

01 EXAMINATION UNDER OATH
02 OF
03 JAMES KELLY
04
05
06 Taken pursuant to Notice by Autumn D.
07 Furby-Pritt, a Court Reporter and
08 Notary Public in and for the State of
09 West Virginia, at Department of
10 Environmental Protection, 1101 George
11 Kostas Drive, Logan, West Virginia,
12 on Thursday, March 22, 2006, at 3:00
13 p.m.

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01 A P P E A R A N C E S
02
03 KENNETH A. MURRAY
04 District Manager

0322JamesKelly
05 U.S. Department of Labor
06 Mine Safety and Health Administration
07 Coal Mine Safety and Health
08 District 6
09 100 Fae Ramsey Lane
10 Pikeville, KY 41501

11
12 DANIEL M. BARISH, ESQUIRE
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14 Office of the Regional Solicitor
15 1100 Wilson Boulevard
16 22nd Floor West
17 Arlington, VA 22209-2247

18
19 WILLIAM TUCKER
20 Assistant Inspector at Large
21 West Virginia Office of Miners'
22 Health, Safety & Training
23 142 Industrial Drive
24 Oak Hill, WV 25901

25

3

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

02

03 WILLIAM J. FRANCAERT, P.E.
04 Mining Engineer
05 Pittsburgh Safety and Health
06 Technology Center
07 Ventilation Division
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10 Pittsburgh, PA 15236

11

12 C.E. SPIKE BANE

13 Consol Energy

14 Safety Director-Mining

15 1 Bridge Street

16 Monongah, WV 26554

17

18

19 ALSO PRESENT:

20 CHARLES W. POGUE

21 C.A. PHILLIPS

22 BETH SPENCE

23 RONALD STAHLHUT

24 DENNIS BEITER

25 DERRICK TJERNLUND

4

01 I N D E X

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

02 -----

03 MR. POGUE:

04 My name is Charlie

05 Pogue. I represent the Mine

06 Safety and Health

07 Administration, which is an

08 Agency of the United States

09 Department of Labor. I am a

10 member of MSHA's accident

11 investigation team that has

12 been charged with

13 investigating the accident

14 that occurred at the Aracoma

15 Coal Company, Inc., Aracoma

16 Alma Mine Number One, on

17 January 19th, 2006.

18 This is a joint

19 investigation that MSHA is

20 conducting with the state of

21 West Virginia. I will be

22 asking the questions for MSHA

23 in today's interview. With me

24 here today are other members

25 of MSHA's team and the State

7

0322JamesKelly
01 team. MSHA's team includes
02 various specialists and
03 members of the Solicitor's
04 Office. At this time, I would
05 like to ask each member of the
06 MSHA team to identify
07 themselves for the record.

08 MR. FRANCART:

09 Jim, I'm Bill Francart,
10 MSHA Tech Support, Pittsburgh,
11 Pennsylvania.

12 ATTORNEY BARISH:

13 Hi. I'm Dan Barish,
14 attorney in the Solicitor's
15 Office representing MSHA from
16 Arlington, Virginia.

17 MR. MURRAY:

18 Kenny Murray, MSHA,
19 Pikeville, Kentucky.

20 MR. POGUE:

21 Here with me today
22 representing the State of West
23 Virginia is Mr. Bill Tucker.
24 Mr. Tucker will be asking the
25 questions for the State. At

8

01 this time, I would ask that
02 Mr. Tucker to introduce his
03 members of the State's team
04 who are here today.

05 MR. TUCKER:

06 I also need to read a

07 brief statement for the
08 record. The West Virginia
09 office of Miners' Health,
10 Safety & Training is
11 conducting this interview
12 session jointly with MSHA. We
13 are in agreement with the
14 procedures outlined by Mr.
15 Pogue. However, let me make
16 it clear that the Director
17 reserves the right, if
18 necessary, to call or subpoena
19 witnesses or require the
20 production of any record,
21 document, photograph or other
22 relevant materials necessary
23 to conduct this investigation.
24 I do appreciate you coming in
25 today. And my name's Bill

9

01 Tucker, I'm the Assistant
02 Inspector at Large for Miners'
03 Health, Safety & Training out
04 of the Oak Hill office.
05 MR. PHILLIPS:
06 Good afternoon, James.
07 My name is C.A. Phillips. I'm
08 the Deputy Director for
09 Miners' Health, Safety &
10 Training in Charleston, West
11 Virginia

12 MS. SPENCE:

13 Beth Spence for the
14 Governor's Office.

15 MR. POGUE:

16 This investigation is
17 being conducted by MSHA and
18 the State of West Virginia to
19 gather information to
20 determine the cause of the
21 accident and to help prevent
22 this from happening in the
23 future. These interviews are
24 an important part of the
25 investigation. After the

10

01 investigation is completed,
02 MSHA will issue a written
03 report detailing the nature
04 and the causes of the
05 accident. MSHA accident
06 reports are made available to
07 the public in hope that
08 greater awareness about the
09 causes of accidents could
10 reduce their occurrence in the
11 future. Information obtained
12 through the witness interviews
13 is frequently included in
14 these reports. Your statement
15 may also be used in other
16 enforcement proceedings.
17 I would like to thank

18 you in advance for your
19 appearance here today. We
20 appreciate your assistance in
21 the investigation. The
22 willingness of miners, mine
23 rescue team member and mine
24 operators to work with us is
25 critical to our success in

11

01 making the nation's mines
02 safer.

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

18 This interview is being
19 conducted at the Department of
20 Environmental Protection in
21 Logan, West Virginia, on March
22 22nd, 2006 at 3:03 p.m.

0322JamesKelly
23 Mr. Kelly, can I call
24 you Jim?
25 MR. KELLY:

12

01 That's fine.
02 MR. POGUE:
03 The interview will
04 begin by asking you a series
05 of questions. Feel free at
06 any time to clarify any
07 statement that you make in
08 response to the question.
09 After we have finished asking
10 you the question, you will
11 also have an opportunity to
12 make a statement of your own
13 and provide us with any other
14 information that you believe
15 may be important. You are
16 permitted to have a
17 representative with you during
18 this interview, and you may
19 consult with your
20 representative at any time.
21 You may designate any person
22 to be your representative.
23 Following the questions by
24 MSHA and the State, this
25 representative will be given

13

01 an opportunity to ask
02 questions for the purpose of

03 clarification on areas already
04 discussed.

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

14

01 to make a request for a
02 confidential statement?

03 MR. KELLY:

04 No.

05 MR. POGUE:

06 The court reporter will
07 record your interview and will

08 later produce a written
09 transcript of the interview.
10 I ask that you state all of
11 your answers verbally, because
12 the court reporter cannot
13 record your gestures like
14 nodding of your head.
15 If any part of your
16 statement is based not on your
17 own firsthand knowledge but on
18 information that you've
19 learned from someone else,
20 please let us know. Please
21 answer each question as fully
22 as you can, including any
23 information that you've
24 learned from someone else. We
25 may not ask the right question

15

01 to learn the information you
02 have, so do not feel limited
03 by the precise question asked.
04 If you have information about
05 a subject area of a question,
06 please provide us with that
07 information. Do you have any
08 questions in which the manner
09 of the interview will be
10 conducted?

11 MR. KELLY:

12 No, sir.

13 MR. POGUE:

14 Will you please swear
15 in Mr. Kelly?
16 -----

17 JAMES KELLY, HAVING FIRST BEEN DULY
18 SWORN, TESTIFIED AS FOLLOWS:
19 -----

20 BY MR. POGUE:

21 Q. Please state your full name.

22 A. James David Kelly.

23 Q. Your mailing address?

24 A. [REDACTED]

25 [REDACTED]

16

01 Q. Telephone number?

02 A. [REDACTED]

03 Q. And could you spell your last
04 name for the record, please?

05 A. K-E-L-L-Y.

06 Q. Are you appearing here
07 voluntarily for this interview today?

08 A. Yes.

09 Q. Has anyone made any promises
10 to you for giving this statement or
11 offering you any reward in exchange
12 for making your statement?

13 A. No.

14 Q. Has anyone threatened you or
15 warned you not to provide a statement
16 today?

17 A. No.

18 Q. Do you understand that you may

0322JamesKelly
19 refuse to answer any question or
20 terminate the interview at any time?
21 A. Yes.
22 Q. Do you have a representative
23 with you today?
24 A. Yes.
25 Q. Could you identify him,

17

01 please?
02 A. Spike Bane.
03 MR. POGUE:
04 Good afternoon, Mr.
05 Bane.
06 MR. BANE:
07 Good afternoon.
08 BY MR. POGUE:
09 Q. Okay. We'll begin now by
10 asking a series of questions and
11 we'll proceed on with the interview.
12 who was your employer on January the
13 19th of 2006?
14 A. Consol Energy.
15 Q. What mine do you presently
16 work at?
17 A. The Mill Creek operation.
18 Q. And that is a mine at
19 Consolidate Coal?
20 A. Consol of Kentucky.
21 Q. What is your job title and
22 position at that mine?
23 A. Safety department at Mill
24 Creek.

25 Q. At Mill Creek. How many total

18

01 years of mining experience do you
02 have?

03 A. Twenty (20).

04 Q. How many of them in the safety
05 department?

06 A. Five.

07 Q. Could you briefly describe
08 some of the --- some of your mining
09 background as of January the 19th of
10 2006? Some of the ---.

11 A. Yes?

12 Q. Some of your past experience.

13 A. Okay. I started in the mines
14 in '85 in the safety department
15 retraining, dust samples, rescuers,
16 just your general safety procedures,
17 you know, duties. After that, I got
18 foreman's papers and was a belt boss
19 for a year, year and a half. And
20 then stated working at Consol in '92
21 and worked as a B&M for them until
22 2002 roughly.

23 Q. Okay.

24 A. And then been there ever
25 since.

19

01 Q. All right. Are you on the
02 Mill Creek Mine's mine rescue team?

03 A. Consol of Kentucky ---

0322JamesKelly
04 Q. Consol of Kentucky.
05 A. --- mine rescue team.
06 Q. okay. And how long have you
07 been on that particular mine rescue
08 team?
09 A. This should be going on the
10 fifth year.
11 Q. Do you have any prior mine
12 rescue experience?
13 A. No, sir.
14 Q. Have you participated in mine
15 emergencies prior to January the
16 19th, 2006?
17 A. Yes.
18 Q. Could you just briefly tell us
19 what that experience was?
20 A. We went to the Loveridge Mine
21 fire, the Eight Mine fire. That's
22 all I can think of at this point.
23 Q. Okay. What kind of mine
24 rescue apparatus do you have?
25 A. BG-4.

20

01 Q. BG-4?
02 A. Uh-huh (yes).
03 Q. What about your communication
04 system, what type of communication do
05 you have?
06 A. It's just standard lifeline.
07 Q. Sound fire?
08 A. Yeah.
09 Q. Okay.

10 MR. POGUE:

11 We've just had some new
12 members of the investigation
13 team enter the room. For the
14 purpose of the record, could
15 they identify themselves,
16 please?

17 MR. STAHLHUT:

18 Ron Stahlhut, MSHA of
19 Vincennes, Indiana.

20 MR. BEITER:

21 Denny Beiter,
22 Triadelphia, West Virginia.

23 MR. POGUE:

24 Thank you.

25 BY MR. POGUE:

21

01 Q. When were you first notified
02 of the Aracoma Alma Mine fire?

03 A. On the night of the ---
04 January 19th. I don't know what time
05 exactly.

06 Q. Do you remember who notified
07 you of the occurrence?

08 A. I got a call received from
09 Marshall Pogle (phonetic).

10 Q. And he is?

11 A. Our trainer, mine rescue
12 trainer.

13 Q. All right. What day did you
14 report to the Aracoma Mine?

15 A. January the 20th, a.m.
 16 Q. Approximately what time?
 17 A. 1:30 a.m.
 18 Q. Okay. Did you arrive by
 19 yourself?
 20 A. No.
 21 Q. Who else accompanied you at
 22 that time?
 23 A. Full team.
 24 Q. And full team, would that have
 25 been one complete team of how many

22

01 members?
 02 A. Six. Well, actually there was
 03 seven plus the trainer.
 04 Q. Did you only have on team that
 05 reported that night from Mill Creek?
 06 A. We just have the one team,
 07 yes.
 08 Q. Okay. When you arrived at the
 09 mine, who was the person that you
 10 reported to?
 11 A. I don't really know. All I
 12 know is they put us on a standby, so
 13 you know, until we were --- they
 14 might have told the trainer, but ---
 15 then the trainer told us that we were
 16 just on standby until we was
 17 notified.
 18 Q. Where were you on standby at,
 19 at the mine?
 20 A. Correct.

21 Q. would that have been in the
22 bathhouse area?

23 A. Bathhouse.

24 Q. okay. At that time, were you
25 given any kind of briefing on what

23

01 was going on underground as far as
02 the mine fire?

03 A. No.

04 Q. How about the status of the
05 victims? Had you --- had anybody
06 said --- told you the two persons
07 were missing?

08 A. I don't know if that was
09 actually said as far as two or ---
10 I'm not clear on that now.

11 Q. At that time, did they show
12 you any mine maps of the underground
13 area of the mine?

14 A. No.

15 Q. Do you recall which days and
16 dates that you actually did travel
17 underground?

18 A. January the 20th and 21st.

19 Q. okay. Do you recall who
20 traveled with your team from either
21 the State or from the federal
22 government?

23 A. Neither.

24 Q. You don't recall or you didn't
25 have anybody traveling with you?

01 A. I didn't see anybody.
02 Q. Okay. They would have
03 probably had reflective coveralls on,
04 the standard. And you don't recall
05 ---?
06 A. No.
07 Q. On either one of the days or
08 both days, were you given a briefing
09 prior to going underground?
10 A. Yes.
11 Q. Where did that --- on the
12 20th, where did that --- where did
13 that briefing occur?
14 A. The command center.
15 Q. That would have been in the
16 --- what location in the building?
17 A. Upstairs.
18 Q. Upstairs. Could you just
19 briefly inform us as to what
20 information was given to you at that
21 briefing?
22 A. They just --- they had give us
23 our directions to --- we were going
24 to be concentrating on the fire, to
25 extinguish it. That was our main

25

01 priority --- or that was our
02 priority. That was our --- that's
03 what the command center told us to do
04 and no further instructions, just to
05 fight the fire.

06 Q. Did they indicate at that time
07 that the fire had actually been ---
08 or that water had actually been
09 provided to the fire area?

10 A. I don't remember.

11 Q. At that briefing, were they
12 using a map to indicate where the
13 fire was?

14 A. Yes.

15 Q. Can you remember any other
16 items that were discussed at that
17 briefing?

18 A. No. Pretty much just our
19 directions to go to the fire site and
20 concentrate on that.

21 Q. At any time, did anybody talk
22 to you about escapeways from that
23 area of the mine, where the fire was?

24 A. No.

25 Q. On either the first or the

26

01 second day, did you become aware of
02 what the escape routes were
03 underground or the markings of them?

04 A. No.

05 Q. Do you feel that would have
06 been an important item to cover since
07 the emergency was at the mine?

08 A. Clarify that just a little
09 bit. I don't know what you mean.

10 Q. Had you been in the Aracoma

11 Mine before?

12 A. No.

13 Q. And that being the case, do
14 you think it would have been a good
15 idea in the event of an emergency
16 where you guys had to get out of the
17 mine in a hurridly manner that you
18 would know your escapeways out of the
19 mine? would that have been something
20 that you would have liked to have had
21 ---?

22 A. Well, we knew the way out as
23 far as, you know, where to take it in
24 and know the route back out. Whether
25 it was the designated escapeways or

27

01 not, I don't know.

02 Q. How did you know that, Jim?

03 A. By the traveling in.

04 Q. Do you recall any reflectors
05 or anything?

06 A. I'm sure there was but to say
07 that I recall them, you know, not
08 concentrating on reflectors ---.

09 Q. Sure. Do you feel like you
10 had an opportunity at the briefings
11 to ask questions concerning
12 activities underground?

13 A. Yeah.

14 Q. Do you remember who gave the
15 briefing?

16 A. Yes. Joe Pavlovich.

17 Q. And would that have been in
18 the command center on the ---

19 A. Correct.

20 Q. --- on the first night that
21 you went in?

22 A. Correct.

23 Q. How about the second night?

24 A. The same.

25 Q. The same. And he gave it

28

01 upstairs also?

02 A. No, it was downstairs.

03 Q. Downstairs. At that briefing,
04 were your team --- or was your team
05 given a map to take underground?

06 A. Yes, the 20th.

07 Q. On the 20th. What about the
08 21st?

09 A. We used the same map.

10 Q. The same map?

11 A. Yes.

12 Q. Do you recall any problems
13 with the mine map, any discussions
14 with anybody about any problems with
15 the mine map?

16 A. No, I don't recall. No.

17 Q. Did you have any problems with
18 survey stations being marked
19 incorrectly on the mine map?

20 A. I never checked any of them.

21 Q. Okay. What about ventilation

0322JamesKelly
22 controls indicated on the mine map
23 and missing underground?
24 A. No. We --- like I said, we
25 weren't exploring, we was right in

29

01 one area, so ---.
02 Q. At your briefing, did anybody
03 inform you as to the location of the
04 fire taps, any fire valve manifold
05 locations, waterlines that would take
06 water over to the fire area?
07 A. I was told that there were
08 fire hoses already hooked up there
09 ready to use.
10 Q. Okay. And that was told ---?
11 A. And was making preparations
12 for the third.
13 Q. And this was on the 20th?
14 A. Correct.
15 Q. Do you recall the location of
16 the --- the fire tap locations?
17 A. Yes. As far as where they
18 were T'ed in, is that your question?
19 Q. Yes.
20 A. Yes.
21 Q. We'll go to the wall maps
22 directly and you can maybe indicate
23 on the wall map exactly where those
24 locations were. And if I understand
25 right, those fire hoses were hooked

30

01 up prior to you going underground?

02 A. Two were.

03 Q. So any location --- I mean,

04 from the fire valves over to the fire

05 area, or was that something you had

06 to do when you got underground?

07 A. No. Two were already hooked

08 up from the hard line to the fire

09 nozzle itself ---

10 Q. Okay.

11 A. --- ready to go.

12 Q. Okay. Do you know who hooked

13 those up?

14 A. No.

15 Q. Did you get a chance to look

16 at your map in detail that you took

17 underground with you?

18 A. To look at the map?

19 Q. Yeah, the actual map that you

20 carried underground, to any detail?

21 A. Yeah, I've looked at the map.

22 Yeah.

23 Q. Did it appear to be up-to-date

24 from what you knew of the mine and

25 according to your briefing?

31

01 A. I didn't really --- didn't

02 compare it, you know. I thought you

03 meant did I actually look at the map.

04 Yes, I did look at the map. As far

05 as checking it off, no, I didn't do

06 that.

0322JamesKelly
07 Q. okay. well, Jim, I think
08 we're ready to go to the wall maps to
09 indicate some routes of travel and we
10 have different colored markers here.
11 Since you were underground two days
12 there, we'd like to maybe use two
13 different colored markers to indicate
14 the days that you were underground
15 and your location of your travel.
16 All right.
17 MR. POGUE:
18 Bill, break.
19 SHORT BREAK TAKEN
20 (Kelly Exhibit A marked
21 for identification.)
22 BY MR. POGUE:
23 Q. okay. Jim, we're at the wall
24 map and it's Exhibit A Kelly, and
25 it's a map of the mine indicating the

32

01 north mains and the northeast mains.
02 If you can start with the 20th, the
03 night of the 20th, your first night
04 that you were assigned to go into the
05 mine, tell us a little bit about
06 everything that led up to you being
07 underground, your briefing and your
08 movement in the box cut.
09 A. okay. On the 20th, you know,
10 we were told that we were going to go
11 in. The briefing was, our assignment
12 was to go to fight the belt fire.

13 Q. Did they indicate where the
14 belt fire was during your briefing?

15 A. Yes.

16 Q. Okay. Could you mark that
17 area on Exhibit A Kelly, please?
18 This is your mother drive right here.

19 A. This right here?

20 Q. That's correct.

21 A. If you can put an X there on
22 the belt line.

23 Q. We were told --- yeah, that's
24 the storage area.

25 ATTORNEY BARISH:

33

01 Can you speak up so
02 that ---.

03 A. Okay. The storage area of the
04 belt.

05 BY MR. POGUE:

06 Q. You were assigned to go to the
07 storage area?

08 A. No. We were told that's where
09 they thought it originally started.

10 Q. Who told you that, Jim?

11 A. The command center. The name,
12 I couldn't tell you. There was ---

13 Q. Did you know ---?

14 A. --- a lot of people in there.

15 Q. Okay. So the command center
16 at your briefing you were told to go
17 to the belt storage area?

0322JamesKelly
18 A. We were going to the back to
19 fight the belt fire.
20 Q. okay.
21 A. They marked --- they had
22 marked on their map where they
23 thought this was.
24 Q. Could you indicate that to us
25 over here in the margin

34

01 A. The fire.
02 Q. Belt storage area?
03 A. We were going to go to the
04 belt fire.
05 Q. While you're writing, if could
06 also put up here your name and
07 today's date?
08 A. Full name?
09 Q. That'd be fine. Down here,
10 how about just indicating the day
11 that you went underground.
12 WITNESS COMPLIES
13 BY MR. POGUE:
14 Q. That's fine.
15 A. Do you want me to put per
16 command center?
17 Q. Yeah, that's fine.
18 A. What we were instructed?
19 Q. We're just identifying with
20 the green your route of travel, what
21 your assignment was?
22 A. Correct.
23 Q. Okay. What else can you tell

24 us about your assignment on that
25 date, Jim?

35

01 A. Like I said, we were assigned
02 to the belt fire. We were told that
03 two hoses were already hooked up
04 ready to use or in use, I don't
05 remember which term they used. And
06 that another one, hard line, was
07 being laid for us to --- we'd
08 probably be able to hook up another
09 two-inch firefighting hose.

10 Q. Could you locate on our map
11 here the location of the fire valves
12 that they referenced that the hard
13 lines were hooked to and just trace
14 those two or three lines that --- if
15 you can recall.

16 A. Right here is where these ---
17 they was putting in the hard line.

18 Q. If you could just put like
19 maybe a valve there, the two hard
20 lines.

21 A. Valve?

22 Q. Yeah. Sometimes it's easier
23 to put it off to the margin and that
24 way you can see the map. That's
25 fine. Okay. You said you had to go

36

01 to the job storage area at the drive.
02 Can you show by your marker the route

03 of travel that you had for that
04 location?
05 A. To the storage area?
06 Q. Yeah. Do you know of any
07 doors or any stoppings or ---?
08 A. Do you want me to mark on this
09 map?
10 Q. Yes, please. Try to mark it
11 just out to the outside.
12 A. Okay.
13 Q. That way you don't cover up
14 survey stations. Make a solid line
15 if it makes it easier for you.
16 A. No, that's fine.
17 Q. Okay. Did you travel the
18 72-inch belt to the head of ---?
19 A. No, I did not.
20 Q. Let's back up to our valves
21 that we were talking about --- can
22 you put the location of the valves to
23 where the hard line was hooked into
24 the valves, the water valves? Do you
25 know that ---?

37

01 A. Where it went from the hard
02 line to the two-inch? Is that what
03 you're asking?
04 Q. Yeah.
05 A. Right here.
06 Q. Okay. Where did the hard line
07 extend to?
08 A. I really didn't pay any

09 attention. I just knew that was our
10 water source, our cutoffs.

11 Q. Were you in the 48-inch belt
12 entry at all to know where the valves
13 were located?

14 A. No.

15 Q. Could you show or indicate on
16 the mine map with a solid line where
17 the fire hose extended to from the
18 end of your line there?

19 A. Precisely?

20 Q. Well, if you don't know ---.

21 A. I don't know precisely.

22 Q. Okay. Then that's fine. Do
23 you know if the fire hoses were
24 hooked up with nozzles to use in
25 water?

38

01 A. Yes. They had firefight hoses
02 ---

03 Q. Okay.

04 A. --- nozzles on the end.

05 Q. Do you recall a foam generator
06 in any location in and around that
07 drive area?

08 A. We took the foam generator in.

09 Q. And did you place it up?

10 A. Yes.

11 Q. Could you tell us anything
12 about that? Did you have to knock
13 blocks out of a stopping or ---?

14 A. No.
 15 Q. Do you know what location you
 16 put the foam generator in?
 17 A. Yes.
 18 Q. Could you indicate that on the
 19 map for us?
 20 A. Yes. That's the one. It
 21 should be right here. Right there.
 22 Do you want me to draw a line and put
 23 ---?
 24 Q. Yes, please.
 25 A. That is where we set it.

39

01 Q. Did you actually set it in
 02 place to where it would be
 03 discharging foam through a stopping?
 04 A. Yes.
 05 Q. A hole in the stopping?
 06 A. Yes.
 07 Q. Did you knock the hole in the
 08 stopping?
 09 A. No.
 10 Q. Had somebody prior to you
 11 getting there knock the hole in the
 12 stopping?
 13 A. That I don't know.
 14 Q. Did you see any blocks laying
 15 on the mine floor to indicate that
 16 that might have been the case?
 17 A. I really didn't pay attention
 18 at that time.
 19 Q. Okay. Indicate on the map the

20 location of the foam generator, where
21 the foam ---?

22 A. Where we set the foam
23 generator?

24 Q. Where you set it.

25 WITNESS COMPLIES

40

01 A. Like that?

02 BY MR. POGUE:

03 Q. Yes. That would have been
04 down ---?

05 A. I think. I believe that's it.

06 Q. To your knowledge, was that
07 foam --- foam generator moved from
08 that location at any point, can you
09 recall?

10 A. No, I don't recall.

11 Q. What other activities did you
12 perform on that night?

13 A. Well, we used the foam
14 generator and then we fought the fire
15 with water.

16 Q. What particular locations were
17 you applying water to the fire?

18 A. From here all the way to, say,
19 here and here.

20 Q. Okay. Let's indicate, first
21 of all, the location of the fire that
22 you that you guys were fighting.

23 A. And how do you want that
24 marked?

25 Q. Just ---.

41

01 A. Xs in the entry or ---?

02 Q. You can actually just put a
03 red line in the entry.

04 A. Okay. Which map do you go by
05 to make it easier?

06 Q. Could you just indicate by
07 marking that that's the fire that you
08 marked down in here? Okay. Just put
09 fire area wherever you want to put
10 it.

11 WITNESS COMPLIES

12 BY MR. POGUE:

13 Q. How were you applying the
14 water. Did you have one certain
15 location where the fire hose was at
16 and you just stood there and applied
17 the water at that location or did you
18 move to another crosscut to apply the
19 water? How did you fight the fire
20 with the water, with the hose?

21 A. Over in the belt entry.

22 Q. At one location?

23 A. Well, you advanced up and down
24 the belt ---

25 Q. Okay.

42

01 A. --- fighting the fire.

02 Q. Can you indicate ---?

03 A. We didn't go around the block,
04 we just stayed in that entry.

05 Q. Can you indicate where that
06 location would be and what direction
07 you went with the fire hose?

08 A. We went --- the third
09 waterline that I told you that they
10 were installing, we hooked it up here
11 and run it through this door. It was
12 just back and forth in this entry.

13 Q. Could you indicate a third
14 waterline?

15 A. Uh-huh (yes).

16 Q. And it extended through the
17 door over into the belt entry?

18 A. It extended --- yes, from here
19 ---.

20 Q. Can you mark that on the map,
21 please?

22 WITNESS COMPLIES

23 A. It went from right here over
24 to the belt up there.

25 BY MR. POGUE:

43

01 Q. And you could go either in a
02 north direction with the hose or to
03 the south, you'd have enough ---?

04 A. Yeah, we had slack hose.

05 Q. Could you get all the way to
06 the head drive blower, head blower?

07 A. Yeah, that's right.

08 Q. Did it seem like you had
09 enough pressure on your waterline at

10 that point?

11 A. Yeah, down the entry two-inch
12 hose was running.

13 Q. How much of a stream from the
14 end of the nozzle would you estimate
15 you had with your ---?

16 A. Distance wise?

17 Q. Yes.

18 A. Well, you know, it was full of
19 smoke and visibility was low so we
20 wasn't sure where it was at. You
21 couldn't see as far as the water was
22 going.

23 Q. Is that right?

24 A. That's correct.

25 Q. Maybe 20 feet, 25 feet?

44

01 A. I'd be afraid to guess. I
02 don't know.

03 Q. At any time during your
04 firefighting operation that night
05 around the drive area, did it seem
06 like you had not so good pressure and
07 then had good pressure or did you
08 have pressure, good pressure, from
09 the beginning of your shift all the
10 way through.

11 A. It stayed the same. The only
12 time you would have change is if this
13 guy cut his off.

14 Q. Sure. Okay. What can you
15 tell us about this area to the north

16 in the 72-inch belt entry, which
17 would be Number Seven entry? How did
18 you approach the fire on this end as
19 far as firefighting purposes?

20 A. Through here.

21 Q. So at survey station 2236 in
22 the Number Seven entry --- or Number
23 Six entry, I'm sorry, you had fire
24 hoses extended ---

25 A. Uh-huh (yes).

45

01 Q. --- to the east and then to
02 the south just inby survey station
03 3266, one block inby survey station
04 3266? could you indicate that on the
05 map, mine map for us?

06 A. This color here?

07 Q. Let's try another color. We
08 get too many reds.

09 MR. BANE:

10 You may want to have
11 him identify the fire area a
12 little bit better, because
13 right now it's kind of
14 convoluted.

15 MR. POGUE:

16 Yeah.

17 BY MR. POGUE:

18 Q. Give us an end on the fire if
19 you can.

20 A. You mean change it from this

0322JamesKelly
21 waterline, just X it out maybe?

22 Q. Yeah, just X it out.

23 A. Like on my map?

24 Q. Yeah, that's good.

25 A. It's kind of off the

46

01 waterline.

02 Q. Right.

03 A. We traveled here. That's what

04 it is. That's where it happened.

05 Q. Okay. Let's go back to our

06 waterline that you indicated ---

07 A. Okay.

08 Q. --- and mark that in brown.

09 A. Mark where I started from?

10 Q. Yeah, right from the valve

11 bank.

12 A. Oh, okay. Right here are your

13 valves.

14 Q. Okay.

15 A. Your hard lines, both of them

16 come off this one.

17 Q. Right.

18 A. Is that what you wanted?

19 Q. Yeah, that's what it is?

20 A. Yeah.

21 Q. And that's, what, just regular

22 fire hose?

23 A. Right.

24 Q. Can you identify what this ---

25 the diameter of this, the digit?

47

01 A. To be positive? No. It would
02 only be a guess.

03 Q. Okay. Did you just have one
04 location where you had the fire hose
05 going to the fire area or was there
06 two different locations where ---?

07 A. Two different.

08 Q. Could you indicate the second
09 location?

10 A. And then here was the third
11 one.

12 Q. How about putting a number
13 one, number two.

14 A. Okay. And this was the start.
15 List this one as one?

16 Q. That's fine.

17 A. That's okay; right?

18 Q. Yes.

19 A. Okay.

20 Q. Let's talk about some of these
21 ventilation controls on the map here.
22 Let's look at the ventilation control
23 --- or stopping between the Number
24 Six and Number Seven entry just north
25 of survey station 3333. You indicate

48

01 that the fire hose went through that
02 stopping. Was there a stopping there?

03 A. I don't know. I took it
04 through there but the smoke was ---
05 visibility was minus. I couldn't see

0322JamesKelly
06 what I was walking through at all.
07 Q. At any time on the 20th or the
08 21st.
09 A. Well, on the 21st, I didn't
10 get --- go back to this point.
11 Q. okay.
12 A. That's another thing that was
13 over here.
14 Q. So you do not know if a
15 stopping was there?
16 A. Correct. I do not know. To
17 say that I'm not positive, no.
18 Q. okay. Let's move outby one
19 crosscut ---
20 A. okay.
21 Q. --- between Number Six and
22 Number Seven entry in the northeast
23 mains. Do you recall the condition
24 of that particular stopping?
25 A. That's were we set the foam

49

01 generator.
02 Q. okay. Was the hole that the
03 foam generator was discharging the
04 foam, was that something that you
05 guys knocked out or somebody knocked
06 ---?
07 A. It was already a hole in
08 there.
09 Q. Do you recall what size hole
10 approximately?
11 A. I could give you a guess.

12 Q. Approximate. That'd be fine.
13 A. Two by three.
14 Q. Could you just indicate a two
15 by three hole?
16 A. And like I said, that's just a
17 guess.
18 Q. Yeah. You said earlier that
19 you didn't see the block or anything?
20 A. No, I didn't. I didn't notice
21 anything. Yeah, foam generator.
22 This is our foam generator.
23 Q. Okay. What about the overcast
24 that's indicated on the mine map just
25 outby the stopping, do you recall if

50

01 that overcast was in there?
02 A. I don't recall.
03 Q. Move one crosscut outby to
04 survey station 2236, to the south of
05 that survey station, the map
06 indicates a stopping. Do you recall
07 if that stopping was in there?
08 A. I don't remember seeing a
09 stopping there. Whether it's pulling
10 intake or not, I don't remember that
11 part, but I did remember there was a
12 stopping.
13 Q. Okay. If we go about survey
14 station 3234, the Number Six entry,
15 there's a stopping with a door in it.
16 What can you tell us about the

17 condition of that ventilation

18 control? Was a door ---?

19 A. That's the crosscut that we
20 run our hose, the one the hose was
21 going through.

22 Q. Was that --- did you run the
23 hose through the door? Was it ran
24 through the stopping?

25 A. It was just run through the

51

01 hole there in the stopping.

02 Q. How big of a hole was in the
03 stopping, do you recall? Was it a
04 hole that you could walk through?

05 A. Yes.

06 Q. Okay. Could you indicate on
07 the mine map here that --- let's get
08 another color. That the hole was big
09 enough to walk through. I know
10 you're indicating here with your
11 green line that on the 20th you
12 traveled through this crosscut area
13 here.

14 A. Uh-huh (yes).

15 Q. Would you have, by any chance,
16 traveled through this crosscut area
17 ---

18 A. No.

19 Q. --- between survey station
20 2236 and to the south to 3204?

21 A. No. The closest --- we were
22 instructed to go here, and that was

23 our travel route going to the one
24 point to go around the fire, so we
25 had no reason to go back in here.

52

01 Q. Could you tell me anything
02 about the condition of the equipment
03 doors between survey station 3238 and
04 3267? were they opened or closed
05 when you got there?

06 A. They were closed when I got
07 there. And at that time we went
08 through them, we left them as we
09 found them.

10 Q. Do you recall either yourself
11 or a team member in this area of the
12 mother drive?

13 A. What area are you --- I'm
14 unclear.

15 Q. Just in general, the northeast
16 mains and also the area of the Nine
17 headgate entries where they
18 intersect, the immediate fire area,
19 can you recall any of you all
20 knocking blocks or stoppings removed,
21 ventilation controls, ---

22 A. No.

23 Q. --- installing any check
24 curtains?

25 A. No. As far as the area

53

01 around, we --- like said, this is our

0322JamesKelly
02 route of travel right here.
03 Q. Okay. And for the day of the
04 20th and the 21st, ---.
05 A. Are you wanting to go to the
06 21st?
07 Q. Yes. Let's move onto the 21st
08 and use a different colored marker
09 and ---.
10 OFF RECORD DISCUSSION
11 BY MR. POGUE:
12 Q. Since we've put a lot of notes
13 and notations on this map, why don't
14 we move up to this map. And all it
15 is a larger scale map in that same
16 area. Is this the area that you
17 would have been in on your second
18 night or did you expand?
19 A. Let's see what we got here.
20 Q. This is the mother drive right
21 here.
22 A. Oh, yeah. Yeah. On the 21st?
23 Q. The second night.
24 A. Yes, sir.
25 Q. All right. Could you sign it

54

01 and put today's date on this one
02 also, please?
03 MR. POGUE:
04 Jim is signing Exhibit
05 B Kelly, which is a larger
06 scale map of the Nine headgate
07 entries intersecting the

08 northeast mains entries.

09 (Kelly Exhibit B marked

10 for identification.)

11 BY MR. POGUE:

12 Q. Okay. Jim, on the second day
13 prior to the date ---.

14 A. Yes.

15 OFF RECORD DISCUSSION

16 BY MR. POGUE:

17 Q. Prior to going underground on
18 your second night, during the second
19 trip underground ---

20 A. Yeah.

21 Q. --- the morning of the 20th?

22 A Yeah.

23 Q. On the morning of the 20th?

24 A. Roughly.

25 Q. The second day?

55

01 A. The 21st.

02 Q. Okay.

03 A. The 21st.

04 Q. All right.

05 A. Sorry about that.

06 Q. That's all right. Were you
07 given a briefing prior to going
08 underground?

09 A. Yes.

10 Q. Okay. And where did that
11 briefing take place?

12 A. Downstairs.

13 Q. In the mine office?
14 A. Bathhouse/mine office.
15 Q. Would that be the location
16 where the large map was underneath
17 the Plexiglas covering? Would that
18 be the room that you were in?
19 A. It's the room right off of the
20 bathhouse, the locker room and they
21 had to put it in ---.
22 Q. All right. That's fine. Can
23 you tell us about your briefing and
24 what your objective was that night?
25 A. That morning?

56

01 Q. Or that morning.
02 A. Okay. Yeah, basically the
03 same thing. We were told back to the
04 fire area and to do anything we
05 needed to do on putting out the fire,
06 just keep fighting it.
07 Q. You had no assignment to do
08 any exploration work at that point?
09 A. No. No.
10 Q. Okay. Were you given a mine
11 map with the area again or ---?
12 A. No. We used the same map.
13 Q. The same map. Is it you and
14 your team that traveled underground
15 on that day?
16 A. Correct.
17 Q. Was there anybody from the
18 Aracoma Mine that traveled with you

19 at that point?

20 A. On that trip in?

21 Q. Yes. Do you recall anybody
22 from the mine?

23 A. No, there was not.

24 Q. Okay. Do you recall what time
25 of the morning the briefing was?

57

01 A. No.

02 Q. Do you recall what time you
03 went in the mine?

04 A. No.

05 Q. Briefly describe to us, once
06 you got in your mantrip and you went
07 into the northeast mains, where you
08 got out of your mantrip and what your
09 assignment was at that point?

10 A. Right here.

11 Q. Okay. Go ahead and indicate
12 with an X that location and if you
13 could put staging area or whatever
14 you want to call it.

15 MR. BANE:

16 Do you need your map to
17 go by?

18 A. I don't even think I have that
19 marked on it. But I do know that
20 because we had stopped before we went
21 through the doors.

22 BY MR. POGUE:

23 Q. Okay.

0322JamesKelly
24 A. It's right here.
25 Q. All right. And we went to ---

58

01 call that as ---?
02 A. The staging area. And
03 indicate that that was there.
04 Q. Were there two teams that went
05 in with you, your team and one other
06 team, Jim, or how did that work?
07 A. I'm not exactly for sure. I
08 think on our trip was just all of our
09 team members and another team was
10 just right behind us on another trip,
11 but I'm not for sure on that.
12 Q. And you don't recall who they
13 were?
14 A. No, I don't.
15 Q. Could you indicate from your
16 staging area what your route of
17 travel would have been to your
18 assigned area?
19 A. That would have been around
20 that belt to this other transfer
21 line, through here.
22 Q. All right. Just go ahead and
23 indicate with a blue line your route
24 of travel and ---.
25 A. Do you want me to put route of

59

01 travel?
02 Q. Yes, could you, please?
03 WITNESS COMPLIES

04 BY MR. POGUE:

05 Q. Can you indicate this one here
06 on the second day

07 A. It's right here.

08 Q. Okay.

09 A. That's my fault, completely my
10 fault.

11 Q. All right.

12 A. It's right up through here.

13 Q. You probably want to ---.

14 A. I got looking at that overcast
15 there. How do you want me to
16 exchange that now? Just mark it out?

17 Q. Yeah.

18 A. Right here?

19 Q. Yeah, just mark it out.

20 MR. BANE:

21 Squiggle line past it.

22 A. Okay.

23 BY MR. POGUE:

24 Q. Yeah, that's fine.

25 A. Put a squiggle line just

60

01 taking it up through here. Sorry
02 about that.

03 Q. That's all right.

04 A. There's two overcasts there.
05 How's that?

06 Q. That's fine. So you indicated
07 your route of travel on the second
08 day was from the survey station 3204

09 Number Eight entry, survey station
10 3238 heading north to 32N and then
11 traveling in an east direction over
12 to the 72-inch belt line to the
13 discharge of the mother belt in
14 survey station 3249. Okay. Could
15 you take us through the rest of your
16 shift in there, Jim? What you did?
17 A. Okay. We went to that ---
18 where it's marked there to the head
19 drive and noticed that the fire was
20 extinguished in every direction that
21 we were.
22 Q. Inby and back towards the ---
23 A. Right.
24 Q. --- longwall face?
25 A. Correct. And that --- the

61

01 name I couldn't give you. He was a
02 Massey guy, just told us to hold that
03 towards the head.
04 Q. Could it have been John
05 Robertson?
06 A. I had Ribetson on my mind but
07 that could have been. I can't swear
08 to it, but yeah, it could be. And if
09 we would have hold up --- they had
10 another team and I don't --- I think
11 it was Grimden (phonetic) up north.
12 I shouldn't say that, I don't know
13 who it was. They was going over in
14 here and they come back and said that

15 they had found one of the men. And I
16 remember them saying we have found
17 those two boys.

18 Q. Do you know which victim that
19 they had found at that point? Did
20 they indicate ---?

21 A. When they came back and called
22 it out, because I had the code they
23 were supposed to use.

24 Q. Okay.

25 A. So I knew unit one and unit

62

01 two.

02 Q. Okay.

03 A. Okay?

04 Q. All right. Do you know what
05 unit or item ---

06 A. Right.

07 Q. --- they indicated first off?

08 A. No, I really don't. At the
09 time I did, but now I do not, sir.

10 Q. Okay. So what did you do from
11 that point?

12 A. Okay. After that --- after
13 they called that out, the Massey
14 supervisor told us or represented he
15 worked for Massey, that he wanted me
16 to take my team and explore these
17 three entries here and tie all this
18 in.

19 Q. Okay.

0322JamesKelly
20 A. Okay? So what we did was put
21 like two in each entry, two paths
22 this way.
23 Q. All right.
24 A. Okay? This is for the belt
25 fire with this. So two got here, two

63

01 went here, me and another guy was
02 going to this entry and that's when I
03 run into Chris.
04 Q. Okay. Could you indicate the
05 location of Mr. Hatfield on that map
06 then?

07 MR. BANE:

08 Need your map?

09 A. Just to make sure, yeah. The
10 home entry is next ---.

11 BY MR. POGUE:

12 Q. No, just kind of location
13 where he was found? And just put an
14 X in there and then indicate Mr.
15 Hatfield.

16 WITNESS COMPLIES

17 BY MR. POGUE:

18 Q. Do you recall what time of day
19 that was?

20 A. 3:20.

21 Q. Can you put that on the map up
22 here?

23 WITNESS COMPLIES

24 BY MR. POGUE:

25 Q. Can you tell me about Mr.

01 Hatfield? Did he have his
02 self-rescuer on?
03 A. No.
04 Q. Did you see a self-rescuer ---
05 A. No.
06 Q. --- close by? And you
07 indicated that the command center had
08 informed you to go ahead and explore
09 these three entries to the south?
10 A. No. No.
11 Q. Who ---?
12 A. The Massey representative,
13 because the fire was out.
14 Q. Can you indicate some location
15 where you went in, where your team
16 went in these three entries and broke
17 up and advanced inby?
18 A. Yeah, we were here, we walked
19 straight on through here.
20 Q. Okay. Can you go ahead and
21 indicate that with your marker, those
22 areas that your team ---?
23 A. That was an attempt to
24 explore?
25 Q. Yeah. Is that map going to be

01 large enough for you?
02 A. Well, we didn't make it
03 anywhere because I found him as soon
04 as we started. As far as the extent

05 of travel, it's going to be like
06 this.
07 Q. That would be fine
08 A. Okay?
09 Q. Go ahead and mark that up for
10 me. I'll draw like a red X,
11 exploration?
12 A. Yes.
13 Q. If you could just put your
14 furthest point of travel.
15 A. Okay. To here.
16 Q. You didn't --- you never did
17 get into that Number Nine entry?
18 A. No. The only thing I did was
19 walk right --- yeah, I actually did
20 break the plain but as far as going
21 in and looking, no.
22 Q. What did you see in that
23 Number Nine entry at that point?
24 A. You really --- it was still
25 hot in there.

66

01 Q. Smokey?
02 A. Yeah. So you really didn't
03 have good visibility as far as seeing
04 anything.
05 Q. Did you see any water ---
06 water or mud conditions in that
07 Number Nine entry?
08 A. It seemed like there was
09 water. How much, I don't know.
10 Q. But you're not even sure that

11 you actually did see water?

12 A. You mean like a waterhole or

13 ---?

14 Q. Yes, just accumulation of

15 water because of the elevations and

16 the way the contours ran?

17 A. You know, it was wet a lot of

18 places because we dumped so much

19 water in there. I'm sure there was

20 some water there, but ---

21 Q. Not a body of water?

22 A. --- to say how big of a hole

23 or how deep, I couldn't.

24 Q. Like Mr. Hatfield, he wasn't

25 laying in water?

67

01 A. No, sir. No.

02 Q. Do you recall the condition of

03 this equipment door right here?

04 A. Didn't go to it ---

05 Q. All right.

06 A. --- because like I said, I was

07 coming across here, and that was as

08 far as --- soon as I found him, I

09 hollered out and everybody come this

10 way.

11 Q. Did anybody back out this way,

12 in an outby location ---

13 A. No.

14 Q. --- from survey station 3267?

15 A. No.

16 Q. As you traveled down through
17 this entry, did you run across any
18 kind of electrical boxes or any kind
19 of ---?

20 A. Yes.

21 Q. Could you indicate on the map
22 what you had there, how many boxes
23 there was or if it was power center
24 or ---?

25 A. It was some kind of power

68

01 center, because there was cables on
02 it. What kind, I don't know.

03 Q. Could you just indicate box
04 where that it was --- something in
05 that entry? You can put unknown by
06 it.

07 A. Actually ---.

08 Q. Was it a belt box or a metal
09 structure?

10 A. Yeah, it was --- yeah, it was
11 metal.

12 Q. Would you feel okay if you
13 just identify it as a metal structure
14 in that crosscut between Number Six,
15 Seven and Eight entries?

16 A. Just as a metal ---

17 Q. Yeah.

18 A. --- structure around there?

19 Q. Or whatever you might think it
20 might be. It had power cables going
21 into it?

22 A. There was power cable beside
23 of it but not as far as going into
24 it.
25 Q. Couldn't tell if it had plugs?

69

01 A. It wasn't really an issue.
02 You know, we found this guy here, so
03 you know, we didn't pay any attention
04 to the box whatsoever. It was just a
05 box sitting there.
06 Q. Okay. A metal structured box?
07 A. It was metal.
08 Q. Could you indicate this ---
09 that on the mine map and if it was to
10 the north or to the south?
11 A. Well, that's --- like I said,
12 once we found him, ---
13 Q. Okay. How about this ---
14 A. --- I don't ---.
15 Q. --- metal box, unknown
16 location and then --- just so that we
17 know that you did see something in
18 there.
19 A. Okay. And that is a metal box
20 in the north section of the mine.
21 Q. How about a ventilation
22 control, was there any type of a
23 stopping in that crosscut between
24 Number Seven and Eight entries?
25 A. Not that I recall.

70

0322JamesKelly
01 Q. Were there any blocks or
02 anything laying in that crosscut back
03 against a rib?
04 A. I don't know because that's
05 where the box was that we're talking
06 about.
07 Q. Okay.
08 A. I wouldn't have --- you know,
09 I would have noticed the box a lot
10 quicker before I noticed loose block.
11 Q. Okay.
12 A. I really don't know.
13 Q. Let's back up to survey
14 station 3249 and you indicated
15 earlier that you traveled inby at
16 that point to survey station 3266?
17 A. Uh-huh (yes).
18 Q. Do you recall --- the map
19 indicates a stopping through that
20 entry there. Do you recall that
21 stopping being there?
22 A. No. I do know that --- no, I
23 don't recall it being in there.
24 Q. Was it missing?
25 A. I don't know, but it was --- I

71

01 walked through here.
02 Q. Did you walk up to a stopping?
03 A. No.
04 Q. Did you walk up to an
05 obstruction that wouldn't let you get
06 through?

07 A. No.
 08 Q. Would it be fair to say that
 09 the stopping was not there?
 10 A. Are you saying a complete or
 11 ---?
 12 Q. Was there a stopping there?
 13 A. I walked --- I did walk
 14 through here, so there couldn't have
 15 been right here in my walkway.
 16 Q. Okay. Would you feel
 17 comfortable in drawing a line up here
 18 and putting missing, circle it and
 19 just indicate missing?
 20 MR. BANE:
 21 If you know.
 22 BY MR. POGUE:
 23 Q. If you know. If you don't
 24 know, then ---.
 25 A. I do know I walked through

72

01 there. I can say that. But as far
 02 as, you know, was half of it built on
 03 over here? I don't know, because
 04 this is the way we brought him out.
 05 Q. Okay. Can you say that at
 06 least half of a stopping ---?
 07 A. I can say that ---.
 08 Q. You weren't obstructed?
 09 A. This tailpiece was sitting
 10 here, was close to the rib like that,
 11 it was tight.

12 Q. All right.
13 A. But we all traveled through
14 there. What was just around through
15 the back of the tailpiece, we never
16 even looked. All we was worried
17 about was getting through.
18 Q. All right. Let's just leave
19 it at that then. That's good enough.
20 Did any of your team members at any
21 point on your second day travel in
22 exploration in this area of the mine,
23 did they remove any type of stoppings
24 or any ventilation controls?
25 A. No, sir.

73

01 Q. Did you knock any holes in any
02 ventilation controls?
03 A. No. Like I said, every door
04 we opened, we closed and we didn't
05 knock --- didn't do anything to
06 ventilation controls.
07 Q. Is it your knowledge that you
08 would have been the first team to
09 travel in this area?
10 A. I wouldn't know if any ---
11 prior to us getting there, I wouldn't
12 know, because like I said, we got
13 there, the fire was out. Somebody
14 could have went through there. That
15 I couldn't answer.
16 Q. Can you recall being at survey
17 station 3266 looking in by in the

18 Number Seven entry? Do you recall
19 any kind of ventilation controls
20 across that opening?
21 A. No, because like I said, we
22 all walked right here and I assigned
23 two to explore this way and two here,
24 so that was going to be their route
25 of travel.

74

01 Q. And they didn't indicate to
02 you that there was any typed?
03 A. No, because I was leading them
04 where they got started and I hollered
05 at them because this was the ---.
06 Q. Okay. Let's --- do you have
07 anything else that you can remember
08 that you'd like to indicate on any of
09 the mine maps that we have here on
10 the wall? Any further information?
11 A. Like I said, we were contained
12 right to the fire area, so it's not
13 like we explored, didn't have no
14 great detail of area around.
15 Q. At the completion of your
16 second day in the mine and you went
17 outside, were you debriefed?
18 A. No. Not that I recall, no.
19 Q. Did you try to give anybody
20 debriefing?
21 A. By the time we got back to the
22 surface, there wasn't any crew to

23 take it.

24 Q. Okay.

25 A. Because we stayed down below

75

01 and waited on ambulances.

02 Q. In the box cut?

03 A. Correct.

04 Q. And then you left the box cut

05 and went ---?

06 A. After we loaded them in the

07 ambulances, then we come up. And we

08 waited a while for ambulances

09 downstairs.

10 Q. At any other time were you

11 ever debriefed on what you had found

12 that night or ---?

13 A. No. Not that I recall, no,

14 not at all.

15 Q. When you guys actually

16 traveled back in this area here, did

17 you notice if it was real hot?

18 A. Yeah. I mean, not ---- what

19 do you mean real hot?

20 Q. Well, just temperature wise,

21 was it hot? Was it too hot to travel

22 in?

23 A. Too hot to travel? No.

24 Q. Could you have gotten to the

25 point where you could have --- if you

76

01 wouldn't have found your --- Mr.

02 Hatfield here, could you have made

03 the exploration through that area
04 because the temperature wasn't too
05 bad and the smoke wasn't bad at that
06 point?

07 A. No, not so hot as incapable.

08 Q. The day before did you try to
09 get in that area?

10 A. No. No, we just strictly
11 fought the fire.

12 Q. Okay. Let's get one other
13 question here. You did state earlier
14 that when you got there, was the fire
15 out?

16 A. On the second day?

17 Q. On the second day.

18 A. Correct. But I don't know how
19 long it was out.

20 Q. Do you know if this area was
21 too hot to travel in that first day?

22 A. Where are you talking about?

23 Q. It would be in this entry
24 right through these crosscuts, these
25 entries.

77

01 A. I wouldn't know because as far
02 as we was fighting the fire right in
03 here, right here, so we had no reason
04 to be in there.

05 Q. Did anybody indicate to you
06 that this area was too hot to travel
07 in or to explore in?

0322JamesKelly
08 A. That I don't know. I just
09 know they had other teams exploring
10 elsewhere. I didn't know where.

11 Q. And since the fire was out,
12 how long after you had knowledge of
13 this fire being --- did you go into
14 these areas and explore?

15 A. Well, upon arrival, we seen
16 the fire was out. You know, we had
17 ---.

18 Q. Okay.

19 A. Okay. And I don't know how
20 much time went by. The other team
21 that as over here, which I don't
22 remember the team's name that found
23 ---.

24 Q. Would it have been like maybe
25 a couple of hours back when you got

78

01 there?

02 A. I don't --- I don't know. I
03 can't remember. We was up so long.

04 Q. Could you recall the direction
05 of air movement in this area?

06 A. Direction of air?

07 Q. Was it inby?

08 A. This way.

09 Q. Could you indicate with an
10 arrow, the direction of air?

11 A. I can indicate it as me
12 standing right here, air was going
13 this way.

14 Q. All right. Draw yourself an
15 arrow and just label it as air
16 direction.

17 A. This is marked ---

18 Q. Okay.

19 A. --- because that's ---.

20 Q. Is that to mean that the air
21 was traveling this direction?

22 A. No. At this point, the air
23 was going this way and when it got
24 here, I don't know if it split and
25 went this way or straight ahead.

79

01 Q. Okay.

02 A. I wouldn't know.

03 Q. All right. To your knowledge,
04 did this air direction in this entry
05 right there in the 72-inch belt, did
06 it ever change, to you knowledge?

07 A. Well, the second day it had
08 because there was a curtain behind
09 here.

10 Q. Okay.

11 A. Which wasn't there the day
12 before.

13 Q. How about indicating that
14 check on here?

15 A. I don't --- I just remember
16 looking down through there and seeing
17 it. I don't remember what block it
18 was in, but I do know it wasn't there

19 the day before.

20 Q. All right.

21 A. And I don't know who ---.

22 Q. On the day before, what

23 direction did the air move in the

24 72-inch belt?

25 A. Now, this mark here ---

80

01 Q. Yes.

02 A. --- it's from the day before.

03 Q. Oh, okay.

04 A. The night that we were

05 fighting the fire on the 20th.

06 Q. Okay. Label that for the

07 20th, yeah.

08 A. It shows ---.

09 Q. There was a check there on he

10 20th?

11 A. No.

12 Q. Okay.

13 A. Do you want me to state it

14 here?

15 Q. Just so I can read it.

16 A. Okay.

17 WITNESS COMPLIES

18 A. Does that work?

19 BY MR. POGUE:

20 Q. Yeah. I don't need any

21 bifocals?

22 A. It's left handed.

23 Q. Okay. Now, on the second day

24 when you went in there, ---

25 A. Uh-huh (yes).

81

01 Q. --- was the air still
02 traveling the same direction?

03 A. I didn't pay any attention
04 because I was just trying to see the
05 fire --- where we had to fight the
06 fire at, where it was flaming. I
07 didn't check it to see. I just
08 noticed, I looked down and seen a
09 curtain.

10 Q. How about --- since this has a
11 lot of information from the first
12 day, could you indicate the air
13 direction for the 20th?

14 A. As I did right here?

15 Q. Yes.

16 A. Yes.

17 MR. BANE:

18 If you could just do
19 the same thing and transfer to
20 here.

21 BY MR. POGUE:

22 Q. Yeah, can you do that for us,
23 please?

24 A. Uh-huh (yes). Let me get my
25 --- two different sizes.

82

01 Q. Okay.

02 A. Just put it right here, spike?

03 There's two different size maps. I'm

04 thinking ---.

05 Q. 3239 is ---.

06 A. Okay.

07 Q. Right inby that?

08 A. Just inby that.

09 WITNESS COMPLIES

10 A. How's that? There's the

11 arrow.

12 BY MR. POGUE:

13 Q. Okay. And that's indicating

14 ---

15 A. Going ---.

16 Q. --- to that area ---

17 A. How's that?

18 Q. That's good.

19 A. And now the air direction?

20 Q. Yes.

21 WITNESS COMPLIES

22 A. We take it to, the air

23 direction that was going on at one

24 point?

25 BY MR. POGUE:

83

01 Q. Yes.

02 A. Like I did that?

03 Q. Yeah, that's fine. Okay. I

04 got one other question.

05 A. Okay.

06 Q. How were you told to go into

07 these three entries from the Nine

08 headgate entries to explore? Was

09 this area previous --- had this area

10 previously explored?

11 A. I don't know it why it would
12 be told them. I couldn't answer
13 that. I don't know who made the call
14 as far as --- I don't know if the
15 command center told or someone else
16 ---.

17 Q. The person that was ---?

18 A. --- who direct. I don't know
19 why ---.

20 Q. Okay. We don't know who the
21 person was?

22 A. Not for certain, no.

23 Q. All right. We can sit down.
24 Jim, is there anything else on this
25 mine map that you brought in and

84

01 referenced in your notes that you'd
02 like to mark on the wall map at this
03 time?

04 A. No. This pretty much was my
05 notes for them, because as far as I
06 was concerned, you know, we were tied
07 to the fire area.

08 Q. Sure.

09 A. I just needed to know the
10 extent of the fire.

11 Q. Okay.

12 A. That pretty much summed us up
13 right there.

14 MR. POGUE:

15 Bill, do you have any
16 questions?
17 MR. TUCKER:
18 Just a couple.
19 A. Okay.
20 BY MR. TUCKER:
21 Q. You mentioned when you rode
22 out with Mr. Bragg and Mr. Hatfield,
23 when you brought the bodies out.
24 A. We followed them out.
25 Q. Followed them out?

85

01 A. Correct.
02 Q. And then when you got to the
03 box cut, you had to wait on an
04 ambulance and ---
05 A. Correct.
06 Q. --- and you helped ---
07 A. Right.
08 Q. --- to load them?
09 A. Right.
10 Q. Do you recall approximately
11 how long you waited for the ambulance
12 to come down to the box cut?
13 A. You want my guess?
14 Q. Yeah, just approximate.
15 A. Twenty (20) minutes
16 approximately
17 Q. Right.
18 A. That's just a rough ---.
19 Q. Rough guess. Okay. When you
20 were --- when you were at the fire

21 area --- and you mentioned both days
22 you were there.

23 A. Uh-huh (yes).

24 Q. Do you remember receiving
25 instructions from anyone at the fire

86

01 area as far as where to go and do
02 this or do that?

03 A. No.

04 Q. How did you receive your
05 instruction as far as once you got
06 the fire area? Did you talk back to
07 the command center? Was there
08 someone there to kind of guide and
09 ---?

10 A. The command center told us
11 outside what they wanted us to do and
12 two hoses and then we would hook
13 another one up and fight the fire, so
14 we approached it the best way that we
15 knew how to extinguish it.

16 Q. Okay. Do you recall taking a
17 CO reading over around in the Number
18 Nine entry where you found Mr.
19 Hatfield? Do you recall any CO
20 readings in that area?

21 A. Yes, I did take a CO reading.

22 Q. Do you recall what they were?

23 A. On the 21st at the 3:20?

24 Q. Yes, sir.

25 A. It was 100 parts per million.

01 Q. 100, okay. One of the facts
02 I'm going to try to get clear in my
03 mind just a little bit. You
04 mentioned that you ran the fire hose
05 on the inby end of the fire that you
06 actually brought the hose through
07 this area to fight the fire?

08 A. Yes.

09 Q. We was discussing that there
10 was a stopping there or not, you
11 couldn't recall it ---

12 A. Correct. I remember the
13 question, yeah.

14 Q. --- 100 percent. Do you
15 recall going through a man door or
16 anything or any type of obstruction?

17 A. Like I said, that right there,
18 you couldn't see anything.

19 Q. Did you go all the way?

20 A. No.

21 Q. Just partway through the
22 block?

23 A. Part, maybe a little more.
24 It's hard to say. You get
25 disoriented where there was so much

01 smoke, you didn't know if you was
02 through it, halfway through it or
03 ---.

04 Q. So could you --- you could see
05 the fire from the area you were at?

06 A. The only way you could see the
07 fire is like if the rib rolled off,
08 and it caused a flame, you might ---
09 or think you seen it, I don't know.
10 You could see a flame ---.

11 Q. A glow?

12 A. A glow, right.

13 Q. Based upon that, would you
14 think there would be a stopping there
15 or not or would you care to say?

16 A. I wouldn't care to say.

17 Q. Okay.

18 A. Because I wouldn't know.

19 Q. That's fine.

20 A. It would be unfair. I
21 couldn't say, I wouldn't know.

22 MR. TUCKER:

23 That's all I have,

24 Thank you.

25 MR. POGUE:

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01 Jim, we've had another
02 member of your investigation
03 team enter the room and for
04 the record, we'd like for him
05 to identify himself, please.

06 MR. TJERNLUND:

07 Derrick Tjernlund, Tech
08 Support, Triadelphia.

09 MR. POGUE:

10 I have a closing

0322JamesKelly
11 statement that I'm going to
12 read to you, Jim. Before I do
13 that, I'd like to afford Mr.
14 Bane an opportunity to --- if
15 he had a question on ---
16 question clarification or
17 anything at this point?

18 MR. BANE:

19 No, I don't see a need.

20 MR. POGUE:

21 would you for the
22 record, spike, give us the
23 telephone number of
24 Consolidated Coal and the
25 mailing address so that in the

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01 event that Jim would provide
02 us with additional information
03 in the future, that we would
04 have that on record.

05 MR. BANE:

06 You can contact
07 Elizabeth Chamberlain, area
08 code 412-831-4105 or myself,
09 C.E. Bane, Spike Bane, at
10 304-534-4721. That's in the
11 Plaza, Pittsburgh and my
12 number's in my office on
13 Monongah, West Virginia.

14 MR. POGUE:

15 Okay. Thank you.

16 MR. BANE:

17 we'd just request that
18 any further --- any further
19 request of any of our
20 personnel come through either
21 Elizabeth or myself, please.

22 MR. POGUE;

23 okay.

24 MR. BANE:

25 Appreciate that.

91

01 MR. POGUE:

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

19 A. No.

20 MR. POGUE:

21 We ask that you not

22 discuss your interview today
23 with any persons who may have
24 already been interviewed or
25 who may be asked to be giving

92

01 a statement in the future.
02 This will ensure that we
03 obtain everyone's independent
04 memory of the events
05 surrounding the accident.
06 After questioning other
07 witnesses and obtaining
08 additional information, we may
09 ask you to come back for
10 further questioning. At some
11 point in the future, if you
12 have additional information
13 regarding the accident that
14 you would like provide us
15 with, please contact Mr.
16 Kenny Murray, who's our lead
17 accident investigator, and his
18 staff assistant, Anthony Webb.
19 And I'll provide you with two
20 business cards at the
21 conclusion of our interview.

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

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01 at any time, you believe that

02 you've been treated unfairly
03 because of your cooperation in
04 this investigation, please
05 immediately contact Mr. Murray
06 or Mr. Webb. And again, these
07 are his two business cards
08 right here. And I'd like to
09 really thank you, Jim, for
10 participating today in the
11 interviews. Bill has a
12 statement he'd like to read.

13 MR. TUCKER:

14 And on behalf of the
15 state, we'd also like to thank
16 you for coming and, Mr. Bane,
17 for you coming with him. And
18 the state also offers
19 protection against
20 discrimination against miners
21 and we appreciate the hard
22 work you do as a mine rescue
23 member. Here's my card if you
24 need to contact me and this is
25 C.A. Phillips' card. He's our

94

01 Deputy Director out of our
02 Charleston office. Thank you.

03 MR. POGUE:

04 Okay. Thank you, Jim.

05 * * * * *

06 EXAMINATION CONCLUDED AT 4:45 P.M.

07	0322JamesKelly
08	* * * * *
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