

01 EXAMINATION UNDER OATH
02 OF
03 STEVEN HENSLEY
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 Holiday Inn
10 Express, 101 George Kostas Drive,
11 Logan, West Virginia, on Wednesday,
12 February 8, 2006, at 11:08 a.m.

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01 A P P E A R A N C E S (cont.)
02
03 ALSO PRESENT: MSHA TEAM MEMBERS
04 TIMOTHY BRADFORD, ESQUIRE
05 MARNE MITSKOG
06 STEVE COX

07 MICHAEL FINNIE
08 DENNIS A. BEITER
09 RONALD W. STAHLHUT
10 WILLIAM J. FRANCCART
11 CHARLES W. POGUE
12 RODNEY BROWN
13 ARLIE A. WEBB
14 ANTHONY L. BURKE
15 C.A. PHILLIPS
16 EUGENE WHITE
17
18
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01 I N D E X

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03 DISCUSSION 7 - 17

04 WITNESS: STEVEN HENSLEY

05 QUESTIONS

06 By Mr. Murray 18 - 96

07 By Mr. Farley 97 - 109

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

02 -----

03 MR. MURRAY:

04 Mr. Hensley, I'm Kenny
05 Murray. I represent the Mine
06 Safety & Health
07 Administration, which is an
08 agency of the United States
09 Department of Labor. I'm the
10 team leader of MSHA's accident
11 investigation team that's
12 charged with investigating the
13 accident that occurred at the
14 Aracoma Coal Company,

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

18 This is a joint
19 investigation that MSHA's
20 conducting with the State of
21 West Virginia. I'll be asking
22 the questions today for MSHA.
23 With me here today are other
24 members of MSHA's team and the
25 State's teams as well. MSHA's

8

01 team includes various
02 specialists throughout the
03 United States and members of
04 the Solicitor's Office in ---
05 from Arlington, Virginia.

06 At this time, I would
07 ask that each of the MSHA team
08 members identify themselves
09 for you.

10 MR. FRANCCART:

11 William Francart with
12 MSHA in Pittsburgh.

13 MR. STAHLHUT:

14 Ron Stahlhut with MSHA
15 in Vincennes, Indiana.

16 MR. BEITER:

17 Dennis Beiter with MSHA
18 from Tech Support.

19 MR. FINNIE:
20 Mike Finnie,
21 Madisonville, Kentucky.

22 MR. BURKE:
23 Tony Burke, MSHA, from
24 Whitesburg, Kentucky.

25 MR. WEBB:

9

01 Anthony Webb, MSHA in
02 Pikeville, Kentucky.

03 MR. BROWN:
04 Rodney Brown, MSHA,
05 public affairs.

06 MR. POGUE:
07 Charlie Pogue, MSHA,
08 Hunker, PA.

09 MS. MITSKOG:
10 I'm Marne Mitskog with
11 the Solicitor's Office.

12 ATTORNEY BARISH:
13 Dan Barish with the
14 Solicitor's Office.

15 ATTORNEY BELL:
16 Keith Bell with the
17 Solicitor's Office.

18 MR. MURRAY:
19 Okay. Here also today

20 representing the State of West
21 Virginia is Mr. Terry Farley
22 to my right. And Mr. Farley
23 will be asking the questions
24 for the State. And at this
25 time, I would ask Mr. Farley

10

01 to introduce his team members,
02 who are here today.

03 MR. FARLEY:

04 Okay. Just a brief
05 statement before I introduce
06 two members of --- as Mr.
07 Murray stated, the Office of
08 Miners' Health, Safety &
09 Training and MSHA are
10 conducting this investigation,
11 an interview session jointly,
12 and we are in agreement with
13 the procedures Mr. Murray has
14 outlined and will outline.

15 Also, however, I need
16 to make it clear that our
17 director will reserve the
18 right, if necessary, to call
19 or subpoena witnesses or
20 require the production of any
21 record, document, photograph

22 or other relevant materials
23 necessary to conduct this
24 investigation. With that
25 said, again, I'm Terry Farley

11

01 from our Charleston office.

02 ATTORNEY BRADFORD:

03 I'm Tim Bradford, I'm
04 an attorney with Miners'
05 Health, Safety & Training in
06 Charleston.

07 MR. COX:

08 Steve Cox for Region
09 Three.

10 MR. PHILLIPS:

11 C.A. Phillips, safety
12 director, Miners' Health,
13 Safety & Training.

14 MR. WHITE:

15 Eugene White, District
16 Inspector.

17 MR. MURRAY:

18 Thank you, Terry.

19 MR. FARLEY:

20 Sure.

21 MR. MURRAY:

22 Mr. Hensley, this
23 investigation is being
24 conducted by MSHA in the State

25 of West Virginia to gather

12

01 information to determine the
02 cause of the accident and to
03 help prevent future
04 occurrences. These interviews
05 are a very important part of
06 the accident investigation.
07 After the investigation is
08 completed, MSHA will issue a
09 written report detailing the
10 nature and causes of the
11 accident. MSHA accident
12 reports are made available to
13 the public in the hope that
14 greater awareness about the
15 causes of accidents can reduce
16 their occurrence in the
17 future.

18 Information obtained
19 through witness interviews is
20 frequently used in these
21 reports. And your statement
22 may also be used in other
23 enforcement proceedings. I
24 would like to thank you in
25 advance for your appearance

13

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

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

24 This interview is being
25 conducted at the Holiday Inn

14

01 Express in Logan, West
02 Virginia on February 8th,
03 2006. And it's currently 12

04 minutes after 11:00 eastern
05 standard time.

06 Mr. Hensley, the
07 interview will begin by asking
08 you a series of questions.
09 Feel free at any time to
10 clarify any statements that
11 you make in response to these
12 questions. After we have
13 finished asking questions, you
14 will have an opportunity to
15 make a statement of your own
16 and provide us with any
17 additional information that
18 you believe may be important.

19 You are permitted to
20 have a representative with you
21 during the interview, and you
22 may consult with your
23 representative at any time.
24 You may designate any person
25 to be your representative.

15

01 Following the questions by
02 MSHA and the State, your
03 representative will be given
04 the opportunity to ask
05 questions for purpose of

06 clarification on areas already
07 discussed.

08 Your statement is
09 completely voluntary. You may
10 refuse to answer any question
11 and you may end your interview
12 at any time. If you don't
13 understand a question, tell me
14 and I'll rephrase it. If you
15 need a break for any reason,
16 you let me know that, too.

17 You may request the
18 opportunity to make a
19 confidential statement, which
20 will be withheld from the
21 public to the extent allowed
22 by the law. Should you desire
23 to give a confidential
24 statement, you should advise
25 me before I begin your

16

01 interview, so that I can
02 reschedule your interview in
03 order to properly consider
04 your request. Do you wish to
05 make a confidential ---?

06 MR. HENSLEY:

07 No.

08 MR. MURRAY:

09 A court reporter will
10 record your interview and will
11 later produce a written
12 transcript of the interview.
13 I ask that you state all your
14 answers verbally because the
15 court reporter cannot record
16 your gestures, like nodding
17 your head.

18 If any part of your
19 statement is based not on your
20 own firsthand knowledge, but
21 on information that you
22 learned from someone else,
23 please let us know that.
24 Please answer each question as
25 fully as you can, including

17

01 any information that you
02 learned from someone else.

03 We may not ask the
04 right question to learn the
05 information you have, so don't
06 feel limited to the precise
07 question that we ask. If you
08 have information about the
09 subject area of a question,
10 please provide us with that

11 information. Do you have any
12 questions about how this is
13 going to ---

14 MR. HENSLEY:

15 No.

16 MR. MURRAY:

17 --- take place so far?

18 MR. HENSLEY:

19 You ain't lost me yet.

20 MR. MURRAY:

21 I'll go back. I've
22 become a patient man. Would
23 you please swear in the
24 witness.

25 -----

18

01 STEVEN HENSLEY, HAVING FIRST BEEN
02 DULY SWORN, TESTIFIED AS FOLLOWS:

03 -----

04 BY MR. MURRAY:

05 Q. Mr. Hensley, please state your
06 full name, address and telephone
07 number, and then please spell your
08 last name for the record.

09 A. Steven Ray Hensley, [REDACTED]

[REDACTED]

[REDACTED]

21 Q. Okay. Are you appearing
22 voluntarily here today?

23 A. Yes.

24 Q. Has anyone made any promises
25 to you for giving this statement or

19

01 offered you any rewards in exchange
02 for making your statement?

03 A. No.

04 Q. Has anyone threatened you or
05 warned you not to provide this
06 statement?

07 A. No.

08 Q. Do you understand that you may
09 refuse to answer any questions or
10 terminate this interview at any time?

11 A. Yeah.

12 Q. Do you have a representative
13 with you?

14 A. Yes.

15 Q. And who is that?

16 A. Mark.

17 Q. Mark?

18 A. I ain't real sure of his last
19 name.

20 ATTORNEY HEATH:

21 It's Mark Heath,
22 Spilman, Thomas & Battle.

23 A. Heath.

24 BY MR. MURRAY:

25 Q. Okay. And when did you first

20

01 meet Mr. Heath?

02 A. It was yesterday.

03 Q. Yesterday's the first time you
04 met Mr. Heath?

05 A. Yeah.

06 Q. Okay. Did you contact him, or
07 did he contact you?

08 A. When I was coming to work,
09 then he was there wanting to talk to
10 us and stuff. Just give us the
11 format of, you know, what we was
12 going to be doing down here today.

13 Q. Okay. Did you ask him to be
14 your representative, or did he tell
15 you that he was going to be ---?

16 A. He told me I didn't have to
17 have no representative or nothing. I
18 chose to, you know, have him.

19 Q. Okay. Have you been made
20 aware that Mr. Heath also represents
21 the company in this matter, and that
22 there's a potential for conflict of
23 interest to arise between yourself
24 and the company?

25 A. Yes.

21

01 Q. Okay. Were you taken into a
02 room in a hotel today before coming
03 into this interview?

04 A. Yeah.

05 Q. Who was in that room?

06 A. Mark and Dave, his partner, I
07 guess.

08 Q. Would that be Dave Hardy?

09 A. Yeah, I think that's his last
10 name.

11 Q. He's an attorney as well?

12 A. Yes.

13 Q. What was discussed in that
14 room?

15 A. He just told me, you know, of
16 the layout, you know, of --- who was
17 down here and the layout of it.

18 Q. Did he advise you how to
19 answer any of the questions?

20 A. No.

21 Q. Did he tell you some of the
22 potential questions we might ask you?
23 A. No. Told me just tell the
24 truth of everything, you know, that
25 happened that day.

22

01 Q. Do you know Randall Crouse?

02 A. Yeah.

03 Q. Have you seen him today?

04 A. Yeah, I seen him when I came
05 through the doors.

06 Q. Did you have occasion to talk
07 to him?

08 A. No. I mean, just aside, you
09 know, hi, how you doing. When y'all
10 was having a break a while ago, I
11 didn't see him for two minutes.

12 Q. Did Mr. Crouse indicate
13 anything about his interview?

14 A. No.

15 Q. Or what you should expect when
16 you get in here?

17 A. No. He told me about this
18 pretty little woman sitting over
19 here.

20 Q. Have you ever been interviewed
21 by the company before coming in here?

22 A. No, no. By company officials
23 and stuff? No, I haven't.

24 Q. By anybody?

25 A. Well, they asked us, you know,

23

01 the day we come out what happened,

02 you know what I'm saying. But other

03 than that, no.

04 Q. Okay. Who asked you those

05 questions?

06 A. I think it was Duane Francisco

07 (phonetic) asked me --- you know,

08 asked me where I stopped the manbus

09 at and stuff. You know, other than

10 that, no.

11 Q. Okay. How long have you

12 worked at the Aracoma Alma Number One

13 Mine?

14 A. Since January 2001. That's

15 when I transferred there.

16 Q. Did you transfer from another

17 Massey operation?

18 A. Yes.

19 Q. Which was?

20 A. It was Spring Branch Mining.

21 It was from raw sales department.

22 Q. I see. What's your current

23 job title?

24 A. Left side mine operator.

25 Q. What was your position on

01 January 19th, 2006, and that's the
02 night of the accident?
03 A. What do you mean position?
04 Q. Your job occupation.
05 A. Miner operator.
06 Q. Okay. And that's your normal
07 occupation?
08 A. Yeah.
09 Q. And how long have you held
10 that position?
11 A. About three years.
12 Q. What other positions have you
13 held at this mine?
14 A. Roof bolter operator.
15 Q. And how many total years of
16 mining experience do you have?
17 A. Let's see, I started in
18 November of '98, so from November '98
19 to now.
20 Q. Okay. Now, these next series
21 of questions is going to be back on
22 the day of the accident, January
23 19th, 2006. What shift were you
24 scheduled to work that day?
25 A. Second shift.

01 Q. And what time does second
02 shift start?

03 A. 2:30.

04 Q. And what time does it end?

05 A. I usually get outside, I'm
06 going to say between 1:30, two
07 o'clock in the morning. It just
08 depends.

09 Q. About what time did you arrive
10 at the mine that day?

11 A. About two o'clock.

12 Q. Who was your supervisor on
13 that day?

14 A. Mike Plumley.

15 Q. Is that your normal
16 supervisor?

17 A. Yes.

18 Q. And what were you assigned to
19 do that day, your normal job?

20 A. Yeah.

21 Q. In what area of the mine were
22 you assigned to work on that shift?

23 A. The left side of the section,
24 which would consist of Number One and
25 Number Two entry. Usually Two entry

01 is our mine.

02 Q. And that would be the Two
03 section?

04 A. Yes, the Two section.

05 Q. Okay. Had you worked in that
06 area of the mine before?

07 A. Yeah.

08 Q. Is that your normal section?

09 A. That's where I normally work
10 at.

11 Q. Before the 19th, when was the
12 last time you were on that section?

13 A. The 18th.

14 Q. Could you give me just a brief
15 description, from the beginning of
16 the shift up until the time of the
17 evacuation, what you did?

18 A. Do you want from the box cut
19 all the way in?

20 Q. Yeah, bring me in the mine.

21 A. Okay. We went down and got on
22 our diesel ride, like always, and
23 started in the rim, drove all the way
24 up to Number One full Right. We went
25 through the doors, went up the hill,

27

01 and went up, around up, up under the
02 overcast and back down toward the
03 mother drive. Got off, opened the
04 doors, closed them, went through that
05 first set of doors, opened the second
06 set of doors, when through it. On
07 the closed set of doors, the beltman

08 was standing there at the inby set of
09 doors. He opened the doors for us
10 and we went through them, he closed
11 them. And they got off and opened
12 the other set of doors and went
13 through it. Went onto the section.

14 We stopped, got off the
15 manbus, and another crew was sitting
16 there because they was rock dusting
17 the section. They was sitting there
18 talking --- they was talking about
19 putting us on a six and three
20 schedule, because we've been working
21 a lot of hours and stuff, and they
22 was talking about, you know, putting
23 us on a six and three schedule. We
24 sat there for, I don't know, 10
25 minutes, 15 minutes talking to each

28

01 other. And then I went to my miner,
02 which was sitting in Number One entry
03 and started loading.

04 I got to cut out Number One,
05 finished cutting Number One. Backed
06 the miner up. Waiting on the motor
07 to come across and then went to Two
08 Right, got that cut. By this time,
09 I'm going to say it's 5:30, and I was

10 waiting on the motor. So I just
11 backed my miner around the corner,
12 number two-incher and was putting up
13 a center line to cut Number Two head.
14 And then they come and towed, I think
15 it was Joe Hunt, I think, is the one
16 that towed me. You know, we had to
17 leave because there was a fire at the
18 mother drive. You know, they didn't
19 say how bad, or --- just fire at the
20 mother drive.

21 So we went down and got on the
22 diesel trip and was --- I asked Mike
23 Plumley, I said, do you want to get
24 some rock dust, because I thought we
25 was going to maybe go fight a fire,

29

01 try to re-ventilate it, or whatever.
02 And then he said no, you know, so we
03 just go ahead and go. So I went down
04 --- it was about three breaks from
05 the top of the hill and Bill Mayhorn
06 and Gary Baisden was down there
07 building cribs. And we picked them
08 up, and headed down the Number Five
09 entry. And when you go down Number
10 Five so far, you got to cut back up
11 in Number Four entry.

12 Hit a little bit of light

13 smoke just out by where they're
14 setting a new mother drive head on
15 ten headgate, not nothing --- you
16 know what I'm saying, nothing out of
17 the ordinary. I mean, it was out of
18 the ordinary, but it was real light
19 smoke, you know.

20 As we got to Number Five, it
21 got real kind of thick, not real
22 thick, but when I turned up in Number
23 Four, it got thick in a hurry right
24 up on us, you know. So I parked the
25 diesel ride, and told them, you know,

30

01 so we'll go in that man door, you
02 know, I done made up my mind. We
03 knew where the man door was, because
04 there's a seal there where they cut
05 in to old works?, and they've been
06 fire bossing that seal ever since,
07 you know. So we know that man door's
08 there. And we said don your
09 rescuers. And Elmer Mayhorn was to
10 my left, Billy Mayhorn was to my
11 right and Ellery Hatfield was ---. I
12 mean, Billy Mayhorn was in front of
13 me, and Ellery Hatfield was to my
14 right.

15 We donned our rescuers. I
16 thought Mr. Hatfield got his on. I
17 don't --- I still to this day don't
18 know if he got his on, because I
19 never heard nothing else out of him.
20 The last thing I heard out of him
21 was, how the F you get this thing on.
22 Then he shut up, so I took it, you
23 know, he got his rescuer on. And we
24 felt our way up along the rib line to
25 the man door, and went through the

31

01 man door, and got on the 48-inch
02 beltline, which was --- and it was
03 fresh air. I mean, just like this
04 room.

05 So we took a head count,
06 noticed them two was missing, went
07 back over to the man door screaming
08 and hollering, nothing. So we
09 decided, you know, we got to get down
10 on the other side of the fire, so we
11 went down --- on down the 48-inch
12 beltline to where we know we was on
13 the other side of the mother drive,
14 and went through the man door down
15 there. And then me and Mike Plumley
16 and Joe Hunt went back up the 48-inch
17 beltline, because we was going to go

18 back to that man door see, if maybe
19 they come through the man door. This
20 time smoke was starting to come ---
21 I'm not real sure where at, but it
22 was starting to come up on the
23 48-inch beltline.

24 And I borrowed Mike Plumley's
25 spotter and stuck it up in the smoke

32

01 and hit like 650 parts per million
02 carbon monoxide. Well, there ain't
03 nothing --- we can't go up through
04 here, so we went back down. And got
05 everybody else, the rest of our crew.
06 By this time, Pat Calloway, and I'm
07 not real sure of that other boy that
08 was with him. But when we was coming
09 down the 48-inch beltline, Bryan
10 Cabell was coming up the 48-inch
11 beltline, and we got with him.

12 Well, we all got together to
13 come down through there and got with
14 the longwall crew right there at the
15 cut-through, and then Troy Shadd and
16 Dusty Dotson showed up. We went over
17 there to the mother drive belt
18 through the crossover and up to the
19 mother drive belt and cut that belt

20 and dropped the structure down and
21 hung a curtain across trying to choke
22 the air off in the fire area. And
23 then Fred Horton said it was too bad,
24 we need to get outside. So we went
25 and got on the mantrip and come

33

01 outside, come to the surface. That
02 was it.

03 Q. That's a great account. We
04 appreciate you walking --- I know
05 it's painful, but we appreciate you
06 walking us through that.

07 A. Yeah.

08 Q. For my own clarification, just
09 let me back up just a little bit.

10 A. Okay.

11 Q. When you were heading into the
12 mine and you said that someone was
13 there that opened the man door --- or
14 opened the equipment door, was it the
15 mother drive?

16 A. Yes.

17 Q. Who was that?

18 A. Karl White. I'm almost
19 positive it was Karl White. I ain't
20 going to swear to it.

21 Q. Okay. And who was driving the
22 mantrip on the way in?

23 A. I was.

24 Q. You were, okay. Did you ever
25 have occasion to open those airlock

34

01 doors at that mother drive, those
02 equipment doors where you cross under
03 the mother drive?

04 A. Have I opened them?

05 Q. Yeah, you personally.

06 A. Well, yes. I had before, but
07 since I started driving, no, I ain't
08 --- usually one of the boys get off
09 the back and open the doors.

10 Q. Are they hard to open?

11 A. No.

12 Q. Okay. When you open them, can
13 you tell which way the air wants to
14 go from the intake?

15 A. Yeah. The air wants to --- as
16 soon as you go through the doors, the
17 air will hit you in the back when you
18 open the doors.

19 Q. It hits you in the back?

20 A. Right.

21 Q. Okay. What about when you
22 open the inby door?

23 A. The inby doors? I ain't never
24 really paid no attention to be

25 honest. I couldn't tell you.

35

01 Q. Do you think that airs hits
02 you in the back as well and go toward
03 the section?

04 A. It depends on if you close the
05 ones behind you.

06 Q. Yeah, the ones behind you.

07 A. If the ones behind me is
08 closed, no, because it shouldn't, you
09 know what I'm saying. I ain't never
10 paid no attention, like I said. But
11 it shouldn't hit you in the back.

12 Q. You talked about some
13 gentlemen that went back once you got
14 in on the beltline and you guys went
15 into the 48-inch belt, then you said
16 there was some folks that went back
17 through the door. Who were those?

18 A. And I'm not real sure --- I
19 know personally, I did not go back
20 through the door. We went to the
21 door and opened the door up and was
22 hollering, you know, for Don Bragg
23 and Ellery Hatfield. And you know, I
24 really can't remember if Mike Plumley
25 went back in the smoke and was

36

01 hollering, or Billy Mayhorn. You

02 know, I can't really remember.

03 Q. Okay. And you talked about
04 you borrowed somebody's detector?

05 A. Yes. That was Mike Plumley's.

06 Q. And you detected 650 parts per
07 million?

08 A. I really cannot remember
09 exactly, but it was around 650 parts
10 per million.

11 Q. And where was that?

12 A. That was --- when we was going
13 back up the 48-inch beltline --- I'm
14 not real for sure how many breaks it
15 was when the smoke was starting to
16 come over onto the beltline. I was
17 thinking right straight up from the
18 mother drive head.

19 Q. But that was on the beltline,
20 the 48-inch beltline?

21 A. Yes.

22 Q. And you were talking about, on
23 your way out there was some miners
24 who were installing the longwall belt
25 drive at the Ten headgate?

37

01 A. Well, they work on dayshift,
02 the construction crew.

03 Q. Okay. And who's in charge of

04 that?

05 A. Don Haggie (phonetic) and

06 Chris Hernley (phonetic). I think

07 that's the two bosses that works

08 dayshift. You know, they only work

09 one crew on it that mother drive

10 Q. And does that installation,

11 that belt structure in that area ---

12 extend in the belt structure for the

13 72-inch belt?

14 A. Yes.

15 Q. That's all one project in that

16 area?

17 A. Yeah. They put all the six-

18 foot beltline in and they put all the

19 mother drives on the five-foot

20 beltline.

21 Q. Okay. And the two guys that

22 you just mentioned, are they the

23 supervisors in charge of that?

24 A. Yes.

25 Q. And who normally works on that

38

01 project?

02 A. Both of them. I don't know

03 the number of men on our crew. I

04 don't know all of them. But you

05 know, they was the two bosses.

06 Q. Would those be miners who

07 worked for Massey?

08 A. Yes.

09 Q. As opposed to an independent
10 group ---?

11 A. They worked for Massey.

12 Q. Okay. They worked for Aracoma
13 Alma ---

14 A. Yes.

15 Q. --- Mine Number One?

16 A. Yes.

17 Q. Behind us, we have the mine
18 map that --- it's limited to the area
19 that we just talked about. It
20 depicts the northeast mains area, and
21 it extends up to the Two section that
22 you just described. Okay. And you
23 talked about a seal at some location?

24 A. Yes.

25 Q. And you talked about a man

01 door.

02 A. Uh-huh (yes).

03 Q. Could you point those out for
04 me?

05 A. Here's the seal.

06 MR. MURRAY:

07 Okay. He's pointing to
08 an area that's adjacent to the

09 48-inch belt, and it looks
10 like it's approximately 20
11 feet in by survey station 3265.

12 And I want to highlight that.

13 And I'm going to mark to the
14 side in blue ink that that's a
15 seal. Is that accurate?

16 A. Yeah.

17 BY MR. MURRAY:

18 Q. Okay. And you talked about
19 that you traveled through a door ---

20 A. Right.

21 Q. --- to access the 48-inch
22 belt. Could you point that out to
23 me?

24 A. Well, it's either in this
25 stopping room right here, or this

40

01 one. But I'm almost positive it's in
02 this area here.

03 Q. Okay. And just for a matter
04 of reference, if this might help you.

05 This dot here ---

06 A. That's a borehole.

07 Q. --- that's the borehole where
08 you see the water coming in. So I
09 want to, just for ---.

10 A. You know what I mean? That
11 door's right there in that. I know

12 for a fact, because I remember you go
13 up the break and there's the door.

14 Q. Okay. So just for reference,
15 I'm going to highlight this borehole,
16 which on this map, it's about --- it
17 looks like ---

18 A. About 40 feet.

19 Q. --- about 40 feet to the right
20 of survey station of 3233. And when
21 I say to the right, that's looking
22 inby toward the Number Two section.
23 And I'm going to label that as
24 borehole. Okay. Now, would you
25 point out which ---?

41

01 A. Right there.

02 MR. MURRAY:

03 So now Mr. Hensley is
04 now pointing to the stopping,
05 which would be --- if you're
06 looking into the mine, it
07 would be to the right of
08 survey station 3230, which is
09 located on the 48-inch
10 beltline. I'm going to
11 highlight this stopping.

12 BY MR. MURRAY:

13 Q. And you've indicated that this

14 particular stopping that we've
15 highlighted to the right of survey
16 station 3230 is the stopping that you
17 traveled through?

18 A. Well, we just put that door
19 in, because they was fire bossing ---
20 you have to fire boss that seal every
21 shift.

22 Q. Okay.

23 A. So we put that door in just
24 for that reason.

25 Q. Okay. So I'm going to mark

42

01 this door in this particular
02 stopping, ---

03 A. Right.

04 Q. --- which on the map that we
05 have in front of us, it only
06 indicates a stopping. So I'll put a
07 seal on number 480 door. Do you
08 remember which way that door opened?

09 A. No, I do not.

10 Q. Did you have to pull it toward
11 the intake, or did you have to push
12 it to get into it?

13 A. It seemed like you had to push
14 it. I really can't remember to be
15 honest. I can't remember if you had
16 to pull it open or push it out.

17 Q. In any event, I'm going to put
18 a door sign right here.

19 ATTORNEY HEATH:

20 Excuse me. If we could
21 just go off the record for
22 just a moment.

23 OFF RECORD DISCUSSION

24 MR. MURRAY:

25 Okay. It was brought

43

01 to my attention that the
02 highlighter that we're using
03 to depict some of these
04 locations may not show up as a
05 copy, so I'm going to go back
06 over those highlighted areas
07 with a red pen to depict these
08 locations. So the first would
09 be the seal. I'll circle the
10 seal with a red pen. We'll go
11 back to the borehole. I'll
12 circle the borehole with the
13 red pen. We'll go back to the
14 door that we've indicated
15 between the primary escapeway
16 and the alternate escapeway
17 and circle it with the red
18 pen.

19 BY MR. MURRAY:

20 Q. So you guys, as a group,
21 traveled through this door?

22 A. Right.

23 Q. When you're on the other side
24 of the door, at what point did you
25 determine that there were two miners

44

01 that weren't accounted for?

02 A. When we went under the
03 beltline, because, you know, they
04 done turned the belt off. We crawled
05 under the beltline and took a head
06 count and noticed they was gone.

07 Q. Who took that head count?

08 A. I think everybody counted. I
09 mean, I'm not real sure which one was
10 actually counting.

11 Q. Okay. And at some point, did
12 somebody travel back through that
13 door?

14 A. Yeah. I'm not real sure if
15 they went completely through the door
16 in this area, but I know for a fact
17 that I did go to that door and opened
18 that door and was screaming and
19 hollering to see if they would
20 answer, you know. And nobody
21 answered, no.

22 Q. Okay. When you had that door
23 open, did it seem like the smoke was
24 trying to get into the belt?

25 A. No.

45

01 Q. Did it seem like fresh air was
02 coming out of the belt?

03 A. It seemed like fresh air was
04 coming out of the belt.

05 Q. Okay. Now, the --- and I'm
06 not going to hold you to the 650, but
07 you made a gas check ---

08 A. Right.

09 Q. --- with the detector that you
10 thought indicated 650 parts per
11 million?

12 A. Right.

13 Q. Could you point on here where
14 you made that gas check?

15 A. Not to be exact. But like I
16 said, we traveled this four-foot
17 beltline to right in this area right
18 here and come out this man door.

19 Q. Okay. Just while we're
20 talking ---.

21 MR. MURRAY:

22 He's indicated that the
23 crew traveled outby in the 48-

24 inch belt entry to survey
25 station 2859 in that belt

46

01 entry, and then exited through
02 a door back into the intake.
03 And I'm going to circle that
04 door that he says that they
05 exited.

06 MR. FARLEY:
07 What was that span,
08 again?

09 MR. MURRAY:
10 The span was in the
11 belt entry, and it's 2859.

12 BY MR. MURRAY:

13 Q. Could you take a guess at what
14 location from the time you entered
15 until the time you exited to measure
16 the 650 parts per million?

17 A. Well, we come down, I went
18 through the door, then we went back
19 up this way. And I'm thinking right
20 around this area right in here, I was
21 thinking it was coming straight up
22 from the mother drive head. I mean,
23 it was roughly that area.

24 Q. Okay. So Mr. Hensley's
25 depicted that he's made the gas check

47

01 in the area of survey station 3243,
02 which is located on the 48-inch belt
03 structure. And this would be right
04 in line with the longwall belt. As
05 you traveled outby in the belt entry,
06 did you ever encounter any smoke
07 visible?

08 A. No. You know, not until I
09 come back up the beltline. The whole
10 time we was walking the beltline, no,
11 there was no smoke or anything.

12 Q. When you retreated on the
13 beltline to come back into the mine
14 in the inby direction ---

15 A. Right.

16 Q. --- to make this gas check, at
17 that time, did you observe any
18 visible smoke in the belt entry?

19 A. Not until, you know, that spot
20 right there, you know what I'm
21 saying. It was coming --- you could
22 see it coming through the stopping,
23 and it was pouring into it, and it
24 was going straight up the 48-inch
25 beltline. It was all coming this

48

01 way.

02 Q. And could you describe it as

03 being light, thick?

04 A. Thick.

05 Q. How far was your visibility,
06 if you could guess?

07 A. From where I was standing,
08 there was smoke coming in, and I'd
09 say, if you was in the smoke, you
10 couldn't see two-foot, if that far.

11 Q. And what color was the smoke?

12 A. I'm going to say blue/gray,
13 gray --- I really can't remember, but
14 I know it was gray-like.

15 Q. Okay. As you traveled back
16 inby, at this location, that would be
17 the first location where you
18 encountered the smoke?

19 A. Right.

20 Q. Was there a hole in some of
21 these stoppings that allowed that
22 smoke to get in there?

23 A. I can't say for a fact,
24 because --- you know, I could not see
25 this stopping. I just come up the

49

01 48-inch beltline. There had to be.
02 You know, the way I took it, there
03 had to be at least a hole or
04 something for that smoke to come over
05 there.

06 Q. Do you know if these guys
07 closed this door behind you?
08 A. I wasn't the last one through
09 it, so I couldn't tell you.
10 Q. Did anybody on your crew walk
11 over to the mother drive?
12 A. Yeah, I walked --- me and ---
13 it seemed like Mike Plumley walked
14 down toward the mother drive, and
15 they was --- Pat Calloway, I think he
16 might have walked with us, too. And
17 at that time, I think --- I cannot
18 remember who Pat Calloway had
19 standing there at the door at, you
20 know, the double doors. I can't
21 remember. But yeah, we walked down,
22 and Pat and them said we were going
23 to have to leave. But I can't
24 remember who was standing at that
25 double door, I cannot remember.

50

01 Q. How did you get there?
02 A. I can't remember if we ---
03 usually from travel, we'll turn this
04 corner right here and come this way,
05 I think. Or wait. I really can't
06 --- I'm confused about this map, and
07 I drive it every day, but ---. Or we

08 might come up and go like this, I
09 think. That's how we'd do it, yeah.
10 That's how we do it. We come up this
11 entry, turn the mantrip and come like
12 this right here.

13 Q. Okay. So on this particular
14 day, for you to travel from where you
15 exited the alternate escapeway ---

16 A. Right.

17 Q. --- to get to the mother
18 drive, you traveled --- just walk
19 with me.

20 A. Up two breaks. It's right
21 here.

22 Q. Okay. You exited the door,
23 and you entered back into the intake
24 at survey station 2855; is that
25 right?

51

01 A. Yeah.

02 Q. Okay. And then you traveled
03 inby towards survey station 2236?

04 A. Yeah.

05 Q. You with me? Get me there
06 again.

07 A. Then on up to 2156.

08 Q. And then you continued inby to
09 survey station 2156.

10 A. And then on to 3157.

11 Q. You made a right-hand turn and
12 you traveled to survey station 3157.

13 A. And over to 2236.

14 Q. And you traveled inby to
15 survey station 2236.

16 A. Down two breaks to 3192.

17 Q. Down to the right, two breaks
18 to survey station 3192.

19 A. And over to 3204.

20 Q. And then inby to survey
21 station 3204.

22 A. And that's basically where we
23 stopped at, because that boy was
24 standing at that door waiting to see
25 if anybody would come through the

52

01 doors or whatever. And we decided we
02 had to leave.

03 Q. Who was that miner?

04 A. I'm not real sure. It seems
05 to me like it was Joe Rhodes
06 (phonetic), but I'm not real sure, I
07 believe. But I don't know.

08 Q. Okay. And the miner was
09 standing at the door, the equipment
10 door, just inby survey station 3238?

11 A. Yeah.

12 Q. Did the door close?

13 A. Yes.

14 Q. What did you see in this area?

15 A. I seen the fresh air, you know

16 what I'm saying. It wasn't smoky.

17 There wasn't a lot of smoke, but ---.

18 Q. Where do you think the smoke

19 was going from that point?

20 A. My opinion, I'm saying smoke

21 was coming up through this way and it

22 was filling all this here.

23 MR. MURRAY:

24 He's indicated that the

25 smoke was traveling inby from

53

01 survey station 3249, which

02 would be near the tail area of

03 the 72-inch belt conveyer that

04 receives the coal from the

05 longwall belt.

06 BY MR. MURRAY:

07 Q. Do you know if there was

08 stopping in right here?

09 A. No. We usually --- I ain't

10 around that, you know what I'm

11 saying. Most of the time we come

12 through here and just go onto the

13 section. It's very rare to even get

14 around that six-foot beltline or

15 longwall belt, or ---.

16 Q. How do you think all that
17 smoke could have got out of this area
18 so quickly and contaminated the
19 intake?

20 A. I've been told, and this is
21 hearsay, not mine, that this stopping
22 was out.

23 Q. And the stopping that you're
24 pointing to is the stopping that
25 would have been inby the tailpiece of

54

01 the 72-inch belt, which is just inby
02 survey station 3249. Because you
03 traveled back inby on the 42-inch
04 belt toward the area that you made
05 the gas check, and you talked about
06 observing some smoke at this point.
07 Did you see any smoke laying in the
08 crosscuts as well?

09 A. No.

10 Q. Did you look?

11 A. I didn't really look, but you
12 know, it seems if it had been laying
13 there, it would have been smoky on
14 the beltline also.

15 Q. So why would you think that
16 this smoke would adhere into this
17 intake?

18 A. It was the only way it could
19 go, my opinion, you know what I'm
20 saying. Where else could it go? You
21 got your airflows coming up the
22 intake.

23 Q. Who told you this stopping was
24 out?

25 A. I really can't remember. Just

55

01 talk around the mines that that
02 stopping was not --- you know, out.

03 Q. And the stopping I'm referring
04 to is the stopping inby the tail of
05 the 72-inch belt, just for the
06 purposes of ---.

07 A. Right. Because they just put
08 in all this belt structure.

09 Q. The person that told you, did
10 they think that this stopping was
11 out?

12 A. Uh-huh (yes).

13 Q. Did they tell you before or
14 after the accident?

15 A. It seemed like after.

16 Q. So you learned about the
17 possibility of this stopping being
18 out after the 19th?

19 A. Right.

20 Q. And you talked about the

21 construction work and the
22 installation of the 72-inch belt, and
23 exactly where was that?

24 A. What do you mean, where all
25 the structure is?

56

01 Q. Yeah. Could you point that
02 out?

03 A. They've got structure all the
04 way down to where we cross over,
05 which I'm not real sure where that
06 is. But it runs all the way along
07 this way right here to all the way
08 right up in here, I guess. I'm not
09 real sure where it ends at.

10 MR. MURRAY:

11 Okay. So he's
12 indicated that the structure
13 is a continuation of the 72-
14 inch belt, and it travels in by
15 toward the Two section to ---.

16 A. I couldn't tell you where the
17 end of it is.

18 BY MR. MURRAY:

19 Q. Is it continuous, or are there
20 breaks in it?

21 A. Well, there was breaks in ---
22 because we cross over, under or

23 through it. I'm thinking right in
24 this area right here.

25 MR. MURRAY:

57

01 He's indicated that
02 there may be a break in the
03 structure between survey
04 station 3233 and survey
05 station 3309.

06 BY MR. MURRAY:

07 Q. The stopping that we keep
08 talking about at the tail of the 72-
09 inch structure, is there a
10 possibility that thing could have
11 been removed to facilitate the
12 installation of the 72-inch
13 structure?

14 A. Yeah. That's what I thought.
15 You know, when they told me, that's
16 what I figured they took it out for.

17 Q. So that may --- in your mind,
18 that makes sense of why it would be
19 missing?

20 A. Well, right, depending on
21 where they put in the structure,
22 that's --- I figured it was missing,
23 you know. And they told me it was.

24 Q. Okay. I guess we can sit down
25 now.

01 ATTORNEY BELL:

02 Mr. Hensley, would you
03 sign your name in the right-
04 hand corner of that map,
05 please, and date it?

06 MR. MURRAY:

07 And for the record,
08 we're going to refer to this
09 map that we've marked up as
10 Exhibit A.

11 (Exhibit A marked for
12 identification.)

13 A. And what else do you want on
14 it?

15 ATTORNEY BELL:

16 Put the date on there.

17 MR. MURRAY:

18 And Mr. Hensley has
19 certified the information by
20 his signature and date. Thank
21 you, Mr. Hensley.

22 BY MR. MURRAY:

23 Q. I'm going to try to catch up
24 with you now. Now, you told me a lot
25 of information, and I appreciate

01 that. I was following in my mind as

02 you talked, I could walk in your
03 shoes. But just for my own
04 information and clarification, you
05 guys went up onto the longwall as you
06 exited the mine.

07 A. Uh-huh (yes).

08 Q. How did you get to the
09 longwall?

10 A. We come straight down the
11 intake and went through the crossover
12 right there, through that area right
13 there.

14 Q. Okay. Is that --- we've
15 referred to that as Number Two cut-
16 through?

17 A. Yeah, I guess that's what they
18 call it. And we went through there
19 and went over to the longwall belt,
20 and I'm not real sure exactly where
21 at in that area.

22 Q. Were you walking?

23 A. Yes.

24 Q. Okay. Did you have to travel
25 through a door?

60

01 A. We went through them double
02 doors right there.

03 MR. MURRAY:

04 Okay. And Mr.

05 Hensley's indicated that as
06 they traveled to the longwall,
07 they traveled through the
08 double doors and the cut-
09 through, and it would be in
10 the middle entry, just inby
11 survey station 2495.

12 BY MR. MURRAY:

13 Q. So when you arrived up on the
14 longwall, were you up on the longwall
15 face area?

16 A. I'm not real sure where the
17 longwall's at, you know what I'm
18 saying. All we done was went over to
19 the beltline, you know what I'm
20 saying. As far as --- no, I didn't
21 see no shields or nothing, so I don't
22 know nothing about longwall.

23 Q. Okay. But you're actually
24 over on the longwall belt entry?

25 A. Right.

61

01 Q. Okay. Did you smell any
02 smoke?

03 A. No.

04 Q. Did you see any smoke?

05 A. No.

06 Q. What did you do when you got

07 there?

08 A. We was talking to Terry Shadd
09 and Dusty Dotson, and we decided to
10 block off all areas, all four
11 entries, you know, keep air from
12 going up to the mother drive belt.
13 So me and Terry Shadd and them went
14 and cut the longwall belt, dropped
15 the structure down, hung a curtain
16 across it while other people, you
17 know, hung curtain across the other
18 entries.

19 Q. Did you know how far inby that
20 angle that you hung those checks?

21 A. We went back up to here, back
22 in up toward the ---.

23 Q. Okay. You traveled in an
24 outby direction back toward the
25 mother drive?

62

01 A. Right.

02 Q. And do you know how far,
03 roughly, from this intersection?

04 A. I'm thinking, maybe a break
05 and a half, two breaks. Yeah, up in
06 that area. Yeah, probably right in
07 there.

08 Q. And you hung a check in each
09 entry?

10 A. Yeah. You know, I personally
11 only hung the one on the beltline
12 itself, but I did see one in the
13 other entry, but I'm not --- in the
14 other two entries, but I don't know
15 about the other one.

16 Q. Which entry don't you know
17 about?

18 A. The one where your finger's
19 at.

20 Q. So just for clarification, you
21 personally worked on the check in the
22 belt entry?

23 A. Right.

24 Q. And that check would have been
25 installed just inby survey station

63

01 3286 in the belt entry. And then you
02 personally observed the check in the
03 Number Two entry just inby survey
04 station 3287. And you personally
05 observed a check in the Number Three
06 entry, just inby survey station 3283.
07 And you're unsure ---?

08 A. I ain't got a clue about that.

09 Q. You're unsure whether there
10 was a check in the Number Four entry,
11 which would be just inby 3284?

12 A. Right. And I'm not real
13 positive if that's exactly where we
14 was at in that area, but it was
15 roughly that area.

16 Q. Okay. But it was definitely
17 on the outby side of this big
18 intersection where the three entries
19 from the cut-through intersects with
20 the ---

21 A. Right.

22 Q. --- longwall headgate entry?

23 A. Yes.

24 Q. And what was the purpose of
25 installing those checks?

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01 A. Trying to, you know, choke the
02 air down from the fire area, you know
03 what I'm saying. And keep --- you
04 know, the less airflow, you know, the
05 fire won't burn. Choke the air off
06 of it. And that's what we was trying
07 to do.

08 Q. Who directed you to install
09 those checks?

10 A. They was --- Terry Shadd was
11 up there and Dusty Dotson. That's
12 the ones, you know, decided we need
13 to do it.

14 Q. Which way was the air

15 direction in those entries?
16 A. I couldn't tell you. I was
17 not paying attention. It seems to me
18 like it was going outby or, you know,
19 up toward the mother drive head.

20 Q. It was going from the face
21 toward the mother drive?

22 A. Yes.

23 Q. And what was the thought
24 process again?

25 A. To choke the air away from the

65

01 fire, take the air away from the
02 fire.

03 MR. MURRAY:

04 Okay. For the record,
05 as Mr. Hensley described where
06 these checks were installed in
07 the three entries in the mine
08 headgate longwall, I indicated
09 them with a sideways S for the
10 purpose of clarification.

11 BY MR. MURRAY:

12 Q. Okay. Let's go back up into
13 the section for a second. And tell
14 me again how you learned of the order
15 to evacuate.

16 A. I think it was Joe Hunt who

17 come and told us that we had to leave
18 the section, there was a fire at the
19 mother drive.

20 Q. And do you know who told him?

21 A. Mike Plumley.

22 Q. Do you know who told Mike?

23 A. No. I know he was on the
24 phone with somebody, but I don't know
25 who exactly he was talking to.

66

01 Q. Did you personally speak with
02 anybody on the telephone?

03 A. No.

04 Q. Where was the mantrip located
05 up on the Two section?

06 A. I can show you on the map,
07 but ---.

08 Q. Go ahead.

09 A. Can I show you on the map?

10 Q. Sure. Yeah.

11 A. Where exactly when we got on?

12 Q. Yes.

13 A. In this area. Yeah, right in
14 that area.

15 Q. Here's the belt for the
16 section.

17 A. It was located about there.

18 Q. Right here?

19 A. Right there.

20 MR. MURRAY:
21 Okay. He's indicated
22 that the mantrip is located in
23 the northeast main, Number
24 Four entry, which would be
25 adjacent to the 48-inch belt

67

01 just outby survey station
02 4214.

03 A. That's 4212.

04 MR. MURRAY:

05 You have better eyes
06 than I do. I'm sorry. 4212.

07 BY MR. MURRAY:

08 Q. Tell me about the scene of the
09 assembly, the crew at that mantrip.

10 A. Well, I'm not --- we all got
11 on the ride. And the only two that
12 was not on the ride when we started
13 was Billy Mayhorn and Gary Baisden.
14 And we picked him up three breaks
15 outby, and then we told them there
16 was a fire at the mother drive. Then
17 everybody was all right.

18 Q. Who was driving the mantrip?

19 A. Me.

20 Q. Did you smell any smoke at
21 that time?

22 A. No.

23 Q. Did you see any?

24 A. No.

25 Q. Who decided what route of

68

01 travel to take to get out of the

02 mine?

03 A. I guess, I did, but I was

04 driving. When I stopped the bus, we

05 decided to go to the 48-inch

06 beltline.

07 Q. Who was --- who decided?

08 A. We all did, I guess.

09 Q. At what point did you start to

10 encounter smoke?

11 A. About, I'm going to say, three

12 breaks outby Ten headgate.

13 Q. Do you want to point?

14 A. Yeah. I'm going to say right

15 around this area right here.

16 Q. In this entry?

17 A. Yeah, Number Five entry.

18 Q. Okay.

19 MR. MURRAY:

20 Mr. Hensley's indicated

21 that his first encounter with

22 smoke was in the Five entry of

23 northeast main between survey

24 stations 3602 and 3591.

25 A. I could smell, you know,

69

01 probably in this area right here, but

02 I didn't see it until ---.

03 BY MR. MURRAY:

04 Q. Okay. I'm going to say

05 visible here?

06 A. Right.

07 Q. Okay. Where did you smell it?

08 A. I'm going to say probably

09 around in this area here.

10 Q. In this area, too?

11 A. Yeah, Number Five entry,

12 around this area.

13 Q. Where I'm pointing?

14 A. Yeah, probably.

15 MR. MURRAY:

16 Okay. He first smelled

17 smoke at survey station 3650

18 of the Number Five entry of

19 northeast main.

20 BY MR. MURRAY:

21 Q. Where did the smoke get thick

22 at?

23 A. Let's see here where I turned

24 at. It was pretty thick --- see,

25 where I turned at.

70

01 Q. Here's the borehole. Here's
02 the ---.

03 A. Right around this area right
04 here, got real thick and I turned the
05 mantrip up this entry and turned. It
06 was real thick in that area right
07 there.

08 Q. In the crosscut or in the ---?

09 A. Yes, in the crosscut. It was
10 not so thick that I couldn't see, but
11 when I rounded the corner, it was so
12 thick I couldn't see my hand in front
13 of my face.

14 MR. MURRAY:

15 Okay. Mr. Hensley's
16 indicated that he made a
17 right-hand turn as he's
18 traveling outby at survey
19 station 3547 and traveled from
20 the Number Five entry to the
21 Number Four entry and as he
22 made that right-hand turn, he
23 observed thicker smoke in the
24 crosscut between the Number
25 Four and the Number Five

71

01 entry. And this would be
02 between survey stations 3546
03 and 3547.

04 BY MR. MURRAY:

05 Q. Okay. Could you tell me what
06 you saw whenever you made the turn
07 into the Number Four entry at survey
08 station 3546?

09 A. Very thick smoke. I mean,
10 probably visibility two feet, two,
11 three feet.

12 Q. When the mantrip made it to
13 this intersection, what happened
14 then?

15 A. I stopped, shut it off and we
16 all got out. I think right here is
17 where we donned the rescuers. And I
18 couldn't see the manbus, so I
19 couldn't tell you how far I was from
20 it. You know, I might be from here
21 to that corner over there. And we
22 donned our rescuers.

23 MR. MURRAY:

24 I've indicated that
25 they parked the manbus right

72

01 at survey station 3546 on the
02 map. And Mr. Hensley has
03 indicated that the
04 self-rescuers were donned in
05 the area between 3546 and

06 3537.

07 BY MR. MURRAY:

08 Q. Is there a reason why you made
09 this right-hand turn here? Is that
10 your normal route of travel?

11 A. Oh, there's a stopping. Yeah,
12 that's the normal route of travel.

13 Q. Can you walk me through your
14 route of travel from where you get on
15 the mantrip at the section?

16 A. Come over that --- turn down
17 the hill, come straight in.

18 Q. Okay.

19 MR. MURRAY:

20 So he's ---.

21 A. I went up a break from it.

22 MR. MURRAY:

23 Okay. So his route of
24 travel would have been from
25 where the mantrip was parked,

73

01 he would have traveled inby in
02 the Number Four entry towards
03 survey station 4212.

04 A. Right there.

05 MR. MURRAY:

06 Made a right-hand turn
07 towards survey station 4228,
08 4228.

09 A. And then went outby.

10 MR. MURRAY:

11 And then went outby in
12 the Number Five entry toward
13 survey station 4227.

14 A. Right. All the way down.

15 MR. MURRAY:

16 And then continued
17 outby in the Number Five entry
18 until he got to survey station

19 ---

20 A. 3547.

21 MR. MURRAY:

22 --- 3547. I've
23 indicated the route of travel
24 with a series of red arrows.

25 BY MR. MURRAY:

74

01 Q. Okay. That gets us to where
02 we're at. This route that we just
03 described there, is that your primary
04 escapeway?

05 A. Yeah. Number Four --- Number
06 Four and Number Five entry both. And
07 Number Four is primary escapeway, but
08 we always just went down Number Five.

09 Q. Is it marked? Is it marked?

10 A. What with reflectors?

11 Q. How is it marked, if you can
12 describe?
13 A. Yeah, it's marked with
14 reflectors, visible reflectors.
15 Q. And as the driver of the
16 mantrip, how do you know which way to
17 travel?
18 A. I don't understand that
19 question.
20 Q. You're the operator of the
21 mantrip?
22 A. Right.
23 Q. How do you know which way to
24 --- how do you know when to turn
25 right and when to go straight and

01 ---?
02 A. I just do, I do it every day,
03 you know what I mean? You just know.
04 I mean, I know the road, you know.
05 Q. Is it marked in any way?
06 A. As far as --- I'm not
07 understanding.
08 Q. Is it marked in any way for
09 you to understand which route that
10 the roadway would be on?
11 A. No.
12 Q. Okay. When you left the
13 mantrip, it's parked and you exited

14 the mantrip, who made the decision to
15 don the SCSRs?

16 A. We all said put on your
17 rescuers. I mean, you know what I'm
18 saying? It wasn't on one person, you
19 know. You know, everybody said,
20 let's put on our rescuers.

21 Q. Did you know where Don Bragg
22 was at that time?

23 A. No.

24 Q. How do you think Mr. Bragg got
25 separated from the group?

76

01 A. Panic. I mean, knowing, you
02 know, he's a little edgy anyways and
03 he panicked and took off. You know,
04 I didn't see him, so you know, I ---
05 but my opinion of him, he panicked
06 and took off.

07 Q. Do you know if he was having
08 any trouble putting his SCSR on?

09 A. Couldn't tell you. Like I
10 said, didn't see him. You know, I
11 don't know.

12 Q. Do you know where Mr. Hatfield
13 was at that time?

14 A. Yeah, he was right beside me.

15 Q. Was he having any trouble

16 putting his SCSR on?

17 A. Yeah. Well, yeah. You know
18 like I said earlier, you know, the
19 last thing I heard him say was how
20 the F do you get this thing on.

21 Q. Do you know if he ever got it
22 on?

23 A. He shut up so I took that he
24 had it on. I don't know.

25 Q. How do you think he got

77

01 separated from the group?

02 A. Panic. You know, I couldn't
03 tell you.

04 Q. Did you have any trouble
05 putting your SCSR on?

06 A. No. You know, we just had
07 retraining the Saturday before and
08 you know, they put us in a room with
09 lights out and had us don our
10 rescuers, you know. I didn't have no
11 trouble with it.

12 Q. And when was the first time
13 that you realized that Mr. Bragg and
14 Mr. Hatfield were missing?

15 A. When we went over on the
16 48-inch belt line. I mean, we took a
17 head count and they was gone.

18 Q. Do you know what caused the

19 fire?

20 A. They said --- this was from

21 Bryan Cabell, said that a dolly

22 cocked sideways on the storage unit

23 and it caught on fire. You know, as

24 far as that, I ain't got a clue.

25 Q. Did you ever travel the

78

01 primary escapeway from the Number Two

02 section for any other reason,

03 escapeway drill or ---?

04 A. Well, yeah, we done escapeway

05 drills, you know. I don't know, they

06 do them pretty regular. Me

07 personally, usually the crew, you

08 know, we'll split up and some of us

09 will walk the primary escapeway, but

10 90 percent of the time we're in the

11 primary escapeway riding. And then,

12 you know, once we leave for the

13 primary escapeway, they've walked it

14 out.

15 Q. Did you ever notice any pipes

16 or holes in stoppings or anything

17 along this primary escapeway?

18 A. I don't pay no attention. I

19 can't say for a fact, you know what

20 I'm saying?

21 Q. Back to this longwall, when we
22 talked about hanging these curtains
23 to keep the fire off the --- or keep
24 the air off the fire, do you know if
25 they hung any curtains in these

79

01 cut-throughs to help reduce airflow?

02 A. Couldn't tell you.

03 Q. Do you maintain an escapeway
04 map up on the section?

05 A. Yes.

06 Q. Where is it at?

07 A. Power box.

08 Q. When was the last time you
09 looked at it?

10 A. I'm going to say a week before
11 that happened.

12 Q. What about on the surface, is
13 there a location outside?

14 A. Yeah, there's maps everywhere.
15 Everywhere.

16 Q. Where would the escapeway map
17 on the surface area be posted for you
18 guys to see?

19 A. Well, we got one right where
20 we all gather every day, you know
21 what I'm saying? It's on a big
22 table.

23 Q. And this big table, is that

24 --- is that downstairs?

25 A. Yes.

80

01 Q. Before you'd walk out ---?

02 A. Right where we check in, check
03 out.

04 Q. Oh, okay. Right in the
05 check-in, check-out board?

06 A. Right.

07 Q. And where's this map located
08 on that table?

09 A. Right in the middle of it. I
10 mean, it's on top of it, you know
11 what I'm saying, laid out. It's
12 plastic Plexiglas or something on top
13 of it.

14 Q. Okay. What's that table for,
15 I guess? I know which table you're
16 talking about. It's kind of right in
17 the middle of the area.

18 A. Yeah.

19 Q. What's the table, itself, used
20 for, other than to hold the map under
21 the Plexiglas?

22 A. We set our dinner buckets and
23 stuff on it when we come in. I mean,
24 I don't know what else it's used for.

25 Q. Is there normally food or

01 anything like that on it or ---?

02 A. Well, yeah, I've seen food on
03 it.

04 Q. Okay. When you --- back to
05 the escapeway drill, could you show
06 me on the map where the primary
07 escapeway is, which may be different
08 than your route of travel?

09 A. Yeah. Leaving the section?

10 MR. MURRAY:

11 Okay. I'm going to ---
12 I have a blue pen that I'm
13 going to mark the primary
14 escapeway with as he talks.

15 A. Number Three entry.

16 MR. MURRAY:

17 Okay. He's traveling
18 outby in the Number Three
19 entry of the Two section
20 towards survey station 42 ---

21 A. Twelve (12).

22 MR. MURRAY:

23 Does it go all the way
24 to here?

25 A. Yeah.

01 MR. MURRAY:

02 Towards survey station

03 4212. Okay.

04 A. All the way down to Number
05 Four.

06 MR. MURRAY:

07 And he's making a
08 left-hand turn at survey
09 station 4212 and he's
10 traveling outby in the Number
11 Four entry of the Northeast
12 main section.

13 A. All the way down. All the way
14 down to --- I want to say, it comes
15 straight down. See where I'm at
16 here? All the way down to a
17 overcast, which is right here. Come
18 across the overcast.

19 MR. MURRAY:

20 Down here?

21 A. Right, come down.

22 MR. MURRAY:

23 Okay. He's traveling
24 in this Number Four entry of
25 Northeast main in an outby

83

01 direction all the way to
02 survey station 3211. And I've
03 indicated that route of travel
04 with a blue pen in arrows

05 pointing in an outby
06 direction. And at survey
07 station 3211, he makes a
08 left-hand turn, which actually
09 brings him in an inby
10 direction towards survey
11 station 3210.

12 A. Right. Across the overcast.

13 MR. MURRAY:

14 Over the top?

15 A. Yeah.

16 MR. MURRAY:

17 Okay. Then he crosses
18 the overcast, which isolates
19 the 72-inch belt and travels
20 towards survey station 3238.

21 A. Right. And then outby the
22 same way.

23 MR. MURRAY:

24 Then he makes a
25 right-hand turn in the outby

84

01 direction towards survey
02 station 3204.

03 A. To 3192.

04 MR. MURRAY:

05 Continues outby to
06 3192.

07 A. Back up the hill.

08 MR. MURRAY:
09 And then turns, makes a
10 right-hand turn and travels up
11 toward survey station 2236.
12 A. Really, it goes like this.

13 MR. MURRAY:
14 And then travels one
15 more block inby survey station
16 2236 and makes a left-hand
17 turn toward survey station
18 2156.

19 ATTORNEY HEATH:
20 Kenny, wouldn't that be
21 outby?

22 MR. MURRAY:
23 He makes a left-hand
24 turn ----.

25 ATTORNEY HEATH:

85

01 No, you said from this
02 --- that point, you said inby,
03 you're actually going to go
04 outby.

05 MR. MURRAY:
06 Okay. So when he's at
07 survey station 3192, he makes
08 a right-hand turn and travels
09 in an outby direction towards

10 survey station 2236, continues
11 outby for one more block and
12 makes a left-hand turn towards
13 survey station 2156.
14 A. On over to here.
15 MR. MURRAY:
16 This one?
17 A. Yeah, right here, Number Four.
18 MR. MURRAY:
19 Okay. Continues outby
20 past survey station 2855, and
21 continues ---
22 A. And come down.
23 MR. MURRAY:
24 --- one block outby
25 survey station 2855 and then

01 makes a left-hand turn to
02 travel toward survey station
03 2842.
04 A. Then a straight shot.
05 MR. MURRAY:
06 And then continues in
07 that entry, which would be the
08 A. Four.
09 MR. MURRAY:
10 --- Number Four entry
11 of north main ---
12 A. Yeah.

13 MR. MURRAY:
14 --- and travels the
15 rest of the distance out of
16 the mine.
17 BY MR. MURRAY:
18 Q. Okay. In the underground mine
19 workings, is there something that
20 would indicate this direction that
21 you just described to me? Is there
22 physical markers?
23 A. Green reflectors.
24 Q. Green reflectors would ---?
25 A. Coming out, red going in,
87
01 saying you're going the wrong way,
02 you know. Not supposed to happen.
03 Q. So if I'm traveling in an
04 outby direction, I would see green
05 reflectors the entire route that you
06 just described?
07 A. Yeah.
08 Q. Okay. While I've got this red
09 pen, we'll tie in your route of
10 travel on January 19th. You exited
11 the manbus and you talked about
12 traveling inby --- or I'm sorry ---
13 A. Out.
14 Q. --- traveling outby in the

15 Number Four entry toward survey
16 station 3228. You continued
17 traveling outby one more block and
18 you entered the 42-inch belt entry
19 --- or 48-inch belt entry through a
20 door on into the belt entry at survey
21 station 3230.

22 A. Right.

23 Q. Traveled outby in the 48-inch
24 belt entry. You exited the belt ---
25 the 48-inch belt entry at survey

88

01 station 2859.

02 A. Correct.

03 Q. We already indicated what
04 route that you traveled to go up to
05 the mother drive. Now, how did you
06 get to the longwall?

07 A. I come straight down Number
08 Five entry walking.

09 Q. This entry?

10 A. Yes.

11 Q. Okay. So you retreated back
12 to that door?

13 A. Right.

14 Q. From the mother drive?

15 A. We met the longwall crew right
16 there.

17 Q. Right here?

18 A. Down one.
19 Q. Right here?
20 A. Yeah, right in that area.
21 Q. Okay.
22 A. And at this time, Terry Shadd
23 and Dusty Dotson got up there.
24 Q. Okay.
25 A. And then we decided, you know,

89

01 that we was going to go try to cut
02 off the air to it and went over
03 there, too.
04 Q. Did you pick up any self-
05 rescuers or anything up on this?
06 A. It wasn't then. But now when
07 we --- after we got done, they had
08 went up on the longwall face and got
09 their rescuers that they keep. I
10 don't know nothing about the longwall
11 so I couldn't tell you. And I got
12 another rescuer out of their box and
13 put it back on my side and then we
14 exited the mine.
15 Q. How did you exit the mine from
16 here?
17 A. I went back same way we came
18 over to there and they had mantrips,
19 a couple mantrips, sitting there and

20 we got on and come straight down

21 Number Four entry.

22 Q. Would that have been in this

23 entry?

24 A. Yeah.

25 Q. At this point here, you ---

90

01 there was a mantrip?

02 A. Right. They had three or four

03 rides there.

04 Q. Tell me again where you met

05 the mantrip --- or met the longwall

06 crew.

07 A. It was right there, right

08 around where your pen's at there, in

09 that intersection outby there, right

10 there, they was standing there.

11 Q. Okay. So you met the longwall

12 crew ---.

13 A. Met on down one.

14 Q. Right here?

15 A. Right there, right in that

16 area.

17 Q. Okay. So that would have been

18 in the north main?

19 A. Number Five entry.

20 Q. Number Five entry. That's

21 actually between survey stations 2492

22 and 2495. Is there more than one

23 entry that comes out of northeast
24 mains that would be marked with green
25 reflectors?

91

01 A. I don't know if Number Five
02 --- Number Four. I know Number Four
03 has reflectors. I've never really
04 paid attention to Number Five, you
05 know what I mean? Yeah, it does,
06 Number Five does have it.

07 Q. But you haven't indicated
08 coming into Number Five with your
09 primary escapeway?

10 A. Do what now?

11 Q. You haven't indicated when we
12 talked about traveling primary
13 escapeway, coming into Number Five?

14 A. Right. Right. But I mean,
15 it's got reflectors in it, and Number
16 Four and Number Five both have them.

17 Q. If I was up on the Number Two
18 section for the first time, and
19 somebody told me that if you need to
20 exit the mine in an emergency
21 situation and follow the primary
22 escapeway, how would I know which
23 entry to follow if both entries were
24 marked?

25 A. If it was me, I'd probably

92

01 come in the same way --- I'd go out
02 the same way I came in. You know, I
03 don't know.

04 Q. Is it common to have more than
05 one entry marked with reflectors,
06 green reflectors?

07 A. I don't know. You know what
08 I'm saying? It's the first time, you
09 know what I'm saying, that we've had
10 that many intakes? You know what I'm
11 saying, as far as common area.

12 Q. Are all these entries common?

13 A. No. I don't know exactly how
14 they have it now, but I know Four and
15 Five are supposed to be intake coming
16 up to the section. You know, as far
17 as I ain't real sure what all they
18 done. Couldn't tell you.

19 Q. When you were on your way out
20 of the mine, did anyone stop to make
21 a phone call?

22 A. No. I don't think. I really
23 can't remember.

24 Q. The talk around the mine about
25 this stopping at the tail of that

93

01 72-inch structure being out, was this

02 something that came up in a
03 discussion because somebody
04 remembered it afterwards, that it
05 wasn't there or did somebody actually
06 see that it wasn't there? How did
07 this discussion ---?

08 A. I ain't real sure. We was
09 discussing how the smoke got to us so
10 fast, and one of them said --- and I
11 ain't real sure if they knowed it for
12 a fact or what. Said that that
13 stopping was out. And my opinion, it
14 come up by the mother drive here and
15 straight up the six-foot belt.

16 Q. Who told you that? Who told
17 you that stopping was out?

18 A. I can't remember who it was.

19 Q. More than one person?

20 A. Can't remember that neither.

21 Q. Are you aware of any other
22 fires that occurred at this mine?

23 A. No.

24 Q. Are you aware of any incident
25 that may have involved flames that

94

01 the company wasn't --- or wasn't ---
02 didn't declare as being a fire
03 because of the duration?

04 A. No. I've heard of rollers
05 smoking up, you know, but never
06 flames or fire.

07 Q. Did anybody ever talk about
08 having to put these rollers that you
09 talk about smoking up, having to use
10 some type of a extinguisher or a
11 waterline or something to cool them
12 off or to put this ---?

13 A. No, just the day of the fire
14 was the day to put fire
15 extinguishers, used fire
16 extinguishers down there, but you
17 know other than that, no.

18 Q. Anybody talk about using water
19 down there that day on that fire?

20 A. Not that I can remember, no.

21 Q. As you drive the mantrip up
22 onto Two section, you talk about
23 passing through those equipment doors
24 at the mother drive.

25 A. Uh-huh (yes).

95

01 Q. Were there any other doors
02 that you'd ever have to go through,
03 other than those equipment doors at
04 Two drive --- or I'm sorry, at the --
05 ---?

06 A. Down at the Number One four

07 way you go through another set of
08 doors.
09 Q. This is way outby the north
10 main?
11 A. Yeah, right.
12 Q. Okay.
13 A. But that's the only set of
14 double doors that you go through to
15 get to Two section.
16 Q. Did you have to walk in any
17 water, as you were walking outby that
18 particular day?
19 A. No. But now when we was
20 hanging the curtain, there was water
21 coming down that longwall belt
22 gushing like a waterline busted or
23 something, you know what I'm saying?
24 Q. What happened to your SCSR
25 that you used that day?

96

01 A. I left it laying on the rib up
02 there.
03 Q. Whereabouts?
04 A. Right around where we met the
05 longwall crew.
06 Q. At the Number Five entry?
07 A. Yeah, on the corner.
08 Q. What do you think could have

09 been done to prevent this accident?

10 A. I couldn't tell you. In my
11 opinion, I don't know. Accidents are
12 accidents, you know. I don't know
13 how it could have been prevented.

14 Q. Do you think it could have
15 been prevented?

16 A. I don't know. I mean, you
17 know what I'm --- I don't know.
18 Couldn't tell you.

19 Q. Is there anything else you'd
20 like to tell us regarding what
21 happened?

22 A. No, nothing I can think of.

23 MR. MURRAY:

24 Mr. Farley?

25 BY MR. FARLEY:

97

01 Q. As you were leaving, leaving
02 the section, after you learned of the
03 fire, did Plumley, the foreman, tell
04 you anything in particular when you
05 had started out, give you any
06 specific instructions or anything at
07 all?

08 A. No.

09 Q. Okay. What was the overall
10 mood of the crew at that point?

11 A. We was --- well, this is what

12 Billy Mayhorn told me, because I was
13 driving, I couldn't tell you. He
14 said, they was just laughing, joking,
15 carrying on, you know, because we
16 honestly did not think that it was a
17 fire of that magnitude. You know,
18 they didn't say be prepared, you
19 know. They just said, you know, fire
20 at the mother drive.

21 Q. But you don't --- you don't
22 know who said that?

23 A. No. Mike Plumley was telling
24 us.

25 Q. Well, I guess when did it dawn

98

01 on you and everyone else that, hey,
02 we've really got a serious problem?

03 A. I'd say when I realized we
04 really had a problem was when I went
05 to turn out of Number Five and Number
06 Four.

07 Q. Okay. As you were driving out
08 towards that point, when you first
09 smelled the smoke or --- and then
10 when you first saw the smoke, did you
11 or anybody else give any --- give any
12 thoughts to stopping?

13 A. No.

14 Q. Now, we know you encountered
15 the heavy smoke and you stopped.
16 Now, did you or Plumley or anybody in
17 the crew give any thought to
18 retreating back in the direction you
19 came from?

20 A. Well, you know, I kicked
21 myself in the rear end a thousand
22 times why I didn't stop. But you
23 know, I did not know it was a fire of
24 that magnitude.

25 Q. Okay. I know hindsight is

99

01 crystal clear, but --- did anybody
02 make mention of the --- or suggest
03 that you retreat at that inby, that
04 you guys retreat?

05 A. I didn't hear nobody.

06 Q. Okay. When you got down to
07 that fire area, did you see anybody
08 putting water on it?

09 A. I did not go exactly to the
10 fire area. You know, I just went to
11 that double door.

12 Q. Okay. All right. When you
13 ran into Terry Shadd and Dusty
14 Dotson, did they make any comments
15 about the fire? Did they say
16 anything ---

17 A. Uh-uh (no).

18 Q. --- specific?

19 A. They asked if everybody was

20 there.

21 Q. Okay. From the Two section

22 headed outby, who normally would take

23 care of that route? Who would

24 normally do the cleaning on it?

25 A. You're talking about the 48-

01 inch belt line?

02 Q. Yes, sir.

03 A. The section crew was cleaning

04 it before, you know, but I guess the

05 belt manager. I guess, Hudell

06 (phonetic) or somebody, I don't know.

07 Q. Okay. Have you guys ever had

08 to stop production on the Two section

09 to clean the belts outby the section?

10 A. Yeah.

11 Q. When was the last time you had

12 to do that?

13 A. I can't remember exactly. It

14 ain't been long ago.

15 Q. Okay.

16 A. It was when we was driving Ten

17 headgate down.

18 Q. Okay. Now, when you and the

19 Two Right crew finally left the mine,
20 you know, after you met the longwall
21 crew and you left the mine at that
22 point, did anybody stay in to fight
23 the fire that you know of?
24 A. Yeah, Terry Shadd was in
25 there, I don't know, you know, if

101

01 they was fighting the fire, they was
02 trying to fight the fire or whatever.
03 Terry Shadd and Dusty Dotson, Fred
04 Horton, maybe somebody else there,
05 but I can't remember exactly who it
06 was.

07 Q. Okay. When you guys have your
08 safety meetings at the mine, where do
09 you normally have them?

10 A. Downstairs where I was talking
11 about, at the table where the
12 escapeway plan is, that's usually
13 where we have them.

14 Q. Okay. That's before you leave
15 the office?

16 A. Right, before we even ---.

17 Q. It's in the office; right?

18 Okay. I know where you're talking
19 about. Do you have a foreman
20 certification?

21 A. No.

22 Q. When you and Plumley and I
23 believe it was Hunt, when you went
24 back up the 48-inch belt and you were
25 going to go looking for Bragg and

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01 Hatfield and you made the --- you got
02 an instrument to make a gas check.
03 What kind of instrument did you have?

04 A. It was one of the new ones,
05 but I'm not real sure what they're
06 called. They test for --- I can tell
07 you what they test for, carbon
08 monoxide, oxygen, methane and
09 hydrogen sulfide I think.

10 Q. Okay. I asked you previously
11 about have you ever had to come off a
12 section to clean a belt. What did
13 you have to do when you came off a
14 section to clean that? What
15 specifically, what location?

16 A. The whole 48-inch belt line
17 from Number One 48-inch head where it
18 dumps on six-foot belt, they wanted
19 it all shoveled, cleaned and level.

20 Q. Okay. Now, we've been talking
21 about this stopping right here
22 between survey station 3266 and 3249.
23 When you heard someone say that that

24 stopping was out, do you have any
25 recollection at all of who might have

103

01 told you that?

02 A. No.

03 Q. Do you recall where you might
04 have been at the time?

05 A. No.

06 Q. Okay. When you put your
07 Self-Contained Self-Rescuer on after
08 you got off the mantrip, did you put
09 your goggles on, too?

10 A. No. I lost mine when I, you
11 know, popped the bottom off, I didn't
12 --- because I didn't kneel down when
13 I put it on, you know, when I popped
14 the bottom off, they hit the ground.

15 Q. Okay. Well, when you guys ---
16 after you got all your rescuer stuff
17 on and you went down past the cribs
18 and into the door, how did you travel
19 that entry --- down that entry?

20 A. I was walking the rib.

21 Q. Which side?

22 A. The upper side, the right-hand
23 side as you're going outby.

24 Q. Okay. Were you like holding
25 onto each other or what?

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01 A. Yeah. Well, as far as
02 everybody else, I don't know, but I
03 know Billy Mayhorn and Blue Mayhorn,
04 or Elmer Mayhorn, was right with me.

05 Q. Okay. Did you help anybody
06 else put their rescuer on?

07 A. No.

08 Q. When you put your rescuer on,
09 did you use the nose clip?

10 A. Yeah.

11 Q. What do you think we could
12 have done to prevent these
13 fatalities?

14 A. I don't know, you know what I
15 mean? I couldn't tell you. I mean,
16 ---.

17 Q. When we first started your
18 interview here, I got fouled up on
19 your home address. You say you live
20 in Chapmanville?

21 A. Yes.

22 Q. Whereabouts in Chapmanville
23 do you live?

24 A. It's outside Chapmanville,
25 it's called Browns Run Road.

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01 Q. I know where that is.

02 A. Up ---?

03 Q. My dad grew up there.

04 A. Oh, okay. That's where I live
05 at.

06 Q. Okay. That would be ---?

07 A. Hill Top Trace Mountain.

08 Q. Okay.

09 MR. FARLEY:

10 I don't think I have
11 anything else.

12 MR. MURRAY:

13 Okay. Mr. Heath, did
14 you have anything that you
15 wanted to clarify?

16 ATTORNEY HEATH:

17 No further --- no
18 clarifying questions.

19 MR. MURRAY:

20 Mr. Hensley, did you
21 have anything you wanted to
22 add?

23 A. No. I'd like to know what
24 happened. I know you all would like
25 to know what happened. I'd like to

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01 know what happened also.

02 ATTORNEY HEATH:

03 Kenny, I should also
04 state, today he had asked me
05 about getting a copy of this

06 transcript and I related what
07 you all said with the first
08 witness, that you all were
09 refusing to do that. So he's
10 aware of that.

11 MR. MURRAY:

12 At the end of the
13 investigation, we'll make
14 those available, but while the
15 investigation is open, we
16 think that for the --- in the
17 best interest of the
18 investigation, it's very
19 important to hold this closed.

20 A. Okay.

21 MR. MURRAY:

22 Mr. Hensley, we really
23 appreciate you coming out here
24 today. And I know times are
25 tough, but we really

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01 appreciate you coming out here
02 and sharing what information
03 you have. It's been very
04 helpful. It will be very
05 useful.

06 We'd ask that you not
07 discuss your interview today

08 with any person who may have
09 already been interviewed or
10 who may be asked to give a
11 statement in the future. This
12 will ensure that we obtain
13 everyone's independent memory
14 of the events surrounding the
15 accident.

16 After questioning other
17 witnesses and obtaining
18 additional information and we
19 better understand what
20 happened, we may ask you to
21 come back for further
22 questioning. We would
23 appreciate your cooperation.

24 A. That's fine.

25 MR. MURRAY:

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01 If at some point after
02 you leave here today, you
03 think of something that we
04 failed to ask you or there's
05 some additional information
06 you think may help us, feel
07 free to contact either me or
08 my staff assistant, Anthony
09 Webb, the gentleman that
10 called you. Here's our

11 contact information.

12 A. Okay. Thank you.

13 MR. MURRAY:

14 And the Mine Act
15 provides certain protection
16 for individuals who
17 participate in accident
18 investigations. If at any
19 time you believe that you have
20 been treated unfairly because
21 of your cooperation in this
22 investigation, give us a call.

23 A. Okay.

24 MR. MURRAY:

25 You're protected under

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01 the Mine Act. And again, we
02 really appreciate you coming
03 in here. We need this
04 information.

05 A. I'm just glad to help.

06 MR. FARLEY:

07 Go ahead.

08 A. I'd just be glad to help.

09 MR. FARLEY:

10 State regulations offer
11 the same protections.

12 A. Okay.

13

MR. FARLEY:

14

If you think of

15

anything else you need to talk

16

to us about.

17

MR. MURRAY:

18

Okay. Thank you.

19

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EXAMINATION CONCLUDED AT 12:51 P.M.

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