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02

## EXAMINATION UNDER OATH

03

OF

04

MICHAEL EMERY

05

06

07 Taken pursuant to Notice by Autumn D.

08 Furby-Pritt, a Court Reporter and

09 Notary Public in and for the State of

10 West Virginia, at Department of

11 Environmental Protection, 1101 George

12 Kostas Drive, Logan, West Virginia on

13 Wednesday, March 23, 2006, at 8:14

14 a.m.

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01

A P P E A R A N C E S

02

03 WILLIAM TUCKER

04 Assistant Inspector at Large

05 West Virginia Office of

06 Miners' Health, Safety & Training

07 142 Industrial Drive

08 Oak Hill, WV 25901

09

10

11 DANIEL M. BARISH, ESQUIRE

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17

18 KENNETH A. MURRAY

19 District Manager

20 U.S. Department of Labor

21 Mine Safety and Health Administration

22 Coal Mine Safety and Health,

23 District 6

24 100 Fae Ramsey Lane

25 Pikeville, KY 41501

3

01 A P P E A R A N C E S (continued)

02

03 WILLIAM J. FRANCO, P.E.

04 Mining Engineer

05 Mine Safety and Health Administration  
06 Pittsburgh Safety and Health  
07 Technology Center  
08 Ventilation Division  
09 P.O. Box 18233  
10 Cochrans Mill Road  
11 Pittsburgh, PA 15236

12

13 ALSO PRESENT:

14 Phillip Kittinger

15 Dennis Beiter

16 Ronald W. Stahlhut

17 Michael Finnie

18 C.A. Phillips

19 Beth Spence

20

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22

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01 I N D E X

02

03 WITNESS: MICHAEL EMERY

04 QUESTIONS

05 by Mr. Pogue 16 - 76

06 CERTIFICATE 81

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01	EXHIBIT PAGE		
02			PAGE
03	NUMBER	DESCRIPTION	IDENTIFIED
04	A	Map of Northeast	
05		Mains	34
06	B	Mine Map Extended	53
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01                   P R O C E E D I N G S

02   -----

03           MR. POGUE:

04           My name is Charles  
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'm a  
10 member of MSHA's accident  
11 investigation team that is

12 charged with investigating the  
13 accident that occurred at the  
14 Aracoma Coal Company, Inc.,  
15 Aracoma Alma Mine Number One  
16 on January the 19th of 2006.

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

7

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

07 ATTORNEY BARISH:

08 Hi. My name is Dan  
09 Barish. I'm the attorney in  
10 the Solicitor's Office  
11 representing MSHA. And my  
12 office is in Arlington,  
13 Virginia.

14 MR. BEITER:

15 My name's Denny Beiter.  
16 I work for MSHA in ventilation  
17 tech support in Triadelphia,  
18 West Virginia.

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

22 MR. FINNIE:  
23 Mike Finnie, MSHA,  
24 Madisonville, Kentucky.

25 MR. MURRAY:

8

01 Kenny Murray, MSHA,  
02 Pikeville, Kentucky.

03 MR. FRANCCART:  
04 Bill Francart,  
05 Pittsburgh, Pennsylvania.

06 MR. POGUE:  
07 Here with me today  
08 representing the State of West  
09 Virginia is Mr. Bill Tucker.  
10 Mr. Tucker will be asking the  
11 questions for the State. At  
12 this time I would ask Mr.  
13 Tucker to introduce the  
14 members of the State's team  
15 who are here today.

16 MR. TUCKER:

17           Also, I need to read a  
18   brief statement for the  
19   record.  The West Virginia  
20   Office of Miners' Health,  
21   Safety & Training is  
22   conducting this interview  
23   session jointly with MSHA.  
24   We're in agreement with the  
25   procedures outlined by Mr.

9

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

10           Again, my name's Bill  
11   Tucker.  I'm the assistant  
12   inspector at large for Health,  
13   Safety & Training out of  
14   Region Four, and that's in Oak  
15   Hill.

16           MR. PHILLIPS:

17           Good morning.  My name  
18   is C.A. Phillips, and I am the  
19   deputy director with the



20 Office of Miners' Health,  
21 Safety & Training in  
22 Charleston, West Virginia.

23 MS. SPENCE:

24 Beth Spence with the  
25 Governor's Office.

10

01 MR. POGUE:

02 This investigation is  
03 being conducted by MSHA and  
04 the State of West Virginia to  
05 gather information to  
06 determine the cause of the  
07 accident to help prevent this  
08 from happening in the future.  
09 These interviews are an  
10 important part of the  
11 investigation. After the  
12 investigation is completed,  
13 MSHA will issue a written  
14 report detailing the nature  
15 and the causes of the  
16 accident.

17 MSHA's accident reports  
18 are made available to the  
19 public in hopes that greater  
20 awareness about the causes of  
21 accidents can reduce their

22 occurrence in the future.  
23 Information obtained through  
24 witness interviews is  
25 frequently included in these

11

01 reports. Your statement may  
02 also be used for other  
03 enforcement proceedings.

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

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

25 fatalities that occurred at

12

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

06 This interview is being  
07 conducted at the Department of  
08 Environmental Protection in  
09 Logan, West Virginia on March  
10 the 23rd, 2006 at 8:15 a.m.

11 Mr. Emery, may I call  
12 you Michael?

13 MR. EMERY:

14 Yes.

15 MR. POGUE:

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

13

01 provide us with any other  
02 information that you believe  
03 is important.

04 You are permitted to  
05 have a representative with you  
06 during this interview, and you  
07 may consult with your  
08 representative at any time.

09 You may designate any person  
10 to be your representative.

11 Following the questions by  
12 MSHA and the State, this  
13 representative will be given  
14 an opportunity to ask  
15 questions for the purpose of  
16 clarification on areas already  
17 discussed.

18 Your statement is  
19 completely voluntary. You may  
20 refuse to answer any question,  
21 and you may end this interview  
22 at any time. If you do not  
23 understand a question, tell me  
24 and I will rephrase the  
25 question. If you need a break

14

01 for any reason, please let me  
02 know.

03 You may request an

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

16 MR. EMERY:

17 No.

18 MR. POGUE:

19 A court reporter will  
20 record your interview and will  
21 later produce a written  
22 transcript of the interview.  
23 I ask that you state all your  
24 answers verbally, because the  
25 court reporter cannot record

15

01 your gestures, like nodding of  
02 your head.

03 If any part of your  
04 statement is based not on your  
05 own firsthand knowledge, but

06 on information that you've  
07 learned from someone else,  
08 please let us know.

09 Please answer each  
10 question as fully as you can,  
11 including any information that  
12 you may have learned from  
13 someone else. We may not ask  
14 the right question to learn  
15 the information you have, so  
16 do not feel limited by the  
17 precise questions asked. If  
18 you have information about the  
19 subject area of a question,  
20 please provide us with that  
21 information.

22 Do you have any  
23 questions about the manner in  
24 which the interview will be  
25 conducted?

16

01 MR. EMERY:

02 No.

03 MR. POGUE:

04 Will you please swear  
05 in Mr. Emery, please.

06 -----

07 MICHAEL EMERY, HAVING FIRST BEEN DULY

08 SWORN, TESTIFIED AS FOLLOWS:

09 -----

10 BY MR. POGUE:

11 Q. Would you please state your  
12 full name?

13 A. [REDACTED]

[REDACTED]

21 A. E-M-E-R-Y.

22 Q. Are you appearing here  
23 voluntarily for this interview today?

24 A. I am.

25 Q. Has anyone made any promises

17

01 to you for giving this statement or  
02 offering you any reward in exchange  
03 for making a statement?

04 A. No.

05 Q. Has anyone threatened you or  
06 warned you not to provide a  
07 statement?

08 A. No.

09 Q. Do you understand that you may  
10 refuse to answer any question or

11 terminate the interview at any time?

12 A. I do.

13 Q. Do you have a representative  
14 with you today?

15 A. Yes.

16 MR. POGUE:

17 What is your name,  
18 please?

19 MR. KITTINGER:

20 Phillip Kittinger.

21 MR. POGUE:

22 Would you spell your  
23 last name, please?

24 MR. KITTINGER:

25 K-I-T-T-I-N-G-E-R.

18

01 MR. POGUE:

02 Thank you. We'll go  
03 ahead and continue with the  
04 questions that we have at  
05 hand.

06 BY MR. POGUE:

07 Q. Who was your employer on  
08 January the 19th of 2006?

09 A. Alliance Coal.

10 Q. What was your job title and  
11 position on that day?

12 A. Third shift mine foreman.

13 Q. How many years experience do



14 you have working with Alliance Coal?

15 A. Thirteen (13).

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

18 A. Thirteen (13).

19 Q. Would you briefly describe  
20 some of your mining background?

21 A. I've done anything from  
22 utility work, belt shoveling to  
23 anything on the unit, pretty much an  
24 extra man and drove cars around the  
25 miner. I was section foreman for

19

01 about eight years. I've been on the  
02 mine rescue team for 12 years. I've  
03 been mine rescue captain for the last  
04 five years or so. I've worked all  
05 three shifts. I filled in as mine  
06 foreman on dayshift, second shift.  
07 And I just took the third shift mine  
08 foreman job just shortly after  
09 Thanksgiving. I'm an EMT also.

10 Q. And Alliance coal is located  
11 where? What state?

12 A. Our company is White County  
13 Coal. It's in Illinois, southern  
14 Illinois. It's Carmi, Illinois. The  
15 parent company is Alliance.

16 Q. Have you ever participated in  
17 a mine emergency before January 19th,  
18 2006?

19 A. Yes, I have.

20 Q. Could you just briefly cover  
21 those events?

22 A. The first would have been ---  
23 I don't know the exact years, but  
24 I've participated at a couple  
25 incidents at Pattiki at White County

20

01 Coal in '91. And then at Dotiki Mine  
02 fire. Excel Mine fire, Galatia in  
03 '94, I think it was. And then a  
04 Galatia recovery.

05 Q. Okay. That's fine. When were  
06 you first notified of the fire at  
07 Aracoma Mine?

08 A. I don't know the exact date.  
09 It would have been ---.

10 MR. KITTINGER:

11 Saturday.

12 BY MR. POGUE:

13 Q. The fire occurred on the 19th  
14 of January.

15 A. It would have been ---.

16 Q. And it was a Thursday evening

17 A. So we was --- Saturday. It

18 would have been on a Saturday. That

19 Saturday.

20 Q. How were you notified of the  
21 Aracoma Mine fire?

22 A. By phone call.

23 Q. And who called you to notify  
24 you?

25 A. Phillip Kittinger.

21

01 Q. And Phillip's your?

02 A. He's our safety director.

03 Q. At the Alliance Mine?

04 A. Yes.

05 Q. What day did you report to the  
06 Aracoma, Alma Mine?

07 A. It would have been the 20th.

08 MR. KITTINGER:

09 That doesn't make

10 sense.

11 A. I'm sorry. He called us on  
12 Friday. He called me on Friday  
13 instead of Saturday. So it would  
14 have been --- he called us on the ---  
15 I'm not sure of the dates. He called  
16 Friday and we reported on Saturday.

17 BY MR. POGUE:

18 Q. What time did you get to the  
19 mine on Saturday?

20 A. It would have been late that

21 night. It was about 11 o'clock that  
22 night.

23 Q. Did you arrive by yourself or  
24 with other team members?

25 A. With Phillip Kittinger. We

22

01 were the only two members from  
02 Pattiki that came. And then we met  
03 Excel --- a bunch there. They were  
04 already there, another part of our  
05 company. And we were to work with  
06 all those people.

07 Q. So you didn't actually bring a  
08 team with you, just the two of you?

09 A. Just the two of us, yes.

10 Q. All right. What type of mine  
11 rescue apparatuses did you bring with  
12 you?

13 A. The Biomarine.

14 Q. The communication system was  
15 what kind?

16 A. We didn't bring one. We used  
17 Excel's. I'm not sure what they had.

18 Q. When you arrived at the mine,  
19 who did you report to?

20 A. We tried to report to the  
21 command center but they wouldn't  
22 allow us up there. But we talked ---  
23 we did talk to Joe Pavlovich when we

24 got there.

25 Q. And what was his position at

23

01 the mine at that time, do you recall?

02 A. My understanding was that he

03 was kind of heading the command

04 center. He was a contractor there.

05 Q. Did he attempt to give you a

06 briefing whenever you first arrived?

07 A. He told us basically what was

08 going on and where they were at, and

09 that we were just to stand by, that

10 they would let us know when they

11 needed us.

12 Q. And you were to stand by were,

13 on the mine site?

14 A. On the mine site, yes.

15 Q. And at this briefing that Mr.

16 Pavlovich had given you, did he tell

17 you where the fire was?

18 A. Yes.

19 Q. Tell you what type of a fire

20 it was?

21 A. Yes. He told us it was on the

22 belt line, and it was basically the

23 three or four crosscuts right there

24 at the header going down the belt

25 line.

01 Q. Okay. Did he get into any  
02 other details on the briefing, or did  
03 that come a little bit later, or ---  
04 what can you tell us about that?

05 A. No, that pretty much come  
06 later.

07 Q. Okay. How many days did you  
08 actually go underground?

09 A. Just one.

10 Q. And what day was that?

11 A. That would have been the 21st.

12 Q. Prior to going underground on  
13 the 21st, were you given a briefing?

14 A. Yes. My first briefing was at  
15 5:30 in the morning, and it was  
16 short. They told us we were going to  
17 be going to the Tenth headgate and  
18 going to be exploring from that point  
19 inby. And then we sat in the pit for  
20 approximately three hours, and they  
21 called me back up, and they gave  
22 another briefing at 8:30. And they  
23 basically told me the same thing.

24 Q. We was just going to ask you  
25 if there was any delays in getting

01 you in the mine, and you indicated  
02 that there was like a three-hour

03 period ---

04 A. Yes.

05 Q. --- that you sat in the box

06 cut?

07 A. Yep.

08 Q. Any reason --- did anybody

09 give you a reason why you were

10 sitting in the box cut?

11 A. Well, they told us we weren't

12 on the list, and there was three or

13 four teams that went in before we

14 did, after we got down there. So I

15 don't know ---.

16 Q. And these teams left from the

17 so-called bathhouse ---

18 A. Yeah.

19 Q. --- and came down at the box

20 cut and went in prior to you going

21 in?

22 A. Yeah. They come in after

23 that, but then the --- we called, and

24 I requested to be re-briefed, because

25 they told us we were getting ready to

26

01 go in. So when we went back up, they

02 had told us that they thought we were

03 already in the mine.

04 Q. Do you recall what time you

05 actually had your second briefing?  
06 A. Yes, 8:30.  
07 Q. And did you go back into the  
08 box cut after the briefing?  
09 A. Yes.  
10 Q. Did your team and yourself get  
11 a briefing, or was it just you?  
12 A. It was just me.  
13 Q. Okay. And at that briefing  
14 did they give you another map,  
15 or ---?  
16 A. No. No, we had the same maps  
17 we had before.  
18 Q. And which map are we looking  
19 at? You have a map in front of you  
20 there?  
21 A. Yes.  
22 Q. And for the record, it's  
23 labeled 1/21/06, briefed 5:30 to 8:30  
24 a.m. And fresh air base at 10:37  
25 a.m. Is that what the writing says?

27

01 A. Twenty-seven (27).  
02 Q. Okay. 10:27?  
03 A. Yeah. Actually went  
04 underground at 10:00.  
05 Q. Okay. And you also have a  
06 second map here, for the record, that  
07 you're referring to, and there are



08 --- there's red lettering on it that  
09 indicates that in the Nine headgate  
10 there's a borehole with 800 parts per  
11 million CO one-tenth methane and 20  
12 percent oxygen. And this will be a  
13 second map that you'll be referring  
14 to during the conversation?

15 A. That's correct.

16 Q. At either the first or the  
17 second briefing --- well, prior to  
18 your briefing and prior to arriving  
19 at the mine on that Saturday, were  
20 you ever at the Aracoma Mine before?

21 A. No.

22 Q. So you've never been in the  
23 mine before?

24 A. No.

25 Q. At your briefings, did they

28

01 discuss with you escapeways?

02 A. No.

03 Q. Did your mine map have any  
04 escapeways marked on it, to your  
05 knowledge?

06 A. No. Yes, it did --- two.

07 Yes, it did --- no, there wasn't no  
08 escapeways, just the air movement.

09 Q. Okay. Do you think that would

10 have been an important item to cover  
11 with you all ---

12 A. Yes.

13 Q. --- at the briefing?

14 A. Yes.

15 Q. Did they indicate to you how  
16 the escapeways were even marked  
17 underground ---

18 A. No.

19 Q. --- with reflectors or  
20 different colors?

21 A. The only time we were told  
22 anything about the escapeways was  
23 after we got underground, and one of  
24 the guys that was bringing us in and  
25 out, we had asked him, you know, how

29

01 they were marked, and he explained it  
02 to us. But it was never brought up  
03 at the briefings.

04 Q. Well, at the second briefing,  
05 did they update you on the mine fire?

06 A. They basically told me that  
07 they had it under control. It wasn't  
08 completed out, but the flames were  
09 --- they hadn't seen any flames, that  
10 it was just smoldering. They were  
11 still watering it down.

12 Q. Let's talk a little bit about

13 the map that you got. Did you have  
14 any problems with the map during the  
15 exploration, or once you got  
16 underground, the survey stations or  
17 ventilation controls?

18 A. Yeah. Most of the ventilation  
19 --- a lot of the ventilation controls  
20 were not correct that were on the  
21 map. The ones that were marked, a  
22 lot of them were out, and some that  
23 were out were marked --- weren't on  
24 the map at all.

25 Q. What about survey stations, do

30

01 you recall any survey stations being  
02 improperly marked?

03 A. I don't recall any that were.

04 Q. Well, Mike, when we get  
05 through our questions here, we'll go  
06 to the wall map, and maybe on the  
07 wall map we can indicate those  
08 ventilations controls that were not  
09 in place. Do you remember who gave  
10 you the briefing?

11 A. Joe Pavlovich.

12 Q. All right. And where did he  
13 give you that briefing? Was that in  
14 the downstairs room of the bathhouse?

15 A. The first briefing I went up  
16 --- we went upstairs, and he gave us  
17 the briefing in a small hallway up  
18 there along the offices.  
19 Q. In the hallway?  
20 A. Yeah.  
21 Q. Not in the command center?  
22 A. No. It was in the hallway.  
23 And then the second briefing, when I  
24 went back up was downstairs on the  
25 big table right there where everybody

31

01 was staged basically.  
02 Q. Was he using maps on the wall  
03 in the hallway?  
04 A. Yes.  
05 Q. We need to take a break.  
06 SHORT BREAK TAKEN  
07 BY MR. POGUE:  
08 Q. Mike, let's back up to the day  
09 that you were actually notified ---  
10 A. Okay.  
11 Q. --- to report to Aracoma.  
12 A. We got the call --- Phillip  
13 Kittinger took the call Friday  
14 afternoon, and then he called me  
15 Friday, and we left Friday afternoon,  
16 and we got there about 11 o'clock  
17 Friday night.

18 Q. All right. And what would  
19 have been your first day that you  
20 actually went underground?

21 A. It would have been Saturday.

22 Q. And that would have been  
23 the ---

24 A. The 21st.

25 Q. --- 21st. Okay.

32

01 MR. POGUE:

02 Let me also say that  
03 the two maps that we referred  
04 to earlier that there is some  
05 information, pertinent  
06 information that will be  
07 transferred from those maps to  
08 the wall maps. It will not be  
09 used as exhibits for the  
10 interview. And the  
11 information that is on these  
12 two maps will be transferred  
13 to the wall maps as we review  
14 the maps. And the two maps  
15 will be logged into the  
16 administrative file for the  
17 purpose of the investigation.

18 BY MR. POGUE:

19 Q. Once you got underground and

20 you had your map with you, was there  
21 any discussion on the accuracy of the  
22 map at that point, between yourself  
23 and your team members or other teams  
24 that you had relieved?  
25 A. No.

33

01 Q. Did your mine map include  
02 ventilation controls?

03 A. Yes.

04 Q. Mike, I think we're ready to  
05 go to the mine maps now, and we'll  
06 take your maps, and we'll mark the  
07 routes of travel that you had and  
08 date and sign the map. Let me ask  
09 you, Mike --- let's step over here.

10 MR. POGUE:

11 Just for the record,  
12 this first map here, it's not  
13 marked as an exhibit at this  
14 point.

15 BY MR. POGUE:

16 Q. In the outby area of the  
17 Aracoma Mine, did you do any  
18 exploration work at all?

19 A. No.

20 Q. And where were you assigned to  
21 work?

22 A. In the Ten headgate.

23 Q. And that's the only area that  
24 you were into that night, ---

25 A. Yes.

34

01 Q. --- in the shift?

02 A. Yes.

03 Q. So all those areas outby, you  
04 didn't do any ---

05 A. No.

06 Q. --- exploration of the Aracoma  
07 Mine?

08 A. No.

09 Q. Okay.

10 MR. POGUE:

11 Let's mark this as

12 Exhibit A Emery.

13 (Emery Exhibit A marked  
14 for identification.)

15 BY MR. POGUE:

16 Q. And what we're looking at here  
17 is a mine map of the north mains and  
18 the northeast mains at Aracoma. If  
19 you'll indicate with your marker,  
20 Mike, your routes of travel. And  
21 once you left the box cut and got  
22 underground, where did you first  
23 report to underground?

24 A. The fresh air base. Fresh air

25 base Eight.

35

01 ATTORNEY BARISH:

02 Mike, you need to speak  
03 up so we can make sure we can  
04 hear everything.

05 A. Then we got off the mantrip  
06 right here.

07 MR. POGUE:

08 Okay. Mike is  
09 indicating on the Exhibit A  
10 map at survey station 3238 in  
11 the Number Eight entry of the  
12 northeast mains that they're  
13 exiting their mantrip at that  
14 point.

15 A. That's correct. These were  
16 the set of doors that was there, then  
17 we went up to the belt line, and then  
18 --- it's right there. This is the  
19 belt line.

20 BY MR. POGUE:

21 Q. This is your 48-inch belt line  
22 and this is the 72-inch.

23 A. Just go ahead and mark a line?

24 Q. Yeah. Try to write on this  
25 side.

36

01 A. We went across the overcast



02 over to the belt line, and we walked  
03 the belt line all the way down to the  
04 fresh air base --- I forget what  
05 number it was. Fourteen (14). That  
06 is fresh air base Fourteen, which was  
07 at 3628.

08 Q. Can you just indicate fresh  
09 air base with that pen?

10 WITNESS COMPLIES

11 BY MR. POGUE:

12 Q. And the date that you were  
13 there?

14 A. 1/21.

15 Q. Okay. Up here in the margin,  
16 could you also sign and put today's  
17 date, which is the 23rd?

18 WITNESS COMPLIES

19 BY MR. POGUE:

20 Q. And also refer to you're with  
21 Alliance Coal.

22 WITNESS COMPLIES

23 MR. POGUE:

24 Okay. Mike has  
25 indicated that --- if we go

37

01 back to the survey station  
02 3238 that him and his team  
03 headed in a northern

04 direction, crossed over the  
05 overcast of the 72-inch belt  
06 and walked over to the 48-inch  
07 belt and walked in an east  
08 direction to fresh air base  
09 Number Fourteen.

10 BY MR. POGUE:

11 Q. This stopping that you  
12 indicated you traveled through, was  
13 there a door in that stopping?

14 A. There was a door in that  
15 stopping, yes.

16 Q. Could you indicate that on the  
17 mine map, please?

18 WITNESS COMPLIES

19 BY MR. POGUE:

20 Q. Was a remainder of the  
21 stopping in place?

22 A. Yes.

23 Q. No blocks missing?

24 A. No.

25 Q. Can you recall any of these

38

01 ventilation controls down through  
02 here, as far as --- from survey  
03 station number 3202 to the fresh air  
04 base at 3628? Do you recall any  
05 condition of those stoppings missing  
06 --- that would have missing blocks,

07 or missing at all?

08 A. I can't recall any that were  
09 missing, no.

10 Q. Okay. All right. If you'll  
11 just pick up at your fresh air base  
12 and kind of tell us what transpired  
13 from there.

14 A. When we got to the fresh air  
15 base there was two teams there  
16 already. I think the Buckhannon and  
17 --- I'm not sure if it was Pin Oak or  
18 who the other one was, but one of  
19 those teams went back in, and had  
20 built --- they wanted them to build  
21 two check curtains. One was just  
22 inby here at 3627.

23 Q. And that would have been  
24 Number Eight entry, survey station  
25 3627?

39

01 A. That's correct. Yes, there  
02 was a curtain.

03 Q. And could you just indicate a  
04 curtain down here?

05 WITNESS COMPLIES

06 A. And then they also wanted them  
07 to build a curtain here.

08 BY MR. POGUE:

09 Q. When you say they, who is  
10 they?

11 A. The command center.

12 Q. Are these instructions you got  
13 at your briefing, ---

14 A. No.

15 Q. --- or was it something that  
16 was called into the fresh air base?

17 A. That was called in to the  
18 fresh air base once we got  
19 underground.

20 Q. And who was at the fresh air  
21 base to receive that?

22 A. Like I said, there was two  
23 teams there. Buckhannon was one of  
24 them, and I don't know who the others  
25 were.

40

01 Q. How did you communicate from  
02 the fresh air base to this location  
03 with your team?

04 A. They were using radios at that  
05 point.

06 Q. Okay. Indicate that that's a  
07 check curtain.

08 WITNESS COMPLIES

09 BY MR. POGUE:

10 Q. Do you have any idea of  
11 direction of air in this location?

12 A. It was coming inby this way.

13 Q. Could you indicate with arrows

14 what you do know as the direction of

15 air in that area?

16 WITNESS COMPLIES

17 BY MR. POGUE:

18 Q. Mike, this map that we have on

19 the wall, there --- understand that

20 there may be ventilation controls

21 that are marked that are not

22 necessarily accurate. So anything

23 that you have on your map that

24 doesn't correspond with this, we need

25 to know.

41

01 A. Okay.

02 Q. Okay.

03 A. The stopping here and here

04 were both out.

05 Q. Okay. Were they missing?

06 A. Yes.

07 Q. Okay. And were the blocks ---

08 were there any blocks laying on the

09 mine floor at that location that you

10 can recall?

11 A. I don't recall right now.

12 MR. POGUE:

13 And Mike is indicating

14 that the two stoppings and  
15 entries --- that between entry  
16 Number Seven and Eight of the  
17 northeast mains just inby  
18 survey station 3652 is  
19 missing, and also the stopping  
20 to the north, in the direction  
21 of survey station 3650 is  
22 missing.

23 A. This stopping is out.

24 BY MR. POGUE:

25 Q. Is missing and out the same

42

01 terminology?

02 A. Yes.

03 Q. It means the same thing?

04 A. Yes. And there were no blocks  
05 there that I recall.

06 MR. POGUE:

07 Mike's indicating the  
08 stoppings just south of survey  
09 station 3654 is out.

10 A. And there's no doors in any of  
11 these three.

12 BY MR. POGUE:

13 Q. Is there no door in this ---?

14 A. No. No door in any of those  
15 three at all.

16 Q. As you guys are traveling down

17 through the Ten headgate entries, are  
18 you traveling as a team? Have you  
19 guys split up to where there's two  
20 members in each?

21 A. Okay. When we got to the  
22 fresh air base, Harvey Farrell's  
23 (phonetic) team, Eastern Team, come  
24 in between us. Him and I talked.  
25 Since we were going to be --- because

43

01 this was still smoky. Our team,  
02 besides Phillip and I, were basically  
03 very green. They've never been in  
04 those conditions at all. So Harvey  
05 and I talked and instead --- even  
06 though we come in first, we were  
07 going to back him up and let him go  
08 ahead and explore. But ---.

09 Q. Okay. So he was moving in  
10 advance of you?

11 A. He was moving in advance of  
12 me. When we got to here, they had  
13 had --- I think they had established  
14 a phone right here at these doors, or  
15 --- there was a mine phone between  
16 the doors.

17 Q. Were you using that as a fresh  
18 air base?

19 A. Yes. When Harvey Farrell went  
20 in, I come to the doors --- after  
21 they hung these two curtains, it had  
22 cleared this air up pretty good. You  
23 know, there was very little CO.  
24 Q. Were you there when they hung  
25 those curtains?

44

01 A. No. I was at the fresh air  
02 base.  
03 Q. So it was actually Harvey ---?  
04 A. No. This was the Buckhannon  
05 team, I think, ---  
06 Q. Okay.  
07 A. --- that actually hung the  
08 curtains.  
09 Q. Installed them?  
10 A. Right.  
11 Q. Okay.  
12 A. And then like I said, Harvey,  
13 when he come in, I come in behind  
14 him, and he was talking on the radio  
15 with me, and I was relaying messages  
16 on the fresh air base, and then later  
17 straight to the command center,  
18 because all these phones were hooked  
19 together.  
20 Q. Okay.  
21 A. But I stayed here as he



22 advanced, and he was relaying the  
23 information to me.

24 Q. Was Harvey's team traveling in  
25 all the entries? Had they split up

45

01 or were they as a group?

02 A. At this point, they were still  
03 in a group traveling down, I think  
04 --- well, I don't to --- this is the  
05 Number Two. What is that, the Number  
06 Two entry? But it was this entry.

07 And the original plan was, when they  
08 got to these doors, they were going  
09 to split and come back and tie in,  
10 but there was no doors there. They  
11 got to crosscut Four, I think. If I  
12 remember right, those stoppings were  
13 out; were they not? We had these  
14 noted as One, Two, Three, Four, and  
15 that was just so --- for us to  
16 communicate. I don't know what they  
17 actually had them called, but that's  
18 what how Harvey and I --- so we could  
19 stay on the same page.

20 Q. Okay.

21 A. But when they got to crosscut  
22 Four, the doors were both --- both of  
23 these directions were out.

24 Q. Any block laying on the mine  
25 floor?

46

01 A. I think this one had a few  
02 blocks. I don't know if that was  
03 block to build a brattice. I don't  
04 recall with this one.

05 Q. Do you recall if your team or  
06 Harvey's team had knocked any  
07 ventilation controls out in this  
08 area?

09 A. No, we did not.

10 Q. Okay. How about backing up to  
11 these equipment doors. Who actually  
12 opened the equipment doors? Do you  
13 have that knowledge?

14 A. No.

15 Q. Do you know what position they  
16 found them in originally?

17 A. I do not, no. They were open  
18 when I got to them, but I don't know  
19 how they were originally.

20 Q. What about the condition of  
21 the --- did they appear to be a door  
22 that would control ventilation  
23 adequately, that you could recall?

24 A. Yeah, I think they were. I  
25 didn't inspect them, you know, that

47

01 closely, but I think --- from what I

02 can remember they were there.

03 Q. And when you came through,

04 what positions were they?

05 A. They were open.

06 Q. Is that something that the

07 command center had gone over?

08 A. I don't know.

09 Q. Okay. Go on with your

10 exploration.

11 A. Okay. They ---.

12 Q. How about these stoppings over

13 here, were you --- at the stoppings

14 that are in ---?

15 A. Yeah, these were intact. All

16 of these were intact.

17 Q. So you did travel to the

18 stoppings just south of survey

19 station 3652?

20 A. Yes.

21 Q. In the Number Eight entry?

22 A. Yes.

23 Q. Okay. When you talk about a

24 brattice, can you ---?

25 A. A stopping.

48

01 Q. A stopping? A permanent

02 stopping?

03 A. Yes. At Six --- crosscut Six  
04 we took an air quality reading. It  
05 was nine parts per million CO, zero  
06 methane, 20.7 ox. And at crosscut  
07 seven, that was out completely. No  
08 doors on either brattice.

09 Q. The briefing that you had  
10 prior to underground, did anybody  
11 indicate that these ventilation  
12 controls may or may not be in?

13 A. No. No, they never said  
14 anything about the ventilation  
15 controls being out. At crosscut  
16 Eight, took another air quality  
17 reading, nine parts per million CO,  
18 zero methane, 20.9 ox. And it had  
19 about 40-foot visibility. The  
20 visibility seemed to be more steam  
21 than it was actual smoke.

22 Q. So it was kind of whitish in  
23 color?

24 A. Yes.

25 Q. Can you indicate this nine

49

01 parts per million?

02 WITNESS COMPLIES

03 A. Nine was --- at crosscut Ten  
04 all three were actually graphed. And  
05 we were over there in this vicinity.

06 Between Two and Three and crosscut  
07 Ten, and a crosscut there, there was  
08 a battery charging station there.

09 BY MR. POGUE:

10 Q. Just a charger, no batteries  
11 that you can recall?

12 A. Yeah, it was just the charger  
13 in Number One. Between Ten and 11 on  
14 straight, there's a roof bolter  
15 sitting there. Between Three and  
16 Four and 11 the brattice was out. In  
17 crosscut 12 there were all brattices,  
18 no doors. At crosscut 12, the Number  
19 Four, right there in that  
20 intersection there was a phone there,  
21 and it was not operational.

22 Q. Okay.

23 A. Crosscut 12, took another air  
24 quality reading, had ten parts per  
25 million CO, zero methane, 20.9

50

01 oxygen.

02 Q. Mike, do you have any feel for  
03 the direction of air in this Ten gate  
04 entry?

05 A. It's moving --- I guess this  
06 would be inby.

07 Q. Would it be from the mouth of

08 the Ten gate entry all the way  
09 through?

10 A. Yes.

11 Q. All entries were in taking  
12 them?

13 A. Yes.

14 Q. Can you indicate on the mine  
15 map with arrows some of the  
16 locations?

17 WITNESS COMPLIES

18 A. Like I said, at this point, we  
19 hadn't checked this Number One entry  
20 at all. They basically were  
21 traveling these three entries.

22 BY MR. POGUE:

23 Q. Okay. Maybe make a notation  
24 with three arrows here and say intake  
25 air direction.

51

01 WITNESS COMPLIES

02 A. Crosscut 13 between Three and  
03 Four where the brattice is at. And  
04 at 14 between Three and Four and One  
05 and Two, the brattices were out.  
06 Fifteen (15), between Two and Three  
07 and One and Two had the door in it.  
08 Sixteen (16), all the brattices were  
09 intact. Seventeen (17) were no  
10 doors. It was about at this point

11 that we were starting to have trouble  
12 talking on the radios.

13 BY MR. POGUE:

14 Q. Communications.

15 A. So there was a roll line there  
16 and we started moving that up.

17 Q. Okay.

18 A. Yeah, that was my team that  
19 actually started moving the cable.

20 Q. So you moved your hardwire?

21 A. Yes.

22 Q. To what location?

23 A. We actually ended up moving it  
24 to 22, but I was having trouble ---  
25 they started moving this down, and

52

01 they kept on advancing, and I stayed  
02 on the phone while they were moving  
03 the line.

04 Q. Okay. Could you establish a  
05 fresh air base down in the headgate  
06 entries?

07 A. Yeah. It's on down.

08 Q. Okay.

09 A. And I remember it was right  
10 along in this area that we were  
11 having --- I was having trouble  
12 talking to Harvey on the radio.

13 Crosscut 18 had a door between Three  
14 and Four. At crosscut 18, the air  
15 quality reading was 12 parts per  
16 million CO, zero methane, 20.8 ox.  
17 Nothing at 19, all the brattices were  
18 intact. Twenty (20), between Three  
19 and Four, the brattice was out. Air  
20 quality at 20, 14 parts CO, zero  
21 methane, 20.8 oxygen with 40-foot  
22 visibility.

23 Q. Was that concentration at the  
24 location of the stopping that was  
25 missing, that you're indicating ---?

53

01 A. That was pretty much in every  
02 entry.

03 Q. Okay. Your smoke's still  
04 about the same ---

05 A. Yeah.

06 Q. --- density?

07 A. Yeah.

08 Q. Still white in color?

09 A. Yes. Twenty-One (21), all the  
10 stoppings were intact. Twenty-Two  
11 (22) had a stopping out between One  
12 and Two. No other doors in the other  
13 two. And then the other two  
14 brattices didn't have a door in them.  
15 In Number Three entry we established



16 fresh air base 15.

17 Q. Okay. We've kind of run out  
18 of room on Exhibit A. Let's move  
19 over to this larger map here, which  
20 is Exhibit B Emery. And you can pick  
21 up where you're at.

22 (Emery Exhibit B marked  
23 for identification.)

24 MR. POGUE:

25 Okay. Mike is

54

01 indicating on Exhibit B that  
02 they have a fresh air base.

03 A. Crosscut 22 in the Number  
04 Three entry. Crosscut 23 between Two  
05 and Three the brattice is out.

06 BY MR. POGUE:

07 Q. Now, are you actually  
08 traveling in this area, Mike?

09 A. No. This is actually the  
10 other team, and this is what they  
11 were relaying to me.

12 Q. Okay.

13 A. Their fresh air base at 15 as  
14 far as we could actually travel.  
15 Twenty-four (24) between Two and  
16 Three had a brattice out. Between  
17 Three and Four that brattice had one

18 block out. The air is still moving  
19 inby.

20 Q. Have you or your team members  
21 been over in that Number One entry at  
22 this point to know the direction of  
23 air?

24 A. I don't remember exactly where  
25 the point was, but they did at one of

55

01 these, the stopping was out. They  
02 had them go over there and check the  
03 air in there. It was moving this  
04 way.

05 Q. Could you indicate just with  
06 an arrow, just draw the air  
07 direction?

08 WITNESS COMPLIES

09 BY MR. POGUE:

10 Q. Also, sign and date this map  
11 like you did on the previous map.

12 WITNESS COMPLIES

13 A. Crosscut 25, the middle  
14 brattice was out. Between 25 and 26  
15 at crosscut Two, there was a roof  
16 bolter sitting there. Crosscut 26,  
17 the middle brattice was out. The air  
18 quality reading was 19 part CO. At  
19 crosscut 27 there were no doors in  
20 any of the three. Crosscut 28, it

21 had doors in all three.

22 Q. They were mandoors?

23 A. Mandoors in all three

24 brattices.

25 Q. At 28?

56

01 A. Right. At crosscut 28 in the

02 Number One entry, air quality was 14

03 parts CO, zero methane, 20.9 oxygen,

04 40-foot visibility.

05 Q. Do you have any idea what time

06 it was?

07 A. 3:40. No, I'd say it would be

08 approximately about three o'clock,

09 I'm guessing.

10 Q. Okay.

11 A. Twenty-nine (29), the middle

12 brattice was out. Thirty (30), the

13 middle brattice was out. Thirty-One

14 (31), between Three and Four --- Two

15 and Three, the brattice was out. And

16 between Three and Four at 31, there's

17 a transformer sitting there. Thirty-

18 two (32) there were no doors.

19 Thirty-three (33) all three had

20 doors. The air quality at 33, at 11

21 parts per million CO. And at 35, 40-

22 foot visibility in all entries.

23 All of the brattices were  
24 intact at 34, 35. At 36 air quality  
25 had 20 parts per million CO, zero

57

01 methane, 20.9 oxygen, 35 to 40-foot  
02 visibility. Let's take the Number  
03 Three entry.

04 Q. Okay.

05 A. Thirty-seven (37) there's no  
06 doors. Thirty-eight (38) all the  
07 brattices were intact. Thirty-nine  
08 (39), the middle brattice was out,  
09 and that was --- we got the call to  
10 stop right there where we had. It  
11 was 3:40.

12 Q. Okay. Can you indicate that  
13 on your mine map, please?

14 WITNESS COMPLIES

15 A. We were instructed to have  
16 them pull back to fresh air base 15,  
17 and then we were supposed to call  
18 them when they got there.

19 BY MR. POGUE:

20 Q. And did you do that?

21 A. Yes, we --- they did that.  
22 When they got there, they told us to  
23 go ahead and to come on out.

24 Q. And why did they tell you to  
25 come out at that time?

01 A. They didn't give any reason.

02 Q. Did you find out later why?

03 A. They had found the two bodies.

04 Q. Okay.

05 A. They did call and wanted to

06 know if we had stretchers with us.

07 So we kind of assumed that's what ---

08 nobody had indicated that yet.

09 Q. Did you guys have stretchers

10 with you?

11 A. Yes, we had stretchers with

12 us.

13 Q. And you dropped that off on

14 the way out?

15 A. Actually, we brought it back

16 out with us.

17 Q. Did anybody explain the

18 purpose of going up Ten headgate?

19 A. It was told to us that one of

20 these guys that were missing was

21 doing a lot of work in there, setting

22 up for the belt drive, for a new

23 longwall panel, and they thought ---

24 he knew that area, and they had

25 thought that, well, maybe he had come

01 through there and tried to come out

02 here to escape to get into this lower  
03 end and escape out that way.

04 MR. POGUE:

05 Mike is indicating that  
06 after traveling down the Ten  
07 headgate that he would be in  
08 the Four Right area of the  
09 mine.

10 BY MR. POGUE:

11 Q. Let's back up to our map that  
12 we originally marked here, Mike.

13 Let's talk about these brattices that  
14 they --- the two curtains they  
15 installed. Do you know what the CO  
16 readings were in that location prior  
17 to installing the curtains?

18 A. I do not.

19 Q. How about when you went  
20 through there, do you recall taking a  
21 CO reading?

22 A. It was running around nine to  
23 ten parts CO.

24 Q. Could you indicate where that  
25 would have been that you got that

60

01 nine to ten parts?

02 A. It would have been right here  
03 at the doors.

04 Q. What was the smoke like there;

05 was it heavy or light?

06 A. It was heavy. Pretty much  
07 through the whole thing you could see  
08 30 to 40 feet well, if someone in  
09 front of you had reflective material  
10 on you can see him a crosscut, maybe  
11 more. But as far as actually seeing  
12 something a crosscut away, you  
13 couldn't see --- and like I said,  
14 most of it seemed to be steam. It  
15 was real white in color, and you  
16 couldn't smell anything. There was  
17 no heat.

18 Q. Okay. Did you guys, in your  
19 rescue and recovery operation up  
20 through the Ten headgate, at any time  
21 did you install any curtains?

22 A. No.

23 Q. How about Harvey Farrell, ---

24 A. No.

25 Q. --- to your knowledge?

61

01 A. No. No.

02 Q. Okay. Let's sit down. And  
03 once you had received those orders to  
04 return back to the fresh air base,  
05 did both teams travel back to what  
06 location at that point?

07 A. Traveled back to --- we  
08 traveled back to fresh air base 14,  
09 and they wanted everybody to stay  
10 there until all the teams got back to  
11 that point. And at that point they  
12 wanted one of the federal and one of  
13 the state men to call on the phone  
14 and receive instructions. And after  
15 they called out, they told us that we  
16 were all supposed to go back to fresh  
17 air base --- yeah, Nine. To fresh  
18 air base Nine, and to wait  
19 instructions there. Well, when we  
20 got there, there were at least one or  
21 maybe two other teams there and  
22 several federal and state people  
23 there. And then they told us to go  
24 ahead and head on out to the  
25 mantrips, we were going to go on out.

62

01 Q. Okay. Did you do that?

02 A. Yes.

03 Q. And did you --- once you  
04 arrived in the box cut, what happened  
05 then?

06 A. Yeah, we pretty much gathered  
07 our stuff and left. They told us  
08 that they wouldn't need us anymore,  
09 so ---.



10 Q. Okay. So you got to the box  
11 cut area in the box cut, and was  
12 anybody there to debrief you?

13 A. No.

14 Q. And once you left the box cut  
15 and you went up to the bathhouse,  
16 were you given an opportunity to be  
17 debriefed in the ---?

18 A. No.

19 Q. What did you do with your mine  
20 maps?

21 A. We kept them.

22 Q. Did you find that that was a  
23 little bit strange that nobody  
24 debriefed you?

25 A. Yes.

63

01 Q. Nobody asked you for your  
02 maps?

03 A. Yes.

04 Q. Did you try to give your maps  
05 to anybody?

06 A. We looked for Joe Pavlovich,  
07 and they were --- to the best of my  
08 knowledge, they were in meetings, or  
09 up at the command center, and ---.

10 Q. Did you go upstairs to the  
11 command center?

12 A. No. No, we were not allowed  
13 to go upstairs to the command center.

14 Q. Is that when they had the mine  
15 locked down?

16 A. Yeah. They had state troopers  
17 on either end of the stairwell. They  
18 wouldn't let you upstairs.

19 Q. Did anybody from your team go  
20 upstairs for a debriefing?

21 A. No.

22 Q. How about your team trainer?

23 A. No.

24 Q. The two curtains that were  
25 installed up in the Ten headgate, how

64

01 do you know that the curtains  
02 actually improved the CO or the  
03 smoke?

04 A. I don't know that it improved.

05 Q. You don't know? Okay.  
06 Because you were not in that area  
07 prior to those ---?

08 A. That's correct.

09 MR. POGUE:  
10 Bill, do you have any  
11 questions?

12 MR. TUCKER:

13 No.

14 BY MR. POGUE:

15 Q. When you guys were underground  
16 exploring the Ten headgate area, was  
17 there anybody from the Aracoma Mine  
18 traveling with you?

19 A. No.

20 Q. So it was just your team and  
21 Harvey's team traveling, doing the  
22 inspection work?

23 A. That's correct. I think we  
24 had one federal and one state. We  
25 had two federal? We had two federal

65

01 and one state with us, and that was  
02 the only ones that were traveling  
03 with us.

04 Q. Do you recall anybody being  
05 out around a fresh air base from  
06 Aracoma?

07 A. No.

08 Q. Can you recall who the MSHA  
09 inspectors were that you saw, or that  
10 traveled with you?

11 A. Frank --- I can't remember  
12 ---.

13 Q. Frank Thomas, the MSHA ---?

14 A. Yes.

15 Q. A young fellow?

16 A. Yeah. I can't remember the

17 state. I can't remember the others'  
18 names.

19 Q. Mike, do you recall that  
20 either yourself or anybody on your  
21 team would have had an opportunity to  
22 discuss the mine map, or just a  
23 general operation of the rescue and  
24 recovery efforts in general?

25 A. You mean like in the

66

01 debriefing?

02 Q. Well, in the debriefing or in  
03 your staging area, or the location  
04 where you were kind of going back up  
05 on the surface, did any of yours talk  
06 about the mine maps or conditions  
07 that you were seeing underground or  
08 they had saw underground?

09 A. No.

10 Q. Any discussion on the mine  
11 maps?

12 A. No.

13 Q. Briefings?

14 A. Other than the one that they  
15 gave me before we went underground,  
16 no.

17 Q. Do you have any comments about  
18 the briefing of the teams and the  
19 debriefing of the teams that you'd

20 like to get on record?  
21 A. I didn't think they did a very  
22 good job of letting the teams know  
23 exactly what they were going into.  
24 Something I left out. As we were  
25 traveling the belt line to get to

67

01 fresh air base 14 ---.

02 Q. And that would have been the  
03 48-inch belt line?

04 A. Yes. We happened to pick up a  
05 bucket of nails and some curtain, and  
06 if we wouldn't have took those with  
07 us, they wouldn't have had the  
08 curtain to build the two curtains  
09 that they did build. We just  
10 happened to see them laying on the  
11 belt line, and nobody had told us  
12 that we needed it, that we just  
13 happened --- just knowing our past  
14 experience, ---

15 Q. Sure.

16 A. --- if you don't have --- if  
17 you don't have it, so we picked it up  
18 and took it with us, and lugged it up  
19 there, and they needed it, so ---.

20 Q. That was a good move on your  
21 part. Because it's important for

22 your team to not to have to do a lot  
23 of backup work.

24 A. Right. But just, you know,  
25 that example. You know, if we

68

01 wouldn't have done that, they didn't  
02 have what they needed, and nobody  
03 told us that we needed curtain or  
04 nails, or hammers or any of that.  
05 And if we wouldn't have took that, we  
06 wouldn't have had it. That was  
07 another issue. The curtain ---.

08 Q. We can go back to the wall  
09 map.

10 MR. POGUE:

11 Mike is on Exhibit A  
12 Emery.

13 A. They --- curtain --- it was  
14 this one right here. Yeah, the  
15 curtain that was just inby 3627 that  
16 they had built.

17 BY MR. POGUE:

18 Q. Yes.

19 A. Nobody instructed the team  
20 that that was --- that area was 17-  
21 foot high.

22 Q. Okay.

23 A. And they had found some  
24 curtain in here somewhere that they

25 had to staple together to tack

69

01 together. And they found a ladder, I  
02 don't know where they found the  
03 ladder, but they found a ladder in  
04 there. If they wouldn't have found  
05 that stuff, they couldn't have ---  
06 like I said, they went in there  
07 blind, didn't know that would be the  
08 case.

09 Q. Well, the roll of brattice  
10 that you guys that you picked up on  
11 the 48-inch belt, did they use that  
12 to build those checks?

13 A. Yes.

14 Q. Did they indicate to you that  
15 once those checks were installed that  
16 the air --- the smoke in the  
17 atmosphere kind of cleared out a  
18 little bit, or --- do you recall any  
19 conversation ---?

20 A. I don't recall --- I do know  
21 that the Buckhannon team that was in  
22 there said that this area right in  
23 here was very smoky, but they  
24 couldn't see very well at all. But  
25 when I went in there ---.

70

01 Q. Did they give you any kind of  
02 distance, like maybe two feet,  
03 or ---?  
04 A. No, they did not.  
05 Q. And when you went in there  
06 subsequent to them checks, did it  
07 seem like it was ---?  
08 A. It wasn't as bad as what they  
09 had let on to be. Now, ---.  
10 Q. Okay. Whatever that means.  
11 A. Right.  
12 Q. Okay. Thanks. Mike, do you  
13 have any recommendations on how we  
14 can improve our rescue efforts and  
15 the effectiveness of the surface  
16 operation or even the underground  
17 operation?  
18 A. I think it's important that we  
19 get the information that --- I don't  
20 know that the teams need to talk face  
21 to face, but if --- like what you  
22 were leading to, if --- when I come  
23 out, you know, of course, I realize  
24 it was then kind of the end at that  
25 point. But when we went in, if the  
01 team that had come out --- you know,  
02 if the two captains could sit there  
03 and say, okay, this is what we've



04 got, and you know, this is what  
05 you're going to need, because you  
06 seem like you get better information  
07 than me relaying that to somebody in  
08 the command center and then them  
09 relaying it to somebody, because you  
10 always get steps left regardless of  
11 how close you take notes.

12 Q. That's a good point, Mike.

13 A. We also need --- it would help  
14 to have updated maps. Every map that  
15 I saw was basically a blank map of  
16 what we've got on the wall. And you  
17 know, when you went in you had to  
18 catch up, you know, where you were  
19 at.

20 Q. There was never an update of  
21 the maps as the exploration ---

22 A. Right.

23 Q. --- progressed?

24 A. And you didn't know what you  
25 had outby. You know, we were at Ten

72

01 headgate, well, our map just showed  
02 the same thing the teams that  
03 explored up to that point what they  
04 had, and nobody knew what ---

05 Q. What were the outby areas.

06 A. --- where anything was, or ---  
07 you know, as far as anything that  
08 they had found. But that would be a  
09 big help, because if you knew that  
10 there was curtains or nails or ---  
11 you know, there might have been  
12 supplies that you could possibly use  
13 and not had to go all the way back  
14 outside.

15 Q. Sure.

16 A. That was something like that.  
17 But it's important --- communication  
18 is key, you know. You don't want ---  
19 something like that, you don't want  
20 to --- like you said, make double  
21 steps, you want to make your steps  
22 count.

23 Q. What about the general safety  
24 of the workforce and the mine rescue  
25 teams that were underground? Can you

73

01 think of any recommendations there,  
02 or some things that we can improve on  
03 there?

04 A. I think you'd need to --- we  
05 had --- I don't know the exact count,  
06 but 20-some odd teams, and I don't  
07 --- from what I saw, we didn't  
08 utilize those teams well. I

09 heard ---.

10 Q. Was there a problem with the  
11 rotation and the scheduling of teams?

12 A. There was no rotation schedule  
13 that I could see. They posted a  
14 rotation schedule, but every time I  
15 would check it, it had changed. Like  
16 I said, we got there, and there was  
17 --- and we were fairly fresh other  
18 than driving eight hours. And then  
19 the team that was there hadn't been  
20 underground. And then when I got  
21 underground, one of the teams that  
22 was under, had been under, had come  
23 out about the time that I had got  
24 there, and they were already back in  
25 before we went in. That doesn't make

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01 sense to me, but --- because you can  
02 wear those guys out quick under those  
03 conditions, under oxygen and  
04 --- you know, it's not a good  
05 situation. If you got fresh people,  
06 you need to utilize those people.

07 Q. And there was no reason at  
08 that point to turn ---

09 A. No.

10 Q. --- a team around, because

11 there were other teams on property

12 that could have ---

13 A. Correct.

14 Q. --- gone in and done that

15 exploration?

16 A. That's correct. We had

17 brought a big --- we brought two

18 phone generators that they requested

19 us to bring.

20 Q. Sure.

21 A. And they sat in the pit the

22 whole time we were there. And I

23 said, you know, we never went in the

24 fire area, I don't have a handle on

25 it, if they had a handle on it, or

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01 when they did, or when they didn't,

02 but they didn't even have the phone

03 on the property to run that big

04 generator we had. They showed us

05 what --- the phone they had, and they

06 said, well, we'll use that in five

07 minutes if that's all you got.

08 There's no sense of taking it

09 underground.

10 But when something happens,

11 you need to utilize every supply,

12 everything that you can possibly get.

13 You don't want to just take it on

14 yourself to --- because that don't  
15 work. You run out of help quick.

16 Q. Sure. Thanks, Mike.

17 A. Sure.

18 Q. Do you have anything else  
19 you'd like to add to that?

20 A. No.

21 MR. POGUE:

22 I have a closing  
23 statement I'll read to you.

24 BY MR. POGUE:

25 Q. Before I do that. Did you

76

01 hear anybody talk about what may have  
02 caused the fire at the belt drive  
03 area?

04 A. No.

05 Q. No discussions whatsoever?

06 A. No.

07 Q. Did you hear anybody talking  
08 about the water supply to the fire  
09 area, ---

10 A. No.

11 Q. --- whether it was adequate?

12 A. No.

13 MR. POGUE:

14 I'll go ahead and  
15 proceed with the closing

16 statement. Bill, do you have  
17 any questions?

18 MR. TUCKER:

19 I don't.

20 MR. POGUE:

21 All right.

22 MR. TUCKER:

23 Thank you.

24 MR. POGUE:

25 On behalf of MSHA, I

77

01 thank you for appearing here  
02 today and answering our  
03 questions and sharing your  
04 information about the mine.  
05 Your cooperation is very  
06 important to us as we work to  
07 determine the cause of the  
08 accident.

09 If you wish, you may  
10 now go back over any answers  
11 that you have given during the  
12 interview, and you may also  
13 make a closing statement  
14 covering additional points you  
15 believe should be raised. Do  
16 you have any of those at this  
17 point?

18 A. No.

19 MR. POGUE:  
20 We ask that you not  
21 discuss your interview today  
22 with any persons who may have  
23 already been interviewed or  
24 who may be asked to give a  
25 statement in the future. This

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01 will ensure that we obtain  
02 everyone's independent memory  
03 of the events surrounding the  
04 accident.

05 After questioning other  
06 witnesses and obtaining  
07 additional information, we may  
08 be asking you back for further  
09 questioning. If at some  
10 point, you have additional  
11 information regarding the  
12 accident that you would like  
13 to provide us, please contact  
14 Mr. Kenny Murray, he's our  
15 lead accident investigator,  
16 and his staff assistant,  
17 Anthony Webb.

18 Phil, do you have any  
19 questions that you'd like to  
20 have clarified at this time,

21 or any comments that you would  
22 like to make?

23 MR. KITTINGER:

24 No.

25 MR. POGUE:

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01 Okay. You'll be  
02 provided with two business  
03 cards with Kenny and Anthony's  
04 telephone numbers and his  
05 mailing address. The Mine Act  
06 provides certain protections  
07 for individuals who  
08 participate in accident  
09 investigations. If at any  
10 time, you believe that you've  
11 been treated unfairly because  
12 of your cooperation in this  
13 investigation, please  
14 immediately contact Mr. Murray  
15 or Mr. Webb. And again, I  
16 thank you for your  
17 participation. And you guys  
18 did an excellent job.

19 A. Thank you.

20 MR. TUCKER:

21 And on behalf of  
22 Miners' Health, Safety &  
23 Training, I, too, would like



24 to thank you for your hard  
25 work that you do as mine

80

01 rescue members. It's much  
02 appreciated. And we  
03 appreciate you all coming up  
04 today.

05 MR. POGUE:

06 Okay, guys. Thanks a  
07 lot.

08 \* \* \* \* \*

09 EXAMINATION CONCLUDED AT 9:32 A.M.

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