

01 EXAMINATION UNDER OATH
02 OF
03 CHARLES BRADLEY JUSTICE
04
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 the Department of
11 Environmental Protection, 1101 George
12 Kostas Drive, Logan, West Virginia on
13 Wednesday, March 15, 2006, at 1:12
14 p.m.

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

02

03 CHARLES W. POGUE

04 CMS&H Inspector (Roof Control)

05 Mine Safety & Health Administration

06 District Two, Technical Division

07 259 Dunn Station Road

08 Prosperity, PA 15329

09

10 WILLIAM TUCKER

11 Assistant Inspector at Large

12 West Virginia Office of Miners'

13 Health, Safety & Training

14 142 Industrial Drive

15 Oak Hill, WV 25901

16

17 KEITH E. BELL, ESQUIRE

18 U.S. Department of Labor

19 Office of the Regional Solicitor

20 1100 Wilson Boulevard

21 22nd Floor West

22 Arlington, VA 22209-2247

23

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25

3

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

02

03 ALSO PRESENT:

04 ANTHONY L. BURKE

05 ARLIE A. WEBB
06 RONALD W. STAHLHUT
07 MICHAEL FINNIE
08 E. EUGENE WHITE
09 STEVE COX
10 C.A. PHILLIPS
11 BETH SPENCE
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01 I N D E X

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03 WITNESS: CHARLES BRADLEY JUSTICE

04 QUESTIONS

05 By Mr. Pogue 15 - 92

06 By Mr. Tucker 92 - 105

07 By Mr. Pogue 105 - 113

08 CERTIFICATE 118

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01 EXHIBIT PAGE

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03 NUMBER DESCRIPTION IDENTIFIED

04 A Mine Map 37

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

02 -----

03 MR. POGUE:

04 My name is Charlie
05 Pogue. I represent the Mine
06 Safety & Health
07 Administration, which is an
08 agency of the United States
09 Department of Labor. I'm a
10 member of the MSHA accident
11 investigation team that's in

12 charge of investigating the
13 accident that occurred at the
14 Aracoma Coal Company, Inc.
15 Aracoma Alma Mine Number One
16 on January the 19th, 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 questions for MSHA in
22 today's interview.

23 With me here today are
24 other members of MSHA's team
25 and the State team. MSHA's

7

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

08 ATTORNEY BELL:

09 Keith Bell, Solicitor's
10 Office, Arlington, Virginia.

11 MR. WEBB:

12 Anthony Webb in
13 District Six, Pikeville,
14 Kentucky.

15 MR. STAHLHUT:
16 Ron Stahlhut, MSHA,
17 Vincennes, Indiana.

18 MR. FINNIE:
19 Mike Finnie, MSHA,
20 Madisonville, Kentucky.

21 MR. BURKE:
22 I'm Tony Burke, MSHA,
23 Whitesburg, Kentucky.

24 MR. JUSTICE:
25 I know them two.

8

01 MR. POGUE:
02 Here with me today
03 representing the State of West
04 Virginia is Mr. Bill Tucker.
05 Mr. Tucker will be asking the
06 questions for the State. At
07 this time, I would ask Mr.
08 Tucker to introduce the
09 members of the State team who
10 are here today.

11 MR. TUCKER:
12 I have a brief
13 statement I need to read for
14 the record, Brad.

15 The West Virginia
16 Office of Miners' Health,

17 Safety & Training is
18 conducting this interview
19 session jointly with MSHA. We
20 are in agreement with the
21 procedures outlined by Mr.
22 Pogue. However, let me make
23 it clear that the Director
24 reserves the right, if
25 necessary, to call or subpoena

9

01 witnesses or require the
02 production of any record,
03 document, photograph or other
04 relevant materials necessary
05 to conduct this investigation.

06 We do appreciate you
07 coming in today. And I'm Bill
08 Tucker. I work out of Region
09 Four in Oak Hill.

10 MR. PHILLIPS:

11 How are you doing,
12 Brad? C.A. Phillips, Deputy
13 Director, Miners' Health,
14 Safety and Training,
15 Charleston, West Virginia.

16 MR. WHITE:

17 Eugene White, District
18 Inspector, Region Three,
19 Danville.

20 MR. COX:
21 Steve Cox, Region
22 Three, Danville.

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

22 future. Information obtained
23 through witnesses interviewed
24 is frequently included in
25 these reports. Your statement

11

01 may also be used in other
02 enforcement proceedings.

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

14 This interview with
15 Brad Justice is being
16 conducted under Section 103(a)
17 of the Federal Mine Safety &
18 Health Act of 1977 as part of
19 the investigation by the Mine
20 Safety and Health
21 Administration into the
22 conditions, events and
23 circumstances surrounding the
24 fatalities that occurred at

25 the Aracoma Alma Mine Number

12

01 One, located on Route 17
02 North, Bandmill Hollow Road,
03 Stollings, West Virginia
04 25646.

05 This interview is being
06 conducted at the Department of
07 Environmental Protection in
08 Logan, West Virginia, on March
09 the 15th, 2006, at 1:15 p.m.
10 in the afternoon.

11 Mr. Justice, the
12 interview will begin by asking
13 you a series of questions.
14 Feel free at any time to
15 clarify any statement that you
16 make in response to the
17 questions. After we have
18 finished asking the questions,
19 you will have an opportunity
20 to make a statement of your
21 own and provide us with any
22 other information that you
23 believe may be important.

24 You are permitted to
25 have a representative with you

13

01 during this interview and you
02 may consult with your
03 representative at any time.
04 You may designate any person
05 to be your representative.
06 Following the questions by
07 MSHA and the State, this
08 representative will be given
09 an opportunity to ask
10 questions for the purpose of
11 clarification or other --- on
12 the areas already discussed.

13 Your statement is
14 completely voluntary. You may
15 refuse to answer any question
16 that you may end your ---.
17 Let me start that over. You
18 may refuse to answer any
19 question and you may end your
20 interview at any time. If you
21 do not understand a question,
22 tell me and I will rephrase
23 the question. If you need a
24 break for any reason, please
25 let me know.

14

01 You may request the
02 opportunity to make a
03 confidential statement, which

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

13 A court reporter will
14 record your interview and will
15 later produce a written
16 transcript of the interview.

17 I ask that you state all your
18 answers verbally, because the
19 court reporter cannot record
20 your gestures, like nodding of
21 your head.

22 If any part of your
23 statement is based not on your
24 firsthand knowledge, but on
25 information that you've

15

01 learned from someone else,
02 please let us know. Please
03 answer each question as fully
04 as you can, including any
05 information that you learned

06 from someone else. We may not
07 ask the right question to
08 learn the information you
09 have, so do not feel limited
10 by the precise question asked.
11 If you have information about
12 the subject area of a
13 question, please provide us
14 with that information.

15 Do you have any
16 questions about the manner in
17 which the interview will be
18 conducted?

19 MR. JUSTICE:

20 No.

21 -----

22 C. BRAD JUSTICE, HAVING FIRST BEEN
23 DULY SWORN, TESTIFIED AS FOLLOWS:

24 -----

25 BY MR. POGUE:

16

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

05 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



10 Q. Are you appearing voluntarily
11 for this interview?

12 A. Yes.

13 Q. Has anyone made any promises
14 to you ---

15 A. No.

16 Q. --- for giving a statement or
17 offered you any reward in exchange
18 for making your statements?

19 A. No.

20 Q. Has anyone threatened you or
21 warned you not to provide a
22 statement?

23 A. No.

24 Q. Do you understand that you may
25 refuse to answer any question or

17

01 terminate this interview at any time?

02 A. Yes.

03 Q. Do you have a representative
04 with you today?

05 A. No.

06 Q. Okay. Do you wish to have a
07 representative with you?

08 A. No.

09 Q. Okay. We'll get on with the
10 questioning now. Who was your

11 employer on January 19th, 2006?

12 A. Southern Coalfield Mine Rescue
13 Team.

14 Q. Did you or have you ever
15 worked for Aracoma Coal Company,
16 Inc.?

17 A. No.

18 Q. Was Southern Coalfield Mine
19 Rescue Team a subcontractor for
20 Aracoma Coal Company, Inc. on January
21 19th, 2006 or the days following the
22 mine fire?

23 A. No.

24 Q. What was your job title and
25 position on January the 19th, 2006?

18

01 A. I was the captain of the mine
02 rescue team.

03 Q. How many years have you worked
04 for Southern Coalfield Mine Rescue?

05 A. Probably a total of two.
06 That's just for that particular team.

07 Q. Okay. How many total years of
08 mining experience do you have?

09 A. Eighteen (18).

10 Q. Could you briefly describe
11 some of your mining background prior
12 to January 19th, 2006?

13 A. I started in 1988 with Hampton

14 Coal Company. I worked there as a
15 laborer and as --- I worked there for
16 about four and a half years, then
17 went to work with Mingo Logan Coal
18 Company. During the time I was at
19 Hampton Coal, I was also on Southern
20 Coalfield Mine Rescue Team for
21 approximately a year there. And then
22 I went to work at Mingo Logan Coal
23 Company where I was a miner operator
24 for approximately ten years. And I
25 was also a member of that mine rescue

19

01 team, Mingo Logan's mine rescue team,
02 during that period of time. I later
03 went to work for Office of Miner's
04 Health, Safety and Training for the
05 State of West Virginia. I worked
06 there for three years. I was also a
07 member of their mine rescue team.

08 And I'm currently --- I'm working for
09 Justice Mine Service. And I am a
10 member of Southern Coalfield Mine
11 Rescue Team.

12 Q. Is Justice Mining --- Mine
13 Rescue, are they associated with the
14 Southern Coal?

15 A. The same person owns --- my

16 dad owns Justice Mine Service and
17 Southern Coalfield. But it's two
18 separate companies.

19 Q. Okay.

20 A. We do mine safety consultant
21 work through Justice Mine Service.

22 Q. Okay.

23 A. We got about 35 companies that
24 we contract --- we contract safety
25 work for.

20

01 Q. Would Aracoma be one of those

02 ---

03 A. No, sir.

04 Q. --- coal companies?

05 A. No.

06 Q. Have you ever participated in
07 a mine emergency before January 19th,
08 2006?

09 A. Yes.

10 Q. Could you please briefly
11 describe that experience?

12 A. I worked at the --- in the
13 command center at Loveridge Mines,
14 Consol.

15 Q. And when was that?

16 A. Around 2002, somewhere around
17 there.

18 Q. That's fine. Yeah.

19 A. I worked in the command center
20 there. And then at Pinnacle, U.S.
21 Steel Mining, we had an explosion
22 there in September of 2003. I worked
23 there from --- for approximately nine
24 months doing recovery work and
25 exploration work. I've also --- have

21

01 been in a lot of abandoned works.
02 Pinnacle is another example of that
03 where we've went in and explored ---
04 done exploration work prior to mining
05 into or cutting into that sort of
06 particular area. And then I done the
07 work at Aracoma, so I've been
08 involved quite a bit as far as mine
09 rescue work goes.

10 Q. When did you first hear about
11 the fire at the Aracoma Alma Mine
12 Number One?

13 A. I have some notes here. I can
14 tell you. Actually, I can't tell
15 you. I don't have that. I was
16 called around ---.

17 Q. Approximate time.

18 A. Approximately seven o'clock on
19 the 19th. 6:30, seven o'clock,
20 somewhere around there.

21 Q. And what day did you arrive at
22 the Aracoma Mine?

23 A. On January 19th.

24 Q. And what time was that?

25 A. I was there around 10:30.

22

01 Q. How many days were you at
02 Aracoma Mine?

03 A. I was there January 19th,
04 January 20th.

05 Q. How were you notified to
06 report to the Aracoma Mine? Did
07 somebody from the coal company call
08 you or ---?

09 A. I think someone from the
10 Office of Miners' Health, Safety and
11 Training contacted our administrator,
12 I guess you'd call him. Bill
13 Brinkley. And then he later called
14 me.

15 Q. Okay. Do you happen to know
16 what time that was or ---?

17 A. That was around seven o'clock.

18 Q. And you may have already
19 answered this, but what time did you
20 get to the mine?

21 A. Around 10:30.

22 Q. Around 10:30?

23 A. Yeah.

24 Q. On the 19th?

25 A. Yes.

23

01 Q. Did you arrive at the mine by

02 yourself?

03 A. No. No. We had --- there was
04 four different team members with me.

05 Q. Okay.

06 A. We were --- actually, I
07 traveled in one --- in the vehicle
08 with one person. We all were in a
09 group of vehicles, so ---.

10 Q. So you arrived before other
11 people. Did that constitute one team
12 or was there another portion of your
13 team that had not arrived at the mine
14 site at that time?

15 A. Yes. They arrived a few
16 minutes later.

17 Q. So totally, how many people
18 did you have on mine property?

19 A. I think eight.

20 Q. Eight?

21 A. Eight total. And I was wrong
22 on those dates I gave you. I was
23 there until the 21st. 19th, 20th and
24 21st.

25 Q. Okay. Both teams were there

01 all three days?

02 A. No. We only had took one team

03 there.

04 Q. Only one team?

05 A. Right.

06 Q. Okay. What type of mine

07 rescue apparatus did you use?

08 A. Dräger BG-174A.

09 Q. What type of communication?

10 A. We used handheld communication

11 the entire time we were there.

12 Q. Did you bring any

13 communication system?

14 A. Yeah. We brought --- they

15 were a lifeline that we'd normally

16 use.

17 Q. Okay.

18 A. I say lifeline, but it's wired

19 communication.

20 Q. Its own power?

21 A. Yeah. Yeah.

22 Q. When you did arrive at the

23 mine, who was the person that you

24 reported to?

25 A. I actually spoke to Vicki

01 Mellon (phonetic) as soon as I got

02 there. And she told me to go up to

03 the command center. And at that
04 time, I can't tell you who I spoke
05 to.

06 Q. Okay.

07 A. I don't know.

08 Q. What's your first recall of
09 being able to talk to somebody or a
10 representative from the company?

11 A. After I --- when I went up to
12 the command center, you know, I
13 talked to several different people.
14 And that's what I'm saying. I can't
15 tell you exactly who I talked to.

16 And I talked to three or four
17 different people. They told me the
18 condition and the circumstances they
19 had and told me where to take my
20 things and prepare to wait.

21 Q. Okay.

22 A. So ---.

23 Q. So you did get a briefing of
24 some type about the situation at the
25 mine?

26

01 A. Yeah, I got a briefing. Yes.
02 And then I had several briefings
03 throughout the night. When we
04 arrived there at 10:30, I had a

05 briefing at like 2:00 a.m. that we
06 were supposed to go underground, and
07 then they got changed. And then at
08 like probably seven o'clock, we had a
09 briefing --- we were supposed to go
10 underground again and that changed.
11 I think we finally went underground
12 at 10:00, 10:00 a.m. on the morning
13 of the 20th.

14 Q. Okay.

15 A. Somewhere around there.

16 Q. Did you have to wait in the
17 box cut for any length of time?

18 A. Yes. The entire time we were
19 there.

20 Q. Is that where you kind of
21 staged your team, was in the box cut?

22 A. Yes. Yes. When we were in
23 the box cut, I told you I arrived at
24 10:30. I'd say my team was in the
25 box cut by 10:50. And we sat there

27

01 until 10:00 a.m. the next morning.

02 Q. Did anybody come to you and
03 explain to you what the delay was or
04 why you were ---

05 A. No. No.

06 Q. --- on a staging position like
07 that?

08 A. No, not necessarily. They
09 come to us and said, you guys are
10 getting ready to go, go to a
11 briefing. So I'd go to a briefing
12 and nothing had changed, basically.
13 And I'd come back and tell my team
14 we're ready to go, then an hour would
15 pass by and I'd go find out what's
16 going on. They'd say, well, you all
17 just stay here and wait.

18 Q. Where would you go for that
19 at, Brad?

20 A. Back up at the top.

21 Q. Back up?

22 A. Ride the elevator back up to
23 the command center.

24 Q. Was that a formal briefing at
25 that time? I mean, were you getting

28

01 updated on the condition of the fire?

02 A. Yeah. It was pretty formal.
03 That portion of it was. The briefing
04 itself was.

05 Q. Exploration of the teams
06 underground? Was that information
07 all being passed on to you at that
08 briefing?

09 A. Well, it was moreso --- what

10 our goal was is after we entered the
11 mines, moreso than letting us know
12 where everybody else was at.

13 Q. Was that changing every time
14 you went up for briefing?

15 A. Not really, no.

16 Q. Okay. Did anybody cover the
17 firefighting activities with you at
18 that point?

19 A. No, not really.

20 Q. How about maps? Did anybody
21 give you any maps for underground?

22 A. Yeah. I asked for a map as
23 soon as I got there.

24 Q. Okay.

25 A. And I got one prior to going

29

01 underground.

02 Q. Did those maps have escapeways
03 on them or anything pertinent to
04 this?

05 A. Exactly what you see.

06 Q. Okay.

07 A. Yeah. Yeah.

08 Q. Were you yourself just
09 briefed, or at any given time was
10 your entire team given a briefing
11 prior to going underground?

12 A. We took --- I myself was there

13 most of the time. A couple times, I
14 took another guy with me, I guess for
15 experience purposes, just to let him
16 see what it's like and hear what it's
17 like. And you've got to understand
18 these guys that's on my team has no
19 experience whatsoever prior to this.

20 Actual emergency experience. So I
21 told the one little map --- the map
22 man, he went to briefing with me
23 once, just to familiarize his self
24 with what's going on there.

25 Q. At that point, was the

30

01 briefing being given by one
02 particular person from the company or
03 a representative from the company?

04 A. Pretty much.

05 Q. Do you remember who that was?

06 A. I think the first briefing I
07 had was Frank Foster.

08 Q. Frank Foster?

09 A. And --- shoot. I had so many
10 briefings, I couldn't tell you who
11 was there, you know.

12 Q. Okay.

13 A. The only person I actually
14 know, I know Wayne Persinger was

15 there a time or two and Frank Foster.
16 Those two guys I know from the past.
17 But the other names of the other
18 individuals, I couldn't tell you for
19 sure.

20 Q. Okay. Just prior to you going
21 underground, you were briefed then?

22 A. Yes.

23 Q. And what did they tell you at
24 that point?

25 A. At that point, they told us

31

01 that we had --- they wanted me to go
02 up and travel up to --- go to the
03 fire --- report to the fire area and
04 we were going to spray foam through
05 the stoppings and spray water. And
06 once we --- do you want me to
07 continue this? This is going to take
08 a while.

09 Q. Well, no. You've told me what
10 your assignment was and ---.

11 A. Okay. My assignment was to go
12 to the fire area and chemical team
13 and air team, we went to the fire
14 area. And Eastern Associated, they
15 went over the 48-inch belt, there was
16 four on inby.

17 Q. That's something they gave you

18 in a briefing?

19 A. All three captains. All three
20 captains went to the briefing.

21 Q. Okay.

22 A. We actually entered the mines
23 together.

24 Q. On each day prior to going
25 into the mine, were you given a

32

01 briefing on the conditions and the
02 status of ---?

03 A. Yes. Yes.

04 Q. With the mine maps that you
05 were given prior to going underground
06 --- did you have any problems with
07 those maps as far as the ventilation
08 controls being marked and ---?

09 A. Absolutely.

10 Q. Can you kind of expand on that
11 a little bit?

12 A. There's a lot of areas the
13 ventilation controls were shown to be
14 in place. They were not there. And
15 that changed the entire outcome of
16 this event. I mean, not necessarily
17 --- this did not prevent --- let me
18 say, had we known the stoppings were
19 there, it wouldn't have probably

20 gotten us --- the stoppings were
21 gone, we could have possibly gotten
22 to the guys quicker. We definitely
23 most likely could have. I'm not
24 saying that they would have been
25 alive, but we could have had the fire

33

01 out much, much sooner.

02 Q. Uh-huh (yes).

03 A. Had someone just informed us
04 that these stoppings were down, you
05 know, you have mine rescue
06 experience. You know when you go to
07 fight a fire, you can't just start
08 tearing out stoppings. Because we
09 feel like that area's isolated. And
10 had we known this area wasn't
11 isolated, we could have tore out the
12 stoppings beside the belt head and
13 walked over. Instead of spraying
14 water 140 feet, we could have sprayed
15 water three to four feet.

16 Q. Yeah.

17 A. It makes a big difference.

18 Q. And that was --- I'm sorry.

19 Go ahead.

20 A. I was going to say, had
21 someone told us that these
22 ventilation controls were out, that

23 would have changed --- you know, I
24 don't think we'd ---. We would have
25 not been there 40-some hours. I'll

34

01 put it to you that way.

02 Q. Do you remember --- I know
03 you've just told us that the
04 ventilation controls that were not
05 there that were marked on the map,
06 did anybody else on your team have
07 that same knowledge? I mean, were
08 they seeing the same thing you were
09 seeing?

10 A. Yeah. Definitely.

11 Q. Okay. What about any other
12 mine rescue teams besides your own
13 team?

14 A. As far as I know, unless
15 someone done it --- someone traveled
16 that area without us knowing about
17 it, we were the only team that
18 actually traveled along this area
19 where we found --- located the first
20 body.

21 Q. Uh-huh (yes).

22 A. We were the only team that
23 went there. And you would have never
24 known these stoppings were out, had

25 you not traveled there. No one else

35

01 would have known that.

02 Q. Had any other teams expressed

03 concern about stoppings that were

04 marked on the map and not found

05 underground that you can recall?

06 A. No.

07 Q. Okay.

08 A. And again, I didn't

09 communicate a whole lot with other

10 teams, you know. We were --- the day

11 we located the body, we was the only

12 team here. We had another team over

13 here fighting fire. And they were

14 assuming the position of our backup

15 team. And as we travel along, you

16 know, we only traveled six and a half

17 breaks. We located them. Or seven

18 breaks, whatever. We located the

19 person and everything. So he's

20 basically --- everything was okay

21 with both bodies. So I didn't sit

22 there and discuss anything with other

23 team members.

24 Q. Okay.

25 A. I mean other teams.

36

01 Q. Let's go to the --- I have a

02 map on the wall here for the mine.
03 And we have some markers here. And
04 what I'd like for you to do is we'll
05 try to break it down day by day
06 exactly what areas you were assigned
07 to work in and what your assignment
08 was for that particular day. And
09 we'll go through the area and just
10 have a general discussion on what you
11 observed and ---.

12 A. All right. Can I use this?

13 Q. Yeah. You'll be able to use
14 that map right there. Okay. What
15 we're going to be working on is this
16 Exhibit A-Justice map. And it's a
17 map of the north mains --- northeast
18 mains with the heavy dark line as
19 your belt system. This would be your
20 six-foot belt. Six-foot belt here
21 over to the mother drive. This is
22 the 48-inch belt from the drive in
23 the northeast main. So let's just
24 start with the 20th. On the morning
25 of the 20th, what area of the mine

37

01 were you assigned to go to?

02 (Justice Exhibit A

03 marked for

04 identification.)
05 A. Okay. The morning of the
06 20th, I was assigned to go up through
07 the fire area. And what happened
08 there, us and U.S. Steel were both
09 there rotating in and out to fight
10 the fire. And basically, all we were
11 allowed to do, you know, we pulled
12 out a couple blocks in the stopping
13 and we were trying to spray water.
14 Whatever the distance is walking
15 there. Under ten feet. And we were
16 trying to shoot water on a fire
17 100-some feet because we couldn't
18 actually go in there and start
19 tearing out stoppings because, you
20 know, we thought everything was
21 isolated. We knew we had people over
22 here working, and had we torn out
23 these stoppings, it would have sent
24 this smoke up this intake. We didn't
25 want that. We could have possibly

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01 had people back up through the face
02 area. With fresh air going up
03 through here, as the map shows you,
04 fresh air was supposed to be going
05 through there. And there was a good
06 possibility these guys were sitting

07 up here alive. So therefore, we're
08 not going to tear up stoppings and
09 send smoke on top of a possible live
10 person. So we sat here and we tore
11 out a couple blocks and shot water
12 --- we tried to spray water. And the
13 reality of it is that all we were
14 doing was soaking the ground. We
15 weren't doing anything. We weren't
16 hitting the fire. But ---.

17 BY MR. POGUE:

18 Q. Brad, could you mark the
19 location where you guys staged either
20 a fresh air base or ---?

21 A. See spad number 3229? Yeah.
22 Okay. Right here. This is the fresh
23 air base.

24 Q. Okay. Was that a fresh air
25 base ---

39

01 A. Yeah.

02 Q. --- or was it just the
03 stationary ---?

04 A. Yeah. It was in fresh air.

05 Q. Okay. How about just
06 indicating over here, that would be
07 the fresh air based on the --- well,
08 that's fine. You can write there.

09 And put your date and shift. The
10 dayshift, 120.

11 A. We were there about three
12 shifts.

13 Q. Okay. That's fine.

14 A. We had a fellow here and we
15 had intake air going up this
16 beltline. And we were very near ---
17 right here's the fire area. You all
18 know that.

19 Q. Right.

20 A. We tore out a stopping --- we
21 tore out a couple blocks right here
22 from the stopping and we tried to
23 spray water up that way.

24 Q. Okay. Could you go ahead and
25 circle that stopping and indicate

40

01 over here that you took one or two
02 blocks out of it for firefighting
03 purposes?

04 WITNESS COMPLIES

05 A. And we basically sprayed water
06 on it, on the belt.

07 BY MR. POGUE:

08 Q. So for that full shift, you
09 pretty much just did firefighting?

10 A. That's what we were assigned
11 to do, firefighting. What happened,

12 once we got here, we discussed --- I
13 discussed with Harvey Ferrell
14 (phonetic), they were just going
15 through here to try to make this face
16 area, try to locate a barricade. And
17 Harvey come and talked to me. We
18 decided that with the radios we had,
19 we thought we were going to be in
20 fresh air all the way. And he asked
21 me, could I go with them, and we was
22 going to stretch out as far as we
23 could and just drop people off along
24 the way and try to make those face
25 areas. So I went ---.

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01 MR. TUCKER:

02 That was on the 20th?

03 A. Yeah. Yeah. It was on the
04 20th. So I went with this team here
05 and I left my team here and U.S.
06 Steel was here also. They were
07 fighting the fire. And we traveled
08 up through here barefaced up to about
09 --- right along --- right around here
10 around Ten gate, I guess. Maybe when
11 we passed there. But they finally
12 started hitting smoke and carbon
13 monoxide. And we continued to travel

14 at about 40, 46, 48 parts per
15 million. We got up here to probably
16 about spad number 3570. And I'm just
17 guessing on this. I didn't have a
18 map. I was traveling with another
19 team.

20 BY MR. POGUE:

21 Q. Okay. And they didn't have a
22 map or ---?

23 A. Yeah. They had a map.

24 Q. Okay. Could you just mark for
25 me just approximately your route of

42

01 travel from here up through and where
02 you stopped to put your apparatus on?

03 A. We probably put --- started
04 putting our apparatus on here. Right
05 here. Do you want me to circle it?

06 Q. Yeah. That'd be fine. And
07 just out in the margin, put something
08 in reference to that indicating what
09 it is. Is that the point where you
10 actually donned your apparatus?

11 A. Yes.

12 Q. And you put it on there
13 because you had ---?

14 A. Actually, what happened, we
15 decided to put it on when we were up
16 to about 70 parts per million.

17 Q. Okay.

18 A. And we thought the problem was

19 --- we actually thought because the

20 maps was showing fresh air coming

21 through here, this belt air should

22 have come over here and went down

23 here, according to the map. And we

24 thought that these guys had pulled

25 out these stoppings and shoved smoke

43

01 in on us. Because evidently at some

02 point one of these stoppings had to

03 be leaking here for that air --- for

04 that CO to go in there. Or there was

05 just so much smoke up in the face

06 area it was just coming back on us.

07 Q. Well, can I ask you this,

08 then? As you traveled down through

09 here, can you recall what condition

10 these ventilation controls were in?

11 A. They were fine.

12 Q. Okay. By fine, do you mean no

13 blocks ---?

14 A. They were all intact.

15 Q. No blocks missing?

16 A. No blocks missing.

17 Q. Doors were in place?

18 A. And again, I'm going to say

19 this. We were moving pretty quick up
20 here. We didn't actually stop and
21 check each stopping because we had
22 fresh air. We was moving quick. We
23 get up here and we had to go under
24 apparatus through the high levels of
25 CO. And my oxygen valve on my seal,

44

01 it wouldn't open. And I've shown
02 three or four people that since. And
03 we took my tank out --- we took my
04 bottle out of my apparatus right here
05 and we laid it on the belt. We tried
06 our best to get it turned. We
07 couldn't open it. So then I left
08 here, left this team here.

09 Q. Which team was this you left
10 here?

11 A. Eastern. And come back. Come
12 down here and left these guys here,
13 got me another apparatus. And come
14 back over here. And I come up to
15 here where there's --- we had a guy
16 dropped off here so the radio --- and
17 we got in touch with Harvey and them
18 and Harvey said, don't worry about
19 it, they can't keep stretching out
20 because there's too much smoke.

21 Q. Okay.

22 A. They hit too much smoke up
23 here, which, you know, the team can't
24 start dropping people off in smoke.
25 And he said, don't worry about it,

45

01 stay where you're at. So I come back
02 here, come down and started helping
03 my guys spray water. We were just
04 sitting there spraying water. That's
05 all we could ---.

06 Q. So you finished up the 20th,
07 the day of the 20th?

08 A. Yeah. We was there until ---
09 I think we got inside about 10:30
10 that night, I'm thinking. Because I
11 got home around 11:30 and someone
12 called at 2:00, 2:15, says, you need
13 to come back to the mines. And I
14 said, well, we'll get there as soon
15 as we can. We had been there about
16 --- you know, from the time we all
17 got out of bed at 5:30 on Thursday
18 morning and worked all day long and
19 then went there and were there all
20 night, we'd all been awake for like
21 40 hours. So they told me the fire
22 had gotten out of control, we needed
23 to come back. And I said, as soon as

24 I can get up my people. So I tried
25 to call a couple people. They didn't

46

01 answer the phone. They had told us
02 the night before to be back at 7:30.

03 Q. Well, let's back up to this
04 fire here at the mother drive, the
05 longwall belt. You've indicated that
06 two blocks were taken out of this
07 particular stopping here just north
08 of survey station 3249.

09 A. Yeah. Those were out ---
10 those were gone before we got there.

11 Q. They were already knocked out?

12 A. Yeah.

13 Q. Were the blocks laying on the
14 ground at that location or did it
15 appear that they'd been taken out for
16 the firefighting purposes?

17 A. See, once we --- what do we
18 have here? None of this stuff was
19 here. There's no transport here or
20 anything like that.

21 Q. Can you circle --- like if you
22 know for sure that these ventilation
23 controls were not in, could you
24 circle those and just ---

25 A. Yeah.

47

01 Q. --- put missing or ---?

02 WITNESS COMPLIES

03 A. And you know, actually, we
04 pulled out the blocks up here, too.

05 BY MR. POGUE:

06 Q. You physically tore them out
07 yourself?

08 A. No, I didn't. No.

09 Q. Okay.

10 A. I want to say something else,
11 too. You've got to remember when we
12 got up here, before we could actually
13 start exploring and start fighting
14 fire or anything, we had no water.
15 We had to install waterline. We had
16 to carry foam. We done all this
17 stuff. And everything had to be hand
18 carried up through here. And we had
19 to wait on --- or up through here.
20 We had to wait on supplies to get to
21 the mines and install the waterline.
22 And it took quite a while before we
23 actually were even trying to fight a
24 fire. We had no water there.
25 Everything was melted.

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01 Q. Okay. Brad has indicated on
02 the map that the two over --- the two

03 ventilation controls, overcasts that
04 are shown on the map north of survey
05 station 3266 were both missing. And
06 that would be east of survey station
07 2236 and 3247.

08 A. Those were just --- were those
09 projected overcast or was --- they're
10 shown on the map.

11 Q. They're shown on the map. So
12 that's all I can say about is what
13 they are.

14 A. All right.

15 Q. Now, do you recall the
16 condition of the stopping in this
17 area right in here?

18 A. Yeah. They were there. Those
19 three ---. We tore out --- after we
20 got water, we got water through here
21 and through here, I think. I don't
22 know if that's where it's at. And we
23 had two separate stoppings here and
24 tore a hole right here. And we were
25 trying to move from place to place as

49

01 we got the water out of that to try
02 to spray that area.

03 Q. Uh-huh (yes).

04 A. And later on in the night,
05 sometime --- I will say seven or

06 eight o'clock, had to be
07 stoppings ---.

08 Q. Okay.

09 A. And then we had all kinds ---
10 a lot of smoking coming in.

11 Q. Okay.

12 A. And every time we stepped inby
13 this corner to start spraying water,
14 we had to run the apparatus.

15 Q. Okay. Did you travel in this
16 area right in here? I guess it would
17 have been the Number Three entry and
18 Number Four entry, the belt entry to
19 the mother --- at the mother drive to
20 the longwall?

21 A. I didn't travel Number Four.

22 Q. You didn't travel in here,
23 Number Four entry?

24 A. No.

25 Q. What about Number Three? Were

50

01 you ever in this area?

02 A. Yeah. We had several.

03 Q. Could you tell us anything
04 about the ventilation control in that
05 area?

06 A. No. I never could. I mean,
07 really, our mindset was we had all

08 fresh air here and we would go
09 through to fight a fire. Our mindset
10 initially was that we had a small
11 fire here. We didn't map any of this
12 stuff. We didn't really look at it.
13 It was all fresh air. Everything was
14 clear to actually what was going to
15 be the stopping. So once we tore out
16 a couple blocks, there were several
17 blocks gone. Even if we started
18 fighting the fire first and if we
19 were carrying up foam and hooking up
20 the foam, you know --- sitting there
21 and just setting up the foam rack.

22 Q. Okay.

23 A. Placing it down real good.

24 Q. Did you guys as a mine rescue

25 team, did you start the foam

51

01 generator? Were you there?

02 A. I don't remember. I think it
03 was Eastern. I was traveling this
04 area.

05 Q. And it was already in place?

06 A. I come back and it was here.

07 Q. And where was it located at,
08 the foam generator?

09 A. That's a good question.

10 Q. Okay.

11 A. I can say this. I'll tell you
12 this much. There was a guy from
13 Aracoma that was in this mine
14 directing everything, what to do on
15 every situation. And I don't care to
16 give you his name, either, if you
17 want it.

18 Q. Yes.

19 A. Johnny Robinson.

20 Q. Okay.

21 A. Johnny should have never been
22 in the mines. He was in there with a
23 mine rescue apparatus. There was
24 times he put on the apparatus and
25 disappeared. We wondered where he

52

01 went then. He should never have been
02 in there. And I left my thing here
03 with Pinnacle, which I have not a bit
04 of problem whatsoever with it, and
05 traveled with these guys to come
06 back. And they thought he was like
07 --- they thought he was like over all
08 of the MSHA and all the State and
09 everything because he was directing
10 orders to everybody. My guys didn't
11 know him.

12 Q. Yeah.

13 A. I didn't know him.

14 Q. Who from MSHA was with you
15 that night? Was there a mine rescue
16 team member underground with you
17 guys?

18 A. No, not with our team.

19 Q. What about with Eastern when
20 they went up to there?

21 A. No. No, there wasn't. Not
22 that I recall.

23 Q. Nobody with like blue
24 coveralls on with stripes?

25 A. No. At any time, no one

53

01 traveling with us except for, the
02 last night we was there, John Scott
03 was traveling with us. So I mean,
04 any State or Federal agent.

05 Q. Okay.

06 A. No. I take it back. I take
07 it back. There was when we was up
08 through here. But I went with
09 Eastern.

10 Q. All right.

11 A. If you tell me his name, I'll
12 tell you if you're right or not. But
13 anyway, that's all we done. And we
14 tried to travel along this area and
15 make that --- sat here and sprayed

16 water, which, you know, was just a
17 waste of time, I felt like.

18 Q. Okay. At the end of your
19 shift, then, when you were relieved
20 up here at the fire area, were you
21 relieved by another mine rescue team?

22 A. Yes.

23 Q. Did you guys brief them on
24 what was going on with the fire
25 situation?

54

01 A. Yeah. Yeah, we did. There
02 was nothing to brief, just sit there
03 and spray water.

04 Q. Yeah.

05 A. And like I say, it changes
06 everything not having these stoppings
07 here. If someone would have just
08 took me out back behind a tree and
09 said, all these stoppings are out, we
10 could have come straight up here and
11 tore this stopping out and walked to
12 the head and started spraying water.

13 Q. What about the drive area?

14 Had you been in this area right in
15 here?

16 A. Yeah. I was in there. We
17 come down here. Eventually, if

18 they're --- day two I think, or
19 whatever ---.

20 Q. Well, I mean, on the 20th,
21 were you up in this area? I mean,
22 besides putting ---?

23 A. I mean, everything's blocked
24 in there. It's all blocked off.

25 Q. Okay. So you guys, you were

55

01 relieved, you went outside?

02 A. Yeah.

03 Q. Did they debrief you when you
04 got outside?

05 A. Yeah. Actually, we debriefed
06 them. We told them we were spraying
07 water here. That's all we told them.

08 Q. Where was your debriefing at
09 outside?

10 A. I think it was in the command
11 center, too.

12 Q. Any particular individual at
13 that point ask you questions, like
14 Frank Foster or anybody from the
15 company?

16 A. I can't remember. You know,
17 as soon as you walked in there, there
18 was people starting to ask questions.

19 Q. Yeah.

20 A. Probably talked to ten people

21 from the time you walk out of the
22 mines 'til you get up to the command.
23 Because everybody wants to know.

24 Q. Once you got into the command
25 center, is that where the debriefing

56

01 occurred?

02 A. Yeah.

03 Q. Did you have any maps with you
04 at that time?

05 A. No. I don't think so.

06 Q. Nobody on your team had a map
07 at that meeting?

08 A. Yeah. We had a map, but we
09 didn't really have anything to map.
10 They just sat here all night long.

11 Q. Okay.

12 A. They'd be here like 12 hours.
13 There was nothing, you know, other
14 than showing --- we had nothing to
15 map. And like I said, I traveled
16 that area with Eastern and they had
17 their own map. But as far as our
18 team goes, we had nothing really to
19 map. We hadn't done anything. We'd
20 been there a lot of time and done
21 absolutely nothing but sprayed water.

22 Q. Well, I'm sure all those

23 efforts that you guys put forward
24 were ---.

25 A. We started waterline, we

57

01 carried it up, we done a little bit
02 of labor work. But as far as getting
03 anything accomplished, we done
04 nothing. We accomplished nothing
05 whatsoever.

06 Q. Well, let's go to the 21st
07 now. What did you do on the 21st and
08 when did you come back to the mine
09 and ---?

10 A. The 21st, we came back to the
11 mines. I got some notes on that I
12 think. We arrived at the mines at
13 about 7:30 that morning. And we went
14 back to the box check and we sat
15 there. And they told us, you're
16 going in next. And we didn't go in
17 for some reason. And a lot of events
18 occurred during this time. They took
19 myself and Richard Crockett upstairs
20 for briefing. He's the captain of
21 Pinnacle's team. And they said ---
22 they told Richard, they said, we got
23 a special assignment for you. We
24 need you to go up here, down here,
25 they went across the bottom over

01 toward Nine tailgate. From the outby
02 in.

03 Q. Okay.

04 A. Four right.

05 Q. Four Right.

06 A. And they were assigned to come
07 across here. They thought there was
08 a possibility that these guys would
09 come down these entries and be in the
10 fresh air here somehow. But that was
11 their assignment to come down here
12 and travel all this. My assignment
13 was to come up here and we'll leave
14 out Eastern for referral there. They
15 were up here working. And before I
16 went underground, I got permission.
17 They told me they were going to
18 increase the ventilation and clear
19 all of this smoke out. Then Harvey
20 had called outside and said no big
21 deal, they want to increase the
22 ventilation somehow and remove all
23 this smoke. So I got permission to
24 take four radios with me.
25 And I asked him, you know, if

01 conditions permit, can I switch my

02 team out and I will make this entire
03 headgate? And I don't believe
04 anything with Pinnacle down here.

05 Q. What location are you talking
06 about right now?

07 A. Ten headgate.

08 SHORT BREAK TAKEN

09 BY MR. POGUE:

10 Q. Okay. Let's pick up the
11 interview on the 21st of January
12 2006. What was your assignment on
13 that date?

14 A. As I said, my assignment was
15 to go up to Ten headgate and leave
16 out Eastern. And we were going to
17 travel this area and hopefully tie in
18 with Pinnacle, that was down here.
19 And you know, after that, we didn't
20 know what our assignment was, of
21 course. We were to make all this
22 area. And hopefully, we'd locate
23 bodies or something. But prior to us
24 going in the mines, the most --- the
25 oddest event came about. We were in

60

01 the box check. And for some reason,
02 a bunch of troopers came in there,
03 you know, three or four troopers and
04 some of Massey's people. And they

05 were like --- they told everybody,
06 give us your phones, your cell
07 phones, your radio. The government
08 said from this point forward, no
09 one's to have any phones. They even
10 took my handheld radios. I said,
11 I've got to have these in there. And
12 they said, we're to take all phones
13 and radios. And I said, well, we're
14 not going underground without
15 communication. All right? Then this
16 one guy from --- he was one of the
17 employees for their company. He was
18 to drive us in and out of the mines.
19 And he just walks away and breaks
20 down and starts crying. And you
21 know, we're seeing all this. We've
22 seen this guy start crying. I went
23 over there and talked to him. I
24 said, is everything all right? I
25 know his brother real good. I don't

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01 know him that well. And he said,
02 they found them. So before we ever
03 went underground on the 21st, we
04 assumed we found them. All right.
05 We load up our mantrip to get --- we
06 load it up to go, they pulled

07 everybody off. You can't go yet. So
08 I'm thinking, you know, we may --- I
09 told my guys, I said we probably
10 won't even go in the mines now. If
11 they located the bodies, we can go in
12 there and tear the stoppings out.
13 They'll have the fire out in no time.
14 So everybody was under the assumption
15 on the 21st that the bodies had been
16 located. And finally, 30 minutes
17 later, they said, all right. Load up
18 and go. So we loaded up and we come
19 up through here.

20 Q. Where did the information come
21 from that the bodies had been found?

22 A. It just come from all the
23 activities that went on.

24 Q. Did anybody from the company
25 come up to you and say, hey, we found

62

01 the bodies?

02 A. One of the people who works
03 there. You know, I don't know if
04 he's a company person ---.

05 Q. For Aracoma?

06 A. Yeah. He started crying. And
07 he was actually sitting in the box
08 check crying. He said, they located
09 the bodies.

10 Q. Okay.

11 A. He said, they're both dead.

12 Q. But was he a company official

13 or was he just ---?

14 A. No. He's just --- I think

15 he's an hourly employee.

16 Q. Okay.

17 A. Because --- let me refrain a

18 little bit. When we first got there

19 in the first --- prior to us going

20 underground the first day, they said,

21 we're going to test train you to run

22 this --- operate this diesel

23 equipment. And we looked at that and

24 none of us had ever operated this

25 diesel equipment. And they hooked a

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01 car to the back of it. They told me,

02 they said, you can operate this and

03 you're going to haul all these guys

04 in. And I went up to the command

05 team and I said, can we have

06 permission and let some of their

07 employees to just take us

08 underground? Because I said, it's

09 impossible to get underground. It

10 takes an hour. It's straight uphill.

11 We had to push each other up and down

12 the hill. And they gave us
13 permission to do that. That's why we
14 had --- that's why I'm assuming he
15 was an hourly employee.

16 Q. Okay.

17 A. He was the operator of our
18 bus. But everyone assumed that the
19 bodies had been found before we went
20 underground. And as we started
21 underground, somebody started
22 flagging us. They said, you all get
23 in a break. You all sit here until
24 the next bus comes by. So we figured
25 they had the bodies out. The next

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01 bus comes by, and of course, you
02 know, we're humans. We get out and
03 stop and talk to them to see. We
04 want to find out. And they said, we
05 don't know what you're talking about.
06 So at that point, we assumed ---
07 these guys were coming off the
08 section. We assumed that Pinnacle
09 found the two bodies down the lower
10 end. That's just our assumption.
11 All right? And my assignment again
12 was to go up here and travel down
13 with these people. I get up here.
14 And assuming that the bodies were

15 found, I called outside and I said,
16 you know, I'm right here. What do
17 you want us to do now? They said,
18 hold still, your assignment's been
19 changed.

20 Q. You're at the fresh air base
21 located where?

22 A. We were right here at the
23 phone at the belt head.

24 Q. Okay.

25 A. We had a phone right here.

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01 Sitting right there, just outby here.
02 Probably this break. This break
03 right here.

04 Q. You're indicating in the ---?

05 A. We had a phone right here.

06 Q. In the six-foot belt entry,
07 Number Seven belt?

08 A. Yeah. I wouldn't call it a
09 fresh air base. We had a ---.

10 Q. Staging area.

11 A. A staging area.

12 Q. Okay.

13 A. So I get here and I call them,
14 I said, you know, has my assignment
15 changed, they said yeah.

16 Q. And that's at survey station

17 3239?

18 A. In the vicinity of it. It was
19 actually in the crosscut a little
20 bit. The phone was sitting there
21 right beside the belt. And you know,
22 with all this activity going on
23 outside and now they changed our
24 assignment, we were sure that we'd
25 located the bodies. So 30, 40

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01 minutes goes by and they call us back
02 and they said, Brad, we want you to
03 travel out number Two and Three. I'm
04 calling this Number Two and Three,
05 based on this. Is that all right?

06 Q. Well, the belt entry will be
07 Number Four entry. Five, Six, Seven,
08 Eight, Nine.

09 A. Well, I've been calling the
10 belt entry Number One.

11 Q. Okay.

12 A. So the belt entry's now Number
13 Four?

14 Q. Yeah.

15 A. It's Number Four. They was
16 asking me, could I travel to Number
17 Five and Six up to Nine tailgate in
18 Five and Six, come down and travel
19 back outby towards the fresh air base

20 in Seven and Eight. Or sorry. Along
21 this beltline right here. These two
22 entries. And we said, ain't no
23 problem. So we got everybody
24 together and I left a guy right here
25 with the radio. He was in this area

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01 right here. I gave him a radio. And
02 I explained to him how handheld
03 radios work. These guys knew. If we
04 turn righthanded and we don't --- you
05 know, you lose communication for a
06 brief --- for a few minutes, unless
07 you're in a straight line.

08 So we cut through here. And
09 we were tying right-handed and
10 left-handed. I put three guys in
11 this entry and three guys in this
12 entry. We come up through here,
13 tying into each crosscut. We
14 actually even opened these doors up
15 to look on the other side of these
16 doors on that beltline. And when we
17 got through here and these stoppings
18 were gone --- and we make it to 3308.
19 Q. Could you indicate on the map
20 by circling which stoppings were in
21 through that area?

22 A. I can indicate which ones were
23 gone.

24 Q. All right. However you want.
25 Circle --- just circle the ones that

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01 are missing and indicate such.

02 A. Thirty-two (32), this one's
03 gone. This one's gone. And this
04 one's totally gone. This was where
05 we picked the body up. Want me to
06 circle that?

07 Q. What are you indicating there?

08 A. The stoppings were all
09 removed.

10 Q. Yeah.

11 A. And that's all I can tell you.
12 That's all I know. But ---.

13 Q. Okay. Brad has indicated the
14 stopping line between the Number
15 Seven and Six entry at survey station
16 3332 looking north. The stopping
17 line from there to survey station
18 3309 have been removed.

19 A. Uh-huh (yes). They were gone.

20 Q. And they're all indicated by
21 circling the ventilation control
22 device.

23 A. How's that?

24 Q. Okay.

25 A. So like I say, we were

69

01 assigned to travel these two entries.

02 We come up here to 3308. 3321. We

03 got right here and I was standing

04 right here. I was going left-handed

05 behind this crosscut in, them guys

06 over here coming back, guys over here

07 going that way. And one of my men

08 turned right-handed here and said,

09 hey, Brad, I think we got a body.

10 And I said, what do you mean, you

11 think? He said, it's so dark. And

12 he --- I don't know if you'd even

13 want to walk over there or not. But

14 it did. It looked like just a big

15 lump of coal there because he was so

16 black. So he walked over there. And

17 he ---.

18 Q. Could you indicate that

19 location on the map?

20 A. Yeah.

21 Q. Yeah. That's fine.

22 A. The body was laying right

23 here.

24 Q. Did you identify the body at

25 that time?

70

01 A. Yes.

02 Q. Who was it?

03 A. Don Bragg. I didn't --- I
04 couldn't actually 100 percent,
05 though. I couldn't read his nametag.
06 But it was Don something. Now, he
07 --- let me see. He came over. When
08 he hollered at me, he said, it's a
09 body. And I walked from here to
10 there. He rolled him over. He was
11 face down.

12 Q. Okay.

13 A. He rolled him over. And I got
14 there and I said, Reese, it's obvious
15 he's dead. Don't mess with anything
16 else. I told him not to talk. This
17 guy got really, really upset, the guy
18 who found him. And I told him to go
19 over here and stand in this entry,
20 don't worry about nothing. There was
21 some high levels of CO here. Not
22 high. They was like 40-some parts.
23 Forty-two (42) parts per million was
24 at this entry. And once you broke
25 this corner here where his feet was

71

01 at, just right by this corner, you're
02 up to like 72. And I walked in here
03 and took a gas test, and I told my

04 guys, do not walk in this entry, if
05 they do, go under apparatus. They
06 have no reason to be there. Then
07 this Johnny Robinson dude comes up
08 there and starts freaking out, going
09 crazy. We need to do this, we need
10 to do that. And I took him aside and
11 I said, you need to shut up and sit
12 down and calm down, you know. I
13 said, we got --- the first thing
14 we've got to do is identify him. You
15 can't just run and call outside. And
16 so, like I said, he was face down.
17 And my buddy, he found him and he
18 rolled him over to --- hopefully, he
19 might be alive or whatever.

20 Q. Was Johnny Robinson traveling
21 with you guys?

22 A. Johnny?

23 Q. The guy that ran up there.

24 A. He was everywhere. I mean, he
25 really was.

72

01 Q. Was he with you guys as you
02 went up through there?

03 A. Yeah. He was --- I think he
04 walked behind. I think he was
05 walking along behind us or something.

06 Q. You guys were under apparatus?
07 A. No. We didn't go under
08 oxygen. We were in 40-some parts per
09 million and I stopped like right in
10 here. And I told my guys, I said,
11 listen, if y'all want to go under
12 oxygen, you can. Because, you know,
13 they --- you had detectors going off.
14 And these guys had never done this
15 before. And you could see --- the
16 one guy in particular, you could see
17 fear in his eyes. I said, if y'all
18 want to, it's fine, I said, but we're
19 fine right now in 40-some parts. I
20 said, it won't hurt you. Might give
21 you a headache or whatever.
22 And we went two breaks after I
23 told them that we found the body.
24 But this guy comes up here and he's
25 like, oh, God, I've got to call

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01 outside, I've got to do this, I've
02 got to do that. And I said, Johnny,
03 we've got --- you know, we got orders
04 how we call this out. I said, you
05 need to go somewhere and sit down. I
06 said, you've been here 50-some hours
07 and whatever you've been here. I
08 said, you know the boy and everything

09 changes. You don't need to be
10 calling outside, you don't need to do
11 nothing. I said, go over there and
12 sit down somewhere. And I told the
13 four of my guys, I said, sit over
14 with Johnny. I ain't going anywhere,
15 I'm --- he was just freaking out. I
16 couldn't tell you what all he said.
17 This guy was laying. They'd already
18 rolled him over on his back, Norman
19 did. That's the first thing he did.
20 And I said, everybody leave
21 everything alone. I've got to
22 identify this guy. And Johnny said,
23 well, I'm calling outside. I said,
24 you can't call outside. We've got
25 orders, we were to call outside item

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01 number one or item number two. I
02 said, I've got to identify this guy.
03 So Johnny walked off. Wherever he
04 went, I don't know.

05 Q. What did you identify the
06 victim as? Item one or two or ---?

07 A. Item number one.

08 Q. Could you put that on there?

09 A. I rode him, I guess it was
10 item number one. Right here's the

11 orders we had. Item number one, Don
12 Bragg.

13 Q. Okay. Just indicate that on
14 the mine map for us.

15 A. Put him there?

16 Q. Yeah. What can you tell us
17 about the self rescuer? Did he have
18 a self rescuer?

19 A. He had a self rescuer in his
20 mouth. He has his goggles on and his
21 rescuer in his mouth.

22 Q. Nose clip?

23 A. He had his nose clip, he had a
24 hardhat on and he had a hood over it.
25 The only exposure he had, really, to

75

01 his face was just his cheeks. I
02 mean, goggles on, he had his hardhat
03 down to here. There wasn't really
04 not a whole lot of exposure as far as
05 his face. He had blood all around
06 his nose. There was a lot of blood.
07 And when I rolled him over, I looked
08 for his nametag around the front of
09 his belt and on each side. And when
10 I rolled him over, I could see a
11 nametag, but I couldn't read it. And
12 I got down and raised his body up and
13 I couldn't read it. So I spit on my

14 hands, is what I done, and wiped it
15 off. And when I stuck my hand down
16 there, the worst odor in the world.
17 I mean, he'd been dead for quite some
18 time. And it stunk so bad. It was
19 awful. As a matter of fact, a couple
20 of our guys went under apparatus
21 whenever we started bagging him up.
22 They went under oxygen. It was a
23 really, really bad odor. I couldn't
24 read it after I wiped it off with my
25 hands. And somebody --- I told

76

01 somebody to give me a rag. They gave
02 me a rag and I wiped it off to where
03 I could read Don. It was scratched
04 up.

05 Q. Did you guys actually put him
06 in the body bag at that time?

07 A. No. We didn't have a body
08 bag.

09 Q. Okay.

10 A. All right. I told everybody
11 on the team to get right here in this
12 intersection and sit. And we got rid
13 of Johnny. I don't know where he
14 went. And when I came back down, I
15 called outside and I reported it and

16 let me see. Frank Foster answered
17 the phone. I said, Frank, I got some
18 information. He said, all right. I
19 said, item number one's been located.
20 And he didn't say nothing. He said
21 --- then he come back. He said,
22 what. I said, item number one has
23 been located. Hold on a second. So
24 he's gone for a few minutes. He
25 comes back. What'd you say? I said,

77

01 item number one's been located and
02 the condition's bad. Now, what time
03 I'm coming outside here, we've got
04 five or six employees from Massey
05 standing here listening to all this
06 stuff, you know, which shouldn't have
07 been there, either. So then they all
08 start crying and freaking out. The
09 two young boys, that one looks like
10 he's like 18 years old and one looks
11 like he's 20. Just total chaos at
12 that time. I mean, they're not
13 stupid. When you say item number one
14 all day long, they know what you're
15 looking for.

16 Q. Right.

17 A. All right. So he calls me
18 back a few minutes later. What'd you

19 say again? I said, item number one
20 --- and then I said a lot of stuff.
21 I said, the item number one's been
22 located. Are you sure? I said, damn
23 it, I wouldn't call outside about
24 something like this if I wasn't sure,
25 you know what I mean?

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01 Q. You're talking to Frank
02 Fletcher --- or Frank Foster?
03 A. Frank --- I'm sure. I didn't
04 see it was Frank Foster, but I'm sure
05 that's who it was.
06 Q. Okay.
07 A. But he said, hold on a second.
08 He came back on there and he said ---
09 he said, what'd you say his condition
10 was? I said, bad. Their code words
11 are bad or good. I said, what do you
12 want me to do from this point, you
13 know. And he said, I'll get back
14 with you. And he come back on there
15 and he said, don't let anybody touch
16 anything. I said, I already got
17 everybody away from the body. Don't
18 worry about that. And he said, how
19 far up through there did you go? I
20 said, I went --- I gave him the spad

21 number. And I said, you know, we got
22 another person missing here. We
23 probably should not worry about
24 talking right now. And let's go on.
25 So he said to do that. He said,

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01 leave one guy here. Or he said,
02 don't let anybody touch the body and
03 cover him up. So I got a piece of
04 curtain and threwed overtop of him on
05 our way by. And I told my team we
06 had to travel from the body. We went
07 to spad number 3308.

08 Q. Where's that?

09 A. Right here. On this corner
10 right here. And found a dinner
11 bucket and a shirt with the name Don
12 on it.

13 Q. Okay.

14 A. So I opened the dinner bucket
15 and tried to find the --- and a
16 hammer, too.

17 Q. Brad, before you go any
18 further, these stoppings that you
19 indicated here have been removed,
20 could you say that they were not ---
21 had they been removed prior to you
22 guys getting there?

23 A. There's no indication that

24 these stoppings were ever built.

25 Q. Okay.

80

01 A. For instance, where this
02 person was, I'm talking about right
03 here, there was not a single block
04 laying anywhere.

05 Q. So actually, they're missing?

06 A. Yeah.

07 Q. They weren't removed, but
08 they're missing?

09 A. That's just mine rescue
10 terminology.

11 Q. How about putting missing?

12 A. All right.

13 Q. That's okay. You could have
14 left that there. You don't have to
15 scratch it out. All right.

16 A. Those definitely --- those
17 five were gone. We came up here ---.

18 Q. Were the blocks in place in
19 here?

20 A. I didn't ever --- I didn't
21 make each one of these entries. I
22 was turning left-handed and tying in
23 with another guy over here. And we
24 had the guy coming right here.

25 Q. Okay. So there's no

01 indication that these stoppings had
02 been just knocked out or block laying
03 on the ground?

04 A. No. No indication whatsoever
05 that they were ever there, period.
06 There was no block --- I never --- I
07 didn't see any blocks in this
08 location for sure.

09 Q. Okay.

10 A. And I couldn't tell you about
11 the rest of the places. Like I said,
12 we was going along, Norman was going
13 right-handed here, and I told him,
14 walk all the way over to the belt.
15 And he walked to the belt.

16 And another thing, too. After
17 we found this body, I put two guys
18 under apparatus, and I told each one
19 of them to go two breaks outby and
20 inby and see. There should be
21 another body nearby. I figured these
22 two guys were tagging together. They
23 came right back to me, didn't see
24 anything. And this was during the
25 time I was identifying these guys. I

01 said, you guys go ahead two breaks
02 inby, two breaks outby. Don't go any

03 farther. Come right back to us. So
04 they did. They said, we don't find
05 anything. And I called outside and I
06 done told you all that. They said,
07 continue to explore. We come up here
08 and we found a dinner bucket, a shirt
09 and a hammer. And the shirt said Don
10 on it. I opened the bucket up to try
11 to ID, find some ID. There was
12 nothing in it. Just food and cakes
13 and this and that. No type of ID.

14 Q. Okay.

15 A. And as soon as I finished
16 looking at this bucket, some --- I
17 had a guy standing here watching this
18 body. He flagged me. He said, hey,
19 Brad, they want you to retreat back.
20 I come back. They said for you to go
21 to the command center. I retreat
22 back to where --- well, I mean, I
23 left out some stuff here.

24 Q. Okay.

25 A. After I called out about the

83

01 body, they told me to continue to
02 explore. Right. I asked MSHA if
03 there was a team standing right here
04 fighting the fire. Instead of us

05 trying to go all the way up here and
06 make all this and come all the way
07 back, if we could send that team up
08 this beltline and the adjacent entry
09 to the right. And he said, that's
10 fine. So I come over here and I
11 talked to the captain of this team.
12 For 20 years, I've called him Cuz.
13 Couldn't tell you what his name is.
14 I talked to ---.

15 Q. Do you know what team he was
16 on?

17 A. From Pennsylvania.

18 Q. Cumberland team?

19 A. Yeah. He was on the
20 Cumberland, I think. I think so.
21 But anyway.

22 Q. Emerald also had a team there.

23 A. Emerald come in and floated us
24 out.

25 Q. All right. All right.

84

01 A. And I went over there and
02 talked to Cuz. I said, listen, how
03 much oxygen you got? He said, I got
04 two or three guys that's got enough
05 oxygen. They're like 3,000. I said,
06 could you send those three guys or
07 the whole team, whatever else, and

08 y'all walk this belt line up through
09 here. And y'all go as far as you can
10 and tie all of this area in. And
11 we'll go up and around and circle
12 back to you. And we'll all get
13 together and we'll have all of this
14 explored. And whenever I left, then
15 the new team came in. I believe it
16 was Emerald.

17 Q. Okay.

18 A. A fresh team. And Cuz
19 hollered at me. He said, hey, Brad,
20 you know, I only got three guys
21 that's got enough oxygen. Why don't
22 we send this new team and I'll stay
23 here to back any one of y'all up. I
24 said, that's fine. So this new team,
25 we explained to them what we was

85

01 doing. They said, that's fine. I
02 left them, went back to my team. And
03 when I got to that bucket, they
04 hollered and said come back. I come
05 back and then said, stop all
06 exploration. I knew at that time,
07 we'd found the second body. I come
08 back here and I believe it was Cuz
09 again, I said, what's going on. He

10 said, they found that second body
11 just inby the belt somewhere. And I
12 called outside. I said, if you don't
13 want me to explore anymore, what do
14 y'all want me to do? They said, stay
15 there with the body, they'll be an
16 investigation team come up there.
17 And that was it. Bill Tucker and a
18 couple other guys come up.

19 Q. What about this --- the second
20 body? Where was it located?

21 A. I don't know. I can't tell
22 you. From that point on, I can't
23 tell you anything about the second
24 body.

25 Q. Okay. All right. So then you

86

01 went back to the fresh air base and
02 you guys actually ---?

03 A. We sat right here. We sat
04 right here in this intersection. The
05 investigation team come up. We'd got
06 all those measurements you saw in the
07 map, 100 inches from whatever it is.
08 They measured. Bill was there. He
09 can tell you more about it than I
10 can. And as they were measuring, we
11 were just helping them out. We found
12 --- or we called and we got a roll of

13 line curtain. They told us we didn't
14 have no body bags, to roll him up
15 with curtain and make sure nobody
16 could see his head or feet. We
17 covered him up with curtain, we
18 folded --- rolled him up inside of it
19 and taped the ends of it up. Loaded
20 him on a stretcher and brought him
21 down to right here somewhere and sat
22 there until they finished their
23 investigation on this second body.
24 When they did, I was --- somebody
25 said that you was --- I was wanted on

87

01 the phone. I come over here, another
02 guy sat there with him. They brought
03 in body bags, we put him in the body
04 bag and put him on a stretcher and
05 took him outside. That was it.

06 That's all that happened.

07 Q. Okay. And so that was the end
08 of your shift on the 21st?

09 A. That was all of it. Yeah.

10 Q. Okay.

11 A. I come outside and debriefed
12 him, you know.

13 Q. Okay. How about on the 22nd?

14 Did you come to the mine?

15 A. No.

16 Q. You didn't even come to the
17 mine on the 22nd?

18 A. No.

19 Q. Okay.

20 A. We were asked to come there
21 and finish exploring the rest of the
22 mine. And at that time right there,
23 I had --- you know, we'd all had
24 enough of it. We done what we were
25 supposed to do. The bodies were

88

01 located, the fire was out and we felt
02 like ---.

03 Q. Brad, if you would, would you
04 sign and date the map for me, please?

05 A. Yeah. Where at?

06 Q. Anyplace. Is there any other
07 information you have in your notes or
08 on your map there that ---?

09 A. What's today's date?

10 Q. Today's the 15th.

11 A. 15th?

12 Q. Yeah.

13 A. No, not really.

14 Q. Okay. Let's go ahead and sit
15 down.

16 A. I've got some opinions I'd
17 like to state.

18 Q. I think you said earlier that
19 Johnny Robinson was in the mine?

20 A. Yes. Yes.

21 Q. Did you, in your travels with
22 your team or other teams, did you
23 ever have anybody from Aracoma
24 traveling with you guys during the
25 course of your exploration?

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01 A. Yeah. Like I said earlier, as
02 we traveled up those entries, Johnny
03 was behind us or might have been with
04 them other two guys. He was in
05 there. Because as soon as Norman
06 would say that, he'd said, hey, Brad,
07 there's a body here. About the same
08 time I arrived over there, Johnny was
09 in the area. He was freaking out.
10 He was with us.

11 Q. Okay.

12 A. He was in that area.

13 Q. At any point in time, was he
14 left in that area with the victim by
15 himself?

16 A. No. Definitely not. Never.
17 The victim was never left alone from
18 ---.

19 Q. Did Johnny ever lead you guys

20 as a team captain?

21 A. No, he didn't. No.

22 Q. Okay.

23 A. He would like to have, but he

24 didn't.

25 Q. During your exploration, did

90

01 you ever find yourself and your team

02 just standing in one position waiting

03 for additional instructions from the

04 command center or guidance from the

05 command center?

06 A. No.

07 Q. Did that seem to be a problem

08 for you guys?

09 A. During the time of the

10 firefighting, we were in one

11 position.

12 Q. Okay.

13 A. Which is natural. There's a

14 fire there. No. There's times we

15 sat and there's times we didn't.

16 That's typical with mine rescue work.

17 That's no different than I've ever

18 seen before.

19 Q. When you debriefed outside,

20 did they debrief you as a team

21 or ---?

22 A. Myself and --- I think there

23 was one team member with me.

24 Q. Okay. Map man maybe, or ---?

25 A. Yeah. He's the map man.

91

01 Norman --- no. Yeah. It was Norman,

02 he was with me. He's actually the

03 guy who first located the body. And

04 he hollered to me. I was probably 20

05 feet away from him. He said, we got

06 a body.

07 Q. Where did they do this

08 debriefing at? Was it upstairs?

09 A. Command center.

10 Q. In the command center? Did

11 you turn any maps in or any locations

12 of the body to anybody in the command

13 center?

14 A. Oh, yeah. I gave them every

15 bit of information we have here. I

16 laid this same map down and showed

17 everyone everything.

18 Q. Did you verbally give that

19 information ---

20 A. Yeah.

21 Q. --- or was it on another mine

22 map or ---?

23 A. That is the map I had.

24 Q. Okay. Did you try to give

25 your mine map that you had to anybody

92

01 in the command center?

02 A. No.

03 Q. Did anybody ask you for that
04 map?

05 A. I don't think so.

06 Q. Would you have given your map
07 to somebody in the ---?

08 A. I would rather not.

09 MR. POGUE:

10 That's all I had.

11 Bill?

12 BY MR. TUCKER:

13 Q. I don't really have any
14 questions, Brad. We do appreciate
15 you coming in. Other than just to
16 ask you if you have any closing
17 comments, opinions or recommendations
18 concerning mine rescue and recovery.

19 A. Yeah. I've got a lot of
20 opinions. As far as the entire
21 operation went, I feel like it was
22 mishandled a great deal. And you
23 know, the reasons being is because of
24 past experience. First of all, the
25 command center itself I felt like was

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01 isolated to where only company

02 officials could hear what was going
03 on in there. And you know, you had
04 one phone that all the information
05 was relayed to one company official
06 and then he told the rest of the
07 command center what was said or what
08 was not said. And along with that,
09 you know, they had company officials
10 underground working. And this was
11 supposed to be in mine rescue work.
12 And I can understand support from
13 company people, you know, such as
14 hauling us into the mines, but I
15 don't feel like the company personnel
16 should be allowed to travel inby the
17 affected area at all at no time. I
18 don't feel like any time you have a
19 command center at an operation, I
20 feel like all state and federal
21 people, everyone in that command
22 center needs to hear exactly what's
23 being said on the phone. Do you know
24 what I'm saying? I don't think it's
25 fair to isolate that phone to one

94

01 individual. In no way do I think
02 it's right. Nor do I think it's
03 right to have workers who worked with

04 this guy on the day they --- these
05 guys that were up at the fresh air
06 base were actually some of the
07 survivors that made it through the
08 door. I don't feel like they should
09 have been in the coal mines listening
10 to what I was calling outside, you
11 know. That puts me in a tough
12 predicament. I've got to sit here
13 and deal with three screaming guys.
14 You've got Johnny Robinson already
15 freaking out running around. And of
16 all the problems we had, the biggest
17 complaint we got of any at all is
18 allowing Johnny Robinson to be in
19 that coal mine. I don't think it's
20 right.

21 That's not the biggest
22 problem. The biggest problem is not
23 having an up-to-date mine map. Had
24 we had an up-to-date mine map, and
25 I'm going to state this whether you

95

01 all want to hear it or not. I feel
02 like the amendments we've changed and
03 everything is based on --- and we all
04 know it's based on these guys getting
05 killed; right? I feel like all these
06 changes that's being made should have

07 been made after the investigation and
08 after we determined what actually
09 caused these guys to be trapped in
10 the mines.

11 Now, with that, I feel like if
12 you got isolated intake, regardless
13 of where you're at, you're going to
14 get out of the coal mines. That's my
15 opinion. Other than --- barring an
16 explosion, now, if you've got an
17 isolated intake and the guys can make
18 it into that intake as these guys
19 did, they should have been able to
20 walk right out of the mines. No
21 problem. We shouldn't even be having
22 this conversation. But we have
23 ventilation controls gone.
24 Therefore, you have a fire on your
25 belt, all entries become common,

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01 that's what you're going to have.
02 It's what you're going to have
03 regardless of how many rescuers
04 you've got. Had those guys had 15
05 rescuers, due to the heat and the
06 visibility, we still couldn't have
07 got to them, you know, no matter
08 what. How could they sit there and

09 keep doing changeovers with the
10 rescuers? And I'm not here pushing
11 --- trying to push the rescuer
12 situation out of there. I'm just
13 saying my opinion. And I feel like
14 there's a lot of people in agreement
15 with me. Had those stoppings been in
16 place and that beltline been
17 isolated, this conversation wouldn't
18 even be going on. Those guys would
19 have said, we've got a fire at the
20 belt head, they didn't come straight
21 out of the coal mine. Somebody ---
22 we might have went back and fought a
23 fire, but we would not locate any
24 bodies. Because they were in the
25 areas they were supposed to be in.

97

01 They were in their intake escapeways.
02 You know what I mean? That's where
03 they were at. They were in the right
04 areas. And whoever did or did not
05 allow the stoppings to be built, you
06 know, that's what caused this at
07 Aracoma.

08 Now, what I'm saying is based
09 on a mine fire, not compared to an
10 explosion. Anything that happened at
11 Sago, I can't tell you about. But

12 when you have an explosion, it
13 changes everything. But a mine fire,
14 if you've got isolated escapeways,
15 you guys are going to get out of the
16 coal mines, if they make it to that
17 far. If they make it to the
18 escapeway, they're gone. They're out
19 of the coal mines.

20 And I also think, you know,
21 whatever you all do as state and
22 federal officials any time from now
23 on that you've got a disaster of any
24 sort whatsoever, you should not allow
25 company people in the coal mines.

98

01 Don't. You know, don't do that.
02 Other than support. You know, allow
03 people to support. Take your men
04 underground. Whether it be the
05 federal team or state team, whatever
06 it may be. Allow people to haul them
07 in and out of the coal mines.
08 Because, you know, there's a good
09 possibility we could have got someone
10 injured just traveling in and out of
11 the mines. And we didn't want that.
12 But don't allow these company people
13 to run around with a rescuer for 40,

14 50 hours. I think he was underground
15 50-some hours, I think Johnny was.
16 And that was throughout four or five
17 different teams, throughout two or
18 three days. You know, they told me,
19 said, he's been underground 50-some
20 hours. Hell, I don't care if he's
21 the best man in the world. He's
22 still delirious. I don't care who
23 you are. And he just didn't need to
24 be there. He made everybody
25 uncomfortable. We didn't know ---

99

01 you know, like I left my guys there.
02 They didn't know if he was in charge
03 or who's in charge of what. And then
04 you call outside at the command
05 center, and here, Johnny would be on
06 the other phone. He'd butt you out.
07 You'd be in the middle of a
08 conversation. Hey, Frank, I'll take
09 care of that up here. Don't worry
10 about it. I've got this. That's
11 wrong. And although we might show
12 three or four fresh air bases
13 throughout the entire mine, we've got
14 50 phones at that coal mine. There's
15 people somewhere listening to
16 everything that's going on. And

17 whenever you've got a company man
18 talking to a company man, I just
19 disagree with that. And I'm not just
20 putting down Massey. Any company.
21 Any mines. If we go to a mine fire
22 tomorrow, it should be --- these guys
23 shouldn't be allowed to do this
24 stuff. I mean, it's wrong. We never
25 before have allowed any other ---

100

01 anyone else to be --- to do this.
02 Not that I know of. To run around
03 the coal mine with a mine rescue
04 apparatus and do what they want to
05 when they want to. Never before have
06 I heard of that. And I'm sorry if I
07 offend anybody. But it's my opinion.
08 And that's fact. It's not just an
09 opinion. That's fact. He was
10 running around in there for 50-some
11 hours. And it caused a problem for
12 everybody.

13 And let me go on to say
14 something else. I don't know if you
15 want to hear it. I feel like that
16 whenever we establish a command
17 center, the parties that's making
18 decisions need to be competent in

19 what we're doing, in mine rescue,
20 with a mine rescue background or at
21 least, you know, I'm not going to say
22 a mining background. We all do. But
23 they need to be competent in making
24 decisions as far as some things
25 that's going on. And I don't feel

101

01 like the companies always should be
02 the people that makes them decisions.
03 You know what I mean? I feel much
04 more comfortable when I'm underground
05 when I know who's up there in the
06 command center. And I know there's a
07 lot of people there, you know. I
08 felt fine when I seen Eugene White
09 was in the command center. Didn't
10 have no problem. But there's
11 different times I seen different
12 people that, you know, I'm not so
13 sure I want them deciding --- making
14 my decisions for me that could be
15 life-threatening. And it's just all
16 the things we all need to work
17 together on and make sure stuff's
18 handled better from now on. You know
19 what I mean?

20 Q. That's totally what we want to
21 do. We want to improve. We want to

22 get better.

23 A. And again, I apologize if I
24 offended anybody when I said that.
25 But that's --- in my opinion, if I

102

01 get called to a mine fire tonight, if
02 we do the things I just said, if we
03 know exactly what's on these mine
04 maps and we know exactly the people
05 in the command center, everybody as a
06 group can hear, C.A., you, every one
07 of us, all three of y'all can tell
08 me. Pinnacle for instance, when we
09 called outside, everybody in that
10 room heard what was going on. There
11 was no secret. Everybody heard it.
12 And if y'all felt --- if one of you
13 guys felt like the decision being
14 made wasn't right, you all would
15 pitch in and say your part. Where
16 there, I ain't so sure you all knew
17 what was being said on them phones.
18 Because we had one man answering the
19 phone. And them men that answers
20 them phones are true, true company
21 men throughout, regardless of what
22 y'all might think. They are 100
23 percent. So ---.

24 Q. So as far as the phone, what
25 you're saying is, in the command

103

01 center, it should --- if the
02 communication's underground, it
03 should be on a speakerphone?

04 A. That's right. It's no
05 different than sitting in here doing
06 this information today. Why should
07 you and I go out in the hallway and
08 you come back in here and tell all
09 these guys what I said? You know,
10 what's the difference? You could
11 come in here and tell them anything
12 you want to. And that's the way I
13 feel like happens sometimes in the
14 command center. I feel much better
15 about everybody knowing what's being
16 said.

17 Q. One other question, Brad. Do
18 you know if Mr. Robinson was wearing
19 an apparatus?

20 A. He had an apparatus, and he
21 would put it on when he wanted to and
22 he would take it off when he wanted
23 to. There's many times I seen him
24 without it, and there's many times I
25 seen him with it. Now, his reason

104

01 for being there is he's some expert
02 chief fire department, chief
03 firefighter at a fire department.
04 That don't make you a mine rescue
05 person. It's totally different.
06 Q. I said one more question.
07 A. Go ahead. I don't care.
08 Q. Okay.
09 A. Keep bringing them.
10 Q. Who asked for the telephones?
11 A. Who asked for ---?
12 Q. You mentioned that somebody
13 came and asked for the telephones, in
14 the box cut?
15 A. State, in the box cut. The
16 State Police came in there and said,
17 give us all your cell phones, all
18 your radios and if the Governor
19 catches one more --- if anybody gets
20 caught with one from this point
21 forward, they're going to be
22 prosecuted. And I said, I've got to
23 have them radios. That's part of our
24 work. And they said, he told us to
25 take all radios. A few minutes

105

01 later, somebody brought our radios
02 back, you know. But just hearing all

03 this and seeing all this initially,
04 everybody there assumed that the
05 bodies were located. Whenever Norman
06 told me there's a body laying there,
07 I said --- I thought, well, I said,
08 there's no way. They were located
09 four hours ago. But there was. So
10 what's your next question?

11 Q. That's all I have, Brad.

12 A. I thought you had another one
13 there.

14 BY MR. POGUE:

15 Q. Brad, I've got a couple.
16 First one, we need to go back to the
17 mine map for just one second. Put
18 yourself back up there at the
19 longwall belt, mother drive. Had you
20 traveled this area through this?

21 A. Yeah.

22 Q. Number Seven belt, past the
23 tail?

24 A. Yeah. Yeah. I come up
25 through here. Actually, we come in

106

01 through here. And I traveled this
02 area. And we were standing right
03 here trying to spray water up through
04 here. I have --- back to the 21st, I
05 guess. When we left there that

06 night, it appeared as if the fire was
07 out. I mean, we really couldn't see
08 any flames. We couldn't see
09 anything. And we knew it was hot.
10 And this is just hearsay. From what
11 I was told, everyone was pulled off
12 of this. So they called me back at
13 2:30, two o'clock sometime and said,
14 you need to come back down here, this
15 fire's out of control. That's just
16 what I was told.

17 Q. Okay. This map right here
18 indicates that there's a stopping
19 right here.

20 A. It's not. It wasn't.

21 Q. You actually physically walked
22 through that?

23 A. No. I take that back. I
24 didn't actually physically walk
25 through there. I was told there was

107

01 not --- this was definitely not
02 there.

03 Q. Do you recall looking back
04 through the ---?

05 A. Yeah. I could see from right
06 here. I could see no blockage. Now,
07 this was --- remember. This was at

08 least 30 hours after the fire. These
09 could have possibly fallen due to
10 heat over there.

11 Q. But you didn't see no
12 stopping?

13 A. I'm not going to say that it
14 was ever there or it ever wasn't
15 there.

16 Q. All right.

17 A. I did not see a stopping
18 there. Heat or anything could have
19 caused it to crush out, you know.

20 Q. Well, could you indicate down
21 here, did not see stopping at this
22 location?

23 A. Yes. I won't --- if I was a
24 betting man, I would say that it
25 wasn't there. But I can't tell you

108

01 this was here or not. Because 30
02 hours later, it could have fallen.

03 Q. Okay. All right. Let's sit
04 down. I think everybody in the room
05 here is aware of what happened up at
06 the Sago Mine with the callout of the
07 victims underground. Is there
08 anything in your mind that you can
09 maybe relay to us that would prevent
10 a similar occurrence in the future?

11 In the situation with two victims
12 underground here, is there anything
13 we could have done better to
14 communicate information outside?
15 A. Probably, you know, in a case
16 like this where we had --- you've got
17 multiple phones, maybe remove the
18 phones, you know. Maybe remove all
19 the outby phones and only have your
20 one phone and only allow team
21 captains to transfer information to
22 the command center. You can't just
23 do that, though. It's got to be ---
24 tail captain's got to be involved,
25 too.

109

01 Q. Okay.
02 A. You know, if we're 3,000 and
03 4,000 feet up in the place, if we can
04 communicate to our tail captain, he
05 should be allowed to pick up the
06 phone to call the command center.
07 Q. Sure.
08 A. So I can understand what
09 happened at Sago. I can understand
10 that when you've got a face piece on
11 your face and you're trying to
12 communicate, it's very easy to

13 misinterpret what you hear. You
14 know, put on a face piece once and
15 talk, you know.

16 Q. Sure.

17 A. It's very easy to have
18 miscommunication there, if the guys
19 were under apparatus. I don't even
20 know if they were when they called
21 outside. But as far as
22 communications go, again, remove
23 whatever phones don't --- I mean,
24 don't allow people to huddle around
25 them. Like I say, when I went and

110

01 called out item number one, there was
02 four or five guys there from the
03 company just standing there. They
04 were just sitting around.

05 Q. This is underground?

06 A. Underground.

07 Q. At your phone location?

08 A. That was at that phone. We
09 had a phone up at Ten headgate, that
10 Eastern was communicating with. We
11 had a phone over at the belt head
12 where Johnny Robinson spent most of
13 his time listening and talking and
14 putting his input in. And numerous
15 phones outby everywhere.

16 Q. Sure.

17 A. Every time you'd go by, you'd
18 see orange stripes, you know
19 somebody's listening to the phone
20 conversation, you know. And the best
21 way, I guess, as far as
22 communication, just have all these
23 phones with the teams in the affected
24 area. And try to remove the other
25 phones. You know, use the outby

111

01 people to go retrieve all the phones
02 and remove them. Only allow
03 necessary support to be in there. If
04 it takes one man --- if we need one
05 man to haul us in the mines, let one
06 man haul us. Don't send in the whole
07 troop of other guys, you know.

08 Q. What about once the
09 information is transferred to the
10 command center, you know, if the
11 phone in the command center is on
12 speaker, then it kind of opens up
13 that everybody, not only the people
14 in the room, but people in adjoining
15 rooms or outside the doors may hear
16 that information, do you have any
17 recommendation there?

18 A. As far as that part goes, I
19 feel like that was handled very well
20 at Aracoma.

21 Q. Okay.

22 A. I know a couple guys that
23 whenever they went under lockdown,
24 they couldn't get back in the command
25 center. Now, as far as outsiders

112

01 hearing this, it would be almost
02 impossible. Maybe if the mine rescue
03 teams are to report out and just say
04 lockdown, that means you pick up the
05 phone there individually and listen
06 to what he's got to say and don't let
07 everybody outside hear it. You lock
08 down, that give you two or three
09 minutes to get everybody out of the
10 room and shut the doors. You pick up
11 --- you or whoever else, maybe C.A.
12 or Bill or whoever, y'all pick up the
13 phone and say, you know, all right,
14 let's hear what you got. You know,
15 lockdown as a code word means
16 everybody in the room can't hear it.
17 And then again, you run in --- how
18 often is somebody going to use that
19 word, lockdown.

20 Q. Yeah.

21 A. What I think is no big deal
22 may be a big deal to somebody else.

23 Q. Well, that would be a
24 procedure you could put in place.

25 A. Right.

113

01 Q. Everybody would understand
02 that. Okay.

03 A. You know, where I see 200
04 parts per million carbon monoxide,
05 it's not that big a deal to me.
06 Where, I have seen guys freak out
07 over it, you know.

08 Q. Sure.

09 A. They may call out lockdown and
10 there may not be no purpose for a
11 lockdown. But communication is
12 important. And the most important
13 thing I can tell you about
14 communication is it needs to be
15 handled from those persons. All
16 persons in the command center
17 directly to the teams.

18 Q. Sure.

19 A. Nobody in between. No other
20 --- team members only. And only
21 assigned team members. Not every
22 team member needs to be on the phone.

23 Q. Sure.
24 A. They don't need to be
25 answering questions. But anyway ---.

114

01 MR. POGUE:

02 Okay. Brad, I have a
03 closing statement here that
04 I'd like to read to you and
05 we'll move on.

06 On behalf of MSHA, I
07 thank you for appearing here
08 today and answering our
09 questions and sharing your
10 information about the mine.
11 Your cooperation is very
12 important to us as we work to
13 determine the cause of the
14 accident. If you wish, you
15 may now go back over any
16 answers that you've given
17 during the interview. And you
18 may also have a closing
19 statement covering any
20 additional points you believe
21 should be raised. Do you have
22 any of those at this point?

23 A. No. I think I've made all my
24 points.

25 MR. POGUE:

01 Okay. We ask that you
02 not discuss your interview
03 today with any persons who
04 we've not already interviewed
05 or who may be asked to give a
06 statement in the future. This
07 will ensure that we obtain
08 everyone's independent memory
09 of the events surrounding the
10 accident. After questioning
11 other witnesses and obtaining
12 additional information, we may
13 ask you back for further
14 information. If at some point
15 you have additional
16 information regarding the
17 accident that you would like
18 to provide us with, please
19 contact Kenny Murray, who is
20 the lead accident
21 investigator, or his staff
22 assistant, Anthony Webb. And
23 here are business cards for
24 those two gentlemen right
25 there.

01 A. All right.

02 MR. POGUE:
03 The Mine Act provides
04 certain protections for
05 individuals who participate in
06 accident investigations. If
07 at any time you believe that
08 you've been treated unfairly
09 because of your cooperation in
10 this investigation, please
11 immediately contact Mr. Murray
12 or Mr. Webb.

13 A. That's fine.

14 MR. POGUE:
15 Okay. Thank you very
16 much for participating.

17 A. No problem. All right. Thank
18 you.

19 MR. POGUE:
20 Appreciate it.

21 MR. TUCKER:
22 And Brad, on behalf of
23 Miners' Health, Safety and
24 Training, I too would like to
25 thank you for your hard work

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01 as a mine rescue team member
02 and hope that you'll pass that
03 gratitude on to your other
04 team members. We really

05 appreciate the work that y'all
06 do.

07 A. All right. I hear you.

08 MR. TUCKER:

09 Here's mine and C.A.
10 Phillips' card. He's our
11 Deputy Director. If you need
12 us for anything, feel free to
13 call.

14

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* * * * *

18 EXAMINATION CONCLUDED AT 2:40 P.M.

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