

01                   EXAMINATION UNDER OATH  
02                                   OF  
03                   TIMOTHY DINGESS  
04  
05  
06       Taken pursuant to Notice by Autumn D.  
07       Furby-Pritt, a Court Reporter and  
08       Notary Public in and for the State of  
09       West Virginia, at Department of  
10       Environmental Protection, 1101 George  
11       Kostas Drive, Logan, West Virginia,  
12       on Tuesday, February 28, 2006, at  
13       1:02 p.m.

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

02  
03 KENNETH A. MURRAY  
04 District Manager  
05 U.S. Department of Labor  
06 Mine Safety and Health Administration  
07 Coal Mine Safety and Health  
08 District 6  
09 100 Fae Ramsey Lane  
10 Pikeville, KY 41501  
11  
12 DANIEL M. BARISH, ESQUIRE  
13 U.S. Department of Labor  
14 Office of the Regional Solicitor  
15 1100 Wilson Boulevard  
16 22nd Floor West  
17 Arlington, VA 22209-2247  
18  
19 WILLIAM TUCKER  
20 Assistant Inspector at Large  
21 West Virginia Office of Miners'  
22 Health, Safety & Training  
23 142 Industrial Drive  
24 Oak Hill, WV 25901  
25

3

01 A P P E A R A N C E S (cont.)  
02  
03 WILLIAM J. FRANCO, P.E.  
04 Mining Engineer

05 Pittsburgh Safety and Health  
06 Technology Center  
07 Ventilation Division  
08 P.O. Box 18233  
09 Cochrane Mill Road  
10 Pittsburgh, PA 15236  
11  
12 ARLIE A. WEBB  
13 Special Investigations/Staff  
14 Assistant  
15 U.S. Department of Labor  
16 Mine Safety and Health Administration  
17 Coal Mine Safety and Health  
18 District 6  
19 100 Fae Ramsey Lane  
20 Pikeville, KY 41501  
21  
22  
23  
24  
25

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01 A P P E A R A N C E S (cont.)  
02  
03 ANTHONY BURKE  
04 CMS&H Inspector  
05 U.S. Department of Labor  
06 Mine Safety & Health Administration

07 Whitesburg Field Office

08 704 Highway 2034

09 Whitesburg, KY 41858

10

11 ALSO PRESENT:

12 MICHAEL FINNIE

13 DENNIS A. BEITER

14 RONALD W. STAHLHUT

15 CHARLES W. POGUE

16 C.A. PHILLIPS

17 EUGENE WHITE

18 BETH SPENCE

19 DANNY COOK

20

21

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01 I N D E X

02

03 DISCUSSION 7 - 18

04 WITNESS: TIMOTHY DINGESS

05 QUESTIONS

06 By Mr. Beiter 18 - 82

07 By Mr. Tucker 82 - 99

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10 CERTIFICATE 123

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01 EXHIBIT PAGE

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

02 -----

03           MR. BEITER:

04           Hello, Mr. Dingess. My  
05 name is Dennis Beiter, and I  
06 represent the Mine Safety and  
07 Health Administration, which  
08 is an agency of the United  
09 States Department of Labor. I  
10 am a member of MSHA's accident  
11 investigation team that is  
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. And  
24 with me here 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. I work for the Tech  
05 Support Group in MSHA, and I'm  
06 stationed in Triadelphia, West  
07 Virginia. And at this time, I  
08 would like to ask each of the  
09 members of MSHA's team to  
10 identify themselves for the  
11 record.

12 ATTORNEY BARISH:

13 My name is Dan Barish.  
14 I work for the Solicitor's  
15 Office for MSHA. I'm in  
16 Arlington, Virginia.

17 MR. WEBB:  
18 I'm Anthony Webb with  
19 MSHA in Pikeville, Kentucky.

20 MR. STAHLHUT:  
21 Ron Stahlhut, MSHA  
22 Vincennes, Indiana.

23 MR. POGUE:  
24 Charlie Pogue, MSHA,  
25 Hunker, Pennsylvania.

9

01 MR. FINNIE:  
02 Mike Finnie, MSHA of  
03 Madisonville, Kentucky.

04 MR. BURKE:  
05 Tony Burke, MSHA,  
06 Whitesburg, Kentucky.

07 MR. FRANCCART:  
08 Bill Francart,  
09 Pittsburgh, Pennsylvania.

10 MR. BEITER:  
11 Here with us today  
12 representing the State of West  
13 Virginia is Mr. Bill Tucker.  
14 Mr. Tucker will be asking  
15 questions for the State. And  
16 at this time, I ask Mr. Tucker  
17 to introduce members of the  
18 State and I'm sure he has a  
19 little statement for you as



20 well.

21 MR. TUCKER:

22 I have a brief  
23 statement to read to you, Tim.  
24 The West Virginia Office of  
25 Miners' Health, Safety &

10

01 Training is conducting this  
02 interview session jointly with  
03 MSHA. We're in agreement with  
04 the procedures outlined by Mr.  
05 Beiter. However, let me make  
06 it clear that the Director  
07 reserves the right, if  
08 necessary, to call or subpoena  
09 witnesses or require the  
10 production of any record,  
11 document, photograph or other  
12 relevant materials necessary  
13 to conduct this investigation.  
14 Again, my name is Bill Tucker,  
15 and I work for Miners' Health,  
16 Safety & Training out of the  
17 Oak Hill office.

18 MR. PHILLIPS:

19 Hello, Tim. My name's  
20 C.A. Phillips. I'm the Deputy  
21 Director of Charleston, West

22 Virginia  
23 MR. WHITE:  
24 Eugene White, District  
25 Inspector, Region Three.

11

01 MR. COOK:  
02 Dan Cook, electrical  
03 inspector, Region Three.

04 MS. SPENCE:  
05 Beth Spence, with the  
06 Governor's Office.

07 MR. BEITER:  
08 May I call you, Tim?

09 MR. DINGESS:  
10 Yeah.

11 MR. BEITER:  
12 Tim for the record, Mr.  
13 Murray didn't introduce  
14 himself.

15 MR. MURRAY:  
16 Kenny Murray, MSHA,  
17 Pikeville, Kentucky.

18 MR. BEITER:  
19 He's the leader for the  
20 accident investigation team  
21 for MSHA. This investigation  
22 is being conducted by MSHA and  
23 the State of West Virginia to  
24 gather information to

25 determine the cause of the

12

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

21 I would like to thank  
22 you in advance for your  
23 appearance here. We  
24 appreciate your assistance in  
25 this investigation. The

13

01 willingness of miners and mine  
02 operators to work with us is  
03 critical in making our mines  
04 safer.

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

21       This interview is being  
22 conducted at the State of West  
23 Virginia Department of  
24 Environmental Protection  
25 Division of Mining and

14

01 Reclamation at 1101 George  
02 Kostas Drive, Logan, West  
03 Virginia, 25601 on February

04 28th, 2006.

05 Mr. Dingess, the

06 interview will begin by asking

07 you a series of questions.

08 Feel free at any time to

09 clarify any statements that

10 you make in response to those

11 questions. After we have

12 finished asking questions, you

13 will also have another

14 opportunity to make a

15 statement of your own and

16 provide us with any other

17 additional information that

18 you believe may be important

19 to the investigation and

20 understanding the accident.

21 You are permitted to have a

22 representative with you during

23 this interview, and you can

24 consult your representative at

25 any time. You may designate

01 any person to be your

02 representative. Following the

03 questions by the state and

04 MSHA, again you will be given

05 an opportunity to add any

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

16

01 your interview to properly  
02 consider your request. Do you  
03 want to have a confidential  
04 interview?

05 MR. DINGESS:

06 No.

07 MR. BEITER:

08 The court reporter will

09 record your interview and will  
10 later reproduce a written  
11 transcript of the interview.  
12 I ask that you state all your  
13 answers verbally because the  
14 court reporter cannot record  
15 gestures like nodding of your  
16 head and shaking it no.

17 Neither the transcript  
18 of this interview nor the  
19 content of this interview will  
20 be released to the public or  
21 the media until MSHA's final  
22 investigation report is issued  
23 or until required by court  
24 order or until a public  
25 hearing takes place.

17

01 If any part of your  
02 statement is based not on your  
03 own firsthand knowledge but on  
04 information that you learned  
05 from someone else, just please  
06 let us know that. Please  
07 answer each question as fully  
08 as you can, including any  
09 information that you learned  
10 from someone else. We might

11 not ask the right questions to  
12 learn the information that you  
13 have to give us, so please  
14 don't feel limited by the  
15 preciseness of the question  
16 that's being asked in your  
17 response. If you have any  
18 information about the subject  
19 the question is about and it's  
20 not asked, please provide that  
21 information to us. Do you  
22 have any questions about the  
23 manner in which this interview  
24 will be conducted?

25 MR. DINGESS:

18

01 No.

02 MR. DINGESS:

03 Will you please swear

04 Mr. Dingess in?

05 -----

06 TIMOTHY DINGESS, HAVING FIRST BEEN

07 DULY SWORN, TESTIFIED AS FOLLOWS:

08 -----

09 BY MR. BEITER:

10 Q. Please state your full name,  
11 address, telephone number and please  
12 spell your last name for the record.

13 A. [REDACTED]



[REDACTED]

18 A. Yes.

19 Q. Thank you. Tim, you said I

20 could call you Tim?

21 A. Yes.

22 Q. Are you appearing here

23 voluntarily ---

24 A. Yes.

25 Q. --- for this interview? Has

19

01 anyone made any promises to you for

02 giving your statement or offered you

03 any rewards in exchange for your

04 statement?

05 A. No.

06 Q. Has anyone threatened you or

07 warned you not to provide this

08 statement?

09 A. No.

10 Q. Do you understand that you may

11 refuse to answer any question or

12 terminate this interview at any time

13 you would like?

14 A. Yes.

15 Q. Do you have a representative

16 with you?  
17 A. No.  
18 Q. Do you want to proceed without  
19 a representative?  
20 A. Yes.  
21 Q. How long have you worked at  
22 Aracoma Mine Number One?  
23 A. Five years --- almost five  
24 years.  
25 Q. What is your current job  
  
01 title?  
02 A. Outby electrician.  
03 Q. How long have you held that  
04 position?  
05 A. Four years.  
06 Q. Do you rotate shifts?  
07 A. No.  
08 Q. What shift do you work?  
09 A. Second.  
10 Q. And what are your normal hours  
11 for that shift?  
12 A. 2:00 to 10:00, 2:00 to 11:00,  
13 2:00 to whenever.  
14 Q. What was your job title on  
15 January 19th, 2006?  
16 A. Outby electrician.  
17 Q. What job were you performing  
18 on that day?

19 A. Diesel mechanic.  
20 Q. Are you considered a member of  
21 management?  
22 A. No.  
23 Q. Are you a supervisor?  
24 A. No.  
25 Q. Are you employed by a  
01 contractor?  
02 A. No.  
03 Q. What other jobs have you held  
04 at this time?  
05 A. Just electrician, diesel  
06 mechanic.  
07 Q. How many total years of mining  
08 experience do you have?  
09 A. In or around or what?  
10 Q. Both.  
11 A. Five underground, five in  
12 shops repairing equipment.  
13 Q. On the surface of an  
14 underground mine?  
15 A. No. In repair shops.  
16 Q. In repair shops?  
17 A. Yes.  
18 Q. Not as part of the operation  
19 on a mine site?  
20 A. Right.

21 Q. And you work underground at  
22 this mine?

23 A. Mainly outside in the shop.

24 Q. Is that shop in the box cut?

25 A. In the box cut, yes.

22

01 Q. Do you have to travel  
02 underground as part of your  
03 duties ---

04 A. Yes.

05 Q. --- at any time? Have you  
06 ever filled in as dispatcher?

07 A. Yes.

08 Q. Did you fill in as dispatcher  
09 on January 19th, 2006?

10 A. No.

11 Q. Do you recall the previous  
12 time you did fill in as dispatcher  
13 prior to the 19th?

14 A. It's been a long time.

15 Q. Before Christmas?

16 A. Yeah. I can't even remember,  
17 it was --- it's been a while back.

18 Q. When you filled in as  
19 dispatcher, was that just for --- was  
20 that for the entire shift?

21 A. No. Just temporary.

22 Q. For what reason?

23 A. Like when one's running late

24 or something and the previous ones  
25 need to go, so ---.

23

01 Q. Just fill a gap between ---

02 A. Right.

03 Q. --- when the scheduled people  
04 arrived?

05 A. Yes.

06 Q. Who is your immediate  
07 supervisor?

08 A. Jimmy Wells. Well, on second  
09 shift, it's Billy Hall. He's the  
10 second shift chief.

11 Q. Do you know what his title is?

12 A. Second shift chief  
13 electrician.

14 Q. Do you know who he works for?

15 A. Jimmy Wells.

16 Q. Do you know what his title is?

17 A. He's chief electrician of the  
18 mine.

19 Q. What shift does he work?

20 A. Day.

21 Q. Do you know who he works for?

22 A. Robert Ellis.

23 Q. What is his title?

24 A. He's the maintenance  
25 superintendent for Logan County Mine

01 Service.

02 Q. Is the Logan County Mine

03 Service part of Aracoma Coal Company?

04 A. Aracoma is part of them, yes.

05 Q. Does he work at the mine?

06 A. A lot, yeah.

07 Q. His office is located

08 elsewhere though?

09 A. In Holden, yes.

10 Q. Was he onsite on January 19th?

11 A. After it happened, he was

12 called in.

13 Q. Do you know who called him?

14 A. I think Keith Heiner did.

15 Q. We've been talking about Mr.

16 Wells; is that correct?

17 A. Yes.

18 Q. Do you know who he works for?

19 A. Mr. Wells?

20 Q. Yes.

21 A. He works for Robert Ellis or

22 works under Robert Ellis.

23 Q. And who does Mr. Ellis work

24 for?

25 A. He works under Keith Heiner.

01 Q. Who does Keith work for?

02 A. Massey in general.

03 Q. You don't know who his  
04 immediate supervisor is?

05 A. I don't think he has one.  
06 He's like the top dog for  
07 electricians on the miner sections  
08 for all of Massey in the Southern  
09 Region, I think.

10 Q. Where is his office located?

11 A. In Chapmanville, I believe.

12 Q. Does he ever come to the mine?

13 A. Yes.

14 Q. Was he there on the 19th?

15 A. Yes. He was called in, yes.

16 Q. How do you receive work  
17 assignments?

18 A. Through Jimmy Wells or the  
19 dayshift guy that works on the  
20 diesel, Dennis Peck or Billy Hall.

21 Q. I understand that you don't  
22 perform duties as a dispatcher on a  
23 routine basis; is that correct?

24 A. Right.

25 Q. Could you tell me if you

26

01 received any training relative to  
02 effectively conducting your job as a  
03 dispatcher for the time frames that  
04 you filled in?

05 A. Could you detail that or ---?  
06 Q. Did anybody tell you what you  
07 were supposed to do?  
08 A. Oh, yeah. Yes. Watch the CO  
09 monitors, answer phone.  
10 Q. Do you recall who gave you  
11 those instructions?  
12 A. No, not really.  
13 Q. Would it have been a  
14 dispatcher you were replacing?  
15 A. Probably.  
16 Q. Would it have been a  
17 management official?  
18 A. I'm thinking Pepé Lester did.  
19 He's the superintendent.  
20 Q. Did he show you how the alarms  
21 were activated on the screen? Did he  
22 explain that to you?  
23 A. Yeah.  
24 Q. Did he explain what to do in  
25 the event of an alarm activating?

27

01 A. Yeah.  
02 Q. Do you recall what that was?  
03 A. If you get an alarm at five  
04 percent, an alarm starts alarming,  
05 then ten, you notify --- well, when  
06 it first alarms, you notify somebody  
07 to go to it to check it out.



08 Q. Did he tell you who to call?  
09 A. Usually a beltman.  
10 Q. Did he ever tell you to call a  
11 mine foreman?  
12 A. Yes.  
13 Q. Either/or or ---?  
14 A. Either/or, right.  
15 Q. Either a belt walker ---  
16 beltman or a mine foreman?  
17 A. Right. Whoever you think is  
18 closer to the area.  
19 Q. Were you ever given any  
20 instructions to notify sections if  
21 you had an alarm?  
22 A. Yes.  
23 Q. Was that instruction kind of  
24 part of the general instructions or  
25 on a specific day?

28

01 A. General instructions.  
02 Q. General instructions. And  
03 that was by whom? Do you recall?  
04 It's okay if you don't remember.  
05 A. I really don't remember, just  
06 commonsense really. It's ---.  
07 Q. Okay.  
08 A. If it's a section belt, then  
09 you notify the section.

10 Q. Okay. Have you ever seen a  
11 copy of the mine emergency evacuation  
12 firefighting program of instruction?

13 That's pretty long word ---.

14 A. I've seen it, but I have not  
15 read it.

16 Q. Do you remember where you saw  
17 it at?

18 A. It's posted up there.

19 Q. It is?

20 A. Yes.

21 Q. Do you recall where?

22 A. I think it's posted in the  
23 hallway and bulletin board and now  
24 it's also posted in the dispatcher's  
25 office.

29

01 Q. You say now?

02 A. Yes.

03 Q. Has that been recent?

04 A. I've recently seen it down  
05 there, yes.

06 Q. Since the accident?

07 A. Yes.

08 Q. Was it there prior to January  
09 19th that you recall?

10 A. I can't say one way or  
11 another.

12 Q. That's fine. Did anybody give

13 you any training relative to that,  
14 regarding that program of  
15 instruction? Did anybody sit down  
16 and go through ---

17 A. No.

18 Q. --- with you, as dispatcher,  
19 what duties ---?

20 A. No.

21 Q. Did anybody instruct you to  
22 keep track of movement of miners  
23 underground as a dispatcher?

24 A. On the --- well, before --- we  
25 had rail equipment, ---

30

01 Q. Yes.

02 A. --- so it was important to  
03 keep track of that.

04 Q. Yes.

05 A. Now, we have rubber tire  
06 diesel and we still keep track of  
07 that, too, so ---.

08 Q. Did you keep a written record  
09 or just ---?

10 A. Yes.

11 Q. You did? Did you pass that  
12 information from one shift to the  
13 next ---

14 A. Yes.

15 Q. --- if someone ---?  
16 A. It's all kept on record.  
17 Q. Do you know where that record  
18 was maintained?  
19 A. In the dispatcher's office.  
20 Q. Was it in a book or just a  
21 tablet?  
22 A. Individual sheets.  
23 Q. Sheets of paper?  
24 A. Yes. It has who's running the  
25 equipment, what number equipment it

31

01 is, where they're leaving from, where  
02 they're going to, what time they left  
03 and what time they arrive.  
04 Q. Okay. So most of that sounds  
05 like it's kind of coordination  
06 between who has access to the rail?  
07 A. Right.  
08 Q. What about like on an area  
09 that didn't have rail, like up in  
10 northeast mains where they've got  
11 construction projects going on?  
12 A. No.  
13 Q. And you might have so many  
14 people working on the belt head, so  
15 many people working on a bolter. If  
16 some of those people had to move and  
17 go to somewhere else but not

18 necessarily use a travelway, where  
19 they'd be calling out to get  
20 clearance, ---

21 A. No.

22 Q. --- would they ever contact  
23 you?

24 A. Occasionally they do. But  
25 like myself, if --- I'm usually by

32

01 myself. If I go in to troubleshoot  
02 something, I'll let them know when I  
03 get there or if I'm leaving there to  
04 go somewhere else, I'll tell them so  
05 they can keep track of me.

06 Q. Yes. On a routine basis,  
07 though, when you were filling in, did  
08 people that weren't on mobile  
09 equipment call you to let you know  
10 where they were moving to or  
11 anything? If you remember.

12 A. No. We didn't have any diesel  
13 until we pulled the track out so  
14 there was no need for them to call.

15 Q. What was the longest period of  
16 time that you filled in for a  
17 dispatcher as in like, you know, an  
18 hour or a half hour, 15 minutes, two  
19 days?

20 A. I'm thinking one time I was  
21 called in for a whole shift.  
22 Q. Was this quite some time ago  
23 or fairly recent?  
24 A. Yeah, that's been a couple of  
25 years ago.

33

01 Q. Do you know --- can you  
02 identify the responsible person on  
03 your shift to take charge in the  
04 event of mine emergencies?  
05 A. It's Fred Horton.  
06 Q. What is his title?  
07 A. He's the second shift foreman.  
08 Q. Is he the person who's in  
09 charge of your shift?  
10 A. Yes.  
11 Q. Nobody else answers to any ---  
12 he doesn't answer to anybody else on  
13 your shift?  
14 A. No.  
15 Q. If anybody has any questions,  
16 they call Fred?  
17 A. Yes.  
18 Q. If anybody has a problem, they  
19 call Fred?  
20 A. Yes.  
21 Q. If anybody has an emergency,  
22 they call Fred?

23 A. Yes.

24 Q. Do you think that a fire  
25 underground is an emergency?

34

01 A. Yes.

02 Q. Do you think that it could be  
03 imminent danger?

04 A. Oh, sure.

05 Q. Do you think that any fire  
06 would not be considered an imminent  
07 danger?

08 A. No.

09 Q. Was that your opinion prior to  
10 the accident in January of this year?

11 A. Yes.

12 Q. How important do you think the  
13 CO sensors are?

14 A. Very important.

15 Q. Do you think that loss of  
16 communication with them could present  
17 a hazard?

18 A. Yes.

19 Q. Was that your opinion prior to  
20 the accident?

21 A. Yes.

22 Q. Do you ever work on a  
23 Pyott-Boone Fire Detection System?

24 A. No.

25 Q. That's the CO system in the

35

01 mine.

02 A. No.

03 Q. I assume since you haven't  
04 worked on it --- have you received  
05 any training regarding how it  
06 functions?

07 A. Maybe briefly quite some time  
08 ago, though.

09 Q. The phone line, the Control  
10 phones, pager phones, ---

11 A. Yes.

12 Q. --- how are they connected to  
13 the outside?

14 A. I'm thinking they're in ---  
15 they have like a --- what they call a  
16 CO cable. It's got like 12  
17 conductors in it. I think it's  
18 number four conductor.

19 Q. It is not a separate --- a  
20 separate telephone cable, telephone  
21 line?

22 A. No, I don't think.

23 Q. Have you ever ---?

24 A. I could be wrong on that,  
25 but ---.

36

01 Q. Have you ever hooked a phone



02 up into the ---

03 A. Yes.

04 Q. --- mine? Do you know of any  
05 problems that connecting phones into  
06 that CO cable that could have caused  
07 or has caused?

08 A. No.

09 Q. Are you ever alerted as an  
10 electrician to respond to problems  
11 with the CO system? Have you ever  
12 been?

13 A. Yes.

14 Q. Could you explain a little bit  
15 about it?

16 A. Well, we lost communication  
17 one time on Number Six head and the  
18 problem was the cable had dropped  
19 down and rubbed against a belt and  
20 cut the cable in two.

21 Q. Was Fred also --- was that a  
22 shift that Fred Horton was working  
23 on?

24 A. I can't remember what shift it  
25 was. I used to rotate between day

37

01 and evening. I can't remember if it  
02 was day or evening.

03 Q. Would there have been a mine

04 foreman on that shift regardless of  
05 what shift you were on?  
06 A. Yes.  
07 Q. Do you recall if a mine  
08 foreman was notified that there was a  
09 problem at that time?  
10 A. Yes. Everyone knew.  
11 Q. Did he respond with you to the  
12 site?  
13 A. I went alone.  
14 Q. Was that a day they were  
15 producing coal?  
16 A. Yes.  
17 Q. Do you know how the problem  
18 was rectified?  
19 A. I repaired it.  
20 Q. Do you know if coal continued  
21 to be produced while you were fixing  
22 that problem or ---? If you can  
23 remember.  
24 A. I can't honestly remember.  
25 Q. Was it on a belt line?  
38  
01 A. Yes.  
02 Q. Was the belt shut off when you  
03 were fixing it?  
04 A. Yes.  
05 Q. So they probably weren't  
06 producing coal ---?

07 A. No, they couldn't have been  
08 producing coal.

09 Q. Thanks. Do you have any  
10 knowledge of electrical problems at  
11 the mother drive for the longwall  
12 belt?

13 A. No.

14 Q. What about mechanical  
15 problems?

16 A. No. That's out of my area.

17 Q. Have you ever worked up there  
18 around that?

19 A. No.

20 Q. When you were dispatcher, did  
21 you receive any alarms or alerts?

22 A. I honestly can't remember.

23 Q. Would you recognize your  
24 handwriting?

25 A. Yeah.

39

01 Q. This is a copy. Does that  
02 look familiar to you?

03 A. Not really.

04 Q. Okay. This is a copy of the  
05 CO logbook that was in the  
06 dispatcher's office.

07 A. Uh-huh (yes).

08 Q. And it includes entries from

09 December 2nd, 2004 through the day of  
10 the accident, January 19th, 2006. If  
11 I showed it to you, you could just  
12 browse through it and if you can see  
13 if any of these are your handwriting.  
14 If you could look ---.

15 A. If I remember, I don't think  
16 I've ever recorded anything in it.

17 Q. I guess that answers that  
18 question. All right. Thank you.

19 When you're working in the shop, do  
20 you ever hear that dispatcher's alarm  
21 go off for the CO system in the box  
22 cut there?

23 A. I think I have but it's been a  
24 long time ago.

25 Q. Where do you normally work? I

40

01 kind of got a picture in my mind.  
02 You come down the elevator and you  
03 walk through the area where the ---  
04 you know, between the --- beside the  
05 offices and that and the dispatcher's  
06 office is the last right. Is that  
07 the area you that you worked in?

08 A. Yes.

09 Q. I guess number seven or 714,  
10 that five-man mantrip, ---

11 A. Yes.

12 Q. --- are you aware of any  
13 problems or have you heard of any  
14 problems with the mantrip?

15 A. I remember that day, Jerome  
16 Roberts ran it on dayshift. He said  
17 it didn't want to start and then  
18 there's a little solenoid on the  
19 passenger side. He said he tapped on  
20 it and it was able to start it then.

21 I don't really know what that name of  
22 that little device is called but I  
23 checked it when it come outside and  
24 it started like five times in a row,  
25 so I didn't really see --- you know,

41

01 you can't fix something that's not  
02 broke, you know.

03 Q. Yes.

04 A. And I think Pat said it done  
05 the same thing on him when he parked  
06 it up there. I think that's the one  
07 that burnt.

08 Q. Do you know if warnings or  
09 alarms or other notices about the  
10 operation or the condition at the  
11 sensors in the CO system occur very  
12 frequently?

13 A. Could you repeat that?

14 Q. Sure. The CO system when  
15 there's an alarm or a condition is  
16 detected at a sensor or the sensor  
17 believes that there's a condition ---  
18 the system believes there's a  
19 condition at the sensor, it creates  
20 an alarm, ---

21 A. Uh-huh (yes).

22 Q. --- an alert in a dispatcher's  
23 office that caused someone to call in  
24 and find out what's going on ---

25 A. Right.

42

01 Q. --- or to make notification to  
02 individuals.

03 A. Yeah.

04 Q. Does that happen very  
05 frequently?

06 A. Like any other belt,  
07 occasionally, you know. You could  
08 get a belt ride over and start  
09 smoking a little bit, you know, set  
10 it off.

11 Q. Who maintains the belt lines?

12 A. As far as the ---?

13 Q. The belt greasers or ---?

14 A. The beltman generally greases.

15 Q. The beltmen do. Do you know  
16 who they work for?

17 A. I would say the foreman,  
18 dayshift foreman.

19 Q. Mr. Horton?

20 A. No. Right now, it would be  
21 Dusty Dotson.

22 Q. Dusty Dotson. Fred Horton's  
23 on afternoon shift, ---

24 A. Right.

25 Q. --- so I guess they're not

43

01 working for him. Do you know  
02 anything about the ventilation in the  
03 mine?

04 A. Very little. They've changed  
05 it two or three times so it's hard to  
06 keep track of it.

07 Q. How do you know they changed  
08 it?

09 A. Well, the return used to come  
10 out in the box cut and now I think  
11 it's ---they use the bleeder fans for  
12 the returns.

13 Q. Did you go in --- did you work  
14 in the mine prior to these changes at  
15 all?

16 A. Yes.

17 Q. And you've worked in the mine  
18 since these changes?

19 A. Yes.  
20 Q. Did anybody ever make you  
21 aware of what those changes might  
22 have been before you went back in?  
23 A. Just that all the returns is  
24 now on neutral since ---.  
25 Q. Okay. I don't remember if I

44

01 asked you or not, who's responsible  
02 for ventilation in the mine?  
03 A. I would guess the foreman,  
04 dayshift foreman.  
05 Q. That's Dusty Dotson?  
06 A. Dusty Dotson.  
07 Q. Is he also responsible for  
08 making changes?  
09 A. I suppose, yeah.  
10 Q. Okay. Do you know who's  
11 responsible for safety in the mine?  
12 A. It would be --- shoot, what's  
13 his name? I got a brain lock.  
14 Q. Is he fairly new to the mine?  
15 A. No, he's been there a while.  
16 Q. Does he work dayshift?  
17 A. Yes.  
18 Q. Charles Kann?  
19 A. Charles Kann, yeah.  
20 Q. Charles Kann.  
21 A. I'm sorry.



22 Q. It's all right.  
23 A. Thank you.  
24 Q. I thought there might be  
25 somebody else and I didn't want to

45

01 put a name in your head ---  
02 A. No.  
03 Q. --- that would make you forget  
04 about who you were thinking of.  
05 A. I think he has a couple  
06 assistants with him.  
07 Q. He does? Do you know who  
08 those are?  
09 A. Steven Workman, I think, is  
10 one of them.  
11 Q. I didn't catch his ---?  
12 A. Steve Workman.  
13 Q. Do you know how you spell it?  
14 Is that W ---?  
15 A. Workman?  
16 Q. Yeah.  
17 A. W-O-R-K-M-A-N.  
18 Q. Is there any others you can  
19 think of?  
20 A. I'm thinking he has another  
21 one, but I can't remember his name.  
22 Q. Do they go underground?  
23 A. I can't recall seeing them go

24 underground, no.

25 Q. Not that you can remember?

46

01 A. Not that I can remember.

02 Q. Do you know what the

03 escapeways are in the mine?

04 A. Do I know what the escapeways

05 are? Yeah.

06 Q. How do you know where they're

07 at?

08 A. They're marked with

09 reflectors.

10 Q. Do you know what color the

11 reflectors are?

12 A. Green's your primary and

13 yellow's the secondary.

14 Q. Have you ever seen a map that

15 shows you where their escapeways were

16 at?

17 A. Yeah.

18 Q. Do you know where that map's

19 located?

20 A. There's one big one

21 downstairs. There's a couple posted

22 upstairs. One in the dispatcher's

23 office.

24 Q. The one in the dispatcher's

25 office, is that the one that was on

47

01 the wall behind the dispatchers?  
02 A. Yes.  
03 Q. Do you know if it was current?  
04 A. I don't think it was, because  
05 they just changed it.  
06 Q. The one upstairs, was that ---  
07 where was that one located? Upstairs  
08 meaning in the mine office, not in  
09 the box cut?  
10 A. Right in the hallway.  
11 Q. In the hallway?  
12 A. Yes.  
13 Q. Where that table was?  
14 A. There's one in the conference  
15 room on the wall and then there's one  
16 in the hallway itself.  
17 Q. This is upstairs on the second  
18 floor of the office  
19 A. Yeah. And there's one also on  
20 the first floor.  
21 Q. Where everybody ---?  
22 A. Tabletop map, yes.  
23 Q. Tabletop map?  
24 A. Yes.  
25 Q. Have you looked at the ones

48

01 upstairs in the ---  
02 A. Briefly.

03 Q. --- foremen's offices?  
04 A. Briefly.  
05 Q. Briefly? Did you look at them  
06 on your own or did somebody say ---  
07 A. Yeah.  
08 Q. --- hey, Tim, here's where the  
09 escapeway map is or ---?  
10 A. Just on my own, I guess.  
11 Q. Okay. Is there one of those  
12 maps in particular that you'd  
13 consider where miners normally  
14 congregate as opposed to another one?  
15 A. No.  
16 Q. Do you know who's responsible  
17 for installing the green and yellow  
18 reflectors for escapeways?  
19 A. The section boss, I guess, as  
20 they drive ahead.  
21 Q. I know sometimes the section  
22 starts out in one direction and then  
23 it turns and goes another direction  
24 and then when you connect up, say I  
25 guess take that --- I guess Nine  
49  
01 headgate was --- it was developed  
02 from the front of it to the back?  
03 A. The Nine headgate was  
04 developed by two different sections.  
05 Q. Okay.

06 A. One was driving across and  
07 down. The other drove across the  
08 bottom and up.  
09 Q. Yes. And the Nine tailgate  
10 was driven how?  
11 A. Nine tail was driven from the  
12 bottom up.  
13 Q. When it came all the way up to  
14 the top end into what is now the  
15 northeast mains, ---  
16 A. Right.  
17 Q. ---- northeast mains wasn't  
18 there yet, was it?  
19 A. Part of it on the headgate  
20 side was. The tailgate side drove up  
21 and across.  
22 Q. And they had to cut back?  
23 A. Yeah, cut back.  
24 Q. And then they started driving,  
25 I guess ---?

50

01 A. They cut back and then turned  
02 back that way.  
03 Q. They cut back ---?  
04 A. Well, no, actually the  
05 tailgate side drove up and over and  
06 then they pulled out and went down to  
07 --- I don't know where they call it

08 now, but they were driving the pillar  
09 sections, and then the headgate side  
10 went back up and cut over.

11 Q. So where they initially were  
12 driving and what was an intake  
13 initially may not be any intake at  
14 some later date in the northeast  
15 mains? Do you know? If you don't  
16 know, that's okay.

17 A. I don't.

18 Q. Did you make any of the weekly  
19 electrical or diesel exams?

20 A. Oh, yeah.

21 Q. On the surface or underground?

22 A. I've done both.

23 Q. Routinely?

24 A. Yes.

25 Q. Do you sign the books for them

51

01 or does your supervisor?

02 A. Yes.

03 Q. You sign the books for them?

04 A. Yeah.

05 Q. How about any of the monthly  
06 electrical exams?

07 A. No. We just do the mantrips.

08 Q. So all the exams you're  
09 talking about are for the mantrips?

10 A. The equipment, yes.

11 Q. Where do you keep a copy of  
12 those records or where do you keep  
13 those records?

14 A. We keep it downstairs in a  
15 file cabinet.

16 Q. In the box cut?

17 A. Yes.

18 Q. In a file cabinet?

19 A. Yes.

20 Q. Is it in a book that's  
21 specifically for that?

22 A. Yes.

23 Q. Okay. Do you know if it's  
24 still there?

25 A. Should be, yeah.

52

01 Q. Okay. Have you made exams  
02 since --- and entries in that book  
03 since the accident?

04 A. Yes.

05 Q. Do you know who's responsible  
06 for compliance with the federal/state  
07 laws at the mine?

08 A. As far as what?

09 Q. Well, making sure the air is  
10 going in the right direction, making  
11 sure that stoppings are built between  
12 belts and intakes?

13 A. I would say the foremen.  
14 Q. Who's Eric Lester? Eric  
15 Lester?  
16 A. I think he's part of the  
17 construction crew with the belt line.  
18 Q. Is he a supervisor?  
19 A. No.  
20 Q. Hourly?  
21 A. Yes.  
22 Q. The construction crew, is that  
23 the crew that's working up on  
24 northeast mains?  
25 A. Six-foot belts, yeah.

53

01 Q. Do you know who else is  
02 working with him on that job?  
03 A. A lot of new faces up there.  
04 There's Don Haggie, he's the boss.  
05 Chris Herndon, he's a boss. Greg  
06 Hensley, he's hourly. He just got  
07 recently hired on. I don't think I  
08 know any of the young ones. They  
09 come and go like the wind.  
10 Q. You're talking about the  
11 72-inch belt that's up in the  
12 northeast mains?  
13 A. Yes.  
14 Q. And that's the structure  
15 that's going to be extended ---



16 A. Right.

17 Q. --- from the present 72-inch

18 belt ---

19 A. Right.

20 Q. --- that's operating? Does

21 that also include work done on that

22 Ten headgate drive, or is that

23 another group of guys?

24 A. No. Usually the section puts

25 their own belt heads in. They do the

54

01 mother drives also. If that's what

02 you're referring to?

03 Q. Who does the mother drive?

04 A. The construction crew.

05 Q. The construction crew?

06 A. Yes.

07 Q. Okay. Do you know Eric

08 Lester? Do you know him?

09 A. Just through work, yeah.

10 Q. Have you been in that area

11 lately prior to the accident?

12 A. No, not since.

13 Q. Before the accident?

14 A. Oh, yeah.

15 Q. I guess how recently before

16 January 19th? It doesn't have to be

17 an exact day. Before Christmas or

18 after Christmas? Between Christmas  
19 and New Year's? Between New Year's  
20 and the accident?

21 A. I'm trying to remember the  
22 last time I was up there. Probably  
23 after Christmas.

24 Q. After Christmas?

25 A. Yeah.

55

01 Q. Do you know what you were up  
02 there for?

03 A. One of the tractors, I think,  
04 blew a transmission line. I'm not  
05 sure.

06 Q. How did you travel to that  
07 area when you went up there?

08 A. The manbus.

09 Q. Did you go underneath the  
10 mother belt?

11 A. Yes.

12 Q. Did you go through those  
13 airlock doors ---

14 A. Yes.

15 Q. --- inby the mother belt? Do  
16 you recall seeing any reflectors on  
17 that travelway between the first ---  
18 I guess, you've got four doors in  
19 sequence there?

20 A. Uh-huh (yes).

21 Q. Two on the outby side and two  
22 in the inby side?  
23 A. Uh-huh (yes).  
24 Q. Between the first door and the  
25 last door, do you remember if you saw

56

01 any reflectors in that area?

02 A. To be honest, I can't recall.

03 Q. Do you recall seeing any

04 reflectors after you got through all

05 the doors?

06 A. It seems like it.

07 Q. Between those last two doors

08 on the left-hand side if you're

09 looking inby, there's power boxes

10 there for that longwall belt?

11 A. Uh-huh (yes).

12 Q. Do you ever work on any of

13 those?

14 A. No.

15 Q. Do you ever walk through that

16 area?

17 A. Walk though?

18 Q. Uh-huh (yes).

19 A. Just in the travelway.

20 Q. Walk through the travelway

21 through the doors ---

22 A. Yes.

23 Q. --- or walk through the  
24 crosscut to the belt boxes?  
25 A. Just through the travelway.

57

01 Q. Okay. Do you ever recall  
02 looking to the right on the other  
03 side of that travelway? Not where  
04 the power boxes are, that's on the  
05 left. Looking to the right as you're  
06 looking inby down the hill? If you  
07 look all the way down, there's a  
08 solid rib up there. Do you recall  
09 any stoppings being in there?

10 A. Yeah.

11 Q. There was.

12 A. There's a lot of gob in those  
13 breaks, too.

14 Q. Yeah. What about that first  
15 --- between the two doors itself?

16 A. In One?

17 Q. Yeah. If you can't picture it  
18 in your mind, that's okay.

19 A. Not really.

20 Q. Do you ever walk down that  
21 belt entry?

22 A. The mother drive?

23 Q. Uh-huh (yes).

24 A. No.

25 Q. No, not the mother drive, I'm

01 sorry.

02 A. The six-foot belt entry?

03 Q. Yes.

04 A. No.

05 Q. No? Do you know anything

06 about belt air?

07 A. Not really.

08 Q. Did you respond to any alarms

09 or alerts there on that 72-inch drive

10 recently?

11 A. No.

12 Q. Do you know what direction the

13 airflow was on that belt, the 72-inch

14 belt, northeast mains?

15 A. No, I don't.

16 Q. When you were filling in for

17 dispatchers, did anybody make you

18 aware of what the airflow directions

19 were in any of those belts?

20 A. No.

21 Q. Did you know if they had any

22 written instructions for you as a

23 dispatcher when you were filling in,

24 in case you had an emergency or

25 something, outside of just verbal

01 instructions to notify a beltman or a

02 mine foreman?

03 A. An emergency contact list. If

04 that's what you're referring to.

05 Q. I don't know. I don't know.

06 What is that, just a list of persons

07 with phone numbers and ---

08 A. Right.

09 Q. --- who to call? Is that

10 posted --- still posted in the

11 dispatcher's office?

12 A. Yes.

13 Q. Do you happen to know any of

14 the names that are on it?

15 A. Just management at the mine

16 and higher up management like mine

17 safety guys, Keith Heiner, you know,

18 the big people.

19 Q. Have you ever --- as a

20 dispatcher, did you ever order

21 evacuation of the mine?

22 A. No.

23 Q. Could you if you had an

24 emergency as dispatcher?

25 A. Could I evacuate the mine?

60

01 Yeah. I think I could.

02 Q. Okay. On the 19th, you said

03 you worked on the 19th?

04 A. Yes.

05 Q. Could you kind of go through  
06 that shift for us from when you got  
07 there ---?  
08 A. When I got to the shift all  
09 shift working on the tractor. I was  
10 doing --- putting traction chains on  
11 one of the tractors. Actually when I  
12 got finished with it is when the  
13 accident occurred. Well, as I was  
14 putting the last chain on it. I  
15 think that's when Bryan Cabell called  
16 out and said he had smoke at the  
17 mother drive and then it was like the  
18 next thing I knew, it was chaos. I'd  
19 like to know what happened myself.

20 Q. You said that Bryan Cabell  
21 called out?

22 A. Yes.

23 Q. How could you hear?

24 A. Through the mine phone. I was  
25 right --- the dispatcher's door, I

61

01 was just right outside the  
02 dispatcher's door and there's a phone  
03 right there.

04 Q. Was it coming over the  
05 loudspeaker?

06 A. Yes.

07 Q. He was holding the pager phone  
08 down and was calling out?  
09 A. Yes.  
10 Q. So when somebody holds that  
11 pager phone down inside at ---?  
12 A. Well, Mike, the dispatcher, I  
13 think when he called out and said he  
14 had the smoke and maybe a fire ---  
15 Q. Yes.  
16 A. --- he come up and told me, so  
17 ---. He's kind of new at the job ---  
18 Q. Yes.  
19 A. --- so he made me aware of it,  
20 too, so ---.  
21 Q. Do you know what time that  
22 was?  
23 A. Well, the only thing that  
24 keeps coming to my mind is when  
25 everybody said it's 5:36 is when the  
62  
01 monitor went off. But it was shortly  
02 after 5:00.  
03 Q. Do you think it was before  
04 that 5:36 time?  
05 A. I can't swear to it.  
06 Q. Did you hear the alarm go off  
07 for the messages ---?  
08 A. No.  
09 Q. --- you said you were right



10 outside there?

11 A. No.

12 Q. No? Would you have heard them  
13 from where you were standing, do you  
14 think?

15 A. Probably not, no.

16 Q. Okay. But you could hear a  
17 squawk box, the pager phone?

18 A. Yeah.

19 Q. And that pager phone was also  
20 inside the dispatcher's office?

21 A. No. We have a page phone  
22 outside the dispatcher's office in  
23 the shop area, then you go through a  
24 little hallway, then the dispatcher's  
25 in an enclosed room there.

63

01 Q. Okay. I misunderstood. I  
02 appreciate you clarifying that.  
03 Could you go back through again what  
04 Mike told you when he came out?

05 A. Just that Bryan had called  
06 out, said he had a possible fire at  
07 the mother drive, had smoke. He was  
08 checking it out.

09 Q. Did he tell you anything  
10 about ---?

11 A. And then ---

12 Q. I'm sorry.

13 A. --- I think he called Fred

14 Horton for a chain ratchet that he

15 had a stuck dolly or a cocked dolly.

16 So I went into the warehouse and got

17 the chain ratchet. I was going to

18 take it in but another guy was going

19 in, so I give it to him to take to

20 Fred.

21 Q. Who was that?

22 A. Raymond Grimmet (phonetic).

23 Q. Was he the guy that was

24 working on roadways?

25 A. Yes, he was running the

64

01 grater.

02 Q. Running the grater? What did

03 you say his name was, Raymond

04 Grimmet?

05 A. Grimmet, yes.

06 Q. You said Mike told you that

07 Bryan had told him he had smoke?

08 A. Uh-huh (yes).

09 Q. Did he --- do you remember if

10 Mike said anything about what Bryan

11 might have said about that smoke as

12 far as where it was going, how thick

13 it was, ---

14 A. No.

15 Q. --- anything like that? Did  
16 Mike say anything about evacuation?

17 A. Did Mike say anything?

18 Q. Uh-huh (yes).

19 A. No.

20 Q. I guess at that time. At that  
21 point in time.

22 A. I think that he --- Bryan  
23 Cabell's first report was he had  
24 smoke at the mother drive.

25 Q. Yes.

65

01 A. I think he called a few  
02 minutes later after he checked it out  
03 and said that he had tried to use two  
04 or three fire extinguishers. And  
05 then I was like, well, it must be  
06 pretty bad then, you know, serious.  
07 Then I think it was just moments that  
08 Fred is the one that told Mike to get  
09 the people off Two section.

10 Q. The chain ratchet that you  
11 were going to take in, ---

12 A. Uh-huh (yes).

13 Q. --- was that after --- as a  
14 result of Bryan Cabell's first  
15 call ---

16 A. Yes.

17 Q. --- to Mike? Did Bryan say  
18 that --- or did Bryan tell Mike to  
19 have a chain ratchet sent to him?

20 A. No. I think Fred kind of was  
21 on the phone at the same time ---

22 Q. Yes.

23 A. --- and so he told Fred he  
24 needed a chain ratchet. Then Fred  
25 called out and said that he --- he

66

01 didn't have one, you know.

02 Q. Do you know if a belt was shut  
03 down?

04 A. No. Just through hearsay, I  
05 think Bryan turned the belt off. I  
06 don't know a whole lot about belts,  
07 but everybody says when you turn a  
08 hot belt off, it's the worst thing  
09 you can do, so ---.

10 Q. Did Mike Brown say anything to  
11 you about those alarms going off for  
12 the CO system?

13 A. Well, when I realized that it  
14 was kind of serious, I went into the  
15 dispatcher's office and they was all  
16 going off.

17 Q. They were?

18 A. All in that area, yes.

19 Q. You don't recall seeing what

20 sensors on the screen were being  
21 displayed, do you?

22 A. They was pegged out.

23 Q. Do you recall which ones?

24 A. The ones around the mother  
25 drive.

67

01 Q. Any of them on the 72 --- on  
02 the 42-inch belt at that time?

03 A. I don't think so.

04 Q. So that was after your first  
05 phone --- or when he first notified  
06 you, you went into the dispatcher's  
07 office right then?

08 A. Uh-huh (yes).

09 Q. And is that when you saw the  
10 --- I guess, I'm asking, did you go  
11 in the dispatcher's office right then  
12 or did --- was that after you got the  
13 chain ratchet, passed it on?

14 A. That was after I got the chain  
15 ratchet and stuff.

16 Q. So there was a little bit of  
17 time between ---?

18 A. Yeah.

19 Q. Can you estimate the amount of  
20 time? Five minutes? Ten minutes?

21 A. I'd say about ten, maybe.

22 Q. Ten minutes. Do you know what  
23 the chain ratchet was going to be  
24 used for?

25 A. Just that Bryan had suspected

68

01 cocked dolly and was going to, I  
02 guess, get it back in place.

03 Q. Do you know how long it would  
04 take to take the chain ratchet from  
05 the box cut up to the mother drive?

06 A. Twenty (20) minutes if I was  
07 running.

08 Q. If you was driving fast?

09 A. Yeah.

10 Q. So that's a ---?

11 A. Depends on what ride you was  
12 on, I guess.

13 Q. Do you know what Bryan ---  
14 Bryan, excuse me. Do you know what  
15 Raymond had?

16 A. He had the grater.

17 Q. He drove the grater back up  
18 there?

19 A. Yeah.

20 Q. Is that a pretty fast piece of  
21 equipment?

22 A. Can be if you know how to run  
23 it.

24 Q. Do you know how to run it?

25 A. Do I?

69

01 Q. Yeah.

02 A. Yeah.

03 Q. Raymond?

04 A. Yes.

05 Q. So he could have got there as

06 fast on it as any mantrip?

07 A. Probably, because the road was

08 kind of rough, so ---.

09 Q. If you could continue on?

10 A. Well, Fred was at Number One

11 Four way when he called.

12 Q. Where's Number One Four way?

13 A. It's down at the Six tail, at

14 the bottom of the hill.

15 Q. At the bottom of the hill?

16 A. Yes.

17 Q. Where's the Three way?

18 A. Three way is like 14 breaks

19 inside the box cut.

20 Q. So when you first drive in

21 before you make a left?

22 A. That's where you make that

23 left.

24 Q. That is the Three way, ---

25 A. Yes.

70

01 Q. --- right in that  
02 intersection? You make a right to go  
03 out towards ---  
04 A. Rum Creek  
05 Q. --- Rum Creek? Make a left to  
06 go ---  
07 A. Toward the mains.  
08 Q. --- north mains? You said  
09 Fred was at the Four way?  
10 A. Number One Four way, yes.  
11 Q. How do you know that?  
12 A. That's where he said he was  
13 at.  
14 Q. How far is that away from the  
15 mother drive?  
16 A. Like a thousand feet, I think,  
17 something like that. Well, more than  
18 that, because you had to go to the  
19 top of the hill, then over a few  
20 breaks, so I don't know. Probably a  
21 ten-minute run on a bus, maybe.  
22 Q. About ten minutes. Do you  
23 know if anybody else was with him?  
24 A. With Fred?  
25 Q. Yes.

71

01 A. I think Billy Hall was.  
02 Q. Do you know if they waited at  
03 the Four way for their chain ratchet



04 and Raymond to get up there?  
05 A. No. By the time Raymond got  
06 there, they had already left. Bryan  
07 called out and said that he tried two  
08 or three --- he did find the fire and  
09 tried some fire extinguishers and  
10 Fred didn't wait, he went on.  
11 Q. When Bryan told Fred that  
12 that's what he found, ---  
13 A. Right.  
14 Q. --- he went on ---  
15 A. Right.  
16 Q. --- or did Fred go on before  
17 that?  
18 A. He went on.  
19 Q. Let me back up a little and  
20 make sure I understand. Fred's up  
21 there at the Four way ---  
22 A. Right.  
23 Q. --- and he's in a  
24 conversation, the first conversation  
25 with Bryan?  
  
01 A. Right.  
02 Q. And that's when they asked for  
03 the chain ratchet?  
04 A. Right.  
05 Q. And then Bryan calls out a

06 second time; is that right?

07 A. Right.

08 Q. And let's Fred know that he  
09 tried the fire extinguishers?

10 A. Right.

11 Q. Is Fred still at the Four way  
12 when he gets the second call?

13 A. I think so.

14 Q. Okay.

15 A. I'm not positive but I think  
16 so.

17 Q. When Raymond got up to the  
18 Four way, did he call out?

19 A. Yes, I'm pretty sure he did.

20 Q. Do you know what he did after  
21 he called out, who he talked to?

22 A. The dispatcher, Mike, I guess.

23 Q. Do you know if Raymond went on  
24 in after that or he just stayed  
25 at the Four way?

73

01 A. I'm thinking he just worked in  
02 the mine. I don't know if he went on  
03 the hill or not. I can't be sure.

04 Q. Okay. Did you go into the  
05 mine that afternoon, after the  
06 accident occurred?

07 A. Later on. I think it was more  
08 like the next morning. I stayed. I

09 worked like 27 hours, I think. I  
10 escorted some of the rescue teams in.

11 Q. You escorted them in, drove  
12 them in, drove them back?

13 A. Yes.

14 Q. Do you know how far you had  
15 gone escorting them?

16 A. The top of the hill.

17 Q. Right at the intersection  
18 between north mains and northeast  
19 mains ---

20 A. Yeah.

21 Q. --- at the top of the hill?  
22 Right before you turn and go to the  
23 right?

24 A. Yeah.

25 Q. Do you know if anybody carried

74

01 any airlock doors in during your work  
02 while you were taking rescue teams  
03 back and forth?

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

05 Q. Did you hear any talk about  
06 anybody installing any airlock doors  
07 during the rescue?

08 A. Uh-uh (no).

09 Q. What other discussions have  
10 you heard on that evening, or the

11 next morning during the time that you  
12 were there during the rescue  
13 operation regarding anything that was  
14 going on?

15 A. Just that they had a serious  
16 fire that escalated quick. A lot of  
17 heavy smoke.

18 Q. Did you talk to Bryan Cabell  
19 at all that evening?

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

21 Q. How about Fred Horton?

22 A. Yeah, I think I ---.

23 Q. Did Fred say anything about  
24 anything concerning the fire or the  
25 accident?

75

01 A. He just didn't understand how  
02 it escalated so fast.

03 Q. Did Fred tell you if he was  
04 already there when he --- was he  
05 already at the mother drive when the  
06 evacuation order for Number Two  
07 section came?

08 A. I believe he was, yeah.

09 Q. He was at the mother drive?

10 A. I think. I'm not sure.

11 Q. Did he tell you that he was?

12 A. I can't recall. Everything  
13 was like chaos, you know, and I'm

14 trying to do a thousand things.

15 Q. Did you speak with Joe Rhodes

16 at all? Do you know Joe Rhodes?

17 A. Briefly, just at the mine.

18 Q. Did he say anything that would

19 help to shed some light on what

20 happened?

21 A. No, I don't --- I didn't

22 really talk to him. I think I just

23 know who he is.

24 Q. How about Pat Callaway?

25 A. He's a boss.

76

01 Q. Did you speak with him at all?

02 A. I can't remember if I did or

03 not. I don't think I did.

04 Q. How about Mike Plumley?

05 A. I think I was outside when

06 they --- when they got outside, I

07 asked them if they was all right, if

08 they needed anything.

09 Q. Did any of the other gentlemen

10 who were on Two section speak to you

11 about anything?

12 A. Just that they was scared.

13 They was all pretty shook up.

14 Q. That's understandable. Did

15 anybody make any statements about why

16 they thought the smoke got into the  
17 intake from the belt entry?

18 A. There was rumors saying that  
19 there was a stopping down on the  
20 six-foot --- at the end of the  
21 six-foot belt. I don't know if it  
22 was true or not.

23 Q. Were those rumors after the  
24 fire?

25 A. Yeah.

77

01 Q. Were those rumors the night of  
02 the fire? Were those rumors, like  
03 after ---?

04 A. Afterwards, I guess.

05 Q. And I know I'm sure things  
06 were really, like you said, going  
07 through your mind a millions miles a  
08 minute, all that's going on. But  
09 sometimes it's hard to keep track of  
10 what time was going by. But do you  
11 have an estimate of the time from the  
12 first call that Bryan Cabell made to  
13 Mike and he notified you until you  
14 were aware that Two section was being  
15 evacuated?

16 A. I can't --- it wasn't long at  
17 all, I don't think.

18 Q. Do you know if the longwall

19 crew was told to evacuate?

20 A. Yeah. They evacuated down  
21 there.

22 Q. Who did that?

23 A. I think Fred told the  
24 dispatcher to put the flashing lights  
25 on the sections, which --- you know,

78

01 notify them to get out.

02 Q. I think there might have been  
03 a couple people working outby, moving  
04 some mobile roof supports in the  
05 Three section or out of Three  
06 section?

07 A. Yeah. That would probably be  
08 Bryce Ellis.

09 Q. Do you know how they were  
10 notified?

11 A. No, I don't.

12 Q. Was there somebody maybe  
13 working out of that Rum Creek mains?

14 A. I, myself, told one person to  
15 get out. It was --- he was a beltman  
16 working on Rum Creek side.

17 Q. Do you remember his name?

18 A. Oh, shoot. I can't remember,  
19 no. I got a bad memory, so ---.

20 Q. That's okay.

21 A. I know where he lives and  
22 everything.

23 Q. Brandon?

24 A. Brandon Conley.

25 Q. Brandon Conley.

79

01 A. Thank you. I think he was  
02 down at Four head when it happened.

03 Q. And that's outby the Three  
04 way?

05 A. Yeah. That's toward Rum  
06 Creek.

07 Q. Toward Rum Creek mains.

08 A. He was scared, and I told him,  
09 don't worry about it. I said stay  
10 calm. I said come to Three way and  
11 call me when you get there. So when  
12 he got there, that's I guess when  
13 everybody was coming out. So he  
14 hitched a ride with them. He may  
15 have walked out, I can't remember.

16 Q. Do you know if anybody made  
17 any ventilation changes underground  
18 while --- I guess before everybody  
19 came out that first night? Did you  
20 hear anybody talking about trying to  
21 redirect the smoke through the gate  
22 entries or knocking stopping out  
23 across the backside?



24 A. It seems like I heard somebody  
25 say that they tried to curtain it off

80

01 or something. Where they did it, I  
02 don't know, but I think they tried to  
03 choke it off.

04 Q. When you talked to Brandon  
05 that night and told him to come out,  
06 were you in the dispatcher's office?

07 A. Yes.

08 Q. When you were leaving, did you  
09 consider that you were relieving  
10 Mike?

11 A. No, Mike was pretty shook up.  
12 I was just there to more like help  
13 him. I didn't take control of the  
14 situation, but I was just there for  
15 like protective supports or  
16 something.

17 Q. Have you had any training on  
18 escapeways in the mine that you  
19 consider training?

20 A. I've never --- well, training  
21 to me, in that sense, would be to  
22 physically walk the escapeways. I've  
23 never done that, no.

24 Q. You say you've never done it,  
25 did you ---? Did somebody ask you to

01 and you just said, oh, I don't want  
02 to?

03 A. No. I've never been asked to.  
04 I think it would be something that  
05 everybody at the mine needs to do.

06 Q. Yes. Do you have safety  
07 talks?

08 A. Yes.

09 Q. Are escapeways and duties  
10 during an emergency ever discussed in  
11 the safety talks?

12 A. If that's the topic, yeah.  
13 Each week it's a different topic.

14 Q. Can you ever recall if that  
15 was a topic?

16 A. It seems like I have, but I  
17 can't be honest.

18 Q. That's all right.

19 A. I can't be sure.

20 Q. Did you ever hear of a term of  
21 a fire drill or escapeway drill?

22 A. Uh-huh (yes).

23 Q. Was that ever --- where did  
24 you hear that term at?

25 A. Well, every so often the

01 section foreman will bring two or  
02 three guys out to walk the escapeway.

03 Q. And is that primarily section  
04 people that ---?

05 A. No.

06 Q. What about the outby people up  
07 at the top, you know, like  
08 construction jobs, or like yourself  
09 that just goes in and works in  
10 multiple areas?

11 A. I don't know. They may have  
12 and I'm not aware of it.

13 Q. Have you ever been involved in  
14 any of those escapeways' drills?

15 A. No.

16 BY MR. TUCKER:

17 Q. Probably going to be bouncing  
18 around a little bit, Tim, on these  
19 questions that I have for you, so I  
20 just appreciate your patience. And  
21 some of them you may have already  
22 answered, just bear with me.

23 Do you have any knowledge at  
24 all of any other fires at the mine,  
25 other than on the 19th of January?

83

01 A. Nothing to any amount, I don't  
02 think. I got belt and rubber  
03 sticking.

04 Q. Were you working on December

05 23rd? It was the Friday before  
06 Christmas.

07 A. I can't remember if I did or  
08 not.

09 Q. Did you take vacation around  
10 Christmas, ---

11 A. I probably did. I'm not sure.

12 Q. --- that you can remember?

13 A. I took a few days off, I  
14 think.

15 Q. When you talked to Brandon  
16 Conley that night, you said you kind  
17 of calmed him down, talked him out of  
18 the mines there. Did he mention  
19 anything to you about any problems  
20 maybe that he had at that same belt  
21 drive area?

22 A. No, not that I can recall.

23 Q. Are you fairly familiar with  
24 the mother drive belt head area?  
25 Have you had to stop there to do

84

01 anything, ---

02 A. No.

03 Q. --- say in the last month?

04 A. No. I know where it's at,  
05 I've been there a few times.

06 Q. You haven't had any work  
07 assignments in that area?

08 A. No. No.

09 Q. You've mentioned that you kind  
10 of helped Mike out on the evening of  
11 the 19th, that he was pretty shook  
12 up. Did he leave the dispatcher area  
13 for anything at all?

14 A. Later that evening he did. He  
15 went upstairs. I think that's when  
16 some of the big guys came in and  
17 started turning --- unhooking phones.  
18 They brought him upstairs.

19 Q. And did you --- so did you  
20 stay there to relieve him out during  
21 that period of time?

22 A. I guess they took the man  
23 upstairs.

24 Q. Was this after the crew came  
25 outside?

85

01 A. Yeah.

02 Q. You mentioned you went into  
03 the dispatcher's office with Mike  
04 after he came out and told you that  
05 they had a fire. Did you hear any  
06 conversations on the phone?

07 A. No. No. Like I said, I  
08 didn't take control of it. I wasn't  
09 listening to anything.

10 Q. If somebody's talking on the  
11 phone in there --- I mean, did you  
12 hear anybody maybe page over the  
13 phone during that time that maybe  
14 hollered anything out at all?

15 A. I can't recall.

16 Q. You never picked the phone up  
17 to listen to anything that may have  
18 been going on?

19 A. Maybe occasionally. I can't  
20 really remember.

21 Q. Did you hear a conversation  
22 between anybody that may have been  
23 talking to someone on Two section?

24 A. No. They was --- after --- as  
25 soon as Mike put their light on and

86

01 started hollering for them, I think  
02 their belt was already --- he turned  
03 the belt off, that's what got their  
04 attention. Mike and --- Mike Plumley  
05 and Mike Shull walked over to find  
06 out why the belt was off, and that's  
07 when they was notified that there was  
08 smoke, for them to evacuate.

09 Q. Was you in there during that  
10 conversation with Mike ---?

11 A. I don't think I was. I don't  
12 think I was. I may have walked

13 outside. During all this time, I had  
14 went upstairs. I may have stepped  
15 --- I wasn't in there when he told  
16 him, no. I don't know where I was  
17 at. I may have walked back out in  
18 the shop for a minute, or ---. I  
19 know later --- well, when I realized  
20 --- when the big people got there ---  
21 well, Pepé, I think was already on  
22 the property, and I think he started  
23 calling people. And then me and  
24 G.J., the loader operator, went  
25 upstairs to put communication into

87

01 that conference room.

02 Q. Was you there with Mike when  
03 I think it was Rob came down to go  
04 underground and talk to Mike about  
05 getting ahold of the section?

06 A. Rob Morrison?

07 Q. Yes.

08 A. I was in the shop when ---  
09 there was a few of them that came  
10 down and went in. There was Terry  
11 Shadd, Rod, I think was with them, Ed  
12 Ellis, and --- and there was another  
13 one. Dave --- I can't remember what  
14 his last --- I think Dave went in.

15 But I was still in the shop then.

16 Q. Do you remember what time it  
17 was?

18 A. It might have been like the  
19 second time they called out, Bryan  
20 called out. They may have been  
21 upstairs listening, I don't know.

22 Q. So did you happen to look at  
23 your watch and notice what time that  
24 they were getting ready to go inside?

25 A. No, I don't think I did.

88

01 Q. You mentioned that you were  
02 was working on something, you had  
03 just finished up a job.

04 A. I was putting that last chain  
05 on that tractor when they came down  
06 and went inside.

07 Q. Did you notice what time you  
08 finished the job that you was working  
09 on?

10 A. No.

11 Q. I'm just trying to jog your  
12 memory on a time. If at any time  
13 while this was occurring that you may  
14 have looked at ---

15 A. I can't remember doing it.

16 Q. --- a watch or a clock on the  
17 wall?



18 A. I may have. I can't really  
19 remember.

20 Q. Okay. Do you recall hearing  
21 Fred Horton on the phone from ---  
22 talking to anybody when he was at the  
23 fire area?

24 A. I think more or less I was ---  
25 I might have been in there during

89

01 then, but I was letting Mike --- and  
02 I didn't handle the phones, so I just  
03 --- I don't think so.

04 Q. You mentioned that Fred Horton  
05 had told you to get a chain ratchet,  
06 where did you get that from?

07 A. Out of the warehouse.

08 Q. Did somebody check it to you,  
09 or did you just go in and get it?

10 A. I just went in and got it.

11 Q. Do you happen to remember what  
12 time that was, roughly?

13 A. No.

14 Q. But you're guessing ---?

15 A. It was sometime like --- I  
16 don't know, sometime after 5:00.

17 Q. You mentioned that originally  
18 you were going to take it in.

19 A. Right.

20 Q. Did you have a ride, or how  
21 was you going to take it in?

22 A. I had a ride in.

23 Q. Normally, if ---.

24 A. I didn't think that the  
25 problem was that serious, that's why

90

01 I just sent it in with Bryan. Nobody  
02 knowed at that time that it was, I  
03 guess, as bad as what it was.

04 Q. All right. At that time, you  
05 were thinking they just had a problem  
06 with the belt, that they just needed  
07 to fix the belt.

08 A. Right.

09 Q. It wasn't that they had a  
10 problem with the fire?

11 A. Right. Right.

12 Q. The job you mentioned that you  
13 were working on, that you just had  
14 finished up, did you start that from  
15 the beginning?

16 A. Yeah.

17 Q. And you started at four  
18 o'clock?

19 A. 2:00.

20 Q. At two o'clock?

21 A. Yeah.

22 Q. Is that something you do

23 fairly often, or how long ---?  
24 A. The chains, it's --- it had  
25 --- I think it had three chains broke

91

01 off of it, and then --- I can't  
02 remember if had any of them on it.  
03 It may have had one chain on it. I  
04 put three on it. It's a pretty good  
05 --- a pretty big job. You got to  
06 pull the wheels off and stretch the  
07 chains out on the floor and roll the  
08 tire up on the chain and spread the  
09 chains over the tires, ---

10 Q. Right.

11 A. --- chain them together and  
12 put them back on, and then you  
13 tensing them up.

14 Q. So how long do you think that  
15 job would normally take? I mean, if  
16 somebody's going to tell you that you  
17 had to do that job, and you had to  
18 tell them how long you thought it  
19 would take, what would you estimate  
20 to do that job? It sounds  
21 pretty ---.

22 A. It really depends on how bad  
23 --- if you was using new chains or  
24 old chains. I think I had all new

25 chains on that one.

92

01 Q. You said you talked to Fred  
02 some that evening. Did he mention  
03 anything about what he did at the  
04 fire area once he got there, or how  
05 bad it was when he got there?

06 A. Him and --- I think him and  
07 Billy said that they tried to go into  
08 the mother drive, but it was too  
09 smoky, so they went down to the  
10 longwall, to the cut-through, and  
11 went back up the belt to try to come  
12 in on from the backside. I think  
13 they said they couldn't get within  
14 Two, Three, Four breaks of it, and it  
15 was too bad to go any further.

16 Q. Did you hear them mention  
17 anything about discussing working on  
18 water to try to get water, maybe on  
19 through the cut-through and down that  
20 way or discuss water in any way?

21 A. I think there was something  
22 that Bryan said that he tried to hook  
23 a fire hose up, couldn't get it  
24 screwed onto the fire nozzle or  
25 something. Because that was a

93

01 question that came up, why didn't

02 they use water to fight it, and I  
03 think that was the answer that came  
04 out.

05 Q. Maybe that he had told that to  
06 --- did you hear that over the phone,  
07 or just in ---?

08 A. No, that's probably just a  
09 number of birds flying through there.

10 Q. Right. Okay.

11 A. And I don't know if --- I  
12 don't know if they turned the power  
13 off or if the fire had burnt the  
14 power or the water grounded it out,  
15 but either way, you wouldn't have  
16 water pressure without the pressure  
17 pumper on. So if you did have 15  
18 hoses, they wouldn't be no good  
19 without the pressure pump.

20 Q. Once they lost the power.  
21 Okay. Do you have any idea of what  
22 time they lost the power?

23 A. No, I don't.

24 Q. When you dispatch, do you  
25 record the times that people enter

94

01 the mine?

02 A. Yeah.

03 Q. Or do you also record when

04 they get outside?

05 A. Yeah. If they're nice enough  
06 to let you know when they're out.

07 Q. Right. If you happened to be  
08 aware of it. So would you normally  
09 --- do you think they would have  
10 recorded the time that the grater  
11 operator went underground with the  
12 ratchet?

13 A. Yeah. Because he was just  
14 starting in. He might have been two  
15 breaks underground. I came out of  
16 the warehouse, and Mike said Raymond  
17 just went in, so I ran inside and  
18 called him and took him a chain  
19 ratchet.

20 Q. What's your best guess about  
21 what time that was when you gave him  
22 the chain ratchet?

23 A. I can't tell you. I don't  
24 know.

25 Q. That record that you make of

95

01 what time people go in and out, what  
02 book is that kept in?

03 A. The dispatcher's log.

04 Q. Dispatcher's logbook. And is  
05 it kept there --- just once it's  
06 full, do you know what they do with

07 that?

08 A. They keep them.

09 Q. They keep them?

10 A. Yeah. I don't know how long

11 they keep them, but ---.

12 Q. When you're working in the

13 shop, do you notice the dispatcher.

14 What's he do on a regular shift?

15 A. He stayed in the dispatcher's

16 office.

17 Q. So as far as the dispatcher's

18 duties, you mentioned, I think

19 primarily you fill in, but what all

20 does the dispatcher's duties involve

21 that you're aware of?

22 A. Dispatching, of course,

23 carrying the lights out, maybe

24 occasionally pulling a part out of

25 the warehouse.

96

01 Q. The times that you have

02 dispatched, have you got many beeps

03 or pop-ups on your windows for

04 communication problems with the CO

05 system?

06 A. I can't recall, no.

07 Q. Do you recall when you

08 received your diesel mechanic

09 training?

10 A. I went to Beckley over at ---  
11 two years ago. I was up there for  
12 three days, and then I got refreshed.  
13 I've been refreshed twice last year,  
14 and then I'm an instructor now. I  
15 got refreshed on instructor's, I  
16 think January 28th.

17 Q. Do you recall who taught that?

18 A. It was over at Independence  
19 Corporation. Clark was there.  
20 Gilvin (phonetic). And some of the  
21 younger guys from that group was  
22 there.

23 Q. Was you at the dispatcher's  
24 shack or there in box cut when the  
25 top company officials came and went

97

01 underground?

02 A. Yeah.

03 Q. Can you tell us what they were  
04 doing, what their activities was, or  
05 what you saw all then?

06 A. The rescue team, you mean,  
07 or ---?

08 Q. No, the company officials  
09 prior to the first rescue team going  
10 in.

11 A. I think Pepé came down and



12 went in. He would be like the only  
13 company official, so to speak, that  
14 went in. And then that's when ---  
15 just moments after that Vicky showed  
16 up. I don't remember what her last  
17 name is. I think she's with MSHA.

18 Q. All right.

19 A. I remember her getting mad.  
20 Come down to box cut, screaming  
21 where's Pepé at.

22 Q. Do you know who went in with  
23 Pepé, or ---?

24 A. He went in alone.

25 Q. Went in alone?

98

01 A. Yeah.

02 Q. Was you there when, say, Chris  
03 Adkins, or did you see him ---?

04 A. Oh, yeah, they came in. I'm  
05 sorry.

06 Q. Who was with that when ---?

07 A. Oh, shoot. Dwayne I think was  
08 there. I don't know. The mine  
09 safety guy. I can't remember what  
10 his name was.

11 Q. That would have been --- it  
12 would have possibly been Frank?

13 A. Frank Costell (phonetic). I'm

14 thinking. If I remember right, I  
15 think they went in right after --- or  
16 after Pepé.

17 Q. Do you recall seeing Drexell  
18 Short?

19 A. To be honest, I don't know if  
20 I'd know him if I seen him.

21 Q. Or Gary Goff?

22 A. Gary may have been one of  
23 them. Well, Pepé went in alone, but  
24 then later after they was --- that  
25 group went in.

99

01 Q. Do you know who drove the  
02 mantrip in when they went in?

03 A. I'm thinking Gary did.

04 Q. Do you know who kept a record  
05 from that point of the people going  
06 inside?

07 A. The dispatcher, I guess. I  
08 don't think they was in very long  
09 when they came back out. During that  
10 time, Vicky's the one --- I think  
11 Vicky placed the F order, or whatever  
12 it is. I mean, she takes control  
13 over it. I think it's --- I don't  
14 know if it's F order.

15 Q. K order.

16 A. K order. Somewhere along the

17 line.

18 MR. TUCKER:

19 I hear you. Thank you.

20 BY MR. BEITER:

21 Q. Tim, you said something about  
22 a dispatcher's log when you were  
23 talking about tracking people in and  
24 out. That's not the dispatcher's  
25 log, or is that the same dispatcher's

100

01 log that contains the AMS sensor  
02 information?

03 A. No.

04 Q. It's different?

05 A. Yes.

06 Q. And is it a bound book?

07 A. No, it's individual sheets.

08 Q. That's those individual sheets  
09 we were talking about before?

10 A. Right.

11 Q. Okay. Did you ever have SCSR  
12 training?

13 A. Yeah.

14 Q. Do you know when you last had  
15 it?

16 A. About four or five days before  
17 the accident.

18 Q. Okay. Do you recall who gave

19 that to you?  
20 A. Steve --- no, it was Randy  
21 Boggs. That's the other safety guy  
22 at the mine, by the way.  
23 Q. That's the person you couldn't  
24 remember what his name was earlier.  
25 A. Yeah.

101

01 Q. Randy Boggs?  
02 A. Yes.  
03 Q. Are those people hourly, the  
04 people that assist Charlie Kann?  
05 A. I don't know if they're  
06 hourly.  
07 Q. Okay. Were they at one on  
08 each shift, or is that where they all  
09 worked the same shift, they all  
10 worked dayshift?  
11 A. No, they all stayed together.  
12 Q. Did you ever see Randy  
13 underground?  
14 A. I can't recall.  
15 Q. Are those the people that  
16 escort inspectors, do you know?  
17 A. Most of the time a foreman.  
18 Q. A foreman usually escorts  
19 them?  
20 A. Yeah.  
21 Q. Okay. Did I hear you say that

22 they lost power to the water pumps?

23 A. Yeah, the pressure pumps.

24 Q. And maybe I missed it. Did

25 you say why they lost power?

102

01 A. I don't know if someone turned

02 the power off up there, or the fire

03 had burnt the cable and grounded it.

04 I do remember somebody saying that

05 they lost power, so that's why they

06 didn't have water.

07 Q. Are you familiar with how the

08 electrical circuits run up there, up

09 in the fire area?

10 A. Kind of.

11 Q. Do you know how --- if the

12 circuit grounded around the fire

13 area, around the mother belt drive

14 that would give power to those pumps?

15 A. Well, if the high line burnt,

16 it would knock power all the way down

17 to break 38.

18 Q. Is that outby the Four way?

19 A. Yes. That's like --- it's

20 about 15, 16 breaks from the Three

21 way. It's close to outside.

22 Q. Okay. Is that the same power

23 system that operates --- that the

24 longwall power's on?

25 A. No. They're second.

103

01 Q. So they powered for the --- do  
02 you understand that the power for the  
03 mother drive is coming off of a  
04 different power circuit than the  
05 longwall? Is it on the same power  
06 circuit as the Number Two section,  
07 the mother belt drive?

08 A. It should be separate.

09 Q. Separate from the longwall ---

10 A. Yes.

11 Q. --- or separate from the ---?

12 A. The miner section is separate  
13 from the longwall. As far as the  
14 mother drive, I don't know what  
15 circuit it's on.

16 Q. Okay.

17 A. I don't fool with the high  
18 voltage very much at all, so ---.

19 Q. And how did you know that they  
20 lost power?

21 A. I may be remembering the  
22 rescue team saying they didn't have  
23 water, but I think Bryan Cabell, I  
24 think he was over there, he couldn't  
25 get the fire hose screwed onto the

104

01 nipple or something. That may have  
02 been later on that night, that  
03 evening when they said they didn't  
04 have water, then pretty much said the  
05 power was off, so ---.

06 Q. Okay. What is Terry Shadd's  
07 job?

08 A. I don't really know what his  
09 title is. He was section boss for a  
10 long time, then he got moved to like  
11 the foreman over the whole section,  
12 so --- over both dayshift and evening  
13 shift. He was over the --- what you  
14 call northeast mains section?

15 Q. Was it kind of like in the  
16 area of manager type of thing?

17 A. Yeah, I guess.

18 Q. Paul Scott is the other  
19 supervisor for Two section?

20 A. No, he's section boss.

21 Q. Is that Two section?

22 A. Section foreman or whatever  
23 you call it.

24 Q. Him and Mike Plumley?

25 A. Him and Mike Plumley, yes. So

105

01 Terry Shadd would be like their  
02 supervisor, so to speak.

03 Q. Yes. What shift does he work  
04 on?  
05 A. Terry Shadd?  
06 Q. Yes.  
07 A. Dayshift now.  
08 Q. I'm kind of confused a little  
09 bit on --- and not because of you,  
10 but on structure, and you know, who  
11 answers to who --- answers to who,  
12 and who's responsible for what.  
13 A. That's about the way it goes.  
14 Q. Well, maybe you can help me  
15 out.  
16 A. Too many chiefs and not enough  
17 Indians, put it that way.  
18 Q. You talked about Dotson being  
19 the mine foreman.  
20 A. Just recently.  
21 Q. And does Horton answer to him?  
22 A. Yeah.  
23 Q. He does? And just recently  
24 like before the accident or after?  
25 A. It was before.

106

01 Q. So Horton answers to Dotson,  
02 but Dotson has the same position as  
03 Horton on dayshift?  
04 A. Yeah. I think Dusty's  
05 position is like the general mine



06 foreman.

07 Q. Okay. And is Terry Shadd ---

08 like where does he fall on the ladder

09 there?

10 A. Just a position.

11 Q. Does he answer to Horton?

12 A. No, he would answer to Dusty,

13 I guess.

14 Q. To Dotson. You guess, you're

15 not sure?

16 A. I would say he would answer to

17 Dusty, so ---.

18 Q. What shift is Terry on?

19 A. Dayshift.

20 Q. I thought you told me about

21 this before, but I'm going to ask it

22 again, because I wasn't sure. At

23 72-inch belt tail right beside the

24 mother belt, or right around the walk

25 from mother belt.

107

01 A. Right.

02 Q. Did you ever walk past that

03 tailpiece at all?

04 A. No.

05 Q. No?

06 A. I can't recall ever doing it,

07 but ---.

08 Q. And you didn't travel from the  
09 next intersection in by where they're  
10 installing the belt structure?

11 A. Just in the roadway.

12 Q. In the roadway?

13 A. The roadway goes under the  
14 mother drive, then it goes like four  
15 more breaks, and then it cuts back  
16 uphill and under the 72-inch  
17 structure.

18 Q. Okay. And I know I asked you  
19 about if the map --- which map you  
20 considered was the one where miners  
21 normally congregated, but I don't  
22 know if I left you enough time to  
23 answer it, or if you did, I just  
24 didn't catch it. Now, you said there  
25 was a couple maps upstairs, one in

108

01 the foreman's office, one in the  
02 conference room, one downstairs on  
03 the table, one downstairs on the  
04 wall. Do you know which one of those  
05 do you consider one that would be the  
06 one that miners would look ---?

07 A. The general --- people look at  
08 the most, probably the one downstairs  
09 on the tabletop mine, under the ---.

10 Q. Under the Plexiglas?

11 A. Yeah.

12 Q. Thank you. Who do you think's

13 the top mine official at the mine?

14 A. It would be Eddie Lester, I

15 guess.

16 Q. What's his position?

17 A. Vice president.

18 Q. Vice president of this mine?

19 A. Of that mine, yeah.

20 Q. And who's under him --- is

21 that Eddie Lester?

22 A. That's Eddie, yeah.

23 Q. And then who's under him?

24 A. That would be Gary Goff.

25 Q. And then who's under Gary?

109

01 A. I would ay Pepé.

02 Q. Do you know what Gary's title

03 is?

04 A. I think he's mine manager.

05 Q. And what title does Pepé have?

06 A. He's a superintendent.

07 Q. And who's under Pepé?

08 A. It would be --- it would fall

09 to Dusty.

10 Q. So Dusty is right under Pepé?

11 A. Yeah. And then I think Pepé

12 is going to assist Rod Morrison. I

13 think that's his job title. Nobody  
14 really knows for sure.

15 Q. Rod Morrison?

16 A. I think he's more or less like  
17 the longwall superintendent.

18 Q. Okay. You said he works for  
19 Pepé?

20 A. I would say he's under Pepé,  
21 yeah.

22 Q. Who does Eddie work for, Eddie  
23 Lester? You said he was a top guy, a  
24 vice president.

25 A. I guess he would work under

110

01 --- answer to Dwayne or somebody.

02 Q. Dwayne Francisco?

03 A. Yes.

04 Q. Does Dwayne deal with  
05 production?

06 A. I'm not sure what his title  
07 is, but he's at the mine quite often.

08 Q. Do you know ---?

09 A. I know Dwayne's --- he  
10 oversees, I guess, a lot --- most of  
11 the production.

12 Q. Do you know if there would be  
13 a record somewhere of when Mike Brown  
14 shut down the Number Two belt, Number  
15 Two section of the belt? Do you know

16 how the CO system works, log that  
17 information?

18 A. Yeah, sure.

19 Q. Do you know who reported the  
20 fire to MSHA on the 19th?

21 A. No, I don't.

22 Q. Do you know when it was  
23 reported?

24 A. No.

25 Q. Did you hear Mr. Brown call

111

01 anybody that was not on the mine  
02 property, you know, to report the  
03 fire, 911, or one of the upper  
04 management officials?

05 A. I'm not sure if he called  
06 Eddie or not.

07 Q. Okay. Did you hear about a  
08 meeting in a grade school to discuss  
09 the accident?

10 A. Yeah. I was working at the  
11 time.

12 Q. Did you go?

13 A. No.

14 Q. Were you invited to go? I  
15 guess, were you notified that there  
16 was going to be a meeting?

17 A. Yeah.

18 Q. Did you hear what was said?

19 A. No, not really. I think it  
20 was more or less for the guys that  
21 wasn't working at the time to let  
22 them know that they're going to be  
23 trying to work a schedule out to keep  
24 people busy.

25 Q. Do you know of anytime that

112

01 smoke ever went in on a section, not  
02 just from a blazing fire, but from a  
03 belt that had been rubbing, or a  
04 roller that started smoking as the  
05 grease got hot?

06 A. Nothing was mentioned, I  
07 guess.

08 Q. Do you know of any time when  
09 there was a lot of smoke generated by  
10 any of this?

11 A. The only time I can recall is  
12 --- that would be ---.

13 Q. Was it longwall panel?

14 A. Yeah. It was Number Four  
15 panel. When we was first driving it  
16 up on the four-foot belts, a roller  
17 stuck in it, I think, or a bearing  
18 locked up or something, and it smoked  
19 up. It was four years ago, I would  
20 say.

21 Q. Do you produce coal on all  
22 three shifts?  
23 A. No.  
24 Q. Just two shifts a day? Do you  
25 know if there's people that work on

113

01 belt work on the shift that's idle?  
02 A. That's when most of the belt  
03 work is done. That's when all of the  
04 belt work's done, unless they have  
05 something that go down on one of the  
06 production shifts.

07 Q. Karl White and Junior  
08 Robinson, do you know those people?

09 A. I know Karl White.

10 Q. Does he work on your shift?

11 A. He rotates.

12 Q. He rotates? Do you know if he  
13 was on your shift after Christmas,  
14 the 29th of ---?

15 A. I can't say. I don't keep  
16 track of him.

17 Q. Did you ever hear of any time  
18 where he was involved with  
19 extinguishing an event, where smoke  
20 was being generated?

21 A. No.

22 Q. Do you consider this mine to

23 be safe?

24 A. I thought so, until all the  
25 changes we're making now.

114

01 Q. Can you explain ---?

02 A. Well, they're making --- they  
03 found a lot of stoppings with leaks  
04 in them, like they found one big hole  
05 in the stopping. And a lot of  
06 markers not up, a lot of coal  
07 spillage on the belt lines. And  
08 that's all they've been doing lately,  
09 is either belt work or ventilation  
10 work.

11 Q. Is there a lot of emphasis  
12 placed on safety normally, routinely?

13 A. Normally, yes.

14 Q. Do you think safety is as  
15 important as production?

16 A. It's more important.

17 Q. Is that the way it comes  
18 across to you as ---?

19 A. That's the way I take it.

20 Q. I understand. Is that the way  
21 you feel that other people at the  
22 mine believe?

23 A. I suppose.

24 Q. Do you know of any way that  
25 you can think of, from what you know



01 about what happened, or what you've  
02 been told has happened. Can you  
03 think of anything that might be able  
04 to prevent this from occurring again?

05 A. Well, like I said, I would  
06 like to know what happened myself. I  
07 don't really understand how it  
08 escalated so fast, but my impression,  
09 if the six-foot belt would have been  
10 isolated, smoke couldn't have got to  
11 the section, if that's what it was,  
12 if that stopping was down. Well,  
13 there's only two ways smoke could  
14 have got up there, I guess. If there  
15 was airlock doors at --- the belt was  
16 open, or the outby section was  
17 leaking real bad, and the stopping on  
18 the belt was down.

19 Q. When you went in there to be  
20 with Mike, could you tell he was  
21 getting real upset?

22 A. Yeah.

23 Q. How long could you tell the  
24 difference in him? I mean, when they  
25 first called out, they said they had

01 a little bit of smoke, and you really

02 didn't think it was serious, so ---.

03 A. I guess when Fred told him to  
04 put the lights on the section, turn  
05 the belt --- and turn their belt off  
06 to get your attention.

07 Q. So from the time that he came  
08 and told you that they had a problem  
09 on the belt to the time that he got  
10 real upset, how long of a time period  
11 do you think that covered?

12 A. Twenty (20), 30 minutes, I  
13 guess, maybe. I'm not real good with  
14 time.

15 Q. I'm sure I've asked you  
16 probably a couple times, but did you  
17 ever look at your wristwatch during  
18 that ---?

19 A. I can't recall doing that.

20 Q. Okay. Did anybody go inside  
21 after you took over for Mike when he  
22 had got to the point that he had went  
23 upstairs?

24 A. No, I don't believe so.

25 Q. Have you been interviewed by

117

01 anybody from the company about what  
02 happened on the 19th?

03 A. No.

04 Q. Have you been interviewed by

05 attorneys?

06 A. No.

07 MR. BEITER:

08 Just for the record, I  
09 identified something in front  
10 of Tim, and he didn't --- I  
11 guess the purpose of me  
12 bringing it up was to see if  
13 he could explain some of the  
14 entries that were in the  
15 record, and since he said he  
16 didn't make any of the entries  
17 in the record without even  
18 looking at the book, I'm not  
19 going to enter that in as an  
20 exhibit.

21 BY MR. BEITER:

22 Q. Is there anything else that  
23 you'd like to tell us regarding what  
24 happened that we may not have asked?

25 A. I can't think of anything.

118

01 BY MR. TUCKER:

02 Q. Do you know when Fred Horton  
03 told Mike to turn on the light, the  
04 section light?

05 A. As to what time it was, no.

06 Q. Was there a difference between

07 when you told him to turn off the  
08 light to when you told him to turn  
09 off the belt? Is that a different  
10 time that that occurred, or was  
11 that ---?

12 A. I can't say one way or  
13 another. I'm not sure.

14 MR. BEITER:

15 On behalf of MSHA, we  
16 wish to thank you for  
17 appearing here today and  
18 answering the questions, and  
19 being patient with us, and  
20 sharing your information that  
21 you have about the accident.  
22 Your cooperation is very  
23 important to us as we try to  
24 determine the cause of the  
25 accident.

119

01 If you wish, you can go  
02 back now over any answer that  
03 you've given us during this  
04 interview, and you have an  
05 opportunity to make a closing  
06 statement covering any  
07 additional points that should  
08 be raised.

09 A. No.

10

MR. BEITER:

11

We ask that you not

12

discuss your interview today

13

with any person who may have

14

already been interviewed, or

15

who may be asked to give a

16

statement in the future. And

17

the reason we ask this is to

18

ensure that we obtained

19

everyone's independent memory

20

of the events surrounding the

21

accident.

22

After questioning other

23

witnesses and obtaining

24

additional information, we may

25

ask to speak with you again,

120

01

interview you again for

02

additional questions if that

03

should be the case.

04

A. That's fine.

05

MR. BEITER:

06

Again, thank you very

07

much for coming in. If at

08

some later point you have

09

additional information

10

regarding the accident that

11

you would like to provide us,

12 you were introduced to Mr.  
13 Kenny Murray and Mr. Anthony  
14 Webb, who are on the  
15 investigation team, Ken is the  
16 lead investigator, they asked  
17 me to give you these cards  
18 that have their phone numbers  
19 on that you could contact  
20 them. Both of them are out of  
21 Pikeville, Kentucky.

22 The Mine Act provides  
23 certain protection for  
24 individuals who participate in  
25 accident investigations. If

121

01 at any time you believe that  
02 you've been treated unfairly  
03 because of your cooperation in  
04 this investigation, please  
05 immediately contact Kenny  
06 Murray or Anthony Webb. And  
07 again, I would like to thank  
08 you.

09 MR. TUCKER:

10 I would just like to  
11 mention that the State also  
12 offers those same protections.  
13 And if at any point you can  
14 recall any information again

15 like Denny pointed out that  
16 could be helpful, especially  
17 if you could remember some  
18 times maybe that any of this  
19 change of events that may have  
20 taken place?

21 A. Yeah, I'm sorry I couldn't  
22 remember more, so ---.

23 MR. TUCKER:

24 Yeah. We'd appreciate  
25 you letting us know.

122

01 A. Okay.

02 MR. TUCKER:

03 That's a card for C.A.  
04 Phillips, he's our deputy  
05 director, and one of my cards.

06 \* \* \* \* \*

07 SWORN STATEMENT

08 CONCLUDED AT 2:51 P.M.

09 \* \* \* \* \*

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