

01 EXAMINATION UNDER OATH
02 OF
03 CHARLES EZRA CONN
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 West Virginia
10 Department of Environmental
11 Protection, 1101 George Kostas Drive,
12 Logan, West Virginia, on Tuesday,
13 March 21, 2006, at 10:14 a.m.

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

02
03 WILLIAM J. FRANCCART, P.E.
04 Mine Safety and Health Administration
05 Pittsburgh Safety and Health
06 Technology Center
07 Ventilation Division
08 P.O. Box 18233
09 Cochrans Mill Road
10 Pittsburgh, PA 15236
11
12 WILLIAM TUCKER
13 West Virginia Office of Miners'
14 Health, Safety & Training
15 142 Industrial Drive
16 Oak Hill, WV 25901
17
18 ANTHONY BURKE
19 CMS&H Inspector
20 U.S. Department of Labor
21 Mine Safety and Health Administration
22 Whitesburg Field Office
23 704 Highway 2034
24 Whitesburg, KY 41858
25

3

01 A P P E A R A N C E S (cont.)
02
03 DANIEL M. BARISH, ESQUIRE
04 U.S. Department of Labor

05 Office of the Regional Solicitor
06 1100 Wilson Boulevard
07 22nd Floor West
08 Arlington, VA 22209-2247
09
10 KENNETH MURRAY
11 District Manager
12 U.S. Department of Labor
13 Mine Safety and Health Administration
14 Coal Mine Safety and Health
15 District 6
16 100 Fae Ramsey Lane
17 Pikeville, KY 41501
18
19 MARK E. HEATH, ESQUIRE
20 Spilman, Thomas & Battle, PLLC
21 990 Elmer Prince Drive
22 Suite 205
23 P.O. Box 4474
24 Morgantown, WV 25604-4474
25

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

02

03 ALSO PRESENT:

04 EUGENE WHITE

05 BETH SPENCE

06 DENNIS BEITER

07 RONALD STAHLHUT
08 C.A. PHILLIPS
09 DERRICK TJERNLUND
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01 P R O C E E D I N G S

02 -----

03 MR. BEITER:

04 My name is Denny
05 Beiter. I represent the Mine
06 Safety and Health
07 Administration, which is an
08 agency of the United States
09 Department of Labor. I'm a
10 member of MSHA's accident
11 investigation team that's
12 assigned the task of
13 investigating the accident
14 that occurred at the Aracoma

15 Coal Company, Incorporated,
16 Aracoma Alma Mine Number One,
17 on January 19th, 2006.

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

8

01 State's team. MSHA's team
02 includes various specialists
03 and members of the Solicitor's
04 Office. And at this time I'd
05 ask each of the members of the
06 MSHA team to identify
07 themselves for the record.

08 ATTORNEY BARISH:

09 Hi. My name is Dan
10 Barish, from the Solicitor's
11 Office, for MSHA in Arlington,
12 Virginia.

13 MR. STAHLHUT:

14 Ron Stahlhut, MSHA,
15 Vincennes, Indiana.

16 MR. TJERNLUND:

17 Derrick Tjernlund, MSHA
18 Tech Support, Triadelphia.

19 MR. MURRAY:

20 Kenny Murray,
21 Pikeville, Kentucky.

22 MR. FRANCCART:

23 Bill Francart,
24 Pittsburgh, Pennsylvania.

25 MR. BURKE:

9

01 Tony Burke, MSHA,
02 Whitesburg, Kentucky.

03 MR. BEITER:

04 Mr. Conn, I'm out of
05 Triadelphia, West Virginia.

06 Here with me today,
07 representing the State of West
08 Virginia, is Mr. Bill Tucker.
09 Mr. Tucker will be asking the
10 questions for the State. And
11 at this time I'd ask Mr.
12 Tucker to introduce the
13 members of the State.

14 MR. TUCKER:

15 I have a brief
16 statement I need to read for
17 the record. The West Virginia
18 Office of Miners' Health,
19 Safety & Training is

20 conducting this interview
21 session jointly with MSHA, and
22 we are in agreement with the
23 procedures outlined by Mr.
24 Beiter.

25 However, let me make it

10

01 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. I'm the Assistant
11 Inspector at Large out of the
12 Oak Hill office. And that's
13 Region Four.

14 MR. PHILLIPS:

15 Good morning, Charles.

16 MR. CONN:

17 Good morning.

18 MR. PHILLIPS:

19 My name is C.A.

20 Phillips. I'm the Deputy
21 Director with the Office of

22 Miners' Health, Safety &
23 Training in Charleston, West
24 Virginia.

25 MR. WHITE:

11

01 Eugene White, District
02 Inspector, Region Three, out
03 of Danville.

04 MS. SPENCE:

05 Beth Spence, with the
06 Governor's Office.

07 MR. BEITER:

08 This investigation is
09 being conducted by MSHA and
10 the State of West Virginia to
11 gather information to
12 determine the cause of the
13 accident and to help prevent
14 this from happening in the
15 future. These interviews are
16 an important part of the
17 investigation.

18 After the investigation
19 is completed, MSHA will issue
20 a written report detailing the
21 nature and causes of the
22 accident. MSHA accident
23 reports are made available to
24 the public in the hope that

25 greater awareness about the

12

01 causes of accidents can reduce
02 their occurrence in the
03 future. Information obtained
04 through witness interviews is
05 frequently used in these
06 reports. Your statement may
07 also be used in other
08 enforcement proceedings.

09 I would like to thank
10 you in advance for your
11 appearance here. We
12 appreciate your assistance in
13 this investigation. It's the
14 willingness of miners and mine
15 operators to work with us to
16 make our mines safer. (sic).

17 This interview with Mr.
18 Charles Conn is being
19 conducted under Section 103(a)
20 of the Federal Mine Safety &
21 Health Act of 1977 as part of
22 an investigation by the Mine
23 Safety and Health
24 Administration into the
25 conditions, events and

13

01 circumstances surrounding the
02 fatalities that occurred at
03 the Aracoma Alma Mine Number
04 One, located at Route 17
05 North, Bandmill Hollow Road,
06 Stollings, West Virginia,
07 25646.

08 This interview is being
09 conducted at the State of West
10 Virginia Department of
11 Environmental Protection,
12 Division of Mining &
13 Reclamation, at 1101 George
14 Kostas Drive, Logan, West
15 Virginia, 25601, on March
16 21st, 2006.

17 BRIEF INTERRUPTION

18 MR. BEITER:

19 Mr. Conn, the interview
20 will begin by asking you a
21 series of questions. Feel
22 free at any time to clarify
23 any statements that you make
24 in response to those
25 questions. After we have

14

01 finished asking questions, you
02 will also have an opportunity
03 to make a statement of your

04 own and provide us with any
05 other information that you
06 believe may be important. You
07 are permitted to have a
08 representative with you during
09 this interview and you may
10 consult with your
11 representative at any time.
12 You may designate any person
13 to be your representative.
14 Following the questions by
15 MSHA and the State, this
16 representative will be given
17 the opportunity to ask
18 questions for purposes of
19 clarification on areas that
20 have already been discussed.

21 Your statement is
22 completely voluntary. You may
23 refuse to answer any question
24 and you may end your interview
25 at any time. If you do not

15

01 understand a question, please
02 tell me and I'll rephrase it.
03 If you need a break for any
04 reason, please just say so and
05 we'll take a break.

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

21 MR. CONN:

22 No.

23 MR. BEITER:

24 A court reporter will
25 record your interview and will

16

01 later produce a written
02 transcript of that interview.
03 I ask that you state all of
04 your answers verbally because
05 the court reporter cannot
06 record gestures like nodding
07 your head. Neither the
08 transcript of this interview

09 nor the content of this
10 interview will be released to
11 the public or the media until
12 MSHA's final accident
13 investigation report is
14 issued, or until required by
15 court order or until a public
16 hearing takes place. If any
17 part of your statement is
18 based not on your own
19 firsthand knowledge but on
20 information that you learned
21 from someone else, please let
22 us know that.

23 Please answer each
24 question as fully as you can,
25 including any information that

17

01 you learned from someone else.
02 We may not ask the right
03 questions, or ask the
04 questions in the right manner,
05 to learn the information that
06 you have, so please don't feel
07 limited by the precise wording
08 of the questions. If you have
09 any information about the
10 subject area of a question,

11 please provide us with that
12 information.

13 Do you have any
14 questions about the manner in
15 which this interview will be
16 conducted?

17 MR. CONN:

18 No, not at this time.

19 MR. BEITER:

20 Will you please swear
21 in Mr. Conn?

22 -----

23 CHARLES EZRA CONN, HAVING FIRST BEEN
24 DULY SWORN, TESTIFIED AS FOLLOWS:

25 -----

18

01 BY MR. BEITER:

02 Q. Please state your full name,
03 address, telephone number, including
04 area code, and please spell your last
05 name for the record.

06 A. [REDACTED]

[REDACTED]

11 Q. May I call you Charlie?

12 A. Yes, sir.

13 Q. Charlie, are you appearing

14 voluntarily at this interview today?

15 A. Yes, sir.

16 Q. Has anyone made you any

17 promises for giving this statement?

18 A. No, sir.

19 Q. Has anyone offered you any

20 rewards in exchange for making this

21 statement?

22 A. No, sir.

23 Q. Has anyone threatened you or

24 warned you not to provide this

25 statement?

19

01 A. No, sir.

02 Q. Do you understand that you may

03 refuse to answer any question or

04 terminate this interview at any time?

05 A. Yes, I do.

06 Q. Do you have a representative

07 with you?

08 A. Yes, I do.

09 Q. Could you please identify your

10 representative?

11 A. Mark Heath.

12 Q. Have you been made aware that

13 Mr. Heath also represents the company

14 in this matter and that there is a

15 potential for a conflict of interest

16 to arise between yourself and the
17 company?

18 A. Yes.

19 Q. Do you still want to proceed
20 with Mr. Heath representing you,
21 despite any potential conflicts of
22 interest?

23 A. Yes.

24 ATTORNEY HEATH:

25 I would just state for

20

01 the record that I am Counsel
02 for Aracoma Coal and I'm
03 appearing for him as his
04 representative under the Mine
05 Act. Thank you.

06 MR. BEITER:

07 Thank you.

08 BY MR. BEITER:

09 Q. Who was your employer on
10 January 19th, 2006?

11 A. Aracoma Coal.

12 Q. What was your job title?

13 A. Safety director.

14 Q. What does that entail?

15 A. I don't know if I fully
16 understand what you mean by
17 entailing.

18 Q. What's a safety director at

19 Aracoma Coal?
20 A. I do --- go underground and do
21 audits, safety-type audits, deal with
22 accident reports, file them.

23 ATTORNEY BARISH:

24 Can we take a break?

25 SHORT BREAK TAKEN

21

01 ATTORNEY BARISH:

02 We're back on the
03 record. I JUST need to make a
04 statement. Mr. Heath, you
05 referred to you're the
06 representative under the Mine
07 Act.

08 ATTORNEY HEATH:

09 That's correct.

10 ATTORNEY BARISH:

11 That is not correct.
12 Because as you know, the Mine
13 Act, Section 103(f), only
14 applies to representatives can
15 go underground with MSHA on
16 inspections, not as a right to
17 be accompanying people at
18 interviews. That's not a
19 right under the Mine Act. So
20 we need to ask Mr. Conn again

21 to clarify whether Mr. Heath
22 is your personal
23 representative or he's your
24 attorney. So can you please
25 explain that, Mr. Conn?

22

01 A. He would be my personal
02 representative, if that's --- I mean,
03 if I understand fully what you're
04 asking.

05 ATTORNEY BARISH:

06 He's not your legal
07 attorney representing you?

08 A. No, not at this --- no. No.
09 Not at this time, no.

10 ATTORNEY BARISH:

11 And you have chosen to
12 have him as your personal
13 representative?

14 A. As my personal representative,
15 my right.

16 ATTORNEY HEATH:

17 And Dan, as you state
18 for the record, right, there's
19 a representative under the
20 Mine Act and then there's a
21 representative under the
22 procedures of investigation
23 that MSHA has used. And you

24 are correct, that's what I'm
25 appearing for.

23

01 ATTORNEY BARISH:

02 All right. So you
03 agree, Mark, that you're not
04 the representative under the
05 Mine Act?

06 ATTORNEY HEATH:

07 As I understand it, the
08 technical representative under
09 the Mine Act is when two or
10 more employees designate an
11 outside individual or another
12 employee. I'm not that.
13 That's correct.

14 ATTORNEY BARISH:

15 Right. And that only
16 applies for underground
17 inspections anyways.

18 ATTORNEY HEATH:

19 Right. Right. Right.
20 That's right.

21 ATTORNEY BARISH:

22 Okay.

23 ATTORNEY HEATH:

24 And I think we all
25 understand what we're ---.

01 ATTORNEY BARISH:

02 We needed to clear that
03 up for the record.

04 ATTORNEY HEATH:

05 Okay. That's fine.

06 ATTORNEY BARISH:

07 All right.

08 MR. BEITER:

09 Thank you, both.

10 BY MR. BEITER:

11 Q. Okay. Charlie, before we
12 broke there, I had asked you about
13 your job as safety director.

14 A. Uh-huh (yes).

15 Q. And you started to answer
16 that. Maybe you were completed. I
17 don't know. But I kind of lost my
18 train of thought. If you could go
19 back and kind of clear that up for
20 me, I'd appreciate it.

21 A. Okay. I basically do accident
22 investigations, look at certain
23 aspects of operation, we call audits,
24 and generally try and look after the
25 --- as much of the safety as I can of

01 the people that are employed there.

02 Q. I guess a lot of the questions

03 this morning are going to be about
04 the mine rescue teams and your
05 participation in those events.

06 A. Okay.

07 Q. How familiar, prior to January
08 19th, were you with the underground
09 workings of Aracoma Alma Mine Number
10 One?

11 A. I have been on Two section on
12 probably three or four occasions to
13 investigate accidents that happened.

14 And as far as knowing my way in,
15 that was basically about it as far as
16 --- I've been there since August.

17 Q. Since August of what year?

18 A. '05.

19 Q. 2005?

20 A. 2005, yes.

21 Q. As safety director?

22 A. Yes.

23 Q. And prior to that, you did not
24 work at the Aracoma ---

25 A. No, sir.

26

01 Q. --- Alma Number One?

02 A. No, sir.

03 ATTORNEY BARISH:

04 Excuse me. Charlie,

05 can you --- do you prefer
06 Charlie or Charles?
07 A. Either one is fine.
08 ATTORNEY BARISH:
09 Charlie, can you speak
10 louder ---
11 A. Oh, okay. I'm sorry.
12 ATTORNEY BARISH:
13 --- so the people in
14 the back can hear and the
15 court reporter can hear?
16 A. I'm sorry.
17 ATTORNEY BARISH:
18 Thanks a lot.
19 A. All right.
20 BY MR. BEITER:
21 Q. How many total years of mining
22 experience do you have?
23 A. I have 31 years' experience.
24 Q. Can you briefly describe some
25 of your mining background prior to

27

01 January 19th, 2006?
02 A. In depth?
03 Q. Yes.
04 A. Started working in 1975 as a
05 foreman trainee for Peabody Coal
06 Company. And I held various
07 positions there in management until

08 1981. I came to Pittston Coal
09 Corporation in Pike County, Kentucky
10 and held section foreman, third shift
11 mine foreman, day shift mine foreman,
12 occupations for approximately 12
13 years. And then I done contract work
14 as an hourly person. I ran
15 equipment. And then in '92, I
16 started working for Massey. And I've
17 been an hourly employee and a salary
18 employee my whole time there until
19 --- I started in the safety
20 department at Sydney Coal in February
21 2004 up until August of '05, and then
22 I came up to Aracoma.

23 Q. Were you the safety director
24 for Sydney Coal?

25 A. No, sir. I was a safety tech.

28

01 Q. What type of mining papers do
02 you have?

03 A. Beg your pardon?

04 Q. Certification?

05 A. Kentucky foreman certified,
06 Kentucky miner, West Virginia State
07 miner. I hold an EMT Certification
08 in Kentucky and an MET Certification
09 in Kentucky, Kentucky instructor ---

10 underground instructor, MSHA dust
11 certified, MSHA Gas Detection
12 Certification. I hold a limited
13 instructor's card with MSHA and a
14 dust card with noise and calibration
15 on dust through MSHA.

16 Q. Thank you. What's your mine
17 rescue team experience?

18 A. Two years. Started out like
19 most everyone else as a patient, and
20 worked up to the line as far as
21 competitions and so forth go.

22 Q. For what teams?

23 A. East Kentucky Mine Rescue.
24 That's the only one.

25 Q. Have you ever participated in

29

01 a mine emergency before January 19th,
02 2006?

03 A. No, sir.

04 Q. When were you first notified
05 of the Aracoma Mine Number One belt
06 fire, the fire that occurred on
07 January 19th?

08 A. At approximately about 7:05.

09 Q. On what day?

10 A. The 19th.

11 Q. P.M.?

12 A. Yes, sir.

13 Q. Who notified you?

14 A. I was on my way home and my
15 wife called and said the mines was
16 trying to get ahold of me. And I
17 stopped and called the mine on my
18 cell phone.

19 Q. On the way home from Aracoma
20 Alma Mine One?

21 A. No, it wasn't from the mine.
22 I had left the office at Logan
23 County.

24 Q. Is that where your office is
25 located?

30

01 A. That's where one of them is
02 at, yes, sir.

03 Q. Do you have an office at the
04 mine as well?

05 A. Yes, sir. I do now.

06 Q. Did you then?

07 A. It was basically mine, yes. I
08 shared it.

09 Q. Who notified you?

10 A. My wife called me. And when I
11 called the mines, I talked to --- I
12 believe I talked to Gary Goff.

13 Q. Can you tell me what Mr. Goff
14 told you about the accident?

15 A. He said that we had --- that I
16 needed to get my --- the mine rescue
17 team headed that way. We had an
18 emergency. And I don't recall fully
19 what he said, whether we had a fire
20 or had one out of control or what. I
21 just know he mentioned we had a belt
22 fire. Then I proceeded to call
23 people to notify the rest of the
24 team.

25 Q. You personally notified the

31

01 remaining members of the team?

02 A. No, sir. I called the safety
03 director at Sydney.

04 Q. What is his name?

05 A. Steve Endicott (phonetic).

06 And told him of the situation, that
07 we had a situation at Alma, that I
08 needed him to contact the rest of the
09 mine rescue team and tell them when
10 they got to the station, load
11 everything up and come straight to
12 Alma and that I would be en route.

13 Q. Did your wife say who
14 contacted her?

15 A. No. She just said the mines.

16 Q. Do you know since then who
17 made that contact?

18 A. No. I never did ask who
19 called.

20 Q. Do you recall what time you
21 contacted Mr. Goff?

22 A. Two minutes after she notified
23 me. As soon as I could get pulled
24 off the road so I wouldn't lose
25 signal on my cell phone.

32

01 Q. What time did you get to the
02 mine?

03 A. I'm not exactly sure on what
04 time, but it was approximately 35 to
05 40 --- about 35 to 40 minutes from
06 the time I hung up from the last
07 phone call.

08 Q. Was it before eight o'clock?

09 A. I think so. I did not look at
10 my watch whenever I pulled in.

11 Q. Do you know if there was an
12 MSHA inspector on site at that time
13 when you arrived?

14 A. At the time I arrived I was
15 not sure, no.

16 Q. Did you arrive at the mine by
17 yourself?

18 A. Yes, sir.

19 Q. Do you know what time the

20 remainder of your team arrived?

21 A. Somewhere between 8:30 p.m.

22 and nine o'clock. I wasn't sure.

23 Q. And you're the captain of the

24 team?

25 A. Yes, sir.

33

01 Q. Who's your map man?

02 A. At that particular --- my map

03 man now is Nathan Mounts (phonetic).

04 That's who's on the working order as

05 far as competition goes.

06 Q. Did he function as a map man

07 on January 19th?

08 A. No.

09 Q. Who did?

10 A. Steve Colden (phonetic).

11 Q. How many members are on the

12 team? How many team members on your

13 mine rescue team?

14 A. Currently or on the 19th?

15 Q. January 19th.

16 A. Nine, I think.

17 Q. Did they all respond?

18 A. There was one guy that come in

19 later.

20 Q. Do you remember their names?

21 A. On the team or ---?

22 Q. Yes.

23 A. I have to count them down the
24 line. David Jewell (phonetic),
25 Preston Cantor (phonetic) was the one

34

01 that came in late, Nathan Mounts,
02 Paul Atkins, Steve Coleman, Steve
03 Miller, Mack Jude and Chris Frasier
04 (phonetic).

05 Q. What type of mine rescue
06 apparatuses do you use?

07 A. BG-4.

08 Q. What type of communications
09 system do you have on your team?

10 A. We have a hard-wired with
11 headsets for competition purposes.
12 We also have two-way handheld radios.

13 Q. What did you use on the 19th?

14 A. The handheld radios.

15 Q. When you arrived at the mine,
16 who was the person that you reported
17 to?

18 A. I don't remember exactly who
19 it was. It was somebody in
20 management. But as far as a name, I
21 don't recall right off.

22 Q. Were you given a briefing?

23 A. A briefing in ---?

24 Q. Prior to going underground?

25 A. Before the team went

35

01 underground?

02 Q. Yes.

03 A. Yes.

04 Q. Were you given a briefing
05 before your briefing prior to the
06 team going underground?

07 A. No.

08 Q. Who gave you that briefing?

09 A. The command center. As far as
10 to exactly who, there were several
11 people there.

12 Q. You said you had nine members
13 of the team on January 19th. How
14 many are on your team today?

15 A. On the team today, again, I'm
16 going to have to count them off so I
17 make sure I don't miss anyone.

18 Seven, counting myself.

19 Q. Two fewer?

20 A. Yes.

21 Q. Do you know why they're no
22 longer on the team?

23 A. One of them just up and quit.
24 I don't know why. And the other one,
25 I'm not sure about.

36

01 Q. Could you briefly describe

02 some of the items that were discussed
03 during your briefing?

04 A. The initial briefing?

05 Q. Yes.

06 A. A plan or a decision, what we
07 were told was to go into this
08 particular area of the mine that they
09 felt that the two members that were
10 missing would try to come to. And we
11 was told how we needed to go and we
12 went down and got ready to belt up
13 and go to that particular location.

14 Q. Do you recall what area of the
15 mine that was?

16 A. I know what most people refer
17 to it as, as old Three section. But
18 I think on the map it's indicated as
19 Four Right, I believe.

20 Q. Thank you. Did they discuss
21 the fire location?

22 A. They pointed out to us where
23 it was --- if I understood what they
24 was talking about, they said at the
25 mother head area.

37

01 Q. Did they have a map they were
02 using?

03 A. Yes.

04 Q. Was it the map that was on the
05 table in the command center?

06 A. That's the one.

07 Q. Does it look like this map
08 that's up here?

09 A. It was similar. I've seen so
10 many maps that I'm not sure which one
11 is which.

12 MR. BEITER:

13 This map, we're going
14 to use it as an exhibit later,
15 but it's Exhibit A, Conn.

16 (Conn Exhibit A marked
17 for identification.)

18 BY MR. BEITER:

19 Q. That map was on a command
20 center table was scanned, and this is
21 a print of that scan. So it's maybe
22 not the exact same size as what it
23 was, but that's the map that was up
24 in the command center. You said in
25 your briefing you guys were

38

01 discussing your travel into --- on
02 Exhibit B, Conn, into Four Right, old
03 Three section, across the back end of
04 the bleeders for Nine headgate ---
05 tailgate. Was there any discussion
06 beyond that as far as what their

07 expectations were for your team prior
08 to going underground?

09 A. Go ahead and ask it again,
10 Denny. I don't know if I fully
11 understand what you're saying.

12 Q. You said at your briefing that
13 they discussed with you their desire
14 for you to travel into the Four Right
15 area, old Three section area, with
16 the expectations of the two missing
17 persons may have traveled into that
18 area. Was there any additional
19 information provided to you
20 indicating where beyond Four Right
21 area you'd be traveling into and what
22 the expectations were for your team's
23 involvement?

24 A. The best I remember, we were
25 to advance under normal thousand-foot

39

01 increments as far up through there as
02 we could go and report back out. As
03 the command center dictated, every
04 time they would tell us how far we
05 would go, we were giving them the COs
06 and everything. If I remember
07 correctly, we were to advance as far
08 up towards Nine tailgate and possibly

09 up to Ten tailgate --- or headgate,

10 I'm sorry.

11 Q. In Four Right?

12 A. In Four Right.

13 Q. In Four Right.

14 A. To the mouth.

15 Q. Was there any discussions

16 prior to you going underground that

17 you were going to be traveling

18 anywhere else besides Four Right?

19 A. I don't recall right now. I

20 really don't.

21 Q. Do you know if there was any

22 discussion about firefighting

23 activities?

24 A. I don't recall anything being

25 said to me.

40

01 Q. Was there any discussion about

02 escapeways from that area of the

03 mine?

04 A. Escapeways, I mean ---?

05 Q. Escapeways. Were the other

06 members of your rescue team employees

07 at Alma Mine?

08 A. No, sir.

09 Q. Were any of them familiar with

10 Alma Mine?

11 A. The ones that ---.

12 Q. Familiar from a, I can find my
13 way around underground standpoint.

14 A. No, I don't think so.

15 Q. Who was in the briefing with
16 you from your team?

17 A. Again, Denny, I don't recall
18 if we were all there or if it was
19 just me and one more guy or what.

20 Q. That's all right.

21 A. Like I said, it was a
22 conglomerate of people.

23 Q. Were you provided any maps,
24 any mine maps, during the briefing?

25 A. Was we or did I? I didn't

41

01 understand what you said.

02 Q. Your team. Was your team
03 provided with a mine map during the
04 briefing?

05 A. Yes.

06 Q. Were you provided with an
07 additional map yourself?

08 A. Myself?

09 Q. Yes.

10 A. No. Just the team.

11 Q. Did anybody besides your
12 normal team members travel with you
13 as part of your team?

14 A. Yes, sir.

15 Q. Who were they?

16 A. We had --- always had one MSHA
17 inspector and most of the time had
18 one state inspector.

19 Q. On January 19th, when you
20 first went below as one of the first
21 two teams, did you have someone ---?

22 A. On the first time in, no, sir.

23 Q. Was there anybody else besides
24 your normal team members who
25 accompanied your team on the first

42

01 night in?

02 A. Yes, sir.

03 Q. Who was that?

04 A. Johnny Robertson was with my
05 team.

06 Q. Is it Robertson or Robinson?

07 A. Robert.

08 Q. Robertson?

09 A. Yes.

10 Q. What is his position?

11 A. Currently, I'm not --- I don't
12 want to tell you something that he's
13 not. But I mean, I don't know ---.

14 Q. Is he an employee from Alma?

15 A. He's an employee of --- not

16 from Massey, from --- excuse me, not

17 from Aracoma, no.

18 Q. No?

19 A. He's an employee of Massey.

20 Q. Do you know if he was familiar

21 with Alma Mine Number One?

22 A. That question I couldn't

23 answer. I don't know.

24 Q. Okay. In your workings as

25 safety director while you --- I know

43

01 you haven't been at Aracoma that long

02 --- do you recall seeing Mr.

03 Robertson underground while you were

04 there prior to the accident on the

05 19th of January?

06 A. I have not seen him

07 personally, but ---.

08 Q. Did you feel you had an

09 opportunity to ask any questions that

10 you needed to at the briefing?

11 A. Yes.

12 Q. What was the first day then

13 that you went underground during this

14 accident as a rescue team?

15 A. Ask me again, Denny. I'm

16 sorry.

17 Q. That's all right. The first

18 day that you went underground, was

19 that January 19th?

20 A. Yes, sir.

21 Q. Do you know what time?

22 A. I can give you an approximate.

23 It was somewhere, to my

24 understanding, between --- I mean,

25 the best I can recall, between 10:30

44

01 and 11:30. I want to say close to 11

02 o'clock, but I don't remember looking

03 at the watch.

04 Q. When did they notify you that

05 you were going underground?

06 A. It was shortly before that

07 when we had enough teams on the

08 surface to serve as backup.

09 Q. And do you know what time your

10 briefing was?

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

12 Q. Was there any discussion

13 during your briefing or prior --- any

14 other discussions prior to going

15 underground, with people from the

16 command center as to how the fire was

17 going to be controlled or

18 extinguished?

19 A. Not with me.

20 Q. Were you the captain of the

21 team that night?

22 A. Yes, sir.

23 Q. Would there have been anybody
24 else that they would have had those
25 discussions with?

45

01 A. I don't know.

02 Q. Were you delayed in getting
03 underground at all?

04 A. Delayed as --- I don't
05 understand what you're calling delay.

06 Q. That's okay. Was there
07 something that held you up from
08 getting underground once they told
09 you, Charlie, take your team and
10 you're released to go underground?
11 Transportation problems or equipment?
12 Was there anything that prevented you
13 from going in as soon as they said
14 you're ready to go?

15 A. Nothing other than I asked to
16 be showed exactly on the manbus
17 myself. But that was prior to
18 getting the okay to go.

19 Q. Showed, you mean how to
20 operate it?

21 A. As far as --- how to operate
22 it as far as the park brake exactly
23 on it.

24 Q. Who drove your mantrip?

25 A. I did.

46

01 Q. You did?

02 A. Yes, sir.

03 Q. Good idea then; wasn't it?

04 Did that take very long?

05 A. No. Like I said, it was --- I

06 was shown prior to them giving the

07 final okay that you could go.

08 Q. You spent several days

09 underground during the mine rescue

10 effort; didn't you?

11 A. Yes, I did.

12 Q. Have you spent several days

13 underground since then?

14 A. Yes, I did.

15 Q. And I'm sure if you weren't

16 familiar with the mine map prior to

17 the 19th, I'm sure you're getting

18 very familiar with it since then; ---

19 A. Yes.

20 Q. --- is that correct?

21 A. Yes.

22 Q. Do you feel comfortable with

23 indicating on the mine map --- I

24 guess start on Exhibit B here, at the

25 box cut, ---

47

01 A. Uh-huh (yes).

02 Q. --- and kind of take us in and
03 show us where you stopped before you
04 went into Four Right, traveled in the
05 Four Right area, what you found,
06 where you found it, and then just
07 kind of take us through. If you
08 don't mind doing that, I'd appreciate
09 it.

10 A. Okay. Actually, ---.

11 Q. We could use some markers.
12 That would be good.

13 A. Actually show you?

14 Q. Yes. Let's just go with blue
15 is going to be your travels with your
16 team on the 19th of January. You can
17 just start from the box cut. You
18 don't have to draw a line, just ---
19 did you drive into the Threeway on
20 the normal travelway?

21 A. Come up to the Threeway, up
22 through here. Yes. Traveled ---
23 went this roadway.

24 Q. Two entry?

25 A. Number Two entry. Up to ---

01 along this way here.

02 Q. Just outby Three section?

03 A. Yeah. At Four Right, the
04 mouth of Four Right.
05 Q. Four Right is up here.
06 A. Okay. I'm sorry. I'm in the
07 wrong place.
08 Q. We're going inby Three
09 section.
10 A. Up here is the mouth of Four
11 Right.
12 Q. Okay.
13 A. We stopped here, parked the
14 manbus here, proceeded up this entry
15 where the double doors is at, up to
16 --- I'm not sure exactly what point
17 ---.
18 Q. Okay. Do you want to just
19 draw a line about where you came
20 through?
21 A. Right there is about where we
22 came through.
23 Q. Okay. You're drawing a blue
24 line from Number Two --- well, it
25 actually starts at Number Two entry
49
01 there in north mains at Four Right,
02 and you were traveling on a travel
03 road into Four Right through a couple
04 sets of airlock doors; is that
05 correct?

06 A. Yes.

07 Q. And you traveled all the way
08 up to ---

09 A. I think it was along this ---.

10 Q. --- approximately even with
11 the tailgate entry of Nine tailgate.
12 That's one crosscut inby spad 2717.
13 Okay.

14 A. Then we stopped outby here.

15 Q. Stopped outby ---?

16 A. Nine tailgate. Somewhere
17 outby there.

18 Q. Was there more than one team
19 that traveled in here?

20 A. Yes.

21 Q. What was the other team?

22 A. The Elk Run team.

23 Q. So both teams came in
24 together? Both teams entered the
25 mine together?

50

01 A. Entered the mine together,
02 yes.

03 Q. Okay. And then both teams met
04 here at Four Right before you
05 proceeded into Four Right?

06 A. Yes, sir.

07 Q. Okay. And was one team

08 leading the other?
09 A. One team went in. The other
10 team stayed back. As they moved up a
11 thousand feet, the other team moved
12 up a thousand feet with
13 communications, hardline
14 communications.

15 Q. Was your team the front team
16 or the back team?

17 A. We were the backup team.

18 Q. You were the back team, okay.
19 So you stayed out here on the travel
20 road at Four Right?

21 A. There was a phone right --- we
22 established communications in the
23 intake.

24 Q. In the intake between the belt
25 and the doors at Four Right?

51

01 A. Right. That's correct.

02 Q. And there was a telephone
03 there?

04 A. We established communications
05 there.

06 Q. Okay.

07 A. And at that point, one team
08 stayed out and the other team
09 advanced up.

10 Q. And that was ---?

11 A. Elk Run advanced up.

12 Q. Elk Run advanced up and
13 Eastern Kentucky then stayed at the
14 phone. Okay.

15 A. As they got to this point, we
16 moved communications up and
17 re-established with the command
18 center.

19 Q. And you had a phone line and
20 you run the phone line and extended
21 it as you traveled?

22 A. Right. That's correct.

23 Q. And that was your team's
24 responsibility to extend the phone
25 line?

52

01 A. At that point, yes.

02 Q. And did Elk Run wait there
03 until you advanced phone lines?

04 A. Yes.

05 Q. Okay.

06 A. To talk to the command center.
07 Also with these points, sometimes the
08 command center would prefer us to go
09 to the outside entries which was
10 returns, and get CO readings.

11 Q. While you were on the phone at
12 the fresh air base?

13 A. Yes. They would direct us
14 what to do ---
15 Q. Okay.
16 A. --- along with the team inby.
17 Q. Do you know if that
18 information was recorded on your
19 team's mine map or was that
20 information --- was it recorded, the
21 information that the command center
22 asked you to collect as far as going
23 over into the returns?
24 A. I'm not positive if it's
25 collected on our map, the team map,

53

01 or not.
02 Q. Who communicated with the
03 command center?
04 A. The one's name was Johnny,
05 Johnny Robertson.
06 Q. Johnny Robertson was the one
07 that communicated to the command
08 center on the phone?
09 A. Most of the time.
10 Occasionally, I did. I was the other
11 one.
12 Q. Has he ever worked with your
13 rescue team before?
14 A. Johnny?
15 Q. Yes.

16 A. Not directly.
17 Q. Do you recall what the CO
18 concentrations were on, say, both
19 sides of the ---?
20 A. The instruments that we had?
21 Q. Yes.
22 A. They was reading 500.
23 Q. What kind of instruments did
24 you have?
25 A. A Solaris.

54

01 Q. Is 500 the maximum that
02 they'll read?
03 A. I discovered that, yes, sir.
04 At the time I wasn't aware that
05 that's the max.
06 Q. And the first concentration
07 that you measured in the return on
08 the right-hand side of Four Right, as
09 you're looking in from north mains,
10 is that 500 over there, the first
11 time you checked it?
12 A. I don't recall the first time
13 for sure.
14 Q. Do you recall if there was a
15 change between when you first checked
16 it and then later when you tested it
17 at that time?

18 A. Not that I can recall one way
19 or the other. I mean, ---.

20 Q. Don't recall whether it was or
21 not?

22 A. Right.

23 Q. But at some point you had
24 concentrations that exceeded the
25 limits of your detector?

55

01 A. Apparently.

02 Q. Can you just take us on up
03 through here?

04 A. This is --- at this point is
05 as far as my team advanced.

06 Q. And that was 2717, one
07 crosscut inby?

08 A. Yeah, somewhere outby this set
09 of doors. It would have been right
10 here.

11 Q. Could you just put a --- draw
12 a little circle and just draw a line
13 to it and put FPA, furthest point of
14 advance. And that's just an
15 approximate distance there, and it's
16 ---.

17 MR. BEITER:

18 He circled the entry in
19 Four Right just inby spad
20 2717, okay.

21 A. And that's an approximate,
22 within a couple breaks.
23 BY MR. BEITER:
24 Q. And was there information that
25 Elk Run was collecting relayed back

56

01 to you, and then you relayed it to
02 the command center?

03 A. Yes.

04 Q. And that was Mr. Robertson
05 most of the time?

06 A. Yes.

07 Q. Do you know if he talked with
08 anybody besides the people in the
09 command center?

10 A. I'm not aware if he did.

11 Q. Can you take us back out of
12 here?

13 A. Okay.

14 Q. I guess what was the summary
15 of what you found when you were
16 up ---?

17 A. This entry through here was
18 clear.

19 Q. The entry in here is where you
20 indicated was the blue travelway?

21 A. Yes. That was the travel ---
22 the entry we traveled was clear.

23 Q. What was the direction of
24 airflow; do you recall?
25 A. I'm not positive to actually

57

01 tell you. I think the direction of
02 airflow was inby.

03 Q. Inby?

04 A. I'm not positive.

05 Q. Okay.

06 A. Like I said, this entry ---
07 this entry through here was clear,
08 old stopping lines. This one
09 stopping line here to the left of our
10 road where we traveled ---.

11 Q. That would be closest to the
12 setup entry for ---?

13 A. It was light to heavy in
14 different locations where we poked
15 through these doors here.

16 Q. When you poked through the
17 doors, such as the one that's next to
18 spad 2857, you say the smoke was
19 light to what?

20 A. Light to heavy.

21 Q. Light to heavy.

22 A. One area, I don't really
23 recall exactly where it was at, one
24 area we went through that had a door
25 was --- this smoke in here was ---

01 this entry was light, and then on
02 over to the next door it was heavy.
03 Q. The next door being closer to
04 the gob?
05 A. Yeah, next to the longwall, to
06 the tail end of the longwall, to the
07 gob side.
08 Q. Okay.
09 A. This entry here, ---.
10 Q. That's the entry on the
11 opposite side of ---.
12 A. The right side, yes.
13 Q. On the right side.
14 A. It wasn't --- the smoke wasn't
15 so thick that you couldn't see from
16 me to you, but it ---.
17 Q. From me to you is only about a
18 yard, three feet?
19 A. You could see ---.
20 Q. When you made your test, did
21 you actually go through the door and
22 travel into the entry or did you just
23 poke through the door and stick the
24 detector through?
25 A. No, we went through the door.

01 Q. Went through the door, closed

02 it behind you?

03 A. Yeah.

04 Q. Traveled over into the entry.

05 A. Not always did we close it

06 behind us.

07 Q. Not always?

08 A. Not always. It depended on

09 what --- if there weren't nobody over

10 there, without communications, not

11 being able to find us that way. Most

12 of the time over here you couldn't

13 see the person as they went through

14 the door.

15 Q. Do you recall any discussions

16 about people having been in here

17 prior to either of your two rescue

18 teams entering this area and opening

19 doors or adjusting ventilation

20 controls?

21 A. Not that I was told. Not

22 anything I can recall.

23 Q. Was there anything more you

24 wanted to elaborate on on this Four

25 Right area?

60

01 A. When we got to here --- like I

02 said, I wasn't up in here. Okay?

03 The Elk Run team was up in here

04 somewhere. I don't know exactly. All

05 they said was they had smoke in this
06 area.

07 Q. Do you know why that that is
08 as far as you traveled? Do you know
09 why they didn't travel beyond that?

10 A. No, other than I know they ran
11 into the water problem in through
12 there.

13 Q. Water preventing travel?

14 A. I don't recall what it was.

15 Q. Was this as far as had been
16 anticipated on the surface that you
17 would be traveling into Four Right?

18 A. There was one track up through
19 here and one through here.

20 Q. You were going to try to go
21 from Four Right to the northeast
22 mains through the Nine tailgate or
23 through --- and/or through Ten
24 headgate; is that correct?

25 A. That's my understanding, if

61

01 I'm correct.

02 Q. And that wasn't able to be
03 done? Do you remember why? I think
04 you told me that already.

05 A. The only thing I said, I said
06 I was told there was some water back

07 there.

08 Q. And that was the Elk Run team
09 who was actually exploring that area.
10 Do you know why the command center
11 thought that the missing miners would
12 be in the Four Right area?

13 A. I'm not positive at the time
14 why they would have. I mean, I don't
15 know why that decision was made,
16 whether it was made totally. I do
17 know that the --- like I said, I do
18 not know, but I have been told that
19 those guys, the two missing miners,
20 were pretty familiar with the
21 recovered structure out of one, two
22 --- I think about this headgate.

23 Q. About at Ten headgate?

24 A. Ten headgate.

25 Q. Do you know if that's a

62

01 designated escape route for Two
02 section?

03 A. No, sir, I don't believe. Is
04 that an escape route?

05 Q. Yes. Ten headgate or Nine
06 tailgate all goes to Four Right?

07 A. No, sir.

08 Q. No, sir, it isn't, or no, sir,
09 you don't know?

10 A. Well, I don't know for sure if
11 that's what it was or not. I know
12 it's not supposed to be. It's not a
13 primary escapeway.

14 Q. Okay. Can you take us through
15 now back into --- both teams now are
16 going to come back out to Four Right,
17 out to the mains.

18 A. We both come out here. We
19 proceeded up the travelway to the
20 Number One Fourway, which was --- I
21 took my mantrip up through here.

22 Q. That's the Number Two entry up
23 to the Number One Fourway?

24 A. Number One Fourway, right
25 here.

63

01 Q. Right.

02 A. Then I come through the doors
03 into the primary intake.

04 Q. Can you just draw me a line
05 where it says Number One Fourway.

06 WITNESS COMPLIES

07 BY MR. BEITER:

08 Q. Okay. You passed through the
09 doors and went in the intake?

10 A. Yes, sir.

11 Q. Okay.

12 A. And we traveled on up ---.

13 Q. If you could just draw a line

14 right here, that would be good. You

15 traveled on up two to three ---?

16 A. Should be Number ---

17 Q. Four entry.

18 A. --- Four entry.

19 Q. Okay.

20 A. And we traveled up to ---.

21 Q. Is this both teams traveling?

22 A. Yes, sir.

23 Q. Two different buses or more

24 than that?

25 A. Two different buses.

01 Q. Two buses?

02 A. Yes, sir.

03 Q. That would be 14-person trips?

04 A. Yes. Fourteen (14) person,

05 yes. The Elk Run team, from here

06 come on up the intake travelway.

07 Q. Was there a mantrip already in

08 the intake down there?

09 A. It was already there, yes.

10 They went in down here at the

11 Threeway.

12 Q. So at the Threeway, your team

13 traveled up the Number Two entry in

14 the neutrals, and ---

15 A. Secondary escapeway.
16 Q. --- the Elk Run team traveled
17 up the intake from the Threeway up to
18 Four Right?
19 A. Four Right.
20 Q. And then they continued on in
21 the intake up through the Fourway?
22 A. That's right. That's correct.
23 Q. When you got through the
24 Fourway, were they already past you
25 or were you in front of them?

65

01 A. I was in front of them.
02 Q. You were in front of them.
03 Did you wait for them before you went
04 in or did you ---?
05 A. Yeah. I waited until I seen
06 that they were coming. They wasn't
07 but maybe two or three breaks behind.
08 Q. Okay.
09 A. I did see their lights and
10 they seen mine, to make sure we all
11 was traveling up through here
12 together.
13 Q. Did you call out between ---
14 before --- or after you left Four
15 Right, did you call out to the
16 command center at any point?

17 A. If I recall, we called the
18 Fourway. I think so.

19 Q. You think so?

20 A. I think we did.

21 Q. How about beyond that?

22 A. Beyond that, we called when we
23 got up here.

24 Q. Top of the hill?

25 A. Top of the hill. To my

66

01 understanding, that was what we were
02 supposed to do.

03 Q. What's the top of the hill?

04 Right where the north mains makes a
05 right-hand turn and goes into
06 northeast?

07 A. Yes.

08 Q. Is that the top of the hill?

09 A. There's a ---.

10 Q. Right before that overcast?

11 A. If you come on up to ---
12 actually, the roadway at that time,
13 we came up one break, I think, past
14 this ---

15 Q. Past the 72-inch belt?

16 A. --- 72-inch belt, and then
17 actually turned right-handed. I
18 turned right-handed up there at the
19 buses and we parked in this little

20 area here.

21 Q. Okay.

22 A. The telephone that they was to
23 go get was here at this 48-inch belt
24 right ahead right there.

25 Q. Why don't you just draw a line

67

01 up there and put phone? Is that the
02 phone that they were, you said, to go
03 to get? Is that the phone you called
04 out from?

05 A. That's the phone we called out
06 from.

07 Q. Did you leave that phone
08 there?

09 A. Yes, to my knowledge, it was.

10 Q. Where did you travel beyond
11 that point? Both teams are together
12 now?

13 A. Both teams are together. We
14 established a fresh air base either
15 right here or right here, if I
16 remember correctly.

17 Q. How about if we look at this
18 other map, Charlie. This is --- all
19 that stuff is drawn on Exhibit B, and
20 that's all --- all the blue text
21 there has to do with your team's

22 travel on 1/19/2006. Exhibit A is
23 --- maybe to refresh your memory
24 some, a little bit here, there's a
25 fresh air base number eight. Does

68

01 that kind of look familiar?

02 A. That's the one I've said that
03 we established for fresh air, if I'm
04 not mistaken. But it might have been
05 a break back.

06 Q. So when you first went up
07 there, fresh air base eight is the
08 first fresh air base that you had in
09 the northeast mains area?

10 A. Yes.

11 Q. All right. If you just want
12 to take us through.

13 A. Okay. At this point, we were
14 here.

15 Q. And here's fresh air base
16 eight?

17 A. At fresh air base eight.

18 Q. Okay.

19 A. And if I remember correctly,
20 we were told to go advance up to the
21 48-inch belt. Actually, up to this
22 area here, which is ---.

23 Q. In the intake below the
24 48-inch belt, ---

25 A. In the intake.

69

01 Q. --- between the mother drive
02 belt --- between the 72-inch belt and
03 the 48-inch belt ---

04 A. Right.

05 Q. --- in the intake?

06 A. In the intake.

07 Q. Okay.

08 A. Then at that point ---?

09 Q. Did you travel to that
10 location?

11 A. Yes.

12 Q. How did you get there from the
13 fresh air base eight?

14 A. Straight up this way, back in
15 --- this is all intake entry.

16 Q. I don't know if we can use
17 that, but this map already has a lot
18 of color on it already. If you'll
19 just like make a line a little bit
20 maybe thicker so that we can follow
21 it through ---.

22 A. We went basically this way ---

23 Q. All right.

24 A. --- and then got in this
25 roadway, travelway.

70

01 Q. Right.

02 A. And we could have went through
03 the roadway either way because this
04 entry and that entry is all intake.
05 We traveled to that point.

06 Q. I'm just going to --- blue on
07 green, that's going to be pretty hard
08 to see. If I'm doing something that
09 you didn't do, you tell me.

10 A. As I recall, that's what we
11 done.

12 Q. So now we came up here before
13 you got to these double doors, right,
14 those airlock doors?

15 A. Now, we stopped at these
16 double doors.

17 Q. Stopped at the airlock
18 doors ---

19 A. Yeah.

20 Q. --- right there on front of
21 the --- airlock doors going into the
22 mother drive; is that right?

23 A. Yeah.

24 Q. Okay. Sitting there in the
25 intake?

71

01 A. Right.

02 Q. All right. What did you do
03 after you stopped there?

04 A. I'm not remembering for sure
05 what --- if we just checked through
06 them doors to see if they were hot or
07 what.

08 Q. Were they open?

09 A. No.

10 Q. Were both sets closed?

11 A. I'm not sure. I don't
12 remember if both sets were closed or
13 not. One set I'm almost positive was
14 closed. I'm not positive ---.

15 Q. Is that the first set you're
16 looking at?

17 A. I don't remember.

18 Q. That's all right. So you
19 proceeded to pass through those doors
20 to check it out you say?

21 A. We just --- what we done, best
22 I remember, we only checked the doors
23 to see if they were hot.

24 Q. Were they?

25 A. They were warm. So I did not

72

01 open them myself. I don't know if
02 anyone else ---.

03 Q. Both sets of doors did you get
04 to check or just the one set; do you
05 recall?

06 A. I really don't recall if it
07 was one or two, whether it was both
08 sets. At this time, I can't ---.

09 Q. Just draw a circle around the
10 first door there, maybe a line back
11 to it that says checked for heat.

12 WITNESS COMPLIES

13 BY MR. BEITER:

14 Q. Then after you checked that,
15 who was leading the team? Which team
16 was in front? Or were both teams
17 together; do you know? Did one team
18 stay back here at fresh air base
19 eight or were both proceeding
20 together? Do you remember?

21 A. I don't remember, Denny, for
22 sure.

23 Q. Okay. That's all right.

24 A. I mean, at that point I don't
25 remember if the other team was

73

01 getting up here yet or not, the other
02 two teams.

03 Q. There was another team besides
04 Elk Run?

05 A. I think so. At some point, I
06 don't remember if it was here, they
07 showed up, the other team.

08 Q. You said you traveled then ---

09 did you say you traveled over the
10 overcast then, the intake?
11 A. We went over here and it's my
12 understanding we were to go up on the
13 48-inch belt.

14 Q. And that's what you did?

15 A. Yeah.

16 Q. Traveled on up to the 48-inch
17 belt?

18 A. Forty-eight (48) inch belt.

19 Q. Is there a door in that entry,
20 in that stopping?

21 A. There was a door in the
22 stopping right here.

23 Q. They're not shown on this map,
24 but there was a door there?

25 A. Yes.

74

01 Q. All right. Can we just ---
02 there we go, just showing a door on
03 that. That's good. You went all the
04 way over to the 48-inch belt?

05 A. Yes.

06 Q. Man door; is that right?

07 A. Yeah. And then --- and I
08 don't recall which team went first.

09 I know that the two teams went ---.

10 Q. Is that a new air base

11 established, a new fresh air base
12 established?
13 A. This, yes. We established
14 fresh air base nine. I'm not
15 positive where the phone come from,
16 if we had some on the manbus or what.
17 I don't recall. But we did have
18 another pager-type phone that we
19 brought here.
20 Q. It wasn't the same phone that
21 you had at the 48-inch belt, was it?
22 A. I'm not sure. I don't think
23 so.
24 Q. Just circle and mark that as
25 fresh air bases.

75

01 A. Okay.
02 WITNESS COMPLIES
03 A. At that point, we proceeded
04 --- went through here checking the CO
05 levels and oxygen levels and methane
06 readings.
07 BY MR. BEITER:
08 Q. One team?
09 A. One team would advance up a
10 thousand foot, and then we would
11 advance up behind them.
12 Q. And you're talking about
13 advancing inby towards Two section on

14 the 48-inch belt?

15 A. Yes.

16 Q. Okay.

17 A. Which, like I said, I was ---

18 if I remember correctly, we were

19 still the backup team.

20 Q. Okay.

21 A. And Elk Run was still out in

22 front.

23 Q. Okay.

24 A. It was my understanding they

25 were to go through the doors if they

76

01 could get to them and check contents

02 and so forth.

03 Q. To check back through the

04 doors to the intake from the 48-inch

05 belt?

06 A. Yes, exactly. We got to this

07 door and established another fresh

08 air base.

09 Q. That's where the next phone

10 move was?

11 A. Yes.

12 Q. Charlie, before I forget, back

13 here where you circled this door and

14 said checked for heat, did you say it

15 was warm, warm to touch?

16 A. The best I can remember, the
17 door was warm there. They also ---.

18 Q. Just note that on here just
19 for the record.

20 WITNESS COMPLIES

21 BY MR. BEITER:

22 Q. Okay. Now, back to what you
23 were saying.

24 A. Now, at this point we
25 flip-flopped teams because --- to

77

01 give them guys a break from traveling
02 so much.

03 Q. Okay. So the next fresh air
04 would be Ten?

05 A. Right.

06 Q. You guys were the advancing
07 team?

08 A. We were the advancing team.

09 Q. Elk Run was back up?

10 A. Elk crew was back up.

11 Q. Okay.

12 A. We went on up farther on into
13 the northeast.

14 Q. Do you remember when you poked
15 looked through these doors between
16 fresh air bases nine and ten what you
17 found?

18 A. I can remember what they

19 called back to --- some of it, what
20 they called back to the --- to relay
21 back out to the command center.

22 Q. What was that?

23 A. Dense smoke.

24 Q. Dense smoke?

25 A. Heat.

78

01 Q. Heat?

02 A. And elevated CO levels, 500

03 plus.

04 Q. 500 plus ---

05 A. Well, like I said, our

06 instruments read to 500.

07 Q. --- with those instruments?

08 A. Yes.

09 Q. Elk Run had the same type of

10 equipment, Solaris?

11 A. Solaris.

12 Q. Do you recall if the doors

13 were in the locations that were shown

14 on the map, the man doors? Do you

15 recall ---?

16 A. No, I'm not real sure, no. I

17 don't recall that for sure.

18 Q. Do you recall if there was

19 smoke in the 48-inch belt entry

20 between fresh air bases nine and ten?

21 A. There was not enough smoke
22 there to have to go don our
23 apparatus.

24 Q. Was there any CO in that entry
25 at all?

79

01 A. 10, 15 maybe.

02 Q. In fresh air base nine, was
03 there any CO?

04 A. No.

05 Q. So somewhere between fresh air
06 base nine and fresh air base ten some
07 small amount of smoke, small amount
08 of CO had migrated into that 48-inch
09 belt entry; is that what I'm
10 understanding?

11 A. I'm not going to say for sure.
12 I don't recall for sure how many ---
13 if there was smoke. You know what
14 I'm saying?

15 Q. Yes.

16 A. But there was a little bit of
17 elevation of CO. But not nothing
18 that was --- not as far as ---.

19 Q. Yes. Okay. Can you continue
20 on?

21 A. We advanced on up. We come on
22 up and continued coming through the
23 doors.

24 Q. And that's advancing ---
25 you're the advancing team now in

80

01 front of ---

02 A. Elk Run.

03 Q. --- in front of Elk Run and
04 going inby fresh air base ten?

05 A. Yeah. I don't ---.

06 Q. Just draw a little line here.

07 Just put FAB Ten.

08 WITNESS COMPLIES

09 A. I don't recall exactly how far
10 up to here we got.

11 BY MR. BEITER:

12 Q. And that's inby Ten?

13 A. They were --- yes. There was
14 somewhere that the command center
15 said the manbus for the guys that got
16 outside was parked at such and such
17 location. They had it marked on
18 their outside map. And we were told
19 to continue on. And when we didn't
20 get above our thousand-foot limit, to
21 come through the door and, if
22 possible, explore and try and find
23 the manbus.

24 Q. Inby and outby the intake?

25 A. Inby and outby, right.

01 Q. Looking for the mantrip?

02 A. Right.

03 Q. And did you do that?

04 A. Yes, we did.

05 Q. Do you recall what door you
06 would have traveled through?

07 A. No, I don't recall where the
08 manbus was at exactly.

09 Q. Do you recall since you've
10 been in there mapping and that where
11 it's been? 3450, 3546 spad ---?

12 A. I was going to say somewhere
13 along in that area right there.

14 Q. And there's a door down here.
15 You got cribs in this crosscut here;
16 right?

17 A. Yes.

18 Q. And you got a door. Is that
19 the door that you would have come
20 through?

21 A. We attempted --- we come
22 through this one and started up this
23 way.

24 Q. So is that the door that you
25 would have come through? You don't

01 recall?

02 A. I'm not going to say for

03 certain, because I don't remember.

04 If we come through the door that we

05 came to that was supposed to have

06 been ---.

07 Q. Where the people came through

08 that were evacuating the mine?

09 A. I'm not sure about that,

10 Denny. When we come through the

11 door, the first one we come to ---.

12 Q. The first one past fresh air

13 base ten?

14 A. Yeah, to get to.

15 Q. Okay. That's good.

16 A. The command center said it

17 should have been here.

18 Q. When you were traveling the

19 48-inch belt, do you recall going

20 past --- I don't know if you've been

21 up there since then. There's a fall

22 that's across from that entry in the

23 intake there that has those ---

24 there's cribs on both sides of it,

25 and then the belt entry gets pretty

83

01 tight. If you would have went

02 through there with apparatus, you

03 would have probably remembered it

04 because it was --- I mean, it's real

05 tight.

06 A. I remember going through areas
07 under the belt line.

08 Q. Did you go through that before
09 you reached the door on that day?

10 A. I don't recall that for sure.
11 I know we did go across that belt
12 because we got up on the belt motor
13 to get that brattice to stick.

14 Q. Later on, at some point?

15 A. At some point we did.

16 Q. At some point.

17 A. I was just going to say that.

18 Q. So you came into the intake at
19 the first door past fresh air base
20 ten. Okay.

21 A. We went up this way as far as
22 we could go.

23 Q. Did you count crosscuts?

24 A. I'm thinking it would have
25 been three crosscuts.

84

01 Q. Three crosscuts?

02 A. Two to three.

03 Q. Two to three inby the door?

04 A. Inby the door, until we came
05 to the ---.

06 Q. And that's in the --- it would
07 be in the entry that spad 3307 is in

08 traveling inby towards Number Two

09 section; is that correct?

10 A. Uh-huh (yes).

11 Q. Two to three crosscuts past

12 the first door that exists between

13 the belt ---

14 A. Here.

15 Q. --- and the intake?

16 A. To the right, yes.

17 Q. And what were the conditions

18 in that entry at that time?

19 A. Smoky, thick smoke.

20 Q. Visibility?

21 A. Visibility, a foot.

22 Q. Did you have a lifeline on?

23 A. We was all --- the ones that

24 was in here was all together.

25 Q. Hooked together?

85

01 A. Well, we were --- you know,

02 within contact with each other.

03 Q. With a lifeline or just hooked

04 together like I can touch you and you

05 can touch me?

06 A. No, we actually had --- there

07 was only two --- there was only three

08 people that went on there.

09 Q. Okay. But you was one of

10 them?

11 A. Not this first trip here, no.

12 Q. Do you know who they were?

13 A. Not right off hand I don't. I

14 don't recall who was what.

15 Q. When they proceeded down that

16 intake, how did they proceed, in a

17 single file or ---? Do you know?

18 A. I am not sure.

19 Q. Did they find the mantrip?

20 A. No.

21 Q. And they went inby first?

22 A. Yes.

23 Q. And did they come back and

24 then go outby?

25 A. They tried to, yes.

86

01 Q. Do you know how far they went

02 outby?

03 A. What they reported back to us,

04 if I remember correctly, they went

05 one crosscut and half a block.

06 Q. Okay. For the sake of

07 purposes here of trying to get a

08 picture drawn on here of where your

09 team traveled, let's just assume that

10 this door is where it's shown here.

11 A. Okay.

12 Q. Okay. And if it's not, then

13 the record will reflect it. The
14 actual place where you actually
15 traversed through that crosscut would
16 be wherever that door actually is.

17 A. Right.

18 Q. Okay. And you said about
19 one-and-a-half crosscuts outby; is
20 that correct?

21 A. That's what they reported.

22 Q. And then going inby, you said
23 two to three?

24 A. Two to four say right
25 somewhere along there.

87

01 Q. Okay. All right. That's
02 good. That's good, Charlie. How
03 about from there then?

04 A. From there, they come back out
05 ---.

06 Q. I'm assuming everything ---
07 you said it was hot there, too?

08 A. Yeah, hot and smoky.

09 Q. Uncomfortably hot?

10 A. It was getting that way by the
11 time they went here and here.

12 Q. And again, it was over the 500
13 on your handheld?

14 A. Yes, sir.

15 Q. All right. Can you proceed?

16 A. We come back out and we
17 proceeded to go on up to what the
18 command center wanted us to do ---.

19 Q. In the 48-inch belt?

20 A. In the 48-inch belt entry, up
21 to the next door.

22 Q. All right.

23 A. At that point, ---.

24 Q. We just want to assume the
25 next door is the one that's shown on

88

01 this map.

02 A. That's the only thing I can do
03 with it.

04 Q. That's fine. That's fine.
05 And that's spad 3582.

06 A. We come to this door ---

07 Q. From the 48-inch belt into the
08 intake?

09 A. --- from the 48-inch belt into
10 the intake. We --- I don't recall
11 who was with me, but myself and two
12 more, come over in here and we were
13 all tied together with a makeshift
14 lifeline. When we got to this point
15 on the corner, I was on the rib side
16 and the other two guys spread out
17 across the entry.

18 Q. On the rib side, meaning
19 looking outby toward the 48-inch
20 belt?

21 A. Right. We came down this way
22 two breaks. That's as far as we
23 could go on account of the heat.

24 Q. Was it getting worse?

25 A. It was getting hot.

89

01 Q. It was getting hot.

02 A. I mean, to me, it was getting
03 hot, I mean, that I didn't feel
04 comfortable with anybody else, you
05 know, being that hot. We come back
06 ---.

07 Q. And was the visibility there
08 about the same as it was on the other
09 side there?

10 A. It was still, like I said ---
11 actually, you had to hold onto the
12 ribs as you come in --- I did, to
13 make sure that I didn't fall and
14 nobody come off the line or whatever.

15 We came back and attempted to
16 go --- probably didn't go over ten
17 foot inby that ---.

18 Q. Inby ---?

19 A. Where we come through the

20 section where we come in, yes.

21 Q. Okay.

22 A. At that point, we come back
23 over to here. And if I remember
24 correctly, at this point we were told
25 the relief teams come and we

90

01 retreated back outside.

02 Q. And this fresh air base moved
03 up from 10 to 11 to 12 at that point?

04 Or was that not until later?

05 A. It had been moved, I think, to
06 this point.

07 Q. So 11?

08 A. Yeah.

09 Q. Up to where you actually cross
10 under the belt, or crossed the belt
11 and came over into the intake the
12 first time; is that correct?

13 A. I think so.

14 Q. Just draw a circle there.

15 WITNESS COMPLIES

16 A. And maybe this one here. I
17 ain't positive about it.

18 BY MR. BEITER:

19 Q. And the up here you're not
20 positive about, where it shows fresh
21 air base 12?

22 A. I'm not --- I don't remember

23 when it was there. I know the last
24 --- the next time I went back in
25 there were some things already been

91

01 moved and re-established.

02 Q. And this is all on the 19th?

03 A. To my best --- well, the 19th
04 and the 20th.

05 Q. Yes. And this is all --- the
06 blue marker on Exhibit A, Charlie, is
07 that as far as you went that day?

08 A. The best I can recall.

09 Q. And you just proceeded out of
10 the mine after that?

11 A. Yes, sir.

12 Q. Do you know if anybody ---
13 everybody on your team, did everybody
14 stay together? Did the other team
15 members get assigned other tasks
16 while certain ones were exploring?
17 You had a backup team there as well.

18 A. Yeah.

19 Q. Did anybody do anything to
20 install waterlines or anything like
21 that?

22 A. Not that I'm aware of. There
23 was two other teams up there. What
24 else they ---.

25 Q. So this initial exploration,

92

01 there were no waterlines added or

02 ---; is that correct?

03 A. I don't know.

04 Q. Not to your knowledge?

05 A. Not to my knowledge. I don't
06 know when that was done or anything.

07 Q. If anybody was assigned to do
08 that by the command center, would
09 they have informed you as team
10 captain? Or at some point would you
11 have been notified as team captain
12 that those men were doing that?

13 A. I don't know if they would
14 have or not. I don't know that.

15 Q. That's okay. When you left
16 here, were you replaced by a team
17 underground?

18 A. Yes, sir.

19 Q. Do you know what team that
20 was?

21 A. No, I don't recall. I really
22 don't.

23 Q. Was your team and Elk Run's
24 team both relieved at the same time?

25 A. Yes.

93

01 Q. How about the third team? You

02 said there was a third team that had
03 joined you?
04 A. I'm not sure about them. All
05 I know is two teams that was up there
06 with me, we come outside.
07 Q. You said Johnny Robertson was
08 with your team?
09 A. Yes.
10 Q. What role did he have in your
11 team's activities that day? You said
12 down here at Four Right he was on the
13 phone most of the time.
14 A. Yes.
15 Q. What role did he play up here
16 in your exploration ---?
17 A. He didn't advance up through
18 there with us past this area here.
19 Q. He stayed behind?
20 A. Yes.
21 Q. Do you know if he stayed at
22 the fresh air base?
23 A. I'm not sure where he stayed.
24 Q. Did you have any discussions
25 with him afterwards?

94

01 A. I didn't myself, no.
02 Q. Did you hear of anybody else
03 that had any discussions with him?

04 A. I don't know who. I'm not
05 positive who was the guy that was on
06 the phone that was talking to him
07 down this way, the command center.
08 And as we advanced up, the command
09 center went straight from this phone
10 outside.

11 Q. It went from the most inby
12 fresh air base directly outside?

13 A. To the outside.

14 Q. So when you went to fresh air
15 base ten and he was still back here
16 at nine, you don't know what he did;
17 is that what I'm ---?

18 A. I don't know.

19 Q. Okay. Do you know if --- you
20 didn't hear any discussion about him
21 exploring anywhere else on his own?

22 A. No.

23 Q. Did he have his apparatus with
24 him?

25 A. Yes, sir.

95

01 Q. Was there anybody else with
02 him?

03 A. I think, I don't know for
04 sure, that the other mine rescue team
05 was down there. And who it was, I
06 don't know.

07 Q. The third team had came up and
08 joined your team and Elk Run's; is
09 that correct?

10 A. They joined us down here ---
11 on the other map ---?

12 Q. The third team joined you down
13 here at Four Right?

14 A. There was one team, I know.
15 And there might have been two. I'm
16 not positive. But there was one.
17 They come up here with us, too.

18 Q. So there was three teams
19 altogether?

20 A. To my knowledge.

21 Q. Okay. How about the --- did
22 your team ever find the mantrip on
23 the 19th, 20th, that first trip in?
24 Because you were probably back
25 underground on the 20th again.

96

01 A. Yes, we did.

02 Q. You did?

03 A. Yes. Yeah, well --- yeah.

04 Q. On which trip? On your trip
05 coming back?

06 A. No.

07 Q. On the first trip going in?

08 A. We got in --- I'm trying to

09 remember exactly. Before we
10 retreated back out and everything, we
11 went back over again.

12 Q. Okay. You came back in.

13 A. Came back in.

14 Q. Retraced your route?

15 A. Yeah.

16 Q. Just went a little further
17 that time?

18 A. A little bit farther. Because
19 we knew there wasn't no need going
20 this way. It might have been a
21 little bit that way and the command
22 center said it had to be in between
23 where we were at.

24 Q. So you just went back and
25 connected up ---?

97

01 A. And we went back and done it
02 again.

03 Q. And that's when you found ---?

04 A. Took another mean with us this
05 time.

06 Q. Four of you?

07 A. Four of us.

08 Q. With a makeshift lifeline?

09 A. Yes, sir.

10 Q. Rib to rib?

11 A. Rib to rib.

12 Q. Did you find that you actually
13 missed it the first time through or
14 you just didn't go far enough?

15 A. Just didn't go far enough. We
16 was probably within ten foot of it.

17 Q. Do you know what time you were
18 relieved up here?

19 A. I have no idea.

20 Q. Did you find any other pieces
21 of evidence or any pieces of evidence
22 of clothing or SCSRs, anything like
23 that, on the initial exploration?

24 Let's just go little by little. When
25 you went into this intake and you

98

01 came back to the mantrip and found
02 the mantrip, were you with that crew
03 that found the mantrip?

04 A. Yes.

05 Q. Did you find anything in your
06 exploration there besides the
07 mantrip?

08 A. I don't recall if anything was
09 found because when we got to the
10 mantrip, in order to see what was
11 going on pretty well, one person
12 would come off the line, you know
13 what I'm saying, hold onto the

14 manbus. That's the only way you can
15 actually get around it.

16 Q. To feel your way.

17 A. Yeah, just make sure you don't
18 get turned around and confused or
19 anything about where you were at.
20 And then you can get to the front ---
21 or actually go to the front end
22 corner. If I remember the correct
23 way the bus was sitting, you come to
24 that corner that was sitting down in
25 the break, come around --- it would

99

01 be the outby side of it --- inby
02 side, you couldn't see the rib well
03 enough to know if you were --- if it
04 was --- anything wrong with it or
05 not. I did not travel between the
06 manbus and the rib.

07 Q. Once you found the manbus, did
08 anybody make any additional searches
09 for missing miners at that point?

10 A. We come on down to the point
11 that we was there and basically
12 crossed in front of the manbus ---

13 Q. Yes.

14 A. --- and extended out as far as
15 we could reach.

16 Q. About four peoples' distance

17 in front of the manbus, in front of
18 the outby --- because it was facing
19 outby?
20 A. Because it was back down in
21 beside of it, looking underneath ---.
22 Q. In the crosscut down by the
23 next ---?
24 A. Then down towards this, down
25 this way.

100

01 Q. Towards the next --- towards
02 the adjacent parallel intake entry?
03 A. Yes.
04 Q. Down here. The team that ---
05 the part of your team, the three
06 gentlemen, who traveled into the
07 intake entry from fresh air base 11
08 location, did they report finding any
09 SCSRs or lids or anything at that
10 time; do you recall?
11 A. I don't recall.
12 Q. Do you recall as you traveled
13 this --- all the way up this 48-inch
14 belt from where you entered into
15 fresh air base nine up through your
16 furthest point of advance ---? If
17 you could mark this here, too, FPA.
18 What date was that on, 1/20?

19 A. It should have been on the
20 20th.

21 Q. And what was your team?

22 A. East Kentucky.

23 Q. East Kentucky. Do you recall
24 noting any stoppings that had holes
25 in them or ---? I mean, you've been

101

01 through there. In fact, you traveled
02 with me a few days ago. We were
03 going through here. And you recall
04 what those controls look like now.
05 Do you recall if any of those
06 controls looked like that then as far
07 as some holes in them or one of them
08 had a curtain over top of it and a
09 hole in the bottom up through here
10 --- between the intake and that 48-
11 inch belt. Do you recall what the
12 condition of those controls were
13 then?

14 A. Not all of them.

15 Q. Do you recall any of them that
16 had a hole in them, that you saw a
17 hole then ---

18 A. There was one that had a hole
19 in it, but I cannot ---.

20 Q. --- where you might have seen
21 smoke coming through? Pardon me?

22 A. I said one of them I recall
23 had a hole in it, but ---
24 Q. Was there smoke?
25 A. --- whereabouts, I don't know.

102

01 Q. That's okay. Was there smoke
02 coming through that hole from the
03 intake into the 48-inch belt; do you
04 remember?

05 A. I don't remember seeing
06 anything.

07 Q. Okay. What about then between
08 fresh air base nine and ten or ten
09 and eleven?

10 A. I do not remember.

11 Q. Would it be inby nine?

12 A. It would be inby nine, yes.

13 Q. You didn't travel from fresh
14 air base nine to the 48-inch head,
15 did you?

16 A. No, sir, I did not.

17 Q. Okay. Did your team bring
18 your map out?

19 A. Yes, we did.

20 Q. Do you know what --- what did
21 you do with your map when you got to
22 the surface?

23 A. It was someone from MSHA

24 and ---.

25 Q. Do you recall who?

103

01 A. I don't remember --- recall

02 the name, and ---.

03 Q. Was it somebody you know?

04 A. No. Matter of fact, I didn't

05 know a whole lot of people at that

06 point.

07 Q. All right. Did you have a

08 debriefing?

09 A. Yes.

10 Q. Do you recall who debriefed

11 you?

12 A. The same one that took the

13 map.

14 Q. The same one who took the map,

15 okay.

16 A. I can't recall.

17 Q. That's fine. Where was the

18 debriefing held?

19 A. Downstairs.

20 Q. Downstairs, where the big

21 table is ---

22 A. Yeah.

23 Q. --- in the wash house?

24 A. Yeah.

25 Q. And you said you gave that map

104

01 over to that person. Okay. Do you
02 know for sure the person worked for
03 MSHA?

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

05 Q. Okay.

06 A. I just --- most of the guys
07 that was there, it was sometimes one,
08 sometimes two, had MSHA on their
09 coveralls or on their hard hat, one
10 of the two.

11 Q. And that person did have an
12 MSHA ---

13 A. Yeah.

14 Q. --- insignia on him, so ---.
15 Okay. The mantrip here is shown
16 where you came down to the next ---
17 you can't see it now, but that's
18 where spad 3546 was. Do you recall
19 how the mantrip was located? Could
20 you describe it a little bit.

21 A. Okay. It had pulled --- it
22 looked like it had come out of this
23 entry.

24 Q. And this entry being the entry
25 downhill, the other adjacent intake

105

01 entry?

02 A. Right. And it come this way

03 and it made a right-hand turn and
04 then attempted to make a left-hand
05 turn.

06 Q. They made a right-hand turn
07 onto the lower entry, traveled uphill
08 through the crosscut and then making
09 a left-hand turn?

10 A. That's the way it appeared to
11 me.

12 Q. Into the intersection where it
13 was stopped?

14 A. Came down this other entry,
15 yes.

16 Q. And was there anything unusual
17 about it, about how it was parked?

18 A. I didn't see anything unusual
19 about it.

20 Q. Okay. Are the Elk Run and
21 East Kentucky mine rescue teams both
22 part of Massey Corporation?

23 A. Yes, sir.

24 Q. Did you identify your
25 exploration map before it was turned

106

01 over to whoever it was turned over to
02 during your debriefing, identify it
03 like by date and ---

04 A. Yes.

05 Q. --- team, team captain name?

06 A. Yes.

07 Q. So if we found a map and it
08 was --- if we found your map, not
09 knowing it was your map, you'd be
10 able to identify it?

11 A. It should have a date and
12 either my --- the captain's name or
13 the map name at that time. If I
14 remember correct, that's what we had
15 to do to ---.

16 Q. Did your team travel back
17 underground after that, another day?

18 A. Yes, sir, another day, we did.

19 Q. And you accompanied your team
20 then?

21 A. Yes.

22 Q. Did you accompany another team
23 besides your team?

24 A. I don't understand what you
25 mean. I mean, ---.

107

01 Q. Did you go underground with
02 another mine rescue team besides East
03 Kentucky? Every time you went
04 underground as a mine rescue person,
05 did you accompany the East Kentucky
06 team?

07 A. The East Kentucky team was

08 with me.

09 Q. Yes. Every time you did?

10 A. Every time we went

11 underground.

12 Q. And you didn't travel without

13 the rest of your team with another

14 team?

15 A. I mean, we've traveled with

16 other teams, but ---.

17 Q. Yes. Did you go back

18 underground on the 20th?

19 A. I think we did.

20 Q. You think?

21 A. I think, yeah, we did.

22 Q. Do you recall where you would

23 have traveled that day, that trip?

24 I forgot to ask you, while

25 you're thinking, that first trip you

108

01 traveled that you have in blue here

02 on the 19th and 20th, what --- did

03 you hang any vent controls, check

04 curtains or open holes in stoppings

05 or leave any doors open or close any

06 doors that you found open or anything

07 such as that?

08 A. I don't really recall if we

09 did any or not. I don't think we

10 hung any vent controls up through

11 here anywhere or nothing of that
12 nature.

13 Q. Do you recall finding any man
14 doors open that should have been
15 closed?

16 A. I don't recall.

17 Q. Okay. Back to the second trip
18 then, if you recall.

19 A. I don't recall the second trip
20 if we done exploration or if we was
21 at this area here.

22 Q. Okay. Firefighting, did your
23 team get involved with firefighting,
24 if you recall?

25 A. Yes, we did.

109

01 Q. Do you know if you knocked out
02 any stoppings or parts of stoppings?

03 A. I think that there was a piece
04 of a stopping that had been removed,
05 and I don't recall who done it.

06 Q. Between where and where?

07 A. Between here and here.

08 Q. Separating the belt from the
09 intake?

10 A. Yeah.

11 Q. Here and here would be between
12 --- one crosscut inby 2236. But you

13 know there's multiple 2236s on here;
14 right?

15 A. Yes.

16 Q. Okay. So we're looking at
17 where fresh air base ten is drawn
18 here, and it looks like 3210, spad
19 3210, between there and between ---
20 three or four crosscuts inby that; is
21 that correct? Is that what you said?

22 A. In between there --- where the
23 overcast was at inby ---.

24 Q. Between where the overcast ---
25 where the primary intake came across

110

01 the 72-inch belt, in that intake
02 entry, between there and three
03 crosscuts inby that, one of the
04 stoppings that --- I'm just repeating
05 what I'm thinking you said. One of
06 the stoppings that was located
07 between the 72-inch belt and that
08 intake air course, is that one of
09 those stoppings? You said one of
10 those stoppings had a hole punched
11 in, by the rescue team? Is that what
12 you said?

13 A. Yeah. I just don't recall
14 which one. It may have even been the
15 second or third trip, second or third

16 time.

17 Q. It might not have been the
18 second trip?

19 A. It might not have been the
20 second trip.

21 Q. It might have been on third
22 trip. Okay. Do you recall as you
23 traveled down this intake at all any
24 day if there was a stopping in the
25 crosscut between the intake entry and

111

01 the 72-inch belt outby the overcast
02 as you crossed over?

03 A. I do not know. I didn't look,
04 really.

05 Q. All right. Did your team take
06 down any of the stoppings and put up
07 equipment doors?

08 A. No.

09 Q. Did anybody from your team
10 explore the fire area at all?

11 A. What are you calling explore?
12 I mean, ---.

13 Q. Work in the fire area.

14 A. At one point we did work the
15 fire area some.

16 Q. Could you circle on here in
17 green ---? Do you know what shift

18 that would have been and what trip
19 in?

20 A. I don't recall.

21 Q. It wasn't the first?

22 A. No, it wasn't the first, not
23 that I can recall.

24 MR. BEITER:

25 So we're going to mark

112

01 in green on Exhibit A the area
02 that Mr. Conn's team addressed
03 the fire.

04 BY MR. BEITER:

05 Q. What did your team do in that
06 area? I'm just going to make it
07 darker.

08 A. Okay.

09 Q. I'm in the same area. There's
10 a lot of color on this map. I want
11 to see it later. And what did you do
12 in those areas?

13 A. We just sprayed water.

14 Q. Using just regular fire hose?

15 A. Fire hose. That's what we
16 done here and here.

17 Q. Did you hook the fire hoses
18 up?

19 A. No.

20 Q. No? They were already hooked

21 up?

22 A. They were already hooked up.

23 Q. Did you extend any waterlines

24 at all, your team?

25 A. What kind of waterlines?

113

01 Q. Five foot.

02 A. Not that I'm aware of.

03 Q. Did you travel anywhere inby

04 the locations you have shown in green

05 into Nine headgate?

06 A. The farthest point that we

07 ever went, and like I say, I don't

08 remember --- recall what day or

09 anything, was to the back side of the

10 storage area, firefighting, putting

11 out flames.

12 Q. Just put a line across there.

13 A. Wherever the storage unit was?

14 Q. Wherever the storage ---.

15 Okay. And the line you're showing

16 there is at 3272. It's wherever the

17 inby side of the storage unit was?

18 A. Yes.

19 Q. And that's as far inby into

20 the Nine headgate that your team

21 traveled; is that correct?

22 A. Yes.

23 Q. What about on the 72-inch
24 belt, outside of the circle that you
25 have around the tail?

114

01 A. That's as far as --- that I
02 can recall us going until later on,
03 after ---

04 Q. Okay. You have this
05 tailpiece, the 72-inch tailpiece
06 circled in that area there. Did you
07 set posts in that area, too?

08 A. We set some.

09 Q. Those metal posts?

10 A. Maybe two.

11 Q. And that was during the
12 firefighting activity?

13 A. Yes.

14 Q. Do you recall a stopping being
15 located inby that tailpiece?

16 A. A stopping where, Denny?

17 Q. Between the Ten tailpiece and
18 the next intersection. We walked
19 through there several times.

20 A. I don't recall.

21 Q. Do you recall seeing one there
22 that night?

23 A. I don't recall seeing one, no.

24 Q. Do you recall any discussions
25 about that stopping?

01 A. Not to me, no. Not

02 personally, no.

03 Q. Did you hear anybody else

04 talking about it, maybe why it was

05 there or why it wasn't there?

06 A. No.

07 Q. How about this next one down

08 the line, inby spad 3266? I think

09 that's what it is. That's it. A

10 crosscut-and-a-half past the mother

11 drive belt head.

12 A. What are you asking?

13 Q. Do you recall any discussions

14 about that stopping?

15 A. Not with me.

16 Q. Okay. Did your team explore

17 any of this area down between Nine

18 headgate and Nine tailgate, in the

19 lower three entries?

20 A. No.

21 MR. BEITER:

22 Bill?

23 BY MR. TUCKER:

24 Q. I have a few questions for

25 you, Charlie.

01 A. Okay.

02 Q. You mentioned that in addition
03 to your normal team members, that
04 Johnny Robertson also traveled with
05 your team?
06 A. Yes, sir.
07 Q. Was there anyone other than
08 Johnny that traveled with your team?
09 A. With my team?
10 Q. Yes, sir.
11 A. No.
12 Q. Okay.
13 A. Other than agency people.
14 Q. Right. I'm referring to your
15 first trip underground, ---
16 A. No, no.
17 Q. --- your initial trip
18 underground. Did Johnny come out
19 with your team when you were relieved
20 out?
21 A. I don't really recall for
22 sure.
23 Q. Okay. On your initial trip
24 into the mines when you came to the
25 fire area, could you just walk
01 through what your team did concerning
02 the fire area? I mean, before you
03 started exploration inby the fire,
04 what did your team do?

05 A. We, like I said, checked the
06 door to see if it was hot and just to
07 see if --- possibility of where the
08 fire might be. And then we proceeded
09 on up towards the fresh air bases,
10 where we were supposed to go. We
11 kind of looked back up the intake
12 there to look to see what was ---.

13 Q. That's why I was wondering, as
14 far as evaluating the fire at that
15 point, because there had been some
16 time that the fire had basically been
17 left alone, nobody was there. As far
18 as evaluating the fire, ---.

19 A. Someone, I don't recall who,
20 did do an evaluation-type thing on
21 it. I mean, I don't recall who or
22 what, who made that determination or
23 who even went to --- if anybody went
24 all the way to check whatever. I
25 just don't recall.

118

01 Q. Okay. Do you recall if you
02 saw Gary Goff underground at any
03 time?

04 A. Not --- I do not recall seeing
05 him the night of the 19th.

06 Q. How about on the 20th?

07 A. Or the 20th.

08 Q. The day of the 20th?

09 A. No, not any time during the

10 --- after the 19th until --- I don't

11 know how long until we were allowed

12 to send people in.

13 Q. Do you recall what time you

14 came out on the 20th?

15 A. No, sir.

16 Q. You mentioned that Johnny

17 Robertson traveled with your team.

18 Do you know where he got his

19 apparatus? Did he use one of yours?

20 Did he have one or ---?

21 A. I'm not sure on that. He

22 didn't --- he had a BG-174. That's

23 what he had.

24 Q. And you mentioned I think your

25 team used the BG-4s?

119

01 A. Yes.

02 Q. So you're not sure where he

03 got his apparatus?

04 A. I'm not sure.

05 Q. Do you know if anyone like ---

06 do you have a benchman on your team

07 that like benches your apparatuses?

08 A. Yes.

09 Q. Do you know if he benched the

10 174 or have any knowledge of that ---

11 A. No.

12 Q. --- that Johnny used?

13 A. No.

14 Q. Okay. Did you observe any
15 other Massey employees with other
16 teams underground on the 19th and
17 20th?

18 A. Do you mind repeating what
19 you're asking again? I just want to
20 make sure I understand.

21 Q. I'm just asking if you
22 observed any other Massey employees
23 with other teams underground on the
24 19th and 20th. You initially
25 traveled in with the Elk Run team.

120

01 A. Uh-huh (yes).

02 Q. Did you notice anybody with
03 that team?

04 A. Frank Foster was.

05 Q. So just Johnny and ---

06 A. Johnny and Frank.

07 Q. --- Frank?

08 A. Uh-huh (yes).

09 Q. Just to back up just a little,
10 do you normally receive alpha
11 messages on your pager, or do you

12 have a pager that you usually receive
13 messages from the mines?

14 A. What you're calling an
15 alpha-type page, no. I do have a
16 pager, yes, and it is capable of
17 receiving text messages or phone
18 numbers.

19 Q. Do you recall if you was paged
20 on the 19th from the mines?

21 A. I was paged with a phone
22 number, you know, to recall --- to
23 call that phone number.

24 Q. Do you recall if that page was
25 concerning the --- what was going on

121

01 at the mines as far as the fire?

02 A. The pages I got was after I
03 had --- as I told you earlier, when
04 my wife had called me and said that
05 somebody from the mines had called,
06 for me to call them. I was on the
07 phone with the mines at that time
08 when my pager went off.

09 Q. Okay. Did you ever happen to
10 notice that page, as far as the time
11 on it, that you received the page?

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

13 Q. Do you know how or why Johnny
14 Robertson was included on your team

15 on the 19th when you went in, or how
16 that came about?
17 A. No, I don't.
18 Q. Did you ever go around on the
19 inby set of doors at the mother drive
20 in the travelway? I mean, you
21 mentioned you had went to the outby
22 set of doors when you originally went
23 to the fire area. At any time did
24 you travel around to the inby set of
25 doors?

122

01 A. No, sir.
02 Q. On your second trip
03 underground, do you recall --- or you
04 may have already mentioned when you
05 went underground for the second trip.
06 A. I don't know what --- what are
07 you asking?
08 Q. I was just asking when you ---
09 I mean, on your original trip you
10 went in on the 19th and actually came
11 out on the 20th.
12 A. Yes, sir.
13 Q. Do you recall when you went in
14 on your second trip?
15 A. Time-wise or ---?
16 Q. What day? Yes, time or day,

17 if you can remember.

18 A. No, I don't remember.

19 Q. Do you recall if the victims
20 had been located at that point, on
21 your second trip underground?

22 A. I don't think that they had.
23 I'm not sure.

24 Q. You're not sure.

25 MR. TUCKER:

123

01 Thank you.

02 BY MR. BEITER:

03 Q. Charlie, when I was asking you
04 about that stopping up there that was
05 a crosscut-and-a-half inby the mother
06 drive belt head, in that 72-inch belt
07 entry, and I said there was a
08 stopping located inby 3266, just for
09 the record, I was identifying a
10 stopping that's shown on that map
11 that was on the command center map
12 that's Exhibit A. I wasn't implying
13 or inferring that there was a
14 stopping there or wasn't, either then
15 or now. Okay?

16 A. Okay.

17 Q. So that was just in reference
18 to what was shown on that map. Was
19 Johnny Robertson under your direction

20 as the team captain? You as team
21 captain, not him as team captain.

22 A. He would have been probably.

23 I'm not ---.

24 Q. Did you assign him any duties
25 that night?

124

01 A. As far as direct duties, no.

02 Q. Did he let you know what he
03 was doing, keep you informed as to
04 his whereabouts?

05 A. Until we started up the
06 48-inch belt, and then he said he was
07 going to stay --- and like I said, if
08 I recall correctly, there was one or
09 two other mine rescue teams at that
10 area. He said he was going to stay
11 with them.

12 Q. Did your team locate the
13 victims?

14 A. No, sir.

15 Q. No. Did you make more than
16 two trips in the mine as members of
17 the rescue team?

18 A. During?

19 Q. I guess prior to them being
20 found?

21 A. I don't remember if we made

22 more than two or not.

23 Q. Okay. So the green markings
24 that we made up here on Exhibit A and
25 circled, it looks like the one circle

125

01 was from the mother drive belt head
02 to include the tailpiece of the
03 72-inch belt, that green circle. And
04 the other green circle was in the
05 mother belt entry going inby and
06 outby in that mother drive belt
07 entry. The intersection of the
08 travel road that passes between those
09 airlock doors, can you tell me if
10 those circles were done fighting the
11 fire in that area prior to or after
12 Mr. Bragg or Mr. Hatfield were found?
13 Do you recall I guess is what I'm
14 asking.

15 A. Really, Denny, I don't. Time
16 frame-wise, I do not ---.

17 Q. That's okay. I just wanted to
18 make clear for the record that that
19 wasn't necessarily where you were
20 prior to them being found.

21 We talked about your briefing
22 and debriefing on the first night,
23 ---

24 A. Uh-huh (yes).

25 Q. --- first day, first trip, I

126

01 should say, two days. Did you

02 receive a briefing prior to every

03 other trip that you traveled

04 underground as a rescue team member?

05 A. Yes, sir.

06 Q. Where were those briefings

07 held?

08 A. Either in the command center

09 or in the hallway outside the command

10 center.

11 Q. Upstairs?

12 A. Upstairs.

13 Q. Did they ever go over

14 escapeways with you?

15 A. I don't recall if they

16 specifically went over them or not.

17 Q. Did you have other maps or

18 your team have other maps? Did you

19 have a separate map for each trip you

20 traveled underground?

21 A. Yes, sir.

22 Q. What did you do with those

23 other maps?

24 A. When we came out, we met with

25 someone and debriefed and went over

127

01 what actually was denoted on that map
02 and ---.

03 Q. Handed the map over to them?

04 A. To my knowledge.

05 Q. Do you recall --- I know you
06 didn't recall the first day who you
07 gave the map to by name. Do you
08 recall any of the other ones?

09 A. At this time, no, Denny. Like
10 I say, I've seen faces, and I do not
11 recall.

12 Q. A lot of faces come ---.

13 A. Do not recall everyone's name.
14 I even forget some right now.

15 Q. Was anyone from MSHA with you
16 on your second trip underground?

17 A. Yes, sir.

18 Q. Do you know who that was? Was
19 it somebody on the mine rescue team?

20 A. MSHA's mine rescue team?

21 Q. Yes.

22 A. I'm thinking that it was --- I
23 had two different ones. I'm trying
24 to remember who was ---.

25 Q. Two different ---

128

01 A. Inspectors, yes.

02 Q. --- journeys, two different
03 inspectors?

04 A. Right.

05 Q. So you probably at least made

06 three trips underground then ---

07 A. Probably.

08 Q. --- as a rescue team member;

09 is that correct? Okay. Mr.

10 Robertson, did he have an apparatus

11 with him? I think I asked you that

12 before.

13 A. Yes, he did.

14 Q. Did he ever go under

15 apparatus, to your knowledge?

16 A. Not to my knowledge.

17 Q. What type of communication did

18 you use inby the fresh air base?

19 A. On the top of the hill, same

20 as on the bottom of the hill.

21 Q. Was it?

22 A. Yeah. We had a hardline. And

23 then as we advanced out, we used

24 two-way radios.

25 Q. Hardline at the fresh air

01 base. Inby the fresh air base,

02 two-way radios?

03 A. Two-way radios.

04 Q. Okay. Did you have any

05 problems with communication?

06 A. What are you calling problems?
07 Q. Problems. Difficulty
08 communicating, any kind of problems.
09 A. Not that I know of.
10 Q. Okay. Do you know if Mr.
11 Robertson traveled inby the fresh air
12 base at all? Any of the fresh air
13 bases, ---
14 A. No.
15 Q. --- at whatever point they
16 were the most inby fresh air base.
17 A. Not that I'm aware of.
18 Q. Okay. I asked you if you had
19 any communication problems. Did you
20 have any problems at all during
21 exploration?
22 A. Such as? I mean, ---
23 Q. I don't know.
24 A. --- I don't recall any kind of
25 problem that we had ---

130

01 Q. Okay.
02 A. --- other than maybe getting
03 around a little bit. The tight spot
04 on the belt being one of them.
05 Q. Up on the 48-inch belt that we
06 talked about?
07 A. Yeah, that we'd already
08 discussed.

09 Q. You got that bottom green
10 arrow there. That's down around that
11 mother belt drive. Was that pretty
12 tight in there, too, around that
13 mother belt drive? The drive motors
14 were setting up.

15 A. Which --- I don't understand
16 which arrow we're talking about,
17 Denny. Down through there?

18 Q. Down here, the location of
19 where that mother belt drive was or
20 still is today.

21 A. That was --- the area that we
22 traveled through there was no --- we
23 didn't --- wasn't required --- I
24 mean, we didn't go through by the
25 motors.

131

01 Q. Oh, okay. You traveled on the
02 other side of the belt?

03 A. Yes.

04 Q. Okay. Did you have any
05 problems with the maps? Difficulties,
06 did you have any difficulties with
07 the maps?

08 A. Spad numbers.

09 Q. Spad numbers being?

10 A. Not always what they showed,

11 whether we couldn't find them on them
12 on the roof as to make them out a lot
13 of the time.

14 Q. Couldn't find --- underground,
15 you couldn't reach the roof to ---

16 A. Right.

17 Q. --- clear them off to see what
18 they were?

19 A. To see exactly what --- we're
20 there to clarify that that's what
21 they were.

22 Q. How about ventilation
23 controls, do you recall noting any
24 discrepancies between what you saw on
25 your map and what you found

132

01 underground?

02 A. If I remember correctly, a man
03 door might have been off a crosscut
04 or two, one way or the other.

05 Possibility of it.

06 Q. And in the area where you
07 traveled, was that probably the ---
08 possibly the only thing that was
09 different?

10 A. That I can recall right now,
11 yeah.

12 Q. Okay. Is there anything else
13 that you'd like to tell us about, any

14 difficulties or unusual events that
15 occurred during your exploration?

16 A. I can't think of anything else
17 right now.

18 Q. Do you believe your debriefing
19 --- do you believe that your briefing
20 was effective?

21 A. The briefing or the
22 debriefing?

23 Q. I said debriefing first.
24 Let's start with the briefing, and
25 then we'll follow up with the

133

01 debriefing. Do you believe that the
02 briefing was effective?

03 A. As far as telling us what to
04 expect and to go, yes.

05 Q. Okay. Did you feel
06 comfortable knowing enough about the
07 situation that you were going into
08 based on your debrief --- based on
09 your briefing?

10 A. Myself personally, yes. If I
11 hadn't, I wouldn't have took my team
12 or took myself.

13 Q. What about your debriefings,
14 did you feel that they were
15 effective?

16 A. I felt like they got the
17 information that they was needing or
18 that was there.

19 Q. The they, meaning the command
20 center?

21 A. Yeah, the --- well, the guy
22 who done the debriefing.

23 Q. The person doing the
24 debriefing?

25 A. The person, yes.

134

01 Q. Did you use the map in the
02 command center for your briefings or
03 debriefings?

04 A. Actually in the command
05 center, is that what you're saying?

06 Q. Yes.

07 A. I don't remember if it was
08 actually the one on the table or if
09 it was the one they had hanging on
10 the wall all the time that --- I
11 don't.

12 Q. Okay.

13 A. I don't know if it's the same
14 one or not.

15 Q. Do you have any maps that have
16 been missing since the --- and I
17 realize it was pretty hectic a lot of
18 times.

19 A. What now? I didn't hear ---.
20 Q. I said I realize it was
21 hectic. I know how hectic it was, or
22 at least from my perspective what it
23 was. Are you aware of any maps that
24 might have been used underground that
25 were surface maps, you know, maps

135

01 that were posted on the walls or that
02 that might have been used underground
03 by rescue teams?

04 A. Not that I'm aware of.

05 Q. Okay.

06 MR. BEITER:

07 Anything else, Bill?

08 BY MR. TUCKER:

09 Q. Just one more.

10 A. No problem.

11 Q. Was Johnny Robertson or Frank
12 Foster still underground on your next
13 trip inside, on your second trip?

14 A. I don't totally remember if
15 they were or not. I just ---
16 whatever I told you wouldn't be
17 factual because I don't know.

18 MR. TUCKER:

19 Okay. Thank you.

20 BY MR. BEITER:

21 Q. Did your training adequately
22 prepare you as a mine rescue team
23 responder?

24 A. The training we do trains you
25 as well as can be expected, to a

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01 point. There's nothing that can
02 train you for not being able to find
03 someone.

04 Q. Is there anything about the
05 rescue effort that you think should
06 have been --- could have been done
07 differently?

08 A. I don't know.

09 MR. BEITER:

10 Mr. Heath, do you have
11 any clarifying questions?

12 ATTORNEY HEATH:

13 No clarifying
14 questions.

15 MR. BEITER:

16 Charlie, on behalf of
17 MSHA, I thank you for
18 appearing here today and for
19 answering our questions and
20 sharing your information about
21 the mine. Your cooperation is
22 very important to us as we
23 work to determine the cause of

24 the accident. If you wish,
25 you can go back now over any

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01 answer that you have given
02 during this interview for
03 clarification or expanding
04 purposes.

05 A. I can't remember everything
06 that's been said or been asked.

07 MR. BEITER:

08 Is there anything that
09 I didn't ask you that I need
10 to know, that we need to know?

11 A. Not that I'm aware of, no. I
12 mean, it's --- there could be
13 something. I don't know at this
14 time.

15 MR. BEITER:

16 You also have an
17 opportunity to make a closing
18 statement, covering any
19 additional points that you
20 believe should be raised. Do
21 you wish to make a closing
22 statement?

23 A. No, I don't think so.

24 MR. BEITER:

25 We ask that you do not

01 discuss your interview today
02 with any person who may have
03 already been interviewed or
04 any person who may be asked to
05 give a statement in the
06 future. And the reason we do
07 this is to ensure that we
08 obtain everyone's independent
09 memory of the events
10 surrounding the accident.

11 After questioning other
12 witnesses and obtaining
13 additional information, we may
14 be asking you back for further
15 questions. If at some later
16 point you have additional
17 information regarding the
18 accident that you would like
19 to provide us, you can please
20 contact Mr. Ken Murray, the
21 lead accident investigator, or
22 his staff assistant, Anthony
23 Webb. I believe you probably
24 have met both of them. And
25 here's their contact cards

01 with the contact information
02 on it.

03 The Mine Act provides
04 certain protection for
05 individuals who participate in
06 mine accident investigations.
07 If at any time you believe
08 that you have been treated
09 unfairly because of your
10 cooperation in this
11 investigation, please
12 immediately contact Mr. Murray
13 or Mr. Webb. And thank you
14 again, Charlie, for your
15 assistance.

16 MR. TUCKER:

17 And the State also
18 offers protection against
19 discrimination of miners,
20 Charlie. And on behalf of
21 Miners' Health, Safety &
22 Training, I, too, would like
23 to thank you for the work that
24 you do as a mine rescue member
25 and your team members also.

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01 And here's my card if you'd
02 ever need to contact us for
03 anything, whether it be
04 additional information or

05 whatever it may be. And this
06 is C.A. Phillips' card. He's
07 our Deputy Director out of our
08 Charleston office.

09 A. Okay.

10 MR. TUCKER:

11 Thank you for coming in
12 today.

13 A. Thank you all.

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15 EXAMINATION CONCLUDED AT 12:17 P.M.

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