

01 EXAMINATION UNDER OATH
02 OF
03 CLARENCE DISHMON
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 Friday,
13 March 17, 2006, at 8:28 a.m.

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01 APPEARANCES (cont.)
02 ALSO PRESENT:
03 EUGENE WHITE
04 DENNIS BEITER
05 STEVE COX
06 RONALD STAHLHUT

07 C.A. PHILLIPS
08 CHARLIE POGUE
09 MIKE FINNIE
10 DERRICK TJERNLUND
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01 P R O C E E D I N G S

02 -----

03 MR. POGUE:

04 My name is Charlie
05 Pogue. I represent the Mine
06 Safety and Health
07 Administration, which is an
08 agency of the United States
09 Department of Labor. I am a
10 member of MSHA's accident
11 investigation team that has
12 been charged with
13 investigating the accident
14 that occurred at the Aracoma

15 Coal Company, Inc., Aracoma
16 Alma Mine Number One, on
17 January the 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. With me
24 here today are other members
25 of MSHA's team and the State

8

01 team. MSHA's team includes
02 various specialists and
03 members of the Solicitor's
04 Office. At this time I would
05 like to ask each member of the
06 MSHA team to identify
07 themselves for the record.

08 ATTORNEY BELL:
09 Keith Bell, the
10 Solicitor's Office, Arlington,
11 Virginia.

12 MR. WEBB:
13 Anthony Webb, MSHA,
14 Pikeville, Kentucky.

15 MR. STAHLHUT:
16 Ron Stahlhut, MSHA,

17 Vincennes, Indiana.

18 MR. BURKE:

19 Tony Burke, MSHA,
20 Whitesburg, Kentucky.

21 MR. FINNIE:

22 Mike Finnie, MSHA,
23 Madisonville, Kentucky.

24 MR. MURRAY:

25 Kenny Murray, MSHA,

9

01 Pikeville, Kentucky.

02 MR. FRANCCART:

03 Bill Francart,
04 Pittsburgh, Pennsylvania.

05 MR. BEITER:

06 Denny Beiter,
07 Triadelphia, West Virginia.

08 MR. TJERNLUND:

09 Derrick Tjernlund, Tech
10 Support, Triadelphia

11 MR. POGUE:

12 Here with me today,
13 representing the State of West
14 Virginia is Mr. Steve Cox.
15 Mr. Cox will be asking the
16 questions for the State. At
17 this time I would ask that Mr.
18 Cox introduce the members of
19 the State's team who are here

20 today.

21 MR. COX:

22 I just got a short
23 statement to read here. The
24 West Virginia Office of
25 Miners' Health, Safety &

10

01 Training is conducting this
02 interview session jointly with
03 MSHA, and we are in agreement
04 with the procedures outlined
05 by Mr. Pogue.

06 However, let me make it
07 clear that the Director
08 reserves the right, if
09 necessary, to call or subpoena
10 witnesses or require the
11 production of any record,
12 document, photograph or other
13 relevant materials necessary
14 to conduct this investigation.

15 I'm Steve Cox, Region
16 Three, Danville, West
17 Virginia.

18 MR. TUCKER:

19 Bill Tucker, Region
20 Four, Oak Hill.

21 MR. PHILLIPS:

22 C.A. Phillips, Deputy
23 Director, Charleston.

24 MR. WHITE:

25 Eugene White, District

11

01 Inspector, Region Three,
02 Danville.

03 MR. POGUE:

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

14 After the investigation
15 is completed, MSHA will issue
16 a written report detailing the
17 nature and the causes of the
18 accident. MSHA's accident
19 reports are made available to
20 the public in hope that
21 greater awareness about the
22 causes of the accident can
23 reduce their occurrence in the
24 future. Information obtained

25 through witness interviews is

12

01 frequently included in these
02 reports. Your statement may
03 also be used in other
04 enforcement proceedings.

05 I would like to thank
06 you in advance for your
07 appearance here today. We
08 appreciate your assistance in
09 this investigation. The
10 willingness of miners, members
11 of mine rescue teams and mine
12 operators to work with us is
13 critical to our success in
14 making the nation's mines
15 safer.

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

13

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

07 This interview is being
08 conducted at the Department of
09 Environmental Protection in
10 Logan, West Virginia, on March
11 the 17th, 2006, at 8:30 a.m.

12 Mr. Dishmon, can I
13 call you Clarence?

14 MR. DISHMON:

15 Yes.

16 MR. POGUE:

17 The interview will
18 begin by asking you a series
19 of questions. Feel free at
20 any time to clarify any
21 statements that you make in
22 response to the questions.
23 After we have finished asking
24 questions, you will have an
25 opportunity to make a

14

01 statement of your own and
02 provide us with any other
03 information that you believe

04 may be important. You are
05 permitted to have a
06 representative with you during
07 this interview. And you may
08 consult with your
09 representative at any time.
10 You may designate any person
11 to be a representative.
12 Following the questions by
13 MSHA and the State, this
14 representative will be given
15 an opportunity to ask
16 questions for purpose of
17 clarification on areas already
18 discussed.
19 Your statement is
20 completely voluntary. You may
21 refuse to answer any question
22 and you may end your interview
23 at any time. If you do not
24 understand a question, tell me
25 and I will rephrase the

15

01 question. If you need a break
02 for any reason, please let me
03 know.
04 You may request an
05 opportunity to make a

06 confidential statement which
07 we will withhold from the
08 public to the extent allowable
09 by law. Should you desire to
10 give a confidential statement,
11 you should advise me before I
12 begin your interview so that I
13 can reschedule your interview
14 in order to properly consider
15 your request. Do you request
16 a ---?

17 MR. DISHMON:

18 No.

19 MR. POGUE:

20 A court reporter will
21 record your interview and will
22 later produce a written
23 transcript of the interview.
24 I ask that you state all your
25 answers verbally because the

16

01 court reporter cannot record
02 your gestures, like nodding of
03 your head. If any part of
04 your statement is based not on
05 your own first-hand knowledge
06 but on information that you've
07 learned from someone else,
08 please let us know. Please

09 answer each question as fully
10 as you can, including any
11 information that you've
12 learned from someone else. We
13 may not ask the right
14 questions to learn the
15 information you have, so do
16 not feel limited by the
17 precise question asked. If
18 you have information about the
19 subject area of a question,
20 please provide us with that
21 information. Do you have any
22 questions about the manner in
23 which the interview will be
24 conducted?

25 MR. DISHMON:

17

01 No.

02 MR. POGUE:

03 Will you please swear
04 in Mr. Dishmon?

05 -----

06 CLARENCE DISHMON, HAVING FIRST BEEN
07 DULY SWORN, TESTIFIED AS FOLLOWS:

08 -----

09 BY MR. POGUE:

10 Q. Please state your full name,

11 mailing address and telephone number,
12 and please spell your last name for
13 the record.

14 A. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19 Q. Thank you. Are you appearing
20 voluntarily at this interview?

21 A. Yes.

22 Q. Has anyone made any promises
23 to you for giving this statement or
24 offering you any rewards in exchange
25 for making your statement?

18

01 A. No.

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

05 A. No.

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

09 A. Yes.

10 Q. Do you have a representative
11 with you today?

12 A. No.

13 Q. Do you wish to have a

14 representative with you today?
15 A. No.
16 Q. At this point, I'll go ahead
17 and turn the questioning over to Mr.
18 Cox and he can proceed, and then
19 we'll come back.
20 A. Okay.
21 BY MR. COX:
22 Q. Clarence, who is your
23 employer, please?
24 A. Miners' Health, Safety &
25 Training.

19

01 Q. And that was your employer on
02 January 19th?
03 A. Yes.
04 Q. Are you a member of the state
05 mine rescue team?
06 A. Yes.
07 Q. Would you give us a little bit
08 of your experience on mine rescue,
09 please?
10 A. I started on the rescue team
11 back in 1980 with Peabody. It was
12 actually Eastern, so --- well, it was
13 Peabody in 1980 at the Harris Mine.
14 And I've been on the team for ---
15 well, approximately 25 years now.

16 I've been involved in the Beckley
17 Mine fire, with Sago and, of course,
18 Aracoma.

19 Q. Thanks, Clarence. When were
20 you notified to report to Aracoma
21 Alma?

22 A. Approximately nine o'clock,
23 I'm thinking Thursday night.

24 Q. The 19th?

25 A. Yeah.

20

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

03 A. Approximately midnight, 11:30,
04 midnight.

05 Q. And who did you report to once
06 you arrived?

07 A. Mike Rutledge (phonetic) was
08 here and Bill Tucker was here --- was
09 there.

10 Q. During the firefighting and
11 rescue efforts, what was your primary
12 role?

13 A. I basically traveled with the
14 Elk Run team. I didn't have access
15 to any of the maps or anything, but I
16 traveled with the Elk Run team. We
17 was on --- we searched for the
18 workers.

19 Q. Okay.

20 A. We went in with the intention
21 of fighting the fire, but there was
22 no water to fight the fire with. So
23 I think the plans changed to try to
24 find the people.

25 Q. Okay. On how many occasions,

21

01 different occasions, did you go
02 underground during the course of
03 this?

04 A. Twice.

05 Q. Twice. And you accompanied a
06 team on each trip?

07 A. Yes.

08 Q. And that was the Elk Run team
09 each time?

10 A. No. I went with the federal
11 team, the Peabody, the second night.

12 Q. Federal Two?

13 A. Yes.

14 Q. So you went with Elk Run first
15 and Federal Two second. If you
16 would, if you want to, just come up
17 here to one of the maps, whichever
18 one you think best maybe can show us
19 where you were at with the team, what
20 you guys did and those type of

21 things.

22 A. Now?

23 Q. Yes.

24 A. This is the area of the fire.

25 Q. Right.

22

01 A. When we first came in, we
02 stopped here initially. Some of the
03 --- I think the Kentucky team was
04 exploring in here and couldn't get
05 down this way, so we advanced all the
06 way up in here. And we actually came
07 over to the fire itself, and there's
08 a stopping with a door, it's either
09 here or here, I think it's right
10 here. This overcast was not in this.
11 And we looked up here and seen a
12 light coming out of the crosscut
13 here. I'm pretty sure this stopping
14 it was. And we traveled up there and
15 there was no stopping there. And the
16 smoke was coming out of this stopping
17 and traveling up the intake.

18 Like I said, we attempted to
19 fight the fire, but there's no water
20 to fight the fire with. So they had
21 us going up the four-foot belt as far
22 as we could to try to find the
23 mantrip. I'm not sure what break it

24 was at. It seems like it was in this
25 area right here. We went over in the

23

01 intake escapeway, attempted to go
02 inby and outby as far as we could,
03 but the heat was so --- the heat was
04 so intense, you couldn't stand it
05 very long. So we eventually came out
06 and --- that's about all on the Elk
07 Run team. I mean, I don't ---.

08 Q. If you would, with that red
09 pen just kind of circle the areas
10 there where you were in.

11 WITNESS COMPLIES

12 A. I'm thinking we was in this
13 area right here. And this --- I
14 believe in this area right here.
15 Yeah, that'd be it.

16 BY MR. COX:

17 Q. Now, your second trip with
18 Federal Two?

19 A. Second trip, Federal Two, we
20 actually came back in the same area,
21 around the mantrip area. And they
22 had us exploring outby the mantrip.
23 They first had us exploring in here,
24 just barely inby the fire. But the
25 heat was just so intense. It was the

01 worst thing, I mean, I've ever
02 experienced. And we couldn't travel
03 probably about two breaks in this
04 area, so they backed us out and sent
05 us back up in this area here, around
06 the mantrip. And I'm thinking it was
07 in this area right here that we
08 explored. And like I said, we didn't
09 get probably three crosscuts and had
10 to come back out. We never did see
11 the mantrip. I'm thinking it's in
12 the same area. And we explored this
13 area right here, the federal team.

14 And then we worked on --- the
15 federal team and I worked on setting
16 the phone generator up in this
17 stopping that's not here. You know,
18 this stopping right here. I'm pretty
19 sure there's a stopping here. It
20 didn't have a door in it, but part of
21 it was dusted on the bottom, so we
22 put the phone generator in it and we
23 started it.

24 Q. Okay.

25 A. Now, these --- I mean, these

01 crosscuts may be off a bit because I
02 didn't have access to a map. I'm

03 just kind of --- just kind of a
04 guess.
05 Q. So your exploration with Elk
06 Run initially, about what time did
07 you guys enter the mine?
08 A. About one o'clock in the
09 morning, on Friday morning.
10 Q. That would be on the 20th;
11 correct?
12 A. Right. Uh-huh (yes).
13 Q. And with Federal Two?
14 A. I think nine o'clock on
15 Thursday or Friday --- Thursday ---
16 Friday night.
17 Q. Friday night.
18 A. I think it was Friday night.
19 The next night, Thursday night.
20 Q. Thursday night is the night it
21 started; right?
22 A. I'm sorry. Well, we went home
23 Saturday evening. Yeah, it's
24 actually Saturday shift, that we went
25 there on midnight. I think we went

26

01 inside about nine o'clock on Friday
02 night, though.
03 Q. Clarence, I know you've
04 already speculated on a few occasions

05 here. But you see the map and you
06 see the ventilation controls on
07 there. Were there any differences in
08 what you saw underground from what
09 you're seeing on the map?
10 A. Yeah. This overcast here, I
11 don't recall this overcast here being
12 in here. There seemed to be a
13 stopping with a door in this area
14 here that's not being shown. Because
15 when we first come up in here with
16 the Elk Run team, there was a
17 stopping with a door in it. And I
18 raised the door up to look inside and
19 see, and you could see the fire over
20 here. It may have been this stopping
21 here. You could see the coal on
22 fire. But I didn't travel down this
23 area here where this stopping was
24 supposed to have been.
25 Q. If you would, Clarence, just

27

01 using the red, write out which team
02 that was with and then ---.

03 WITNESS COMPLIES

04 A. I can't think of anything else
05 right offhand that ---.

06 OFF RECORD DISCUSSION

07 MR. COX:

08 I don't have any more
09 questions, Charlie, if you'd
10 like to take over.
11 BY MR. POGUE:
12 Q. Clarence, I have a series of
13 questions here. And you may have
14 already answered some of them, but
15 just for the record we'll go over
16 some of these questions just to get a
17 little bit more clarification on the
18 answer. When you arrived at the
19 Aracoma Mine, did you arrive with
20 other members of the mine rescue
21 team?
22 A. Yes, Bill Tucker.
23 Q. Bill Tucker?
24 A. Yes.
25 Q. And did you have a full mine

28

01 rescue team at that time?
02 A. No.
03 Q. What type of apparatus do you
04 wear?
05 A. BG-4 Dräger.
06 Q. What kind of communications do
07 you have?
08 A. Standard lifeline
09 communications, mine rescue. Plus we

10 have --- I think we have handheld
11 sets. I'm not --- we do not have
12 handheld sets? Okay.

13 Q. Okay. And when you got to the
14 mine, who did you report to?

15 A. Mike Rutledge was there. He's
16 our trainer.

17 Q. Okay.

18 A. He's basically the guy we
19 report to. And the rescue truck
20 wasn't there yet, so ---.

21 Q. Were your apparatuses there at
22 that time?

23 A. No.

24 Q. Were you given a briefing at
25 that time by any company official or

29

01 ---?

02 A. No.

03 Q. Okay. And I think you stated
04 earlier the first day that you went
05 underground was January the 20th?

06 A. It had been actually on --- I
07 think on a Friday. We got there at
08 nine o'clock and went underground
09 about one o'clock that morning.

10 Q. 1:00 a.m. in the morning?

11 A. Yes.

12 Q. And who did you travel with?

13 A. Elk Run.

14 Q. Elk Run?

15 A. Yes.

16 Q. Were you the only state
17 inspector to go in at that time?

18 A. Yes.

19 Q. Prior to going underground,
20 were you given any type of briefing?

21 A. Yes.

22 Q. Where was that given at?

23 A. Upstairs, in the mine office
24 area.

25 Q. Okay. What did they tell you

30

01 at the briefing? What was your
02 assignment?

03 A. They didn't really assign me
04 anything. I think who gave me the
05 briefing was actually, probably, I
06 think C.A., just give us a briefing
07 of the map that was on the wall of
08 what was going on so far and where
09 the fire was at. But management
10 never did give me a briefing.

11 Q. So in the command center there
12 was not like a formal briefing given
13 to you or your ---

14 A. Not to me.

15 Q. --- team members at that time?
16 A. Now, Elk Run may have been in
17 a briefing, but I wasn't.
18 Q. Okay. Do you find that to be
19 ---
20 A. Strange?
21 Q. --- strange?
22 A. Yeah. Yeah.
23 Q. Typically, whenever you go to
24 a mine like that, at one of these
25 types of --- either a mine fire or an

31

01 explosion, you are given a briefing
02 prior to going into the mine?
03 A. Yes.
04 Q. Once you were given the
05 briefing and you went into the box
06 cut, were there any other delays that
07 you can recall? I mean, did you sit
08 in the box cut for any length of
09 time?
10 A. No, maybe five, ten minutes
11 for something. I'm not sure why.
12 But there wasn't much of a delay.
13 Loading supplies was the biggest
14 thing I think of, loading supplies to
15 take with us.
16 Q. Okay. Do you recall what time
17 it was when you left the surface to

18 go underground?

19 A. I think I went underground
20 approximately one o'clock in the
21 morning.

22 Q. What other days did you go
23 underground during the rescue
24 recovery operation?

25 A. Well, both days would have

32

01 been --- well, Friday and Saturday.

02 Q. Friday and Saturday?

03 A. Yes.

04 Q. On each of those days, were
05 you given a briefing prior to going
06 underground?

07 A. No.

08 Q. Neither day?

09 A. No, not that I can recall.

10 You know, they would just say we had
11 a team ready to go underground, and I
12 would just go with one. That was
13 pretty much it.

14 Q. Did any time in the process of
15 getting prepared to go underground,
16 were you given a mine map?

17 A. No.

18 Q. Did your team that you were
19 traveling with, ---

20 A. Yes.

21 Q. --- did they have a mine map?

22 A. Yes.

23 Q. Did you get an opportunity to

24 look at it or discuss that map?

25 A. Very briefly.

33

01 Q. Very briefly?

02 A. Yeah. And that was

03 underground.

04 Q. Did you have any problems with

05 the map?

06 A. Just the spad numbers wasn't

07 --- some of them wasn't correct with

08 what was shown on the map. And I

09 can't remember what spad numbers they

10 were, but you know, we was trying to

11 get a reference point where we was at

12 by the spad numbers, and they wasn't

13 correct.

14 Q. Was that more than once?

15 A. Yes.

16 Q. More than ten times?

17 A. Well, I couldn't say more than

18 ten, but definitely more than once.

19 Q. Okay. How about the

20 ventilation controls on the mine map,

21 were they accurately marked?

22 A. No. No. The stoppings wasn't

23 --- there were several stoppings that
24 wasn't on the map.

25 Q. Clarence, when we get finished

34

01 with our questions here, we'll go to
02 the wall map there and we'll try to
03 locate those stoppings and see where
04 we're at with that.

05 Did the team that you traveled
06 with, did they have the same type of
07 concern about the problems with the
08 map?

09 A. Yes. Yes.

10 Q. What about projections on the
11 map, were they up-to-date?

12 A. I have no clue.

13 Q. Did the map include the
14 markings of the escapeways at the
15 mine?

16 A. There again, I couldn't answer
17 that. I didn't have access to the
18 maps that much.

19 Q. Did anybody ever inform you to
20 where the escapeways were for the
21 mine?

22 A. Yes. I understood we was in
23 the intake escapeway. That's where
24 the fresh air base was.

25 Q. So you knew that you were in

35

01 the intake escapeway? How about an
02 alternate escapeway, did you know
03 what it was? Did anybody at the
04 briefing tell you anything about an
05 alternate escapeway?

06 A. No.

07 Q. All right. Let's go to the
08 wall map and indicate to me once you
09 left the surface and traveled
10 underground just the whole process
11 that you went through in order to get
12 through your shift that night.

13 A. Okay.

14 Q. We'll take a marker ---. Now,
15 this is the Four Right area and this
16 is your north mains, ---

17 A. Yes.

18 Q. --- northeast mains.

19 A. When we first came in, I came
20 in with the Elk Run team. And there
21 was another team with us also, the
22 East Kentucky team, I think, from
23 Massey. And we stopped in this area
24 here somewhere. I think the East
25 Kentucky team was in here exploring

36

01 at one time and the Elk Run team.

02 (Dishmon Exhibit A
03 marked for
04 identification.)
05 BY MR. POGUE:
06 Q. And we're talking about the
07 area on Exhibit A, Dishmon, and
08 you're indicating the Four Right area
09 on the map?
10 A. Yes.
11 Q. Okay.
12 A. They made an attempt to go
13 behind the longwall. But they had
14 encountered smoke and water, and they
15 couldn't travel no further this way.
16 So they came back out and we
17 established communications. And we
18 all regrouped in this area here and
19 loaded back up. We established
20 communication at this point and ---.
21 Q. Was that both teams ---
22 A. Yes.
23 Q. --- came back out?
24 A. Yes.
25 Q. What was the purpose in trying

37

01 to get up the Four Right area?
02 A. They was attempting to come in
03 behind the longwall, thinking that

04 the men had traveled down to tailgate
05 Nine on tailgate Ten --- or headgate
06 Ten, but they --- that was the plan I
07 was told.

08 Q. Okay. Could you indicate on
09 the map exactly what your route of
10 travel was back behind the ---?

11 A. I never was in this area.

12 Q. Okay.

13 A. I'm just going by what the Elk
14 Run team told us as they came back to
15 the ---.

16 Q. So you were back at the
17 staging area at the junction of Four
18 Right?

19 A. Yes. I never did go back in
20 the Four Right panel.

21 Q. Okay.

22 A. So when they all came out and
23 got regrouped, Frank Foster and I
24 think Johnny Robinson was there, they
25 called outside and made the decision

38

01 to advance up to the fire area and
02 establish a fresh air base inby the
03 gas well.

04 Q. So you left the Four Right
05 area and you advanced up the north
06 mains?

07 A. Yes.

08 Q. And did you check any of these

09 inlets or ---

10 A. No.

11 Q. --- any of the areas?

12 A. No.

13 Q. How about the cut-throughs?

14 A. No.

15 Q. So you advanced up to the

16 northeast mains?

17 A. Yes.

18 Q. And at what point did you stop

19 and establish either a staging area

20 for the team or a fresh air base?

21 A. We stopped in this area right

22 --- in the area of --- I'm not sure

23 what you call this. We stopped in

24 this area here and they made a

25 decision that part of the team would

39

01 travel up the four-foot belt and go

02 around the gas well, and part of the

03 team would come around the lower side

04 of the gas well and establish a fresh

05 air base just inby the gas well.

06 Q. Do you know that exact

07 location where those instructions

08 were to set the fresh air base up?

09 A. The fresh air base was
10 supposed to be set up in this area
11 here.
12 Q. Could you indicate with a dot
13 and draw that as to be your fresh air
14 base? Put your date on it.
15 A. Today's date?
16 Q. No, the date that --- it would
17 be the 20th.
18 A. The first date is on Friday.
19 WITNESS COMPLIES
20 BY MR. POGUE:
21 Q. Okay. Now, pick it up from
22 there. You've advanced --- part of
23 the team advanced up the 48-inch belt
24 at that point?
25 A. Yes.

40

01 Q. And the other portion of the
02 team went up in the six-foot belt?
03 A. That's correct.
04 Q. Okay.
05 A. The Elk Run team and I came
06 over to the --- I guess it would be
07 the Number One --- Number Three entry
08 on the intake escapeway, and we
09 stopped I'm thinking at this stopping
10 here, which had a door in it. And I
11 think it was just --- I'm not sure

12 which stopping, but one of these
13 stoppings had a door in it. And we
14 raised the door up and looked and
15 there's a fire. And this stopping
16 here, this stopping here was out.

17 Q. Can you circle that stopping
18 to indicate ---?

19 A. Now, it's either this one or
20 this one. I'm not exactly sure.
21 Like I say, I didn't have a map, so
22 ---.

23 Q. I'll tell you what. Let's go
24 over to this second map. We'll call
25 this Exhibit B, Dishmon.

41

01 (Dishmon Exhibit B
02 marked for
03 identification.)

04 BY MR. POGUE:

05 Q. And let's pick up from the
06 fresh air base of the staging area
07 where you ---?

08 A. The fresh air base was --- I
09 think it was right in here.

10 Q. Okay.

11 A. This one I knocked that I
12 marked right here.

13 Q. Circle that.

14 WITNESS COMPLIES

15 BY MR. POGUE:

16 Q. Clarence, I also have that
17 command center map if you want to
18 refer to that just to refresh your
19 memory.

20 A. Let's see. This probably ---
21 this is probably the door that we
22 opened.

23 Q. Was it closed when you got
24 there?

25 A. Yes. We could see smoke

42

01 coming up top of the stopping because
02 the cap wedges were on fire.

03 Q. Okay.

04 A. So I opened the man door to
05 look inside and I could see the fire.
06 And somebody said that there's a
07 light up inby us, and we turned our
08 cap lights off to look, and I said,
09 there's a fire up there on that
10 crosscut. So we --- we came up here,
11 looked through the crosscut and
12 couldn't see a stopping nowhere.

13 Q. Make a note of what you saw
14 here as far as wood burning around
15 the stopping.

16 A. It was coal.

17 Q. Coal?

18 A. Yeah, on the rib.

19 Q. Just draw a circle to it or an
20 arrow to it.

21 WITNESS COMPLIES

22 A. Like this overcast, I never
23 --- this overcast wasn't here.

24 BY MR. POGUE:

25 Q. You can indicate that some

43

01 way. You can circle it and just put
02 out there missing.

03 A. So was the stopping.

04 Q. Okay.

05 A. We didn't travel into the
06 crosscut. We was kind of waiting on
07 orders what to do. Nobody really
08 told us anything to do. We kind of
09 just gathered over here because
10 Johnny Robinson was over here on the
11 phone, trying to make ---.

12 Q. Who's Johnny Robinson?

13 A. He works for Massey Coal. I'm
14 not sure. He used to be a safety
15 director for Massey, but I'm not sure
16 what his title is now.

17 Q. Did he travel in with your
18 team when you went in?

19 A. He was already underground
20 with Frank Foster. Frank Foster was
21 the safety director for Massey.
22 Q. Did either one of those
23 gentlemen have a mine rescue
24 apparatus on?
25 A. No.

44

01 Q. Did they have detectors that
02 you recall?
03 A. I don't recall seeing them
04 with one, but I couldn't say they
05 don't have one or didn't have one.
06 Q. Anybody else besides those two
07 gentlemen underground that you saw?
08 A. When I came underground, they
09 were underground with the Elk Run
10 team and the East Kentucky team,
11 Frank and Johnny was.
12 Q. Okay.
13 A. So I came underground with ---
14 I'm not sure who I came underground
15 with. I just got on the mantrip and
16 came underground.
17 Q. So at this point you don't
18 have any guidance from the command
19 center ---
20 A. No.
21 Q. --- in the way of a briefing

22 or ---?

23 A. No.

24 Q. They're not communicating to
25 you what your objective is at this

45

01 point?

02 A. No.

03 Q. Back here at this fresh air
04 base, you did have communication
05 there with the command center?

06 A. Well, the communication was
07 established over on the belt line.
08 You know, we had no communication at
09 the fresh air base. They tapped into
10 the phone line on the four-foot belt.

11 Q. Well, let's go ahead and get
12 back to this area here just to kind
13 of run us through the areas that you
14 explored and what you saw and ---.

15 A. Well, with the Elk Run team,
16 we came over initially, like I said,
17 and there was fire hose was already
18 stretched out, but we had no water to
19 fight the fire.

20 Q. Let's indicate any type of a
21 waterline that you may have had in
22 this 48-inch belt or anyplace in
23 there, and show us what you had and

24 how the fire hoses extended down to
25 the fire area.

46

01 A. I think the fire hose ran from
02 here down this way. It wasn't put
03 together.

04 Q. When you first got there, ---

05 A. Yes.

06 Q. --- the hose wasn't together,
07 the fire hose?

08 A. No.

09 Q. Was this a hard line or was
10 this the fire hose?

11 A. This was fire hose. This was
12 fire hose.

13 Q. And where did it connect into
14 the ---?

15 A. It wasn't connected.

16 Q. Just laying there?

17 A. Yes.

18 Q. What was in this 48-inch belt
19 entry that you could connect a fire
20 hose to?

21 A. There was a fire outlet
22 somewhere in this area. There was
23 actually, I think, two four-inch
24 lines running up that belt.

25 Q. Could you indicate that on the

47

01 map, the two four-inch lines?

02 A. I'm not a hundred percent

03 sure. I'm pretty sure there was two

04 four-inch lines.

05 Q. Were there any other

06 waterlines?

07 A. Uh-uh (no).

08 Q. How about an eight-inch

09 waterline?

10 A. Not in this one we got here,

11 no. I think the eight-inch line was

12 down maybe on this belt down here,

13 and it --- but I'm not a hundred

14 percent sure. But there was

15 four-inch line ---.

16 Q. And there was what, two fire

17 taps there or a series of valves?

18 A. There was a fire tap, and the

19 guy couldn't get the fire hose hooked

20 to it because I think it was rusted

21 up or damaged.

22 Q. Who was that person?

23 A. I'm not sure. Somebody on one

24 of the Massey teams.

25 Q. On the Massey team.

01 A. There wasn't a whole lot of

02 organization at first. The people

03 were just kind of --- I mean there
04 wasn't a whole lot of direction.
05 Q. Okay. So to your knowledge,
06 was this ever hooked up, the fire
07 hose hooked to the fire tap?
08 A. Not on my shift, no.
09 Q. Okay. So then what did you do
10 once you traveled through this area?
11 A. They pulled us out. We really
12 didn't ---.
13 Q. The command center pulled you
14 out?
15 A. Yes.
16 Q. Okay.
17 A. Well, I don't know about the
18 command center. Johnny Robinson was
19 really the one, and Frank Foster,
20 calling the shots underground. So
21 I'm not sure what the command center
22 said.
23 Q. Do you find that unusual?
24 A. Yeah. I find a lot of things
25 unusual. But they pulled us out. We

01 never did explore this area when we
02 first came in with the Elk Run team.
03 They pulled us back out and had us
04 advance up the four-foot belt.
05 Q. Were you under apparatus at

06 this point?
07 A. No.
08 Q. Okay.
09 A. No. And we get up there so
10 far, and I'm not sure how far it was,
11 but we started to encounter a little
12 bit of smoke coming out.
13 Q. Now we're going back to
14 Exhibit A, Dishmon.
15 A. We traveled up the four-foot
16 belt and we started encountering a
17 little bit of smoke, but nothing ---
18 and the CO level wasn't that high, so
19 we didn't --- we should have had our
20 apparatuses turned on. And we came
21 up to a point we established
22 communication again. And we go over
23 in the intake escapeway, you know,
24 travel two or three breaks inby and
25 outby, and we still can't find

50

01 anything. And they had us advance up
02 one more time.
03 Q. Do you know those areas that
04 you actually explored? Can you
05 indicate that on the map?
06 A. I don't know exactly. Like I
07 say, I didn't have a map and ---.

08 Q. Okay.

09 A. I wish I could help you there,
10 but I can't.

11 Q. All right. Continue on with
12 your exploration of the 48-inch belt.

13 A. We established communication
14 twice on the four-foot belt. And the
15 last time, it was somewhere around
16 where they eventually found the
17 mantrip. But we never did find the
18 mantrip. We explored there and
19 didn't make much progress at all. I
20 mean, it just --- I mean, it
21 just ---.

22 Q. So after you finished
23 traveling to the furthest point of
24 travel in the 48-inch belt, then what
25 did you do? Did you go back to the

51

01 fresh air base?

02 A. Yes.

03 Q. And what happened back there?
04 I mean ---?

05 A. They changed out with the next
06 shift. And I mean, we didn't
07 accomplish a whole lot on the
08 midnight shift.

09 Q. So you briefed the oncoming
10 mine rescue team?

11 A. Yes. The Elk Run team did. I
12 didn't.

13 Q. Okay.

14 A. I mean, I was listening and
15 all that, but I ---.

16 Q. But they did exchange
17 information?

18 A. Yes.

19 Q. And then you came back to the
20 outside with that team?

21 A. Came back outside. I think I
22 got outside about eight or nine
23 o'clock the next morning.

24 Q. Did anybody debrief you once
25 you got outside?

52

01 A. No. I'm sure they debriefed
02 the Elk Run team, but ---.

03 Q. They didn't include you in
04 part of that?

05 A. No. I was kind of an insider.

06 Q. Nobody said, Clarence, we're
07 going to debrief everybody upstairs,
08 ---

09 A. No.

10 Q. --- how about coming up?

11 A. No. It was kind of like I was
12 just there with them. I mean, I

13 wasn't really a part of everything,
14 but you were there because I guess I
15 had to be there. You know what I'm
16 saying?

17 Q. Let's go to the second date,
18 which would be the --- I guess the
19 21st. Is that the second day you
20 went underground?

21 A. I actually went underground
22 about nine o'clock on Friday night.

23 Q. Okay.

24 A. And come out about, I think
25 eight o'clock the next morning, on

53

01 Saturday.

02 Q. Again, were you briefed prior
03 to going under?

04 A. No.

05 Q. So where did you go on the
06 21st then, the night of the 20th?

07 A. We came into the mantrip
08 there. They had already found the
09 mantrip at that time. And they had
10 us go back to the mantrip area to
11 explore outby in hopes of finding
12 people. And we only explored
13 probably three crosscuts outby
14 because the heat was just so intense
15 that the guys couldn't stand it.

16 Q. Again, can you indicate that
17 on the map, what area you're talking
18 about?

19 A. Well, if I knew exactly where
20 the mantrip was at. I know you're
21 probably not going to tell me. I
22 mean --- go ahead.

23 OFF RECORD DISCUSSION

24 BY MR. POGUE:

25 Q. All right. Clarence, can you

54

01 clarify something that we discussed a
02 little bit earlier, and it was this
03 travel that you did on the first
04 night into the mine. To what extent
05 did the Elk Run team advance in the
06 Four Right entries off of the mains?

07 A. When I first got up there, the
08 Elk Run team and the East Kentucky
09 team had just came out of this area
10 on Four Right. And they said they
11 traveled --- I'm thinking it was back
12 in this area here. They came to set
13 airlock doors. And there was so much
14 water and smoke, that they stopped
15 their travel. And I'm not sure which
16 airlock doors they was talking about.
17 There's a set of airlock doors there.

18 Q. Do you think it was back here
19 at survey station 2741, in that
20 general area?

21 A. I would think so, yes.

22 Q. How about indicating that just
23 by drawing a red line there?

24 A. Put Elk Run team?

25 Q. Yes, that's fine.

55

01 WITNESS COMPLIES

02 A. And this may not be a hundred
03 percent true because they said they
04 went to the airlock doors. And they
05 was gone quite a while from listening
06 to them talk.

07 BY MR. POGUE:

08 Q. Did you travel in with the Elk
09 Run team?

10 A. No.

11 Q. Were they already in the mine
12 whenever ---?

13 A. Yes. The Elk Run team and the
14 East Kentucky team, along with Frank
15 Foster and Johnny Robinson, was
16 already underground. And they had
17 explored the Four Right area up to a
18 point where they encountered smoke
19 and water and couldn't go no further.
20 So when we got to the mouth of the

21 Four Right panel, they had had ---
22 they were coming out. I think Frank
23 was already out here in the Four
24 Right intersection. And we regrouped
25 and they made us --- they got on the

56

01 phone. They established
02 communication over here and talked to
03 the command center and told them what
04 they found and made a decision to go
05 up to the fire area.

06 Q. Are you aware of any other
07 instructions at that point, when they
08 came back out of the Four Right area,
09 any type of air readings that they
10 were supposed to take on the way up
11 to the northeast mains?

12 A. We never stopped until we got
13 to the fresh air base location.

14 Q. Okay.

15 A. Now, if they was told to stop
16 and take air readings, they didn't
17 tell nobody.

18 Q. Can you indicate on Exhibit A,
19 Dishmon, that the lines --- or the
20 circles that you indicate that are
21 blue, what days were ---?

22 A. That was --- part of that

23 would have been on Friday. Like I
24 said, I went in at nine o'clock in
25 the evening, which would have been on

57

01 the 20th, on Friday, and then I
02 worked until midnight on the 21st.
03 The first blue line, down at the
04 mouth of Nine headgate, would have
05 been on the --- would have been on
06 Friday.

07 Q. Just put a date by that, just
08 1/20 and 1/21. Just circle it.

09 WITNESS COMPLIES

10 A. That would have been on
11 Friday; right?

12 BY MR. POGUE:

13 Q. Yes. You said it went over on
14 the 21st.

15 A. Yeah. We explored this part
16 on Friday and this part on --- I
17 guess it would have been on Saturday.
18 We actually explored this area right
19 here. We did extend this far. Can I
20 mark that out?

21 Q. Yes.

22 WITNESS COMPLIES

23 BY MR. POGUE:

24 Q. Let's go over to this third
25 map that we have on the wall now and

01 that's Exhibit C, Dishmon.
02 (Dishmon Exhibit C
03 marked for
04 identification.)
05 BY MR. POGUE:
06 Q. And you talked earlier about
07 exploring the northeast mains on the
08 first night to an area in and around
09 maybe the mantrip --- the location of
10 the mantrip that the Two Right crew
11 used to come out of the mine. Can
12 you indicate that on the map? This
13 would be the 48-inch belt.
14 A. Yes. We established
15 communication at fresh air base Nine.
16 And then we went up the four-foot
17 belt in and around spad number 3314
18 and established communication. And
19 this doesn't show stoppings, but
20 yeah, we found a stopping here with a
21 door in it, and we came over and
22 explored a couple breaks inby, a
23 couple breaks outby.
24 Q. Are you able to identify that
25 stopping on the map?

01 A. No. No.

02 Q. Okay.

03 MR. POGUE:

04 Clarence has indicated
05 that at fresh air base number
06 Nine, just north of survey
07 station 3235, they advanced
08 from that point in by in the
09 48-inch belt to survey station
10 3214 --- 3314, excuse me, and
11 established a fresh air base
12 with the phone and everything
13 right there.

14 A. Yes.

15 BY MR. POGUE:

16 Q. From that point, where did you
17 go? How about just indicating ---
18 put a red line or a blue line in
19 those areas ---?

20 A. This would have been in red
21 with the Elk Run team.

22 Q. Okay.

23 A. We explored further. I think
24 we explored all the way up into ---
25 in the belt. We only came into the

60

01 intake escapeway in one location that
02 night, and that would have been in
03 the area of 3314, to the best of my
04 recollection.

05 Q. What did you see when you
06 walked over from the ---?
07 A. Just smoke.
08 Q. Heavy smoke?
09 A. Heavy smoke and CO.
10 Q. Okay. So then you retreated
11 back out of that entry at that time?
12 A. Yes, and came back over to the
13 four-foot belt entry. And we
14 advanced on up the belt entry and
15 established another phone. It was
16 the area of the location probably
17 3605. By break outby 3605 we
18 established another ---. And some of
19 the other guys went over in here for
20 a couple breaks. It wasn't --- I
21 didn't go with them this time. Some
22 of the guys of the Elk Run team went
23 over and explored the intake.
24 Q. Is Frank Foster or Robinson
25 with you at that ---?

61

01 A. Johnny Robinson pretty much
02 stayed down at fresh air base number
03 Nine, that first one we established.
04 We never seen him a lot that night.
05 Q. How about Frank?
06 A. Frank was with us pretty much

07 all night.

08 Q. Did he have an apparatus?

09 A. No. I mean, he didn't have

10 one on. I mean, he may have had one

11 ---.

12 Q. But he didn't have it with

13 him.

14 A. I never seen one. I never

15 seen Johnny with one either, the best

16 I can recall.

17 Q. Do you have any idea how far

18 up in the belt entry you guys

19 advanced to before you retreated?

20 A. It was around spad number 3605

21 is where we established, I think,

22 communication again the second time.

23 Q. Can you indicate that on the

24 --- just put on there second fresh

25 air base on the 20th.

62

01 WITNESS COMPLIES

02 BY MR. POGUE:

03 Q. Okay. With your blue marker

04 indicate on Exhibit C, Dishmon, the

05 second exploration, the extent of

06 your second night in the mine, what

07 areas you ---?

08 A. Came in the second night with

09 the federal team from Peabody. And

10 they had us exploring around spad
11 number 3331, the number Two and Three
12 entry. This area here.

13 Q. Just draw a line so I know
14 where you're going.

15 A. We explored probably two or
16 three crosscuts in this area. That's
17 all we could stand in these two
18 entries here.

19 MR. POGUE:

20 And Clarence is
21 indicating from survey station
22 3331 back to 3247 survey
23 station, that they traveled in
24 that entry to explore it.

25 BY MR. POGUE:

63

01 Q. What did you see in that
02 entry, anything?

03 A. We didn't see anything. It
04 was just too hot and we couldn't stay
05 in there very long. So they --- we
06 came out of that. And they had us
07 come back out and go up the four-foot
08 belt and around the mantrip location
09 and explore over there. There again,
10 we didn't see anything there either,
11 just smoke and CO.

12 Q. So you came back out of that
13 entry over into the 48-inch?
14 A. Yes.
15 Q. And traveled to what point
16 inby?
17 A. It was around spad number ---
18 probably 3254, in that area.
19 Q. Just indicate that.
20 WITNESS COMPLIES
21 BY MR. POGUE:
22 Q. At the completion of that
23 exploration, then what did you do?
24 A. They decided to bring us back
25 to the fire area and attempt to fight

64

01 the fire.
02 Q. Okay. We talked earlier about
03 the waterline from the 48-inch belt
04 and how they ---.
05 A. There was a four-inch
06 hardline, plastic hard line, extended
07 through a crosscut. I'm pretty sure
08 it went into spad number 5247.
09 Q. Thirty-two (32).
10 A. Okay, 3247. I'm thinking it
11 extended through a stopping there,
12 and they got tapped onto that with
13 fire hose.
14 Q. Can you indicate that on the

15 map? Just draw a line, the four-inch
16 waterline.

17 WITNESS COMPLIES

18 A. Would that be all right?

19 BY MR. POGUE:

20 Q. Where did that line end at?

21 A. It ended in the intake
22 escapeway entry, around 30 --- 3236.

23 It just dead-ended there, and we
24 tapped onto the manifold. We was
25 already attached onto that, already

65

01 been fighting the fire.

02 Q. Okay.

03 A. So we come up and found the
04 fallen generator.

05 Q. Where was it located?

06 A. Sitting in a stopping ---
07 crosscut outby 3332, the crosscut
08 between the six-foot belt and the
09 intake escapeway.

10 Q. Can you indicate that on the
11 map?

12 A. Fallen generator?

13 Q. Yes.

14 WITNESS COMPLIES

15 A. And it wasn't being used, so
16 we unwrapped it, took water to it and

17 started carrying the foam buckets up
18 to it. And that's pretty much the
19 rest of our day. We was running out
20 of foam pretty quick.

21 BY MR. POGUE:

22 Q. In these areas where you
23 traveled in that 48-inch belt, did
24 you see any stoppings that had been
25 removed or not installed?

66

01 A. Not in the 48-inch belt?

02 Q. What about if you moved down
03 like over here into the 72-inch belt
04 entry, what did you see in there?

05 A. Let me get my bearings here.

06 Q. You traveled through that
07 entry?

08 A. We didn't travel in the
09 six-foot belt entry. We --- there
10 was a stopping light --- there was a
11 stopping out at 3332.

12 Q. Can you indicate that by
13 circling the ---?

14 WITNESS COMPLIES

15 A. That stopping was out.

16 BY MR. POGUE:

17 Q. Was it out in that it was
18 removed to fight the fire or ---?

19 A. No, it wasn't there initially.

20 I mean, I seen no evidence of a
21 stopping ever being built there.
22 Q. So it was missing?
23 A. Missing.
24 Q. Okay.
25 A. Like I say, when we first came

67

01 in, we opened --- I opened the man
02 door at stopping --- I mean, spad
03 number 3265 and could see the fire.
04 And then the stopping inby that was
05 intact. And the next one at 3332 was
06 out. This stopping was intact at ---
07 the first stopping there, it was
08 intact.

09 Q. Can you draw a stopping on
10 there to indicate ---?

11 WITNESS COMPLIES

12 BY MR. POGUE:

13 Q. What about at survey station
14 3323, the stopping with a door in it
15 just north of survey station ---?

16 A. We never advanced past the
17 spad number 3332.

18 Q. Did you ever walk that 72-inch
19 entry outby the tailpiece?

20 A. No. They had us exploring the
21 Two and Three entry.

22 Q. What about just inby the
23 tailpiece here in the entry, through
24 the crosscut, at survey station 32
25 --- it looks like 65, were there any

68

01 controls in there that you ---?

02 A. We never went down that way.
03 We went up to the stopping that was
04 out at 3332, and we never advanced
05 over to the crosscut where the
06 six-foot belt was because the smoke
07 was coming out of that stopping. And
08 we had no direction at that time from
09 anybody on what to do.

10 Q. Okay. Do you have a
11 recollection of any other waterlines
12 or anything that extended off that
13 48-inch belt or down the 72-inch
14 belt?

15 A. We never went over in the
16 72-inch belt at all until the last
17 day, on Saturday, with the federal
18 team. We went over there and fought
19 the fire a little bit. But they had
20 rock falls and things, and I didn't
21 see no waterline at all up there.

22 Q. Were you in the 72-inch belt
23 line at survey station 3499 at the
24 location where the map indicates an

25 overcast is in place?

69

01 A. Yes.

02 Q. Can you describe that area to

03 us?

04 A. The federal team and I came

05 down to spad number 3221 and cut the

06 --- we cut the six-foot belt and

07 built a check curtain across.

08 Q. Can you indicate that on the

09 mine map, please? What night was

10 that?

11 A. That was on --- it would be on

12 Saturday, on the 21st.

13 Q. Okay.

14 A. And we built a check curtain

15 across there and foamed it to try to

16 cut the air off the belt. And we did

17 that and came back and --- we was

18 working between this and the foam

19 generator the rest of the night.

20 Q. Did you ever travel outby that

21 check curtain?

22 A. No.

23 Q. Is there anything else you can

24 tell us about that area up in there

25 that you haven't already talked to us

70

01 about?

02 A. Nothing I can think of right

03 off.

04 Q. You've mentioned Frank and

05 Johnny Robinson being in the mine.

06 At any time do you recall that they

07 traveled inby the longwall belt and

08 the area that they did?

09 A. Frank traveled up the

10 four-foot belt with the rescue teams.

11 Q. What about in the 72-inch belt

12 line itself, did they ever travel in

13 this that you're aware of?

14 A. I didn't see nothing.

15 Q. Do you know if any other mine

16 rescue people or if there had been

17 any travel in that area prior to you

18 getting in there?

19 A. I have no clue, no.

20 Q. Is this the only waterline

21 that you're aware of that came off of

22 that?

23 A. Yes. That's the only one that

24 I could see.

25 Q. What about over in this entry

71

01 here, do you recall any waterlines in

02 this entry here?

03 A. Like I say, the waterline may

04 have come down this entry or this
05 one, I'm not exactly sure, because
06 you know, the stoppings are not
07 numbered.

08 Q. Okay.

09 A. Any one of these stoppings is
10 where it came through at. I'm not a
11 hundred percent sure which one. Like
12 I say, I know maps, and you just
13 don't really notice things like that,
14 which stopping it came through.

15 Q. Okay. Can you show the
16 approximate location of that fire
17 valve that was rusted and corroded,
18 where they couldn't put the fire hose
19 on?

20 A. It was the stopping with the
21 door in it. It was probably in this
22 area right here.

23 Q. This is your four-inch line
24 right here.

25 A. Well, you got four-inch line

01 coming up from the four-foot belt.

02 Q. So you're saying right here.

03 Can you identify that as fire valve?

04 A. Somewhere in this area.

05 WITNESS COMPLIES

06 BY MR. POGUE:

07 Q. Did you ever hear any
08 discussion about taking a map
09 underground of the Two section that
10 was marked up from the foreman's
11 office?

12 A. No, I was never in the
13 foreman's office.

14 Q. Did anybody indicate that any
15 maps up in that second floor of the
16 mine office was a 1200 map, which
17 would have been under part 75, 1200
18 is the map that indicates all
19 ventilation controls?

20 A. Maps were never discussed with
21 me.

22 Q. Were you ever told about any
23 waterlines installed by the mine
24 rescue team?

25 A. I had heard through the

73

01 grapevine that the U.S. Steel team
02 was working on the water.

03 Q. Do you know what location or
04 anything, Clarence?

05 A. Probably hooking this line
06 here up, I'm assuming. But I don't
07 know for sure because when we came
08 outside, I mean, as far as debriefing

09 or even going underground, I didn't
10 have a clue. What I heard was from
11 people that was in the bathhouse.
12 There wasn't much information
13 floating around.
14 Q. Besides the curtain that you
15 indicated across the 72-inch belt, do
16 you recall any other curtains being
17 installed?
18 A. No.
19 Q. When they connected the phone
20 generator up, do you recall --- were
21 you there when they connected it up?
22 A. Yes.
23 Q. Were there waterlines
24 disconnected?
25 A. We had a power hose that they

74

01 was using to spray water through this
02 stopping here. This has all fell in
03 since the first night. They was
04 spraying water through here. But we
05 took the fire hose and extended up
06 just a foam generator and hooked it
07 up. We thought the foam would be
08 better than the water.
09 Q. So you actually did use a fire
10 hose and connected it to the foam

11 generator ---

12 A. Yes.

13 Q. --- for water?

14 A. Yes.

15 Q. Do you recall what time the

16 water pressure was restored on that

17 first night that you went in?

18 A. No, no. I don't have a clue.

19 We was actually exploring inby when

20 they cut the water. Sometime late

21 Friday morning, I think.

22 Q. On that first night, when you

23 were traveling with Elk Run down this

24 48-inch belt, where was the first

25 location that you encountered smoke?

75

01 A. Oh, my gosh. I mean, we had

02 some smoke coming out of the stopping

03 lines in the --- coming out the

04 doors. Probably at 3331 we had

05 residual smoke coming out. But it

06 never did get over like 20 parts per

07 million CO until it got to this area

08 here. I think we --- we probably

09 encountered it down here pretty

10 early, around 3322, 3307, in that

11 area, coming out through the

12 stopping.

13 Q. Can you indicate that on the

14 map, approximately?
15 A. Put a circle here where the
16 smoke ---?
17 Q. Yes. Put that light smoke.
18 A. Oh, light smoke.
19 WITNESS COMPLIES
20 BY MR. POGUE:
21 Q. When did the smoke turn to
22 heavy smoke?
23 A. It never did turn to heavy
24 smoke in the four-foot belt.
25 Q. Either day on your travel up

76

01 through there?
02 A. No. I never traveled in by
03 this area in here.
04 Q. Okay. And this smoke that you
05 encountered, that was on the first
06 night; right?
07 A. Yes.
08 Q. When did they find out there
09 was no water?
10 A. Oh, immediately.
11 Q. Immediately?
12 A. Immediately. And ---.
13 Q. Was there no water or no water
14 pressure or ---?
15 A. No water pressure on the

16 lines.

17 Q. And when you were looking at
18 the lines, was that like a four-inch
19 line that you were looking at?

20 A. Four inch.

21 Q. And can you just describe what
22 the water looked like coming out of
23 --- was it a half a pipe or ---?

24 A. You had no pressure at all.

25 Q. No pressure at all?

77

01 A. None.

02 Q. And the water was just ---
03 what was the water situation, a half
04 pipe or ---?

05 A. Zero.

06 Q. Zero. So you had no water and
07 no pressure?

08 A. Right.

09 Q. Who do you recall changed the
10 firefighting plan to start looking
11 for the missing miners?

12 A. I mean, that had to come from
13 Frank Foster or Johnny Robinson. I
14 didn't hear nobody say ---.

15 Q. You don't know that it came
16 from the command center?

17 A. Uh-uh (no).

18 Q. Was Frank Foster and Johnny

19 Robinson, were they the only two
20 Massey people that were underground
21 whenever you were under both days
22 or ---?
23 A. The only ones I recognized
24 other than the rescue teams.
25 Q. There wasn't anybody else just

78

01 with them? Were they kind of by
02 themselves?
03 A. Kind of by themselves.
04 Q. What areas did Federal Two
05 team actually explore? Were they the
06 second night or ---?
07 A. Second night on the ---.
08 Q. The 20th to the 21st?
09 A. Right.
10 Q. And you've indicated that here
11 by the blue circle?
12 A. Yes.
13 Q. Do you recall any use of an
14 electrical map during the
15 rescue/recovery operation?
16 A. No. They had a map pretty
17 much like you have over here.
18 Q. They didn't indicate any
19 electrical installations or ---?
20 A. No. No. Now, when we first

21 went underground, there was still
22 power on one of the belt heads near
23 the fire. This belt head over here,
24 this four-foot belt head still had
25 power on it, lights.

79

01 Q. And that was ---

02 A. The first night.

03 Q. --- the first night?

04 A. Uh-huh (yes).

05 Q. Did anybody --- before you

06 guys went in that night, did anybody

07 ask if the fire had been removed to

08 the mine or ---?

09 A. I wasn't part of the

10 debriefing, and I don't have a clue.

11 I have to assume they did, but I

12 don't know. Things were pretty

13 chaotic.

14 Q. Yes.

15 A. But we immediately --- well, I

16 say we. The team immediately called

17 outside and told them to dismantle

18 power, and they did.

19 Q. And it did happen?

20 A. Yes.

21 Q. You indicated earlier that you

22 went into the 72-inch belt and you

23 cut that belt. How did you get into

24 that belt entry?

25 A. Through the stopping at 52 ---

80

01 3239. This stopping here was

02 partially out.

03 Q. Do you recall what the

04 dimensions --- what it looked like,

05 approximately?

06 A. It was probably half out.

07 Q. You could walk through it?

08 A. Oh, absolutely, yeah. Yeah.

09 Q. So you came this direction?

10 A. Yes.

11 Q. And walked down?

12 A. Yes.

13 Q. Did you cut it on this side of

14 the check?

15 A. We actually put a check up

16 ourselves. There was no check there.

17 Q. Yeah. But where did you cut

18 the belt, on this side of the check

19 or ---?

20 A. On the backside of the check.

21 Q. Can you indicate that?

22 WITNESS COMPLIES

23 BY MR. POGUE:

24 Q. You indicated earlier that

25 Frank Foster did not have an

01 apparatus on. And did you also say
02 that he traveled inby the fresh air
03 base?

04 A. No. We established a fresh
05 air base along the four-foot belt. I
06 can't say that he traveled inby, no.
07 I didn't see him.

08 Q. You guys, while you were up in
09 here, you didn't see him turn around
10 and see him standing there or
11 anything like that?

12 A. No. I mean, --- well, I mean,
13 as we advanced up through here, he
14 followed us up.

15 Q. Was that in smoke?

16 A. Light smoke.

17 Q. What about Johnny Robinson?

18 A. Johnny Robinson pretty much
19 stayed down in this area while I was
20 underground. I didn't see Johnny up
21 there on the four-foot belt.

22 Q. Can you recall what the
23 concentration of CO was in that
24 intake escapeway when you first went
25 over in there? Did you guys take any

01 readings on that first night?

02 A. Well, no, not in the area of

03 the fire itself. We didn't get into
04 smoke until like late that night.
05 But up in this area here it was
06 around 1900 parts per million CO.
07 You know, down in here we didn't take
08 no readings here because it was fresh
09 air. They never had us going into
10 smoke until we got clear up on the
11 four-foot belt and traveled over the
12 intake.

13 Q. Do you recall any kind of CO
14 readings in your ---?

15 A. Yeah. It was reading 20, 30
16 parts per million CO.

17 Q. But over into the intake
18 escapeway it got much higher?

19 A. Yeah, close to 2,000.

20 Q. Okay. You talked about doors.
21 When you walked by a door, did you
22 generally find it in the open
23 position?

24 A. No.

25 Q. Did you find any doors in an

83

01 open position?

02 A. No.

03 Q. Did you ever see a map carried
04 by any of the team members that

05 indicated where the waterlines were?

06 A. No.

07 Q. Okay. We can sit down, I

08 think, right now.

09 MR. POGUE:

10 Steve, do you have any

11 questions?

12 MR. COX:

13 Yes.

14 BY MR. COX:

15 Q. Clarence, once you turned the

16 pump on and you had water up to the

17 fire area, what kind of pressure did

18 you have? Fair? Decent?

19 A. Fair pressure. But like I

20 say, you know, I wasn't there when

21 they first turned the water on. I

22 think the U.S. Steel team was down

23 there when all that happened.

24 Q. Okay. Now, early on you

25 indicated that you traveled with the

84

01 Elk Run team. But when we were

02 discussing the Four Right area you

03 said you hadn't went underground with

04 the Elk Run team. Now, who did you

05 actually travel with underground to

06 start with?

07 A. I'm ashamed to say I can't

08 tell you. I don't know who they
09 were. I just got on the mantrip.

10 Q. Were there multiple trips
11 going underground?

12 A. Yes. There's two mantrips.
13 You pretty much --- you come down
14 into the cut-out, and you got on a
15 mantrip. And I --- you know, was
16 never introduced to nobody, didn't
17 know nobody, just got on.

18 Q. During the course of your
19 initial exploration underground,
20 going up the mains, the entries, did
21 you have occasion to see Johnny or
22 Frank on the mine phone, talking to
23 somebody?

24 A. Yes. Yes. Several times.

25 Q. Do you think there's a

85

01 possibility that they could have been
02 getting direction from command center
03 but just wasn't telling anybody what
04 those ---

05 A. It's very possible.

06 Q. --- directions were?

07 A. Absolutely. They were like in
08 a panic, Johnny especially. Johnny
09 was like in a panic. I mean, he just

10 ---. I can understand, I guess.
11 Q. You were talking earlier and
12 you talked about as far as being
13 briefed or debriefed, and you
14 indicated that really at no point
15 were you ever briefed before you went
16 underground as to the situation. In
17 your opinion, whose responsibility
18 should that have been to have briefed
19 you?
20 A. I would think management. I
21 mean, it's --- they're in control;
22 right? That's --- they should ---
23 well, I've always been taught, you
24 know, you brief somebody before they
25 go underground, and you debrief them

86

01 when they come out. And that didn't
02 happen on my part. Now, I don't know
03 about the teams.

04 Q. Okay. I appreciate it.

05 BY MR. POGUE:

06 Q. I got a couple more questions
07 for you here, Clarence. When the
08 foam generator was hooked up, was the
09 foam solution discharged through a
10 standard firefighting nozzle or a
11 foam-making nozzle; do you recall?

12 A. It was a --- I never seen this

13 type of machine before, but it worked
14 off of water pressure. It --- and
15 you had a syphon hose that you stuck
16 in a bucket of foam and it --- of
17 course, you've probably seen that
18 type.

19 Q. Yes.

20 A. I mean, it done a good job,
21 but it just wasn't enough.

22 Q. And the discharge out of it
23 was ---?

24 A. Was probably a 24-inch
25 diameter discharge.

87

01 Q. Okay. Had you ever saw
02 Charlie Kann underground? Do you know
03 him?

04 A. No.

05 Q. Those waterlines that you
06 described on the mine map coming
07 through the stopping there, do you
08 recall any kind of CO lines coming
09 through at that location also?

10 A. No.

11 Q. Just the waterline?

12 A. Just the waterline.

13 Q. Was there more than one
14 waterline coming through that

15 stopping?
16 A. All I seen was a four-inch
17 line coming through. It was coming
18 through on the top part of the
19 stopping.

20 Q. Okay.

21 MR. POGUE:

22 Do you have any other
23 questions, Steve?

24 MR. COX:

25 I don't think so.

88

01 MR. POGUE:

02 We've got one more
03 coming from one of the ---

04 A. Okay.

05 MR. POGUE:

06 --- investigators.

07 BY MR. POGUE:

08 Q. How big was the hole around
09 the four-inch waterline that came
10 through the stopping?

11 A. It looked like they had a
12 block knocked out.

13 Q. Just a block?

14 A. Just a block.

15 Q. Any other holes in that
16 stopping that you can recall?

17 A. Yeah. There was a hole in the

18 bottom I think for water to drain
19 through. Like a couple blocks ---.
20 Q. One block --- a couple blocks?
21 A. A couple, two, three blocks,
22 yeah.
23 Q. And that was in which corner
24 or center of the stopping?
25 A. Pretty much in the center.

89

01 But this wasn't really a ventilation
02 --- I mean, it didn't ---.
03 Q. Can you recall any kind of air
04 direction in that area?
05 A. Air was going inby.
06 Q. Inby?
07 A. Inby, yeah.
08 MR. POGUE:
09 Do you have anything
10 else?
11 MR. COX:
12 No. I think we're
13 good.
14 MR. POGUE:
15 Clarence, I have a
16 closing statement that I'd
17 like to read to you. On
18 behalf of MSHA, I thank you
19 for appearing here today and

20 answering our questions and
21 sharing your information about
22 the mine. Your cooperation is
23 very important to us as we
24 work to determine the cause of
25 the accident. If you wish,

90

01 you may now go back over any
02 answers that you've given
03 during this interview and you
04 may also have a closing
05 statement covering any
06 additional points you believe
07 should be raised. Do you have
08 any of those?

09 A. No.

10 MR. POGUE:

11 Anything that you'd
12 like to discuss about the
13 working of the rescue/recovery
14 operation? Any
15 recommendations on your part?

16 A. Well, I can't think of
17 anything off the top of my head. I
18 mean, a lot of things went wrong
19 there that day. I mean, just so many
20 things went wrong. And it was just a
21 ---.

22 MR. POGUE:

23 You mean with the
24 rescue/recovery operation
25 or ---?

91

01 A. I'm just talking about the
02 whole fire and everything, I guess,
03 just the --- but the rescue efforts,
04 I think they put forth a good effort
05 to find the people, but it wasn't
06 organized. It wasn't very organized
07 at all, from outside in. A lot of
08 teams took a lot of chances. They
09 had teams exploring in this smoke,
10 and the smoke was so thick you can't
11 see from me to you hardly. These
12 guys were exploring, no lifeline, you
13 know, and they're exploring ---.

14 MR. POGUE:

15 You mean, the teams did
16 not have a lifeline ---

17 A. Oh, no.

18 MR. POGUE:

19 --- in the heavy smoke?

20 A. No. The second day, with the
21 federal team, I recommended that we
22 find some sort of a lifeline to use.
23 And they come up and they got some
24 phone line, 1,000 foot roll of phone

25 line. So we tied that to us.

92

01 Because when you go into smoke, you
02 don't know which way is inby and
03 outby. And the heat, I mean, I don't
04 know how hot it was, but it was the
05 hottest I've ever seen. And you
06 know, these teams take a big chance
07 when they're looking for somebody
08 like a needle in a haystack. And
09 we're lucky we didn't lose somebody
10 there.

11 MR. POGUE:

12 Well, thank you for
13 your comments.

14 A. Okay.

15 MR. POGUE:

16 It was a good comment.
17 Thanks. I got one other
18 question before we continue on
19 with the closing statement. At
20 that stopping where that
21 four-inch waterline came
22 through, was there any
23 indication that smoke had
24 traveled through that
25 crosscut, ---

93

01 A. No.

02 MR. POGUE:

03 --- through that

04 stopping?

05 A. No.

06 MR. POGUE:

07 No soot buildup of any

08 kind?

09 A. No.

10 MR. POGUE:

11 All right. I'm going

12 to continue on with the

13 closing statement at this

14 time. We ask that you not

15 discuss your interview today

16 with any person who may have

17 already been interviewed or

18 who may be asked to give an

19 interview or a statement in

20 the future. This will ensure

21 that we obtain everyone's

22 independent memory of the

23 events surrounding the

24 accident.

25 After questioning other

94

01 witnesses and obtaining

02 additional information, we may

03 ask you to come back for

04 further questioning. If at
05 some point in time you have
06 additional information
07 regarding the accident that
08 you would like to provide us
09 with, please contact Mr. Kenny
10 Murray, the lead accident
11 investigator, or his staff
12 assistant, Anthony Webb. And
13 I have two business cards here
14 with their mailing addresses
15 and also their telephone
16 number.

17 The Mine Act provides
18 certain protection for
19 individuals who participate in
20 accident investigations. If
21 at any time you believe that
22 you've been treated unfairly
23 because of your cooperation in
24 the investigation, please let
25 Mr. Murray or Mr. Webb know.

95

01 And I just thank you
02 very much for your information
03 today. Steve?

04 MR. COX:

05 I appreciate you coming
06 down.

07 A. You're welcome.

08 MR. COX:

09 All right. Thank you

10 very much.

11 * * * * *

12 EXAMINATION UNDER OATH

13 CONCLUDED AT 9:59 A.M.

14 * * * * *

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