

01 EXAMINATION UNDER OATH
02 OF
03 PATRICK WAYNE KINSER
04
05
06 Taken pursuant to Notice by Autumn D.
07 Furby-Pritt, a Court Reporter and
08 Notary Public in and for the State of
09 West Virginia, at Holiday Inn
10 Express, 101 George Kostas Drive,
11 Logan, West Virginia, on Wednesday,
12 February 8, 2006, at 1:40 p.m.

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

02

03 ALSO PRESENT:
04 TIMOTHY BRADFORD, ESQUIRE
05 MARNE MITSKOG
06 STEVE COX

07 MICHAEL FINNIE
08 DENNIS A. BEITER
09 RONALD W. STAHLHUT
10 CHARLES W. POGUE
11 RODNEY BROWN
12 ARLIE A. WEBB
13 ANTHONY L. BURKE
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15 EUGENE WHITE
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01 I N D E X

02

03 DISCUSSION 7 - 17

04 WITNESS: PATRICK WAYNE KINSER

05 QUESTIONS

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

02 -----

03 MR. MURRAY:

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

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

18 This is a joint
19 investigation that MSHA is
20 conducting with the State of
21 West Virginia. I will be
22 asking you questions for MSHA
23 here today.

24 With me here today are
25 other members of MSHA's mine

8

01 accident investigation team.
02 And these members include
03 various specialists from all
04 over the United States, and
05 some Solicitors from the
06 Attorney's (sic) office in
07 Arlington, Virginia. At this
08 time, I would like each of
09 those team members to
10 introduce themselves to you.

11 MR. FRANCCART:

12 Bill Francart, with
13 MSHA in Pittsburgh.

14 MR. STAHLHUT:

15 Ronald Stahlhut with
16 MSHA in Vincennes, Indiana.

17 MR. FINNIE:

18 Michael Finnie,
19 Madisonville, Kentucky.

20 MR. BURKE:

21 Tony Burke with MSHA in
22 Whitesburg, Kentucky.

23 MR. WEBB:

24 Anthony Webb, with MSHA
25 in Pikeville.

9

01 MR. BROWN:

02 Rodney Brown, MSHA,
03 Arlington, Virginia.

04 MR. POGUE:

05 Charley Pogue, MSHA,
06 Hunker, PA.

07 ATTORNEY MITSKOG:

08 Marne Mitskog with the
09 Solicitor's Office.

10 ATTORNEY BARISH:

11 Dan Barish, with the
12 Solicitor's Office.

13 MR. MURRAY:

14 Okay. Thank you, guys
15 and ladies. Terry.

16 MR. FARLEY:

17 Patrick, as Mr. Murray
18 has indicated, the Office of
19 Miners' Health, Safety and

20 Training and MSHA are
21 conducting these interviews
22 jointly. And we are in
23 agreement with the procedures
24 Mr. Murray has outlined.
25 Also, I need to state for the

10

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

10 I'm Terry Farley. This
11 is Tim Bradford, our attorney.
12 Back in the back we have ---.

13 MR. COX:

14 Steve Cox, Region
15 Three.

16 MR. PHILLIPS:

17 C.A. Phillips, Deputy
18 Director of Mine Health Safety
19 and Training.

20 MR. WHITE:

21 Eugene White, Region

22 Three.

23 MR. TUCKER:

24 Bill Tucker, Region

25 Four.

11

01 MR. MURRAY:

02 Thanks Terry.

03 MR. FARLEY:

04 Sure thing.

05 MR. MURRAY:

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

16 After the investigation
17 is completed, MSHA will issue
18 a written report, detailing
19 the nature and causes of the
20 accident. The MSHA accident
21 reports are made available to
22 the public in the hope that
23 greater awareness about the
24 causes of accidents can reduce

25 their occurrence in the

12

01 future.

02 The information
03 obtained through witness
04 interviews is frequently
05 included in these reports.
06 Your statement may also be
07 used in other enforcement
08 proceedings.

09 I'd like to thank you
10 in advance for being here. We
11 appreciate your assistance in
12 this investigation. The
13 willingness of miners and mine
14 operators to work with us is
15 critical to our success in
16 making that nation's mines
17 safer.

18 This interview with Pat
19 Kinser is being conducted
20 under Section 103(a) of the
21 Federal Mine Safety and Health
22 Act of 1977, as part of an
23 investigation by the Mine
24 Safety and Health
25 Administration into the

13

01 conditions, events and
02 circumstances surrounding the
03 fatalities that occurred at
04 the Aracoma Alma Mine Number
05 One located at Route 17 North,
06 Bandmill Hollow Road in
07 Stollings, West Virginia,
08 25646.

09 This interview is being
10 conducted at the Holiday Inn
11 Express in Logan, West
12 Virginia, on February 8th,
13 2006. And the current time is
14 approximately 1:44 Eastern
15 Standard Time.

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

14

01 own and provide us with any
02 information that you believe
03 may be important. You are

04 permitted to have a
05 representative with you and
06 you may consult with your
07 representative at any time.
08 You may designate any person
09 to be that representative.

10 Following the questions
11 by MSHA, and the State, your
12 representative will be given
13 the opportunity to ask
14 questions for purposes of
15 clarification on areas already
16 discussed. Your statement is
17 completely voluntary. You may
18 refuse to answer any questions
19 or you may end your interview
20 at any time.

21 If you don't understand
22 a question, tell me and I'll
23 rephrase it. If you need a
24 break for any reason, let me
25 know. You may request the

15

01 opportunity to make a
02 confidential statement which
03 will be withheld from the
04 public, to the extent allowed
05 by law. Should you desire to

06 give a confidential statement,
07 you should advise me before I
08 begin your interview so I can
09 reschedule your interview in
10 order to properly consider
11 your request. Do you request
12 a confidential interview?

13 MR. KINSER:

14 No.

15 MR. MURRAY:

16 The court reporter will
17 record your interview and will
18 later produce a written
19 transcript of the interview.
20 I ask that you state all of
21 your answers verbally because
22 the court reporter cannot
23 record your gestures, such as
24 nodding your head.

25 If any part of your

16

01 statement is based not on your
02 own firsthand knowledge, but
03 on information that you
04 learned from someone else, let
05 me know that. Please answer
06 each question as fully as you
07 can, including any information
08 that you learn from someone

09 else. We may not ask the
10 right questions to learn the
11 information you have, so don't
12 feel limited to the precise
13 question that I ask.

14 If you have information
15 about the subject area of the
16 question, please provide us
17 with that information. Do you
18 have any questions about what
19 we just talked about?

20 MR. KINSER:

21 No.

22 MR. MURRAY:

23 It's a lot of
24 information, isn't it?

25 MR. KINSER:

17

01 Yeah.

02 MR. MURRAY:

03 Okay. Would you please
04 swear the witness in?

05 -----

06 PATRICK WAYNE KINSER, HAVING FIRST
07 BEEN DULY SWORN, TESTIFIED AS
08 FOLLOWS:

09 -----

10 BY MR. MURRAY:

11 Q. Mr. Kinser, for the record,
12 please state your full name, address,
13 and telephone number and then spell
14 your last name.

15 A. Patrick Wayne Kinser, [REDACTED]

[REDACTED]

[REDACTED].

18 K-I-N-S-E-R.

19 Q. Thank you. Are you appearing
20 voluntarily here today?

21 A. Yes.

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

18

01 A. No.

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

05 A. No.

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

09 A. Yes.

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

12 A. Yes.

13 Q. And who is that?

14 A. Mark Heath.

15 Q. How long have you known Mr.
16 Heath?

17 A. A couple days.

18 Q. Did you contact Mr. Heath or
19 did he contact you, as far as being
20 your representative?

21 A. Actually, he contacted me
22 first, but I asked him, after we
23 talked if he'd be my representative.

24 Q. Okay. Have you been made
25 aware that Mr. Heath also represents

19

01 the company in this matter and that
02 there is a potential for conflict of
03 interest to arise between yourself
04 and the company?

05 A. Yes.

06 Q. Do you still agree to proceed?

07 A. Yes.

08 Q. Okay. Were you taken to a
09 room in this hotel today before
10 coming into this interview?

11 A. Yes.

12 Q. Who was in that room?

13 A. Mark Heath and Dave --- what's
14 his last name?

15 ATTORNEY HEATH:

16 Dave Hardy.

17 BY MR. MURRAY:

18 Q. What was discussed in that
19 room?

20 A. Just the general layout of the
21 conference room, where the meeting is
22 being taken place now, and who was
23 going to be in there.

24 Q. Do you know Mr. Crouse and Mr.
25 Hensley?

20

01 A. Yes.

02 Q. Did you talk to them today?

03 A. No, sir.

04 Q. Okay. How long have you
05 worked at the Aracoma Alma Mine
06 Number One?

07 A. Approximately a year and a
08 half.

09 Q. What's your current job title?

10 A. Shuttle car/roof bolter.

11 Q. What was your position on
12 January 19th, 2006?

13 A. Shuttle car operator.

14 Q. How long have you held that
15 position?

16 A. Approximately six months.

17 Q. What other positions have you
18 held at this mine?

19 A. Roof bolter operator.

20 Q. Approximately how many total
21 years of mining experience do you
22 have?

23 A. Eight.

24 Q. This next series of questions
25 is going to talk about the events of

21

01 January 19th, 2006, in case I don't
02 precede that question with that. But
03 we're interested now in January 19th,
04 2006. What shift were you on on that
05 date?

06 A. Evening shift.

07 Q. What time does that start?

08 A. 2:30.

09 Q. What time does it end?

10 A. Around 12:30 or 1:30, it just
11 depends.

12 Q. What time did you arrive at
13 the mine that day?

14 A. Two o'clock.

15 Q. Who was your supervisor on the
16 day of the accident?

17 A. Mike Plumley.

18 Q. Is that your regular
19 supervisor?

20 A. Yes.

21 Q. And what were you assigned to
22 do that day?

23 A. Operate a shuttle car.

24 Q. And what area of the mine were
25 you assigned to work on that shift?

22

01 A. Two section in the face.

02 Q. Had you worked in that area of
03 the mine before?

04 A. Yes.

05 Q. And how recently before
06 January 19th?

07 A. Approximately being on that
08 crew for a month or so, but I've been
09 on the other crew up in that part of
10 the area for some time, too, so I was
11 familiar with the area real well.

12 Q. Okay. Did you work on Two
13 section on the 18th, the day before?

14 A. Yes.

15 Q. In your own words, describe
16 briefly what happened --- what your
17 life looked like from the beginning
18 of the shift up until the time that
19 you were made aware that you had to
20 evacuate. Bring me into the mine and
21 up on to this section.

22 A. I got to the mine. I put my,
23 you know, clothes on as usual. About

24 20 after 2:00, we all went down the
25 elevator and down in the box cut and

23

01 got our lights and everything we
02 needed, gloves, you know, whatever.
03 We got on the mantrip and proceeded
04 inside at 2:30. And, just, you know,
05 started going through the section
06 like we always do, just riding the
07 mantrip. Nothing out of the
08 ordinary, an everyday thing. And we
09 drove up, you know, you go Number One
10 four way, stopped and called for the
11 row. We proceeded on up the hill and
12 we went on up the hill.

13 We went on to the section.
14 And when we got to the section, the
15 dayshift crew was running a flood
16 duster, so we all sat --- stood there
17 by the mantrip for --- I don't know
18 how long it was. We stood there and
19 talked, you know. We was talking
20 about schedule changes, talking ---
21 we was going on like maybe putting us
22 on a six and three schedule or
23 whatever. We waited --- sat there
24 until --- waited until the dust
25 cleared up, you know, with the other

01 crew and then I proceeded on to my
02 shuttle car.

03 When I got to my shuttle car,
04 I done my normal routine. I greased
05 my shuttle car and got it ready to
06 operate. Then I proceeded to the
07 face to see where the miner was going
08 to be cutting at.

09 After I got to the face, I
10 asked the mine operator what we was
11 cutting. He give me his cut
12 sequence. And I went back to my
13 shuttle car and we began mining coal.
14 And we cut --- finished up a cut the
15 dayshift hadn't finished. And then
16 we cut one more cut. And we was
17 backing out of the second cut, and
18 that's when they notified us of the
19 fire.

20 The boss notified the escape
21 man and the boss was at the feeder,
22 tailpiece. The scoop man was at
23 break inby and scoop man told us we
24 was two breaks inby him, I think.

25 I went over to the left side

01 of the section and got the left side
02 crew and told them we had to

03 evacuate, that there was a mine fire.
04 They shut their biter down, got their
05 stuff and we proceeded on to the
06 mantrip. And that's --- we all met
07 on the mantrip at the mantrip. We
08 made sure everybody was there and
09 that's when we proceeded to come
10 outside.

11 We was on our way outside and
12 everything was clear. You couldn't
13 smell nothing, you couldn't see
14 nothing. We drove approximately 15,
15 20 brakes and we started smelling it
16 a little bit down the main intake.
17 And then a light dusting of smoke
18 started coming over us. At that
19 time, we all put our shirts over our
20 mouth because we didn't know the
21 extent of the smoke we was going to
22 hit. And we made a right-hand turn
23 on the manbus. And when we made the
24 right-hand turn, it was just like a
25 cloud of smoke just covered you

26

01 completely up. That's when the
02 manbus operator realized that he
03 couldn't drive the bus no more, so he
04 stopped the bus. We all got off the

05 bus and started donning our rescuers.

06 As far as I know, you know, at
07 that time, all 12 of us was still
08 there putting our rescuers on. You
09 couldn't see, you know. Visibility
10 was very slim. I donned on my
11 rescuer and I felt the rib. The boss
12 told us on the way down on the
13 mantrip to find the cribs. And there
14 was a mandoor one break outby the
15 cribs. And that's where we was
16 going. And that's how I knew where I
17 was going. And I got my rescuer on
18 and I found the rib and started
19 making my way down towards the door.

20 I was in the lead of the ten
21 miners that got out. I've been asked
22 why I was in the lead and I don't
23 know the answer to it. I guess I was
24 the first to don my rescuer.

25 But I started making my way

27

01 down and I found the cribs. I
02 relayed it back to everybody,
03 assuming that there was 11 men behind
04 me. I found the cribs. I made my
05 way on down and found the brattice
06 where the door was. I found the
07 door, opened the door and seen fresh

08 air and relayed it back to everybody.
09 And we all started going through the
10 door.

11 When we got through the door
12 in the fresh air where you could see
13 and breathe, we realized that we was
14 two men short. Immediately we stood
15 back on the other side of the door
16 looking for them, hollering for them,
17 trying to figure out any way we could
18 to let them know where we was so they
19 could get to safety. And we just
20 didn't have --- didn't have the
21 equipment to go back --- go back in
22 and look for them.

23 And at that time, we proceeded
24 down 48-inch belt, which actually
25 runs up above where the fire was

28

01 taking place. We ran around the top
02 of the fire and came through another
03 mandoor and got back in the main
04 intake on the other side of the fire.

05 And at that time we took a
06 head count again and made sure
07 everybody was still with us that was
08 there. And notified the second shift
09 mine foreman, which was there at that

10 time when we got to the main intake,
11 that two men was unaccounted for.
12 And that's when they started doing
13 their duties.
14 Q. Okay. Let me back you up to
15 the way in the mine. Who was driving
16 the bus in, on the way in, at the
17 beginning of the shift?
18 A. Steve Hensley.
19 Q. And did you travel underneath
20 the mother belt on the way in?
21 A. Yes.
22 Q. You went through the airlock
23 doors?
24 A. Yes.
25 Q. Did you notice anybody

29

01 standing in that area?
02 A. Me, particularly, no, I don't
03 --- I don't remember if anybody was
04 there or not. I don't remember
05 seeing nobody but, you know, you've
06 got two or three breaks of mother
07 drive there, there could have been
08 somebody there, I don't know.
09 Q. Did you notice anything
10 unusual when you traveled through
11 that area?
12 A. Everything looked the same as

13 it does every day when we go through
14 there.

15 Q. What about, did you ever have
16 occasion to open those airlock doors
17 by yourself?

18 A. Yeah. Yeah, I've opened them
19 by myself plenty of times.

20 Q. Were they difficult to open?

21 A. No.

22 Q. When you open them, can you
23 tell what direction the air goes?

24 A. Yes.

25 Q. Which direction does it go?

30

01 If you open the --- let's start with
02 the outby door. When you open the
03 outby door, which way does the air
04 want to go?

05 A. It goes to the inby part of
06 the doors.

07 Q. Okay. So it goes in toward
08 the belt?

09 A. Yes.

10 Q. Okay. Then if you close that
11 door behind you and you cross under
12 the belt, and you open the inby door,
13 which way does that air run?

14 A. Actually, there's four sets of

15 doors. There's, you know, four doors
16 there. And they don't actually go
17 through the belt, there's an overcast
18 there. And when you get inside,
19 there are locked doors, there's, you
20 know, not much airflow there. When
21 you get on the inby side of the last
22 set of doors, you know, you got your
23 main intake and the air is going
24 towards the face of Two section.
25 Q. Once you go --- you continue

31

01 towards Two section?

02 A. Yes.

03 Q. Okay. You talked about the
04 scoop man that had notified you of
05 the evacuation order?

06 A. Yes.

07 Q. Who was that?

08 A. Duane Vanover.

09 Q. Duane. And how did he know to
10 advise you of that?

11 A. The boss answered the page,
12 and there was nobody at the phone.
13 They put their light rig up, the
14 lights on top of the mine phones. If
15 nobody answers the page, they turn
16 the light on and you can see a red
17 light flashing on top of the phone.

18 And the scoop man proceeded up
19 the hill towards the phone, was going
20 to answer the phone. And at that
21 time, the boss come through the break
22 at the feeder and answered the phone.
23 And that's when the boss got his
24 notification. And not only was he
25 rounding up men, but he told the

32

01 scoop man to get everybody together,
02 we had to evacuate, to meet at the
03 manbus.

04 Q. Do you know who called in?

05 A. No, I don't.

06 Q. This light that you talk about
07 on the phone, ---

08 A. Uh-huh (yes).

09 Q. --- where is that?

10 A. Separate.

11 Q. Where is the phone located?

12 A. It's located beside the
13 feeder.

14 Q. Okay. And the feeder would be
15 at the end of the tailpiece?

16 A. Yes. In the Number Two entry.

17 Q. Of the Number Two section
18 belt?

19 A. Yes.

20 Q. Is there a CO alarm in that
21 area?
22 A. As far as I know, there is. I
23 don't really know. I don't fool with
24 the belt line much. The only time we
25 fool with it, is when we have to make

33

01 a belt splice on a shift or shovel
02 the tailpiece. I don't know actually
03 what they've got running up there.

04 Q. But the light that you
05 described flashing, ---

06 A. Uh-huh (yes).

07 Q. --- what is that?

08 A. That's simply if somebody is
09 hollering for you on the mine phone
10 and they can't get you to answer the
11 phone, if you're in the face, you
12 know, two or three breaks away from
13 the phones, the phone's got a red
14 light on it. It's like a strobe
15 light on the top of it. The
16 dispatcher can trigger your light
17 off, and just --- your light
18 separately. And that red light will
19 keep blinking until somebody answers
20 the phone on the section.

21 Q. You talked about working in
22 different areas in this area of the

23 mine before you were assigned to Two
24 section?

25 A. Uh-huh (yes).

34

01 Q. Did you have occasion to work
02 on the longwall section at all?

03 A. I've not actually worked on
04 longwall section. I have helped with
05 longwall moves. And I've been in
06 that vicinity of, you know ---. We
07 mined this Two section. We set up
08 the longwall panels, so the panel at
09 the longwall, you know, we was in, we
10 mined all that previously.

11 Q. Before the evacuation order
12 was issued, or before you became
13 aware of it, did you notice anything
14 unusual?

15 A. No, sir.

16 Q. Did you smell any smoke?

17 A. No, sir.

18 Q. When the scoop operator told
19 you that it was --- that you were to
20 evacuate, did he tell you why?

21 A. He said that they said that
22 there was a belt fire. And that's
23 all he said.

24 Q. Did he tell you which belt?

25 A. No. I don't recall if he did

35

01 or not, to be honest with you.

02 Q. Did you ever learn which belt
03 it was?

04 A. Yes.

05 Q. At what point did you learn
06 that?

07 A. As we was evacuating. And
08 when we started hitting the smoke, we
09 pretty much knew then what belt was
10 on fire, because that was the only
11 belt line in that vicinity, besides
12 the section belt, which is the 48-
13 inch belt.

14 Q. Did you personally speak to
15 anybody on the telephone?

16 A. No, sir.

17 Q. Okay. Once everybody on the
18 Two section was notified that you had
19 to evacuate, tell me about some of
20 the decisions and conversations that
21 happened at the mantrip.

22 A. Well, we all got on the
23 mantrip and, you know, none of us
24 knew the extent of what we was about
25 to face, you know. One of the guys

36

01 actually made a joke, you know, when

02 we was just doing our normal routine,
03 you know. One of the guys actually
04 made a joke, I've got pen and paper
05 if anybody wants to leave a note.
06 But, you know, we got on the mantrip
07 and we was just talking and proceeded
08 outside.

09 We assumed that it was
10 probably just a belt roller, a
11 bearing got hot and was sparking or
12 smoking. Of course that's common on
13 a belt line. And anywhere you work,
14 I don't care what mine it is,
15 normally when that happens you just
16 drop the belt roller, you know, find
17 water to pour on it and cool it down
18 and the third shift comes in and
19 replaces the roller and puts a new
20 roller in it. But we just assumed we
21 would go down, help put it out, get
22 everything back under control and go
23 back to the section and run coal the
24 rest of the shift. Little did we
25 know that, you know, it would come to

37

01 what happened.

02 And the boss said on the way
03 down on the mantrip, he said, if we

04 hit the smoke, he said, go to the
05 cribs, like I told you a while ago,
06 stay with the man breaks --- the
07 mandoor is one break outby the cribs,
08 going over to the 48-inch belt line.
09 He said, we'll go through that door
10 and go down the belt line to get out,
11 because the belt line's isolated.

12 Q. Did you have this discussion
13 at the mantrip?

14 A. Yes. We had it at the
15 mantrip, then we had it as we was
16 traveling on the mantrip, proceeding
17 outside. He said it again just to
18 make sure everybody knew.

19 Q. And you say he, that would
20 be ---?

21 A. The boss, Mike Plumley.

22 Q. Why do you think Mike said
23 that?

24 A. Forty-eight (48) inch belt
25 line is your secondary escapeway.

38

01 And if your primary escapeway is
02 blocked, you always go to your
03 secondary escapeway. And he
04 personally --- he didn't know what we
05 was going to hit. None of us knew
06 what we was going to hit. So in my

07 opinion, he was just informing us
08 that if we couldn't get out the
09 primary escapeway, he was reminding
10 us where the secondary escapeway was.

11 Q. Why do you think that Mike may
12 have anticipated problems with the
13 primary escapeway?

14 A. I guess for his men's safety.
15 We're all, you know, one big family
16 up there. And ain't none of us wants
17 to see anybody get hurt or trapped in
18 the mines. He was just looking out
19 for us like he's supposed to be
20 doing.

21 Q. Do you think Mike may have
22 anticipated that the escapeway, the
23 primary escapeway, may have been
24 smoke filled?

25 A. It's possible. I don't know.

39

01 I don't know what he was thinking.
02 You know, I'm myself, he's his self.
03 You know, you don't know what
04 anybody's thinking at the time, but
05 it's possible he did. I mean, I'm
06 sure he thought of it, you know, if
07 that way's blocked, what way we've
08 got to get out. I'm sure that's why

09 he told us what he did, you know,
10 because if your primary escapeway
11 wasn't blocked, we could have just
12 stayed on the mantrip and rode the
13 mantrip all the way outside.

14 Q. Why do you think that you ran
15 into so much smoke in the primary
16 escapeway?

17 A. Actually, I don't know why. I
18 know --- I do know that smoke is not
19 supposed to come up your intake, but
20 I don't know why it occurred that way
21 or why it happened. I don't know, if
22 it was error on something somebody
23 done or what. I don't know. But I
24 do know that smoke is not supposed to
25 come up your intake.

40

01 Q. Did you hear anybody talking
02 --- some of your co-workers as far as
03 why this may have happened?

04 A. No, sir.

05 Q. You talked about your initial
06 thoughts when you guys went to the
07 mantrip, or it may have been a faulty
08 roller or bad bearing, something. Is
09 this something that's common at
10 Aracoma Mine?

11 A. It's not --- I mean, it's not

12 an everyday thing, no, it's not. I
13 mean, if you guys --- if anybody's
14 worked around a bearing, you know a
15 bearing's going to get hot. And when
16 a bearing gets hot, it smokes. And
17 even if a bearing has grease in it,
18 the bearing can still be bad. And if
19 a bearing don't have grease in it,
20 nine times out of ten it won't catch
21 fire, because there ain't nothing
22 there to burn. If a bearing's got
23 grease in it, it will catch fire. So
24 I mean, it's not --- it's not an
25 everyday thing. It is a common thing

41

01 with bearings, even on a car or
02 anything. I mean, it's just ---. I
03 mean, it happens. It's just
04 something that's going to happen.
05 You can't prevent it from happening.
06 Q. So if you had a bad bearing
07 --- help me understand this. On a
08 belt roller, what would be the
09 process, then, if you had a belt
10 roller that the bearings were going
11 bad and it was in the middle of a
12 production shift and it was smoking
13 and hot? What would be the ---?

14 A. If it's just the roller, you
15 know, we would go, just drop the
16 roller, take a roller off the belt
17 line, you know, find a water hole or
18 something, lay it in the water hole
19 and cool it down. And then if there
20 was a roller laying there, we would
21 put it in. If not, then the third
22 shift crew, they don't mine coal on
23 third shift. The third shift would
24 come in and replace the roller.

25 Q. When your mantrip hit the

42

01 heavy smoke, when you turned up into
02 the Number Four entry, at what point
03 did you all decide to put your SCSRs
04 on?

05 A. I started putting mine on as
06 soon as I got off the mantrip. And I
07 might have took five steps and we all
08 stopped and that's when we all said
09 --- you know, we realized we had to
10 put our rescuers on. And at that
11 time it was so heavy, we was getting
12 ready to suffocate. Me personally, I
13 vomited two or three times trying to
14 put mine on. When I did get it on,
15 it was just like a thousand pounds
16 had been lifted off my shoulders

17 because I had oxygen.

18 Q. How far could you see?

19 A. Maybe two inches, if you was

20 lucky. I had my hand on the rib. I

21 shined my light on my hand and I

22 could barely see my hand.

23 Q. Do you wear glasses all the

24 time?

25 A. Yes, sir.

43

01 Q. Did you put your goggles on

02 with your SCSR?

03 A. Actually, no, I didn't. When

04 I put my rescuer on, as I was

05 standing up, when I popped the cap,

06 the goggles fell out the bottom and I

07 wasn't going to spend time looking

08 for them.

09 Q. What about your nose clips,

10 did you put those on?

11 A. Yes, sir.

12 Q. When you were putting your own

13 SCSR on, did you have any problems?

14 A. No, sir.

15 Q. Do you know where Don Bragg

16 was at that time?

17 A. No, sir.

18 Q. How do you think Mr. Bragg got

19 separated from the group?
20 A. I have no idea, unless ---. I
21 just know the smoke was so thick you
22 couldn't see. The only thing I can
23 figure is when he got down to don his
24 rescuer, that he got turned around
25 and then went back the other way. I

44

01 don't know. I mean, I can't figure
02 it out. I've tried. I've thought
03 about it, you know, I just ---.

04 Q. Was he having any problems,
05 that you know of, putting it on?

06 A. No, sir.

07 Q. What about Mr. Hatfield, do
08 you know where he was at, at that
09 time?

10 A. Well, he was with us donning
11 his rescuer.

12 Q. Was he having any problems?

13 A. That I really don't know. He
14 did say --- I do recall Mr. Hatfield
15 hollering, we got to get these on.
16 But other than that, I don't know if
17 he got it on. I don't know what
18 happened.

19 Q. Do you have any opinion on ---
20 how do you think Mr. Hatfield may
21 have gotten separated from the group?

22 A. The only thing I can figure is
23 he might have followed Bragg, Don
24 Bragg, because --- or it could have
25 been vice versa, Don could have

45

01 followed Mr. Hatfield. I don't know.
02 I do know that they was partners on
03 the section and they did work
04 together every day side by side. I
05 don't know if they thought they had
06 another plan that they could get out
07 and one went with the other. I don't
08 know. I just know that they wasn't
09 with us when we got to the other
10 side, in the fresh air.

11 Q. When was the first time that
12 you realized that Mr. Bragg and Mr.
13 Hatfield weren't with the group?

14 A. As soon as we got through the
15 mandoor over on to the 48-inch belt
16 line. We went automatically --- Mr.
17 Plumley came through, which is the
18 boss, he took a head count
19 immediately to see who was with us,
20 you know, to see if everybody was
21 there. And immediately we learned
22 that the two of them wasn't there.

23 Q. Did someone go back through

24 the door and look?

25 A. Yes, sir.

46

01 Q. Who would that have been?

02 A. No comment on that.

03 Q. When you entered that door,
04 from the primary escapeway, did it
05 seem like the smoke was wanting to go
06 into the belt, or did it seem like
07 the fresh air was wanting to come out
08 into the primary escapeway?

09 A. I believe the fresh air was
10 coming out through the primary
11 escapeway because when we got over
12 through the door, we all stood
13 around, you know, hollering screaming
14 for them, you know. And there wasn't
15 no smoke coming through the door
16 where we was at. And we was still
17 beside the door, so I'm assuming the
18 fresh air was going towards the
19 primary escapeway.

20 Q. Did you see any smoke on the
21 48-inch belt?

22 A. No, sir.

23 Q. Do you know what caused the
24 fire?

25 A. No, sir.

47

01 Q. Have you heard anybody talk

02 about what caused the fire?

03 A. No, sir. Everybody I've heard

04 said they don't know.

05 Q. Did anybody guess or have an

06 opinion on what may have caused it?

07 A. I haven't heard nobody say.

08 I'm sure it's been discussed, but I

09 haven't heard nobody say nothing.

10 Q. Is this the first time you

11 were interviewed relative to this

12 accident by anybody?

13 A. I was interviewed briefly at

14 the mine site the night of the

15 accident when the mine rescue team

16 was getting ready to go on their

17 rounds. They had the company --- the

18 company officials were there, Mr.

19 Drexel Short. And then you had

20 Fairway inspectors in the room with

21 us. And they was just trying to

22 interview us briefly on what

23 happened, trying to determine which

24 way to send the mine rescue teams.

25 Q. How about since then?

48

01 A. No, not that I recall.

02 Q. When you talked about the

03 group donning their SCSRs and you
04 were in the lead and somebody asked
05 why you were in the lead, who would
06 that have been? What was the
07 significance of that?

08 A. It was nobody. I mean, it was
09 mainly my family members, you know,
10 asked me the question, why was I
11 leading the guys. And I guess my
12 wife she --- you know, they don't
13 know much about coal mining and I
14 guess she just assumed that the boss
15 should have been leading or something
16 like that. I don't know. I don't
17 know why she asked it but ---.

18 Q. When I asked you about who
19 went back through the door and you
20 said you had no comment, is that
21 because you don't know or you don't
22 want to say?

23 A. I just --- a little bit of
24 both. I mean, it's just I know a few
25 that went back through but, you know,

49

01 I mean it's just ---. If it was your
02 buddy, you would have went back
03 through looking for your buddy. I'll
04 put it to you like that. And, you
05 know, like I said, we're all family,

06 so you're going to do anything you
07 can to try to bring your buddies out.

08 Q. And we're not saying you did
09 anything wrong.

10 A. Oh, no, I know.

11 Q. We were just curious to see
12 who it was.

13 A. I just --- I mean, there's no
14 heroes in the, you know,
15 circumstances, the way things
16 happened. It just --- I'd just
17 rather not say who went back through.

18 Q. That's fine. When was the
19 last time you participated in a fire
20 drill?

21 A. The week before the fire they
22 had us --- they had us walk the
23 primary escapeway out to the fan
24 shaft and come out that way.

25 Q. During these fire drills, do

50

01 you talk --- are there any maps used
02 as demonstration, as far as to
03 explain different escape routes out
04 of the mine?

05 A. You got your maps outside.
06 Usually on a fire drill, what we do,
07 we just we'll leave the station, and

08 you'll walk your primary escapeway
09 all the way to the outside. And, you
10 know, as you're walking, you can
11 pretty much familiarize yourself with
12 everything, you know, as you're
13 walking out through there. You know
14 pretty much what to look for, make
15 sure, you know, you got your
16 reflectors, to make sure you're still
17 in the right direction. But as far
18 as a map goes, no, we don't have the
19 maps underground with us. I think
20 the foremens do, but we don't.

21 Q. Is there a map kept on the
22 section?

23 A. Yes.

24 Q. Where would that be kept?

25 A. On the power center.

51

01 Q. Okay. And the map you talked
02 about outside, where would it be
03 kept?

04 A. It's kept in what we call, I
05 guess, a gathering room, where before
06 we go underground there's a little
07 room there we all sit in and talk,
08 you know, until it's time to go to
09 work. And there's a table, a little
10 bit bigger than this and it's got a

11 glass top on it and it's got a map of
12 the whole mine underneath it.

13 Q. Are the escapeways marked on
14 that map?

15 A. Yes, sir.

16 Q. So that would be a map that
17 you could use to familiarize yourself
18 with the escapeways?

19 A. Yes, sir.

20 Q. And that's a place where
21 miners would normally congregate?

22 A. Yes.

23 Q. Okay. When was the last time
24 you think you walked the escapeway,
25 as far as whether it be a drill or

52

01 anything else?

02 A. The primary escapeway?

03 Q. Yes, sir.

04 A. It could have been two weeks,
05 but a week or two weeks before the
06 fire they had us walk the primary
07 escapeway out. And the primary
08 escapeway comes underneath the fan
09 shaft and comes right outside the box
10 cut. It could have been two weeks.
11 It was a week or two weeks before the
12 fire we had to walk it.

13 Q. Whenever you led this group
14 from the mantrap --- from outby the
15 mantrip through this door, did you
16 walk through any water as you
17 traveled out the belt?

18 A. No, sir.

19 Q. Would you be able to come up
20 to the map and show me the route that
21 you guys traveled?

22 A. Yes, sir.

23 Q. I'll give you a couple
24 reference points to kind of
25 familiarize yourself. Right here,

53

01 where I'm circling, this black
02 dot ---

03 A. Uh-huh (yes).

04 Q. --- just to the right of
05 survey station 3233, that's the
06 borehole.

07 A. Okay.

08 Q. Do you see water dripping down
09 it every once in a while?

10 A. Uh-huh (yes).

11 Q. Is there anything else at the
12 bottom of that hole?

13 A. They've been known --- some
14 guys have throwed beer cans and stuff
15 down it before.

16 Q. Any particular brand?

17 A. Not that I know of.

18 Q. So if we could use that as a
19 reference point. And then you can
20 tell me just by this reference point
21 here. And then here's a seal here.

22 A. Yes.

23 Q. I can --- I'll circle that
24 seal.

25 A. Yeah, I built that seal. I

54

01 was one of them that built that seal.

02 Q. And then based on those two
03 reference points, can you tell me
04 where the mantrip was evacuated ---
05 exited and then lead me into that
06 stopping, the hole there?

07 A. Okay. Well, here's the face
08 of Two section.

09 Q. Okay.

10 A. When I was notified, I was
11 probably standing in this area right
12 through here somewhere. We traveled
13 the intake out into the primary
14 escapeway into the Number Three
15 entrance. So the manbus was right
16 here at one break, behind the power
17 center.

18 Q. Okay. Let me mark the manbus.

19 A. Okay.

20 Q. Point on the map and I will

21 mark it.

22 A. I believe I would draw that

23 --- right here would be your power

24 center sitting right here, so your

25 manbus would be sitting right here.

55

01 Okay. Right across that.

02 MR. MURRAY:

03 Okay. We're pointing

04 to a location in the Two

05 section, in the Number Three

06 entry. And it would be ---.

07 A. One break, outby the power

08 center into your intake.

09 BY MR. MURRAY:

10 Q. Okay. I'm going to mark it

11 with this permanent --- the location

12 here. So I'm going to say it's

13 approximately a block and a half inby

14 survey station 4228. Does that

15 accurately describe what you just

16 told me?

17 A. Yeah. Pretty close, yeah.

18 ATTORNEY HEATH:

19 Does it need to be

20 somewhere else, Pat?

21 A. Yeah. Well, if you're
22 counting this as your feeder power
23 center, the manbus don't actually
24 come down ---. We don't never bring
25 the manbus past the power center, so

56

01 it's actually behind the power center
02 and behind, you know, the feeder. So
03 it probably actually is in between
04 these two places.

05 MR. MURRAY:

06 Okay. I'm going to
07 move it back then. I'm going
08 to move it probably 40-feet
09 inby, survey station 4328.

10 BY MR. MURRAY:

11 Q. Is that better?

12 A. Yeah.

13 Q. Okay. Now, can you get me out
14 of the mine?

15 A. Yes, sir. When we got on the
16 mantrip, our primary escapeway
17 brought us down Number Five, Number
18 Five entry. Or you can also actually
19 go down Number Four entry, go down
20 there. It comes up both of them,
21 both your intakes. We got on the
22 mantrip, we proceeded down Number

23 Five, when we left the station.

24 Q. Okay. So we got on the

25 mantrip where it was parked and we

57

01 drove outby toward survey station

02 4228, and we made a left-hand turn?

03 A. Left-hand turn.

04 Q. And we traveled toward survey

05 station 4227, in the Number Five

06 entry of northeast main?

07 A. Yes. We proceeded down this

08 way. And we come all the way down

09 and we --- where's your mother belt

10 located on here?

11 Q. Right here.

12 A. We came all the way down and

13 traveled all the way down Five. And

14 right around --- right around this

15 vicinity, right in through here,

16 where your borehole's at, right

17 there, we come down Five. We turned

18 up into the Number Four entry. And

19 that's when the smoke hit us. Right

20 along through here, this intersection

21 right here, there were cribs built

22 all the way through the intersection,

23 on the right-hand side.

24 Q. Right by the borehole? Right

25 across the borehole?

01 A. Yes, sir.

02 Q. Okay. So I'm going to put ---

03 which intersection?

04 A. This intersection right here.

05 Q. Which is it, this line of rib,

06 or is it on both sides?

07 A. No, just on one side.

08 MR. MURRAY:

09 Okay. The witness has

10 described cribs being built,

11 if you're traveling out of the

12 mine, it would be on the right

13 line of rib at survey station

14 4233.

15 BY MR. MURRAY:

16 Q. Take me to where you turn

17 here.

18 A. Okay. We turned --- actually,

19 we turned up right here, right at

20 3224.

21 Q. Right there.

22 A. And the manbus was actually

23 parked halfway around that turn right

24 there.

25 Q. Right here?

01 A. Yes, sir.

02 Q. Okay. So we traveled the
03 Number Five entry from the Number Two
04 section all the way down to survey
05 station 3224. And then at survey
06 station 3224, we made a right-hand
07 turn to travel up toward the Number
08 Four entry?

09 A. Yes.

10 Q. Okay. Tell me about the
11 conditions in this Number Five entry,
12 as far as the smoke and things of
13 that nature.

14 A. Actually, we didn't hit no
15 smoke or nothing. Probably when we
16 got around in this vicinity right
17 here, we started smelling smoke. I
18 don't know exactly where we was.

19 Q. Here's Ten headgate?

20 A. Yeah. Probably in this
21 vicinity here, we started smelling
22 it. Then we drove a couple breaks
23 and we started seeing the light smoke
24 and that's when we covered our mouths
25 up with our shirts.

60

01 Q. So in the vicinity of survey
02 station 3591, in the Number Five
03 entry of northeast main, you smelled
04 smoke?

05 A. Yes, sir.
06 Q. You didn't see it yet?
07 A. No, sir.
08 Q. At what point did you use your
09 shirt to cover your mouth?
10 A. Actually when we started
11 smelling it, me, personally, I
12 covered mine up.
13 Q. Right here?
14 A. Yes, sir.
15 Q. So at survey station 3591,
16 covered mouth with shirt. When did
17 you actually see it?
18 A. Oh, after we started smelling
19 it and we drove actually a couple of
20 breaks, which would probably be right
21 through here. Then we started seeing
22 just the light smoke, probably three,
23 three to four breaks, somewhere
24 around in there, somewhere in that
25 area.

61

01 Q. Do we agree on 3566?
02 A. It's probably more like 3555,
03 probably.
04 Q. Okay.
05 A. Yeah.
06 Q. At 3555 there was visible

07 smoke. What color was it?
08 A. It was just like a gray --- it
09 looked kind of like a big cloud
10 coming. You know, just real thin,
11 you know, moving through the
12 entire ---.

13 Q. The entire entry?

14 A. Yeah.

15 ATTORNEY HEATH:

16 I want to clarify. As
17 he's driving out, he can't
18 actually see these spad
19 numbers or can he?

20 A. No.

21 MR. MURRAY:

22 Pardon me?

23 ATTORNEY HEATH:

24 You might want to ask
25 him as he's driving out, can

62

01 he actually see these spad
02 numbers, because you keep
03 tying everything to that.

04 MR. MURRAY:

05 Yes. I'm tying it as
06 he's pointing.

07 ATTORNEY HEATH:

08 Okay.

09 MR. MURRAY:

10 Yes, I understand. He
11 can't see the spads here. But
12 as he indicates ---

13 ATTORNEY HEATH:

14 Right. I agree with
15 that ---.

16 MR. MURRAY:

17 --- the location on the
18 map ---.

19 ATTORNEY HEATH:

20 Yes. I totally agree
21 with that.

22 BY MR. MURRAY:

23 Q. Can you see the spads from
24 where you're at?

25 A. No. I'm not ---.

63

01 Q. Not right there ---. It's
02 hard to find that.

03 A. Yeah, in the mine, you can't
04 see anything. But, you know, you got
05 visible smoke somewhere in this area.

06 Q. Okay.

07 A. And we proceeded on up. And
08 it started getting a little bit
09 thicker. Then when we turned
10 right-hand, it just covered us,
11 covered us up. I mean, it was --- we

12 probably got right here around 3224
13 there. And that's when it hit us and
14 we tried to turn right-handed to go
15 up into the other intake and it was
16 full too.

17 Q. The crosscut was full?

18 A. Yeah. Yeah, and that's when
19 we just had to park the bus and get
20 off.

21 Q. Did it change colors, the
22 smoke, the thick smoke? The gray
23 here ---.

24 A. I really don't know if it
25 changed colors, I just know it got

64

01 thicker and just covered us
02 completely up.

03 Q. You had your mantrip parked
04 just right in that intersection, ---

05 A. Uh-huh (yes).

06 Q. --- and that's where you
07 exited the mantrip? Okay. Tell me
08 where you put your SCSRs on.

09 A. I was in the back of the
10 mantrip. I stepped off and I might
11 have made it up around the front of
12 the mantrip somewhere when I put mine
13 on.

14 Q. And when you say front, you

15 mean the outby side

16 A. Yes, sir. I don't know

17 exactly where I was. I know --- I

18 don't remember, but I do know I was

19 within probably 10 to 15 feet of the

20 mantrip when I did put my SCSR on.

21 Q. At what point was it decided

22 that the shirt over the mouth wasn't

23 enough and you needed to now go with

24 the self-contained self-rescuer?

25 A. It just got so thick. It got

65

01 so bad you couldn't see. And you'd

02 take a deep breath and it was coming

03 through your clothes. We realized

04 that that wasn't going to help us

05 much because it got so thick.

06 Q. Okay.

07 A. I do want to state that, you

08 know, what I'm telling you here, ---

09 Q. Yes.

10 A. --- it may not be the exact

11 --- because I know you guys got guys

12 in there investigating, it might not

13 be the exact break that I'm pointing

14 out. But I do know ---.

15 Q. It's the best to your

16 knowledge?

17 A. Yeah, everything's in that
18 vicinity somewhere.
19 Q. And we appreciate that. We
20 appreciate your honesty. Okay.
21 From the mantrip, could you point to
22 which stopping that you went through
23 that had the door in it?
24 A. It would have been this one
25 right here.

66

01 MR. MURRAY:
02 Okay. The stopping
03 that he points to is the
04 stopping just before you get
05 to survey station 3254 on the
06 48-inch belt.
07 BY MR. MURRAY:
08 Q. And it did have a door in it?
09 A. Yes, sir.
10 Q. Do you know which way the door
11 opened?
12 A. It opened towards the main
13 intake, so you would pull it open
14 towards Number Four.
15 Q. Door opens towards Number
16 Four. Okay. Now, if we can
17 continue, we had you to this point.
18 And you donned your SCSR, ---
19 A. Uh-huh (yes).

20 Q. --- and we're traveling outby
21 now into the Number Four entry.

22 A. Uh-huh (yes).

23 Q. And the crew goes through the
24 door on to the 48-inch belt.

25 A. Yes, sir.

67

01 Q. Okay. Walk with me.

02 A. We started, you know, going on
03 to 48-inch belt, started exiting. We
04 came down the 48-inch belt and came
05 down actually overtop your mother
06 drive, you said that's in through
07 here somewhere; right? Right here.

08 Q. Right here.

09 A. Okay. We come across the
10 mother drive and came through another
11 mandoor back over into the main
12 intake, after we got on the inby side
13 --- or the outby side of the fire.

14 Q. I'm going to label this, just
15 so we know it's the mother drive.

16 Okay. So we went through the door
17 and we walked this way?

18 A. Yes, sir.

19 Q. Could you point to which door
20 you came out?

21 A. I'm assuming ---.

22 Q. This is north mains right
23 here.

24 A. Okay.

25 Q. And this is north mains. This

68

01 is what's been related to us as the
02 Number Two cutting through to the
03 longwall. This is the longwall
04 headgate. This is the longwall
05 section that's being mined out.

06 A. All right.

07 Q. And this is the mother drive,
08 the longwall belt, coming down to the
09 72-inch belt.

10 A. Okay. As far as I recall, I
11 know we came out on the outby side of
12 the mother drive, so it was ---. You
13 got --- I know you got doors marked
14 here. I'm not for sure if it
15 was ---. I know when we exited, I'm
16 not sure exactly what mandoor we came
17 through, but I know we walked down
18 the main intake, which is over here
19 to come on outside. We actually
20 walked from up here down to where the
21 cut-through was. And that's where we
22 met the other crew that was mining
23 the longwall.

24 Q. When you come out the door,

25 you came straight down the intake?

69

01 A. No. When we come out the
02 door, we took another head count.
03 They was, you know, still trying to
04 determine if they could get over to
05 the fire or whatever, or what they
06 needed to do. And we was there for a
07 few minutes. And everybody --- and
08 one of the foremen up there, which
09 was Pat Calloway, pulled out his
10 notepad and his ink pen and he wrote
11 everybody's name down that was up
12 there so nobody else would get lost
13 in all the confusion.

14 Q. And let's try to decide which
15 door we came out there. If we came
16 out this door, for example, we would
17 be one block from the mother drive.
18 If we came out a door in this area,
19 we would be in the north mains. I'm
20 trying to help you with some
21 orientation.

22 A. I'd say probably that door
23 right there, to be honest with you.
24 I don't know for sure, but I could
25 see the lights of this belt head up

70

01 here.

02 Q. Okay.

03 A. And that's your four foot
04 Number One belt head up here. And I
05 could see the lights from it, so I'm
06 assuming it was --- it didn't look
07 very far away, as I can recall. I
08 don't remember, but I'm assuming
09 probably this door right here.

10 Q. Okay. I'm going to continue
11 with these arrows out of the mine,
12 traveling along the 48-inch belt,
13 until we get to survey station --- it
14 looks like 2866. Just in case it's
15 not, it's one block outby 2155,
16 because I can see that. And you
17 exited the door at this location?

18 A. Yes, sir.

19 Q. And when you exited the door
20 and traveled in the outby direction,
21 then you came to survey station 2236?

22 A. Right here.

23 Q. And then where did you hit
24 from there?

25 A. At that time we proceeded

71

01 over. And you got your main intake
02 that runs up right here. And this is
03 your six-foot belt line. We

04 proceeded on and we walked down, I
05 believe it was this entry right here.

06 Q. Okay.

07 A. We walked down this entry and
08 we stopped right here and we met with
09 the other crew that was mining the
10 longwall.

11 Q. Okay. Let me get you --- when
12 we got to survey station 2236,
13 traveling in the outby direction, we
14 made a right-hand turn towards survey
15 station 2855. And we traveled outby
16 in the Number Five entry of north
17 mains, until we got to the
18 intersection of the Number Two
19 cut-through at survey station 3239.
20 And you say that's where you met the
21 longwall crew?

22 A. Yes, sir.

23 Q. Okay.

24 A. That was actually --- I didn't
25 mention, when we come through this

72

01 door, there was actually three or
02 four guys up here that was, I guess,
03 already fighting up the fire, when we
04 made it up here. There was a few
05 guys that added on to our list up

06 here before we come on down and met
07 the longwall crew.

08 Q. Did you know who they were,
09 these three guys here?

10 A. It was Bryan Cabell, Pat
11 Calloway. Joe Rose was up there.
12 The second shift mine foreman and the
13 second shift chief electrician, which
14 is Fred Horton and Billy Howell, just
15 arrived as we was coming through the
16 mandoor. And then Raymond Gramlett
17 (phonetic) arrived on the grader,
18 which was working on the roadways at
19 the top of the hill also, so there
20 was actually six guys that we met up
21 with up there at the top of the hill
22 before we met down with the longwall
23 crew.

24 Q. Did you mention the mine
25 foreman's name?

73

01 A. Yes, sir.

02 Q. Who was that?

03 A. Fred Horton.

04 Q. Fred Horton's the ---?

05 A. Yeah, he's second shift mine
06 foreman.

07 Q. Okay. Did those guys give you
08 any kind of indication of how serious

09 the fire was?

10 A. Well, at that time we pretty
11 much already knew because, you know,
12 we came through --- went over the
13 smoke. To be as thick as it was, it
14 had to be something bad.

15 Q. Did they tell you whether
16 there was anybody left fighting the
17 fire?

18 A. There wasn't --- I don't
19 recall. I don't think there was
20 nobody over there. They didn't say
21 nothing, but I do know that Fred
22 Horton told the other boss, which was
23 Pat Calloway, to write everybody's
24 name down, keep everybody there
25 together and him and the chief

74

01 electrician would be right back. And
02 I guess they went over to the fire,
03 you know, to see what they could do.
04 When they came back, that's when we
05 all proceeded down the hill.

06 Q. When you met the longwall
07 crew, what did you do then?

08 A. We stopped, sat there for a
09 few minutes, talked. And, you know,
10 everybody kind of gathered up,

11 everybody that was there. And we
12 actually came over with the longwall
13 crew through the cut-through, came
14 over to the face of the longwall, got
15 some curtain, rows of curtain. At
16 this time, you know, we're trying to
17 think of anything we could do to
18 smother the fire out to get the smoke
19 off the two guys that was missing.
20 We actually come up in here and hang
21 a curtain and stuff trying to do
22 anything we could to block air from
23 feeding the fire.

24 Q. Show me which way you traveled
25 up into that longwall. Did you have

75

01 to go through doors?

02 A. Yes, we went through the doors
03 and through there.

04 Q. Okay. So you traveled through
05 this Number Two cut-through at survey
06 station 2495, and went through the
07 air lock. And where do you think you
08 hung those checks?

09 A. I'm not really sure. I do
10 know we was up probably from right
11 here, we was probably five or six
12 breaks up in here somewhere. They
13 was just hanging that ---. At that

14 time we had a couple other foremen
15 with us and stuff and they was just
16 --- everybody was hanging a curtain
17 everywhere up through there just
18 trying to do what they could do. I
19 really ain't sure where it was. It
20 was just ---.

21 Q. Let me make a guess. It was
22 outby this?

23 A. Yeah. It was back up towards
24 the mother drive.

25 Q. So if it was one, two, three,

76

01 four, five, it would be here. Did
02 you think it may be across here?

03 A. Probably somewhere in that
04 vicinity right in here. It wasn't
05 real far up in there but it
06 wasn't ---.

07 Q. Here's the mother drive.

08 A. I don't know. It probably
09 wasn't that close. It was probably
10 more like down in here somewhere.

11 Q. Were you personally involved
12 in constructing these checks?

13 A. No, I wasn't. I did go over
14 with the longwall crew and carried
15 some curtain back over. And then

16 there were some other guys that went
17 on up here. When they went on up
18 there, I met a couple of others. We
19 went back on through the doors back
20 over to the main intake. And I was
21 with one of my buddies, which is an
22 escape man on the section. He was
23 having a hard time catching his
24 breath, so I took him and we went
25 back over to the main intake and

77

01 waited for everybody else.

02 Q. Tell me a little bit more
03 about these checks. Do you know if
04 they were put up or if they were
05 intending to put them up?

06 A. I don't know. Personally, I
07 wasn't there to see them. I do know
08 they said that they did hang some, so
09 I'm assuming they did hang them
10 somewhere. I don't know. I wasn't
11 up there actually in person to see
12 it.

13 Q. All four entries?

14 A. I don't know. I don't even
15 exactly where they hanged it at.
16 That's why I tell you that at least I
17 know it was in that vicinity, between
18 the mother drive and the cut-through

19 somewhere.

20 Q. I'll just put a note, checks
21 intended to be constructed. Why were
22 they going to hang those checks
23 there?

24 A. Just anything, I guess --- I
25 don't know if there was air bleeding

78

01 through, going towards the mother
02 drive. I really don't know. Just
03 anything to try to reroute the air
04 from going up through and feeding the
05 fire. Everybody knows that air will
06 build a fire up. And I guess we was
07 just trying to smother --- do
08 anything they could to smother
09 everything out. That's the only
10 thing I can think of.

11 Q. But they thought the air was
12 going this way?

13 A. Well, not necessarily. I
14 mean, I don't think they thought the
15 air was going that way, no. I hope
16 it wasn't anyway. I mean, but I
17 really just --- I don't know why they
18 chose to do anything. I just know
19 that they was hoping --- I don't know
20 if you had air bleeding through

21 somewhere up here or what was going
22 on. But they was just trying to
23 reroute everything from getting
24 there, if it was going there. I
25 don't know, once ---. I wasn't over

79

01 there. I didn't hear none of the
02 conversations over there or nothing
03 like that why they was actually doing
04 it.

05 Q. You said you hoped it wouldn't
06 be going this way, but what would be
07 your concern if it was?

08 A. Well, your return comes out
09 your tail of your longwall. And if
10 your air's coming up through your
11 tail, I mean your ventilation system
12 is backwards on your longwall.

13 Q. But you do understand this is
14 the belt entry?

15 A. Yes, sir.

16 Q. Okay. At what point did you
17 remove your SCSR?

18 A. What do you mean?

19 Q. You donned it over here at the
20 mantrip. And then at what point did
21 you actually take it off?

22 A. I actually took mine out of my
23 mouth when I went through the

24 mandoor, had the fresh air on the
25 48-inch belt line.

80

01 Q. So as quick as you got inside
02 the mandoor, at the survey station
03 3254, you removed your SCSR?

04 A. Yes, sir.

05 Q. And you traveled the rest of
06 the way without it?

07 A. Yes, sir.

08 Q. What did you physically do
09 with it?

10 A. I left it on --- left it
11 hooked up --- you know, it was still
12 around my neck, on my body.

13 Q. And then eventually what
14 happened to it?

15 A. Actually right now it's at my
16 house. I took it home with me.

17 Q. Okay. At some point, we'll
18 need to retrieve that as part of the
19 investigation.

20 A. Will you give it back to me?

21 Q. We'll want to do some testing
22 to it.

23 A. Okay.

24 Q. And then we'll return it ---
25 eventually, we'll return all the

01 evidence to the operator.

02 A. I'd just like to keep it, I

03 mean.

04 ATTORNEY HEATH:

05 He's just telling you

06 he wants it back.

07 MR. MURRAY:

08 Yes.

09 BY MR. MURRAY:

10 Q. Part of the investigation is

11 when we gather the evidence, after

12 we're done doing what we need to do

13 with the testing, evaluating, we

14 return it to the operator. And then

15 it would be their responsibility to

16 do what they want with it. It's

17 obviously not our property. Okay.

18 How far up into the longwall did you

19 go to get this check curtain or

20 curtain material?

21 A. I don't know exactly where we

22 was at. I know it was over around

23 the face of the wall, so I'm assuming

24 a little over in through here

25 somewhere. I ain't sure where the

01 face --- I ain't sure, you know,

02 where they're at right now. I do

03 know we just come over to around the
04 headgate there of the longwall. We
05 got a curtain.

06 Q. Where did you get the curtain
07 from?

08 A. It was laying up against the
09 rib around the headgate there
10 somewhere. I don't know exactly
11 where it was. I know there was three
12 or four rows of curtain laid over
13 there.

14 Q. In the belt entry?

15 A. Yeah. I would guess that's
16 where it was, right there, right in
17 the vicinity.

18 Q. When you were over there
19 retrieving this canvas, did you
20 actually physically see the longwall
21 belt? That's the area you're
22 describing right now.

23 A. No, I didn't, because the
24 roller curtain that I had actually
25 carried back, that was for these guys

83

01 up here. One of the other guys had
02 put one on each shoulder. And I just
03 got one from him so he wouldn't have
04 to pack two. So actually I didn't

05 see nothing.

06 Q. Did you smell any smoke up in
07 this area?

08 A. No, sir.

09 Q. Okay. Did you see any?

10 A. No, sir.

11 Q. So after you did what you had
12 to do here with the ventilation in
13 this area, did they put any ---?

14 Well, let me ask you this, did they
15 put any checks in this cut-through?

16 A. That, I don't know.

17 Q. Was there any discussion of
18 whether they were going to?

19 A. Not that I recall, but I
20 wasn't with them either. There was
21 only two or three of us back over
22 here to get it.

23 Q. Okay. So now we're going to
24 come back out. And you retraced your
25 steps back the --- did you go back

84

01 through these same two doors?

02 A. Yes.

03 Q. Okay. I got you back out
04 where you started. Now what?

05 A. We just --- we sat right
06 there. I pulled a Gatorade out of my
07 bucket, got me something to drink,

08 because my mouth was real dry. At
09 that time, the superintendent comes
10 up. And he's underground and he
11 tells --- relays a message to me to
12 get Fred Horton, which was second
13 shift mine foreman to get every man
14 out of the mine except for a couple
15 men. And that's what we done.

16 Q. Who's the superintendent?

17 A. Pepe (phonetic) Lester.

18 Q. Pepe Lester. And how did you
19 get out of the mine from this point
20 then?

21 A. They was actually --- they
22 brought mantrips up. And we actually
23 --- I think there was a mantrip
24 parked here in this break somewhere.
25 And there was one here. And we

85

01 loaded up on the two mantrips and
02 come down this entry here all the way
03 down to the Number One four way.

04 Q. This one?

05 A. Yes, sir.

06 Q. So after you come back out of
07 the longwall, the mantrip was about
08 in here?

09 A. Actually, yeah, there was one

10 sitting between Four and Five and
11 there was one setting in Five that
12 they just got off of for us to all
13 ride out on.

14 MR. MURRAY:

15 Okay. So the witness
16 indicates that he got on a
17 mantrip, which was parked
18 between Number Four and Five
19 entry near survey station
20 2492. And then via the
21 mantrip, he exited the mine in
22 the Number Four entry of the
23 north mains, and on out to the
24 box cut.

25 A. Box cut, yeah.

86

01 MR. MURRAY:

02 Okay. Very good.

03 Thank you.

04 BY MR. MURRAY:

05 Q. Do you know of any other fires
06 at Aracoma Mine?

07 A. No, sir.

08 Q. Other than this one?

09 A. No, sir.

10 Q. Any occasion to where these
11 rollers that we talked about earlier
12 may have had flames and maybe didn't

13 ignite into a full-fledged fire?
14 A. Me, personally, I've never
15 seen one there with flames on it. I
16 have seen some smoking, you know, but
17 I've never seen no flames, except off
18 of electricians' torches.

19 Q. Did you ever hear of anybody
20 talk about a fire?

21 A. No, sir.

22 Q. On this escapeway drill that
23 you had the week before, who led that
24 --- who led the crew out with that?

25 A. Mike Plumley.

87

01 Q. Okay. Did anybody else walk
02 the primary escapeway with you?

03 A. The whole crew was with us.

04 Q. The whole ---?

05 A. Yeah.

06 Q. This area that we talked
07 about, where you travel out, there's
08 a --- we were led to believe and we
09 actually saw that there was a
10 construction project going on in that
11 area, where they were extending the
12 longwall belt. Were you aware of
13 that?

14 A. What do you mean by extending

15 the longwall belt?

16 Q. This 72-inch ---. I'm sorry,

17 I meant the 72-inch belt.

18 A. The six-foot belt?

19 Q. Yes.

20 A. Okay. What they were trying

21 to do, I ain't really familiar with

22 it. I do know they were trying to do

23 away with all the 48-inch belt

24 running that way and just keeping the

25 one 72-inch belt running all the way

88

01 down to where the Two section section

02 belt would just dump directly on to

03 the six-foot belt.

04 Q. Do you know who was in charge

05 of that project?

06 A. No, sir.

07 Q. Do you ever hear anybody talk

08 about this stopping at the tail of

09 the 72-inch belt, whether it was in

10 or out?

11 A. No, sir.

12 Q. No discussions, no ---.

13 A. No, sir.

14 Q. Based on your experience and

15 your time at this coal mine, what do

16 you think could have been done to

17 prevent this accident?

18 A. You're talking about to
19 prevent the fire or to prevent the
20 deaths?

21 Q. Both. I guess one led to the
22 other.

23 A. In my opinion, the thing that
24 could have been done to prevent the
25 deaths, if we had actually known the

89

01 extent of the fire when we left the
02 station heading that way, because we
03 could have got over on the 48-inch
04 belt before we even hit the smoke.
05 All of us could have been seeing.
06 And if we could have done that, we
07 wouldn't even had to have don our
08 rescuers. I mean, that's the only
09 way, in my opinion, it could --- the
10 deaths could have been prevented.

11 As far as the fire being
12 prevented, I don't know because I
13 don't know what caused the fire and I
14 don't know how it started. So I
15 don't know --- you know, if I knowed
16 the details on the fire, yeah, I'd
17 probably give an opinion, but I don't
18 know no details on it, so ---.

19 Q. Do you have an opinion on why

20 the primary escapeway filled up so
21 quickly with such dense, thick smoke?
22 A. I don't know. I mean, the
23 only one logical explanation, that
24 smoke had to seep through somewhere
25 of the stopping or something. I

90

01 mean, that's the only thing that ---
02 I mean, that's the only logical
03 explanation anybody would have. I
04 mean, I don't know where at or why,
05 or what caused it to, but it had to
06 seep through somewhere because your
07 belt lines are all isolated.

08 Q. Do you think smoke that thick
09 and that dense could have seeped
10 through a properly-constructed
11 stopping?

12 A. Properly-constructed stopping?
13 Eventually, yeah, but at the point of
14 initiation of a fire, I don't think
15 it could --- a properly-constructed
16 stopping, I don't think it could come
17 through there unless there was a
18 mandoor in the stopping. Mandoors
19 are a lot harder to seal than just
20 regular block.

21 MR. FARLEY:

22 I'm sorry.

23 MR. MURRAY:

24 No, that's fine.

25 BY MR. FARLEY:

91

01 Q. I hope I didn't miss something
02 here but Mr. Murray was just
03 referring to a stopping here at this
04 location, where they were installing
05 this new 72-inch belt.

06 A. Uh-huh (yes).

07 Q. Now, the stopping --- the map
08 reflects the stopping there. Now, if
09 that stopping were, in fact, not
10 there, how would that affect
11 ventilation and how would that affect
12 smoke from the fire on the belt line?

13 A. If the stopping wasn't there?

14 Q. Yes.

15 A. Then every bit of the smoke
16 would come straight up here in the
17 primary escapeway.

18 Q. Have you ever heard of a guy
19 named Brandon Conley?

20 A. Have I heard of the guy?

21 Q. Yes.

22 A. Yes, sir.

23 Q. How do you know him?

24 A. He works at the mines.

25 Q. What does he do at the mines?

92

01 A. He's a general belt man.

02 Q. What belt area does he work?

03 A. Usually somewhere on the upper

04 end of the mine, between Five head

05 and up to the face of Two section.

06 You know, he's always usually up in

07 the upper end somewhere.

08 Q. Okay. And I think Mr. Murray

09 asked you if you had any knowledge of

10 any previous fires that occurred at

11 the Alma Mine, any time recently; ---

12 A. Uh-huh (yes).

13 Q. --- is that correct?

14 A. Yes, sir.

15 Q. And you responded that you

16 don't have any knowledge of any; ---

17 A. Yes, sir.

18 Q. --- is that correct?

19 A. Yes, sir.

20 Q. Mr. Conley was interviewed by

21 National Public Radio, ---

22 A. Uh-huh (yes).

23 Q. --- and he stated point blank

24 that there had been a fire in the

25 belt way here, this longwall belt,

93

01 essentially in the same location that

02 we had the fire ---. He said that
03 there had been a fire there in
04 December, ---
05 A. Uh-huh (yes).
06 Q. --- just prior to Christmas in
07 essentially the same location where
08 you had the fire on January 19th. Do
09 you have any knowledge of that?
10 A. No, sir.
11 Q. Do you have any reason to
12 believe that Mr. Conley is making a
13 false statement?
14 A. I'm not calling nobody a liar.
15 I won't call nobody a liar, but me
16 personally, I don't know. I do not
17 have no knowledge of a fire ever
18 being in the mine. And I, myself,
19 you can put it on the record, I'm a
20 preacher and I'm a minister, and I'm
21 not going to sit here and lie to you
22 about nothing, if that's what you're
23 asking.
24 Q. No, that's not what I was
25 asking. After you guys got off the
94
01 trip, you encountered the smoke, you
02 got off, and put your rescuers on,
03 now you stated that you were the lead

04 man as you were traveling toward the
05 cribs to find the door.

06 A. Yes, sir.

07 Q. Were you in contact with the
08 person behind you, the other guys?

09 A. Yes, sir. There was somebody
10 holding on to my shirt behind me.

11 Q. Okay. Now, after you crossed
12 --- went through the door into the
13 48-inch belt and you traveled outby,
14 now when you crossed back over into
15 the primary escapeway, the intake,
16 ---

17 A. Uh-huh (yes).

18 Q. --- from the 48-inch belt, did
19 you cross over an overcast when you
20 went back in there?

21 A. When we come across the
22 48-inch belt, no, actually we just
23 came through a regular mandoor that
24 was in a stopping on the belt line
25 and come out into the primary

95

01 escapeway.

02 Q. Now, at what point did you
03 actually learn the location of the
04 fire?

05 A. Actually, I learned --- as we
06 was traveling out, one of the guys, I

07 think, asked, you know, what's on
08 fire or where's the fire at. And the
09 boss --- I think Mr. Plumley said,
10 don't quote me, I'm not for sure, but
11 he said around the mother drive. And
12 I think that's what was said. Plus
13 we knew when we hit the smoke that it
14 just about had to be there because
15 like I said the only belt line in
16 that vicinity is the longwall belt.

17 Q. When you eventually got down
18 there to the cut-through area, ---

19 A. Uh-huh (yes).

20 Q. --- and there was some
21 discussion of curtains being hung,
22 ---

23 A. Uh-huh (yes).

24 Q. --- do you recall who may have
25 given some instructions to hang those

96

01 curtains?

02 A. I do recall that the second
03 shift mine foreman was there, which
04 is Fred Horton. The dayshift --- two
05 dayshift mine foremen was still at
06 the mines at the time working, which
07 was Dusty Dotson and Terry Shadd.
08 You had the longwall foreman was

09 there with us, which I think at the
10 time was Dave Reagan (phonetic). He
11 had another foreman, which has been
12 working the outby, but he's normally
13 a foreman on Three section, which was
14 Pat Calloway. And you had five or
15 six foremens there that was
16 discussing, you know, what they could
17 do, where they could go.

18 Q. Did you see anybody --- or did
19 you get close enough to the fire area
20 to see if anybody was applying any
21 water?

22 A. I never went towards that
23 vicinity, no.

24 Q. After you entered your
25 secondary escapeway, the 48-inch

97

01 belt, ---

02 A. Uh-huh (yes).

03 Q. --- and you traveled some
04 distance and you crossed back over
05 into the intake of the primary
06 escapeway, what motivated you to
07 cross back over?

08 A. Well, at that time we pretty
09 much figured out where the fire was.
10 And like I said, after we got to the
11 48-inch belt line, I wasn't actually

12 leading the pack down the 48-inch
13 belt line. I noticed guys in front
14 of me then --- that's just --- they
15 all started crossing back over so I
16 just crossed over with them.

17 Q. Okay. Now, I'm sorry, I'm a
18 little confused. You said by that
19 time you had reached --- you pretty
20 well figured out where the fire was.
21 Now, how was it you figured out where
22 the fire was?

23 A. That's the only belt line in
24 that vicinity, so we knew that it had
25 to be the longwall belt.

98

01 Q. Okay.

02 A. I mean, you got the four-foot
03 belt, but I know it wasn't on the
04 four-foot belt because that's the
05 belt we was walking on.

06 Q. Okay. Now, at any time after
07 you made your evacuation, were you
08 anywhere in the vicinity of the
09 mother drive there?

10 A. No, sir.

11 Q. Did you hear anybody talk
12 about a diesel-powered vehicle parked
13 in that vicinity?

14 A. Not at that time. I did hear
15 somebody say later on that evening
16 that there was supposed to be one
17 broke down up there somewhere, but I
18 don't know --- I don't know whose it
19 was or what it was doing up there.

20 Q. Do you remember anybody
21 mentioning that to you?

22 A. No, sir, I don't. It was just
23 somebody said that they heard that
24 there was one broke down up there
25 someone. And there was seven or

99

01 eight people standing around talking
02 and I don't know much about it.

03 Q. As you were leaving the
04 section in the mantrip, do you think
05 everybody heard the conversation
06 about the secondary escapeway?

07 A. Yes, sir.

08 Q. Okay. And that would have
09 been from Plumley; right?

10 A. Yes, sir.

11 Q. Where would he have been
12 riding on the mantrip?

13 A. At that time, he was riding in
14 the --- matter of fact, he was in the
15 back of the mantrip, straight in
16 front of me.

17 Q. Let me back up a little bit
18 here. When you initially encounter
19 the smoke and you got up, and put
20 your rescuer on and you went down the
21 entry through the door, were you on
22 foot? Were you walking or crawling?

23 A. I was walking, holding on to
24 the rib.

25 Q. Okay. Upright?

100

01 A. Yeah, leading myself with the
02 rib.

03 Q. Let's say in the last year or
04 so, have you ever been withdrawn from
05 working a section because of a CO
06 alarm alert?

07 A. No, sir, not that I recall.

08 Q. The belt men at the mine, how
09 do they get around? Do they ride in
10 on mantrips, in and out on the
11 mantrips, or do they have their own
12 ride or how is that usually
13 accomplished?

14 A. Some of them have their own
15 rides. Some of them ride in with the
16 coal crews. It just depends on
17 whether you've been trained to run
18 the diesel operators, because

19 everybody at the mines hasn't been
20 trained. Me, myself, I haven't been
21 trained to run the diesel, so I guess
22 they just ---. I think they have an
23 actual ride for the belt men to ride
24 on one of the five-men diesels, the
25 little Wallaces. But I guess it all

101

01 depends on if you've been trained to
02 run them or not.

03 Q. Now, earlier you told us that
04 within a week or two prior to January
05 19th, ---

06 A. Yes, sir.

07 Q. --- you had been --- you
08 participated in a fire drill?

09 A. Yes, sir.

10 Q. Okay. Now, would that have
11 been a drill including all of your
12 co-workers on the Two section?

13 A. As far as I can recall, they
14 had to ---. As far as I recall, I
15 think I remember them saying they had
16 to do the fire drill ---. The other
17 coal crew that runs coal, they had to
18 do the fire drill that same week. As
19 far as I recall, you know, we was
20 talking about it one day and they
21 said they had to walk it, too, so I'm

22 assuming ---.

23 Q. When you participated in the

24 fire drill, ---

25 A. Yes, sir.

102

01 Q. --- who was with you?

02 A. Our crew, which was 12 guys.

03 Q. Would that have included Mr.

04 Hatfield and Mr. Bragg?

05 A. Yes, sir.

06 Q. Okay. Who led the drill?

07 A. Mike Plumley.

08 Q. Do you have any idea how long

09 the fire might have been burning

10 before you were actually notified on

11 the section?

12 A. No, sir.

13 MR. MURRAY:

14 Just a couple more

15 things to clarify and then

16 we'll wrap this thing up.

17 BY MR. MURRAY:

18 Q. You mentioned Bryan Cabell

19 being present at one point ---

20 A. Yes, sir.

21 Q. --- on the shift. Do you know

22 his job title?

23 A. Not at the moment, I don't. I

24 know he was the third shift mine
25 foreman, so to speak, but he got hurt

103

01 and he was off a while, something
02 about his knee or something. I do
03 know that when he come back he was on
04 second shift on the belt. I'm not
05 sure ---. I think I heard somebody
06 say he was a second shift belt
07 foreman. I'm not really sure. I
08 don't know.

09 Q. Okay. He's in management?

10 A. Yes, sir. Yeah, he's a
11 foreman.

12 Q. On your way out, at any point,
13 did you ever hear any alarms going
14 off at all, whether it be on
15 detectors or a CO monitoring system
16 or anything?

17 A. Me, personally, no, I didn't
18 hear no alarm. Of course, I wasn't
19 around any belt heads or nothing
20 either so ---.

21 Q. Is there anything else you'd
22 like to tell us regarding what
23 happened on this day that we haven't
24 already asked?

25 A. Not really. I do want to say

104

01 that I believe that everybody that
02 was there done everything they could
03 possible to save the two guys' lives.
04 You know, I believe everybody took
05 the right steps in doing what they
06 had to do. And it just turned out to
07 be a tragic accident.

08 MR. FARLEY:
09 A couple more.

10 MR. MURRAY:
11 Okay.

12 BY MR. FARLEY:

13 Q. When you traveled in and out
14 of the mine on the diesel mantrips,
15 how many people normally ride on that
16 trip? What's the maximum number,
17 usually that go?

18 A. It depends on what mantrip
19 you're on. We have five-men mantrips
20 that will hold five men. And you
21 got, I think --- I think we got 14
22 men or 13 men, so it just depends on
23 how many seats they hold.

24 MR. MURRAY:
25 Okay. Mr. Heath, any

105

01 clarifying questions?

02 ATTORNEY HEATH:

03 No. I will state this,
04 previously, that he had also
05 wanted a copy of his
06 transcript. But I've
07 explained that you all won't
08 release that until after the
09 investigation is over. And I
10 can let him address whether he
11 thinks the company should have
12 been a part of this interview.

13 MR. MURRAY:

14 Wait a minute. We're
15 talking about clarifying
16 questions.

17 ATTORNEY HEATH:

18 Well, that's what I
19 said. We're talking about ---
20 he gets the final statement,
21 though. I'm just telling him,
22 I'm only going to address the
23 transcript issue.

24 MR. MURRAY:

25 It sounds like that

106

01 final statement was coming
02 from you.

03 ATTORNEY HEATH:

04 That's why I said, let
05 him ---.

06 MR. MURRAY:
07 I don't remember
08 talking about that in the
09 course of my questions. And
10 the guidelines were that you
11 were going to be able to ask
12 clarifying questions.

13 ATTORNEY HEATH:
14 No other clarifying
15 questions.

16 MR. MURRAY:
17 Thank you. Mr. Kinser,

18 ---

19 A. Yes, sir.

20 MR. MURRAY:
21 --- we really
22 appreciate you being here
23 today, for answering our
24 questions and being up front
25 and honest with us, and

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01 sharing the information that
02 you had. Your cooperation is
03 very important to us as we
04 work to determine the cause of
05 this accident.

06 If you wish, you may
07 now go back over any answer

08 that you have given during
09 this interview. And you may
10 also make a closing statement,
11 covering any additional points
12 that you believe that you want
13 to raise.

14 We would ask that you
15 don't discuss this interview
16 today with any person who may
17 have already been interviewed
18 or who may be asked to come in
19 for statements in the future.
20 This will ensure that we
21 obtain everybody's independent
22 memory of the events
23 surrounding the accident.

24 After questioning other
25 witnesses and obtaining

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01 additional information, and we
02 learn more about what
03 happened, we may ask you to
04 come back in. We would
05 appreciate your cooperation
06 with that.

07 If at some point later,
08 after you leave here, you
09 become aware or you remember
10 additional information that we

11 haven't talked about, feel
12 free to call either me or
13 Anthony Webb. That's the
14 gentleman who called you up.
15 And here's our cards.

16 And in addition, I want
17 to make you aware that the
18 Mine Act provides certain
19 protection for individuals who
20 participate in accident
21 investigations. If at any
22 time you believe that you've
23 been treated unfairly because
24 of your cooperation in this
25 investigation, please

109

01 immediately contact either me
02 or Anthony Webb.

03 MR. FARLEY:

04 I would also advise you
05 that West Virginia State
06 Mining Office provides
07 essentially the same
08 protection.

09 MR. MURRAY:

10 And before we go off
11 the record, if I could ask you
12 to sign this map and certify

13 that this information on this
14 map is what we talked about
15 during this investigation, and
16 date it, I'd appreciate that.

17 A. Okay.

18 WITNESS COMPLIES

19 MR. MURRAY:

20 And we're going to
21 identify the map that we
22 discussed during Mr. Kinser's
23 interview as Exhibit A,
24 Kinser. Up here somewhere, if
25 you would just sign your name.

110

01 And if you want to look and
02 make sure ---.

03 (Exhibit A marked for
04 identification.)

05 WITNESS COMPLIES

06 MR. MURRAY:

07 It is the 8th. The
08 information that we talked
09 about, you agree, as you told
10 me, the best that you can
11 recall, is what I recorded.

12 A. Like I told you, I'm not for
13 sure if that's exactly --- if it's
14 everything. But I do know it's in
15 this area right through here

16 somewhere.

17 MR. MURRAY:

18 Absolutely. Thank you.

19 I have no further questions.

20

21 * * * * *

22 EXAMINATION CONCLUDED AT 10:43 A.M.

23 * * * * *

24

25