUCKER:

02           Also like to tell you  
03           that we appreciate you coming  
04           in today. And the State of  
05           West Virginia also offers  
06           protection against  
07           discrimination against miners.  
08           Here's C.A. Phillips' card.  
09           He's our Deputy Director out  
10           of our Charleston office.  
11           Here's my card. If you need  
12           to contact us, feel free to  
13           give us a call.

14           A. Okay. Thank you.

15           MR. BURKE:

16           Elbert, the Mine Act  
17           provides certain protection  
18           for individuals who  
19           participate in accident  
20           investigations. If at any  
21           time you believe you've been  
22           treated unfairly because of  
23           your cooperation here today,  
24           you call one of those numbers,  
25           and you can also get in touch

94

01           with the State of West  
02           Virginia. As Bill said, they  
03           offer you the same protection.

04 Son, we appreciate you coming

05 in. Appreciate you.

06 A. Thank you.

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10 SWORN STATEMENT

11 CONCLUDED AT 2:15 P.M.

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