

01 EXAMINATION UNDER OATH
02 OF
03 BRANDON LUSK
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 Wednesday, March 22, 2006, at 8:10
13 a.m.

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19 ALSO PRESENT:
20 EUGENE WHITE
21 BETH SPENCE
22 DENNIS BEITER
23 C.A. PHILLIPS
24 CHARLES POGUE
25

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

02 -----

03 MR. FRANCCART:

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

12 with the investigation of 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 the questions for MSHA
23 this morning. Here with me
24 today are other members of
25 MSHA's team and the State's

7

01 team. MSHA's team includes
02 various specialists from all
03 over the country and the
04 Solicitor's Office. At this
05 time we'd like each one of the
06 members of MSHA's team to
07 identify themselves for the
08 record.

09 ATTORNEY BARISH:

10 Hi. I'm Dan Barish.
11 I'm an attorney in the
12 Solicitor's Office for MSHA in
13 Arlington, Virginia.

14 MR. BEITER:

15 Denny Beiter. I work
16 for the ventilation division
17 of Technical Support out of
18 Triadelphia, West Virginia.

19 MR. POGUE:

20 Charlie Pogue, MSHA,
21 Hunker, PA.

22 MR. MURRAY:

23 Kenny Murray, MSHA,
24 Pikeville, Kentucky.

25 MR. FRANCCART:

8

01 Here also today,
02 representing the State of West
03 Virginia, is Mr. Bill Tucker
04 to my left. He'll be asking
05 the questions for the State
06 this morning. And he has an
07 opening statement for you
08 also.

09 MR. TUCKER:

10 The West Virginia
11 Office of Miners' Health,
12 Safety & Training is
13 conducting this interview
14 session jointly with MSHA, and
15 we are in agreement with the
16 procedures outlined by Mr.

17 Francart.

18 However, let me make it
19 clear that the Director
20 reserves the right, if
21 necessary, to call or subpoena
22 witnesses or require the
23 production of any record,
24 document, photograph or other
25 relevant materials necessary

9

01 to conduct this investigation.

02 I, too, would like to
03 thank you for coming in today,
04 Brandon. And my name is Bill
05 Tucker. I'm the Assistant
06 Inspector at Large at Region
07 Four in Oak Hill.

08 MR. PHILLIPS:

09 Good morning, Brandon.
10 My name is C.A. Phillips. I'm
11 the Deputy Director with
12 Miners' Health, Safety &
13 Training in Charleston, West
14 Virginia.

15 MR. WHITE:

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

19 MS. SPENCE:

20 Beth Spence, with the
21 Governor's Office.

22 MR. FRAN CART:

23 Brandon, I work out of
24 the Pittsburgh, Pennsylvania
25 office for MSHA.

10

01 This investigation is
02 being conducted by MSHA and
03 the State of West Virginia to
04 gather information to
05 determine the cause of the
06 accident and to help prevent
07 this from happening in the
08 future. The interviews are an
09 important part of the
10 investigation for us.

11 After the investigation
12 is completed, MSHA will issue
13 a written report detailing the
14 nature and causes of the
15 accident. MSHA accident
16 reports are made available to
17 the public in hope that
18 greater awareness about the
19 causes of the accidents can
20 reduce their occurrence in the
21 future. Information obtained

22 through witness interviews is
23 frequently included in these
24 reports. Your statement may
25 also be used in other

11

01 enforcement proceedings.

02 We thank you in advance
03 for your attendance here
04 today, and we appreciate your
05 assistance in the
06 investigation. The
07 willingness of miners and mine
08 operators to work with us is
09 very important to making the
10 nation's mines safer.

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

25 Stollings, West Virginia,

12

01 25646.

02 This interview is being
03 conducted at the Department of
04 Environmental Protection in
05 Logan, West Virginia, on March
06 22nd, 2006. The current time
07 is 8:13 a.m.

08 Mr. Lusk, can I call
09 you Brandon?

10 MR. LUSK:

11 Yes.

12 MR. FRANCAERT:

13 The interview will
14 begin by asking you a series
15 of questions. Feel free at
16 any time to clarify any part
17 of your answers that you give
18 us. And if you have any
19 additional comments at the end
20 of the question, we'll allow
21 you time to make a statement.

22 You are permitted to
23 have a representative with you
24 during the interview at any
25 time, and you can consult with

13

01 your representative at any
02 time. You may designate any
03 person to be your
04 representative. Following the
05 questions by MSHA and the
06 State, your representative
07 will be given the opportunity
08 to ask questions for purposes
09 of clarification on areas
10 already discussed.

11 Your statement is
12 completely voluntary and you
13 may refuse to answer any
14 question and you may end your
15 interview at any time if you
16 wish. If you don't understand
17 a question, let us know and
18 we'll try to clarify it and
19 rephrase that for you so you
20 can understand what we mean.
21 If you need a break at any
22 time, let us know. We'll take
23 a break.

24 You may request the
25 opportunity to make a

14

01 confidential statement which
02 we will withhold from the
03 public to the extent allowed

04 by law. Should you desire to
05 give a confidential statement,
06 you should advise us before we
07 begin your interview so we can
08 reschedule your interview in
09 order to properly consider
10 your request.

11 We have a court
12 reporter here this morning who
13 will be recording your
14 interview and later will be
15 having a written transcript
16 produced for your interview.
17 We ask that you state all your
18 answers verbally because they
19 can't record gestures, such as
20 nodding your head. And try
21 not to use uh-huh, if you
22 could say yes or no.

23 If any part of your
24 statement is based not on your
25 own firsthand knowledge but on

15

01 information that you learned
02 from someone else, let us know
03 that, too.

04 Please answer each
05 question as fully as you can,

06 including any information that
07 you have learned from someone
08 else. We may not ask the
09 particular question we need to
10 ask to find out what you
11 learned. But if you want to
12 volunteer that information to
13 us, we'd be glad to hear
14 whatever you have to say.

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

19 MR. LUSK:

20 No.

21 MR. FRANCCART:

22 We'll have the court
23 reporter administer the oath
24 then.

25 -----

16

01 BRANDON LUSK, HAVING FIRST BEEN DULY
02 SWORN, TESTIFIED AS FOLLOWS:

03 -----

04 BY MR. FRANCCART:

05 Q. Brandon, could you please
06 state your full name and address for
07 the record, please?

08 A. [REDACTED]

[REDACTED]

15 Q. Thank you. Are you appearing
16 voluntarily at this interview today?

17 A. Yes.

18 Q. Has anyone made any promises
19 to you for giving your statement or
20 offered you any rewards in exchange
21 for making your statement today?

22 A. No.

23 Q. Has anyone threatened you or
24 warned you not to provide a
25 statement?

17

01 A. No.

02 Q. Do you understand that you may
03 refuse to answer any question or
04 terminate this interview at any time?

05 A. Yes.

06 Q. Do you have a representative
07 with you today?

08 A. No.

09 Q. Do you wish to have a
10 representative?

11 A. No.
12 Q. Brandon, we'll start off with
13 some basic questions. Can you tell
14 us how long you've worked at Alma
15 Mine?

16 A. Since the first of September.

17 Q. Of 2005?

18 A. Yes, of 2005.

19 Q. And is that your first mining
20 job?

21 A. No.

22 Q. Have you worked somewhere else
23 before Alma?

24 A. Yes. I previously worked for
25 Rockhouse Creek Development, Number

18

01 Seven Mine.

02 Q. And how long did you work
03 there?

04 A. Over a year. Probably about a
05 year and a half.

06 Q. So what would be your total
07 mining experience?

08 A. Going on two years. May will
09 be two years.

10 Q. What is your current job
11 classification at the mine?

12 A. Roofbolt operator.

13 Q. And was that your job

14 classification on the 19th also?

15 A. Yes.

16 Q. And how long have you been a

17 bolter at the mine?

18 A. At Aracoma?

19 Q. Yes.

20 A. I've been a bolter since I

21 started.

22 Q. Have you had any other jobs at

23 Aracoma?

24 A. Well, the first of the year

25 they put me doing outby work. They

19

01 didn't have enough men to run two

02 crews on Three section, so they put

03 me and a boss doing outby work.

04 Q. What about at Rockhouse, what

05 kind of jobs did you have there?

06 A. I started out in July of 2004

07 as the outside man. In May of 2005,

08 I went underground.

09 Q. What did you do outside?

10 A. Anything from getting

11 supplies, running a forklift,

12 shoveling belt, greasing belt heads.

13 Q. Whatever needed done?

14 A. Whatever needed done.

15 Q. If we could go back to the

16 19th, just tell us what shift you
17 were scheduled to work that day.

18 A. Second shift.

19 Q. And what time was that shift
20 scheduled to start?

21 A. Four o'clock p.m.

22 Q. What time would you usually
23 finish?

24 A. We was usually outside by one
25 o'clock.

20

01 Q. And who was your supervisor on
02 the 19th?

03 A. The boss I usually go with?

04 Q. Yes.

05 A. Pat Callaway.

06 Q. And who did you work with on
07 the 19th?

08 A. On the 19th, I worked with
09 Bryson Ellis, an electrician.

10 Q. And how did you find out you
11 would work with Mr. Ellis that day?

12 A. He told me --- when we was
13 getting ready to go underground, he
14 told me I'd be working with him. And
15 that would have been tramming the
16 MRSS at Three section.

17 Q. Is that common for you to
18 change supervisors day to day?

19 A. Not very common, just on
20 different circumstances.

21 Q. Why was that day any different
22 than other days?

23 A. They're almost to where they
24 need to be start pillaring on Three
25 section.

21

01 Q. They were going to pillar you
02 say?

03 A. Uh-huh (yes).

04 Q. Was Bryson Ellis a supervisor
05 at the mine?

06 A. No.

07 Q. So he would be a coworker
08 or ---?

09 A. Yes.

10 Q. From the beginning of your
11 shift on the 19th, could you just run
12 us through what you did from the time
13 you got in the box cut?

14 A. From the time that we got in
15 the box cut, the MRS was already at
16 the Threeway. So we took a diesel
17 five-man ride to the Threeway. He
18 made a splice in the cable and put
19 the cat head on it --- not the cat
20 head. He just made a splice in the

21 cable to make the cable longer to
22 where we would have an easier trip to
23 Three section. By that time, there
24 was people coming by us. We had to
25 keep the MRS out of the way. They

22

01 were saying that there was a fire.

02 Q. So you learned about the fire
03 from people coming into the mine
04 behind you?

05 A. Yes.

06 Q. Do you have any idea who those
07 people were?

08 A. Rod Morrison come by us.

09 Q. Was he the first person to
10 come by you?

11 A. Yes. He was --- it was him
12 and Ed Ellis.

13 Q. Do you have any idea what time
14 they would have come by you?

15 A. I have no clue.

16 Q. How about the time you went
17 into the mine, do you know what time
18 you went in?

19 A. It was probably a little after
20 4:00. Probably around 4:15.

21 Q. Would you have had to ask for
22 clearance from the dispatcher to go
23 underground?

24 A. Yes.

25 Q. And you went with Bryson

23

01 Ellis?

02 A. Yes.

03 Q. Are you familiar with the coal

04 dispatcher log that Aracoma

05 maintains?

06 A. No.

07 Q. When you call out for

08 clearance, they record your ---.

09 A. I knew they recorded it, but I

10 didn't know how long they kept it or

11 anything.

12 (Lusk Exhibit A marked

13 for identification.)

14 BY MR. FRANCAERT:

15 Q. I'm just going to show you

16 your --- we're going to identify this

17 as Exhibit A, Lusk, and see if you

18 can --- I'm assuming Mr. Ellis is the

19 one who called for clearance; is that

20 right?

21 A. Yes.

22 Q. Do you see his entry on that

23 page somewhere?

24 A. Yeah, number 716, Bryson

25 Ellis, at 4:19 p.m.

01 Q. Is that about the time you
02 think you went underground?

03 A. Yes, roughly.

04 Q. Okay. Thank you. Before you
05 went underground, did you hear
06 anything on the surface, talk about
07 anything going on at the mother
08 drive?

09 A. No, never.

10 Q. So at 4:19, there was no talk
11 of a fire on the surface at all?

12 A. No.

13 Q. Did you hear any sirens going
14 off in the box cut or see any
15 flashing lights?

16 A. No.

17 Q. Are you familiar with the CO
18 system at the mine?

19 A. No, I'm not.

20 Q. Nobody has ever trained you on
21 what the alarms would be if there
22 would be one?

23 A. No.

24 Q. These MRSs you're moving, for
25 the record, could you explain a

01 little bit what those are and what
02 they're used for?

03 A. It's a mobile roof support
04 used during pillaring to help hold
05 the top, along with timbers.

06 Q. Just to control the top for
07 the people working at the miner or
08 the bolter, or where do they usually
09 work?

10 A. It would be to support the top
11 for the miner man.

12 Q. Have you worked on a pillar
13 section before?

14 A. No, I have not.

15 Q. So you haven't seen them
16 actually used?

17 A. Right.

18 Q. So after you learned about the
19 fire, you had to move these supports
20 out of the way. How did you position
21 them in the entry? Did you have to
22 pull them in the crosscut or ---?

23 A. Yes, pulled them out of the
24 roadway into the crosscut.

25 Q. Did you find any difficulty in

01 finding an open crosscut to pull
02 into?

03 A. No.

04 Q. After you had these people go

05 by it, did they tell you to leave the
06 mine at all or evacuate?

07 A. No, not at that time.

08 Q. So when did you learn that you
09 needed to evacuate the mine?

10 A. It was after we made it to
11 Three section, which from the
12 Threeway to Three section, I don't
13 know exactly how many breaks it is,
14 but it's not very far, probably maybe
15 15, 20 breaks at the most. By the
16 time they started coming in, we was
17 almost there. But we went ahead and
18 pulled it off the roadway for them.
19 After they went by, we finished
20 getting it up Three section.

21 Q. If you don't mind, we're going
22 to have you come up to the map for a
23 few minutes and do some work. Do you
24 have a favorite color?

25 A. No.

27

01 Q. How about blue? We'll use
02 that one. And we're going to mark
03 this map as Exhibit B, Lusk. It will
04 be on the wall here, Brandon.

05 (Lusk Exhibit B marked
06 for identification.)

07 BY MR. FRANCCART:

08 Q. So you went into the mine
09 somewhere around 4:19 afternoon, 4:19
10 p.m., and you said the units were
11 already at the Threeway. Could you
12 mark on there where you ran into the
13 MRSs?

14 A. MRSs, right here would be the
15 Threeway.

16 Q. Just put an X on there where
17 they were located.

18 WITNESS COMPLIES

19 A. I think the one MRS ---.

20 BY MR. FRANCAERT:

21 Q. Could you just draw an arrow
22 to that and mark MRS on the corner
23 somewhere?

24 WITNESS COMPLIES

25 BY MR. FRANCAERT:

28

01 Q. So this is where you first
02 encountered the MRS. And it's down
03 at the Threeway, and you marked that
04 with an X on the map. And you were
05 going to take that up to Number Three
06 section?

07 A. Yes.

08 Q. Where were you in the tramming
09 process when Mr. Morrison came up

10 behind you?

11 A. We were --- I just noticed

12 something. Right there is another

13 door. It was right in through here

14 somewhere. Right here. The MRS

15 wouldn't have been here. It would

16 have been the next break up from the

17 double doors coming up the Threeway.

18 Q. Okay.

19 A. Right there's the double

20 doors. The MRS was sitting right

21 about there.

22 Q. What we could do is just cross

23 this out. And you can mark that

24 again over here MRS, if you don't

25 mind.

29

01 WITNESS COMPLIES

02 A. Okay. That's where we started

03 at.

04 BY MR. FRANCAERT:

05 Q. And again, where were you when

06 Mr. Morrison came up behind you?

07 A. I believe ---.

08 Q. Approximately. It doesn't

09 have to be exact.

10 A. I'm trying to remember how

11 many breaks we went in. We then made

12 it between the cable, so I'd say it

13 was close to 10, 10 or 11 breaks.
14 I'd say that we was right here.
15 Q. If you can mark that somehow.
16 We can say that this is where you
17 were where Mr. Morrison met you.
18 We've marked that with Rod came by at
19 that location. And you had to pull
20 the MRS into a crosscut, Brandon?
21 A. Right, like one in through
22 here.
23 Q. And could you mark that with
24 another X and maybe label that, too?
25 WITNESS COMPLIES

30

01 BY MR. FRANCAERT:
02 Q. And after they passed by you,
03 did you eventually take those units
04 up to Three mains?
05 A. Yes.
06 Q. So you actually got them into
07 the section?
08 A. We made it --- right there's
09 your belt line. Right there is the
10 double door that we went through.
11 Q. Okay.
12 A. And we had made it --- let's
13 see. It was just on this side of the
14 belt line, past the entry. I'd say

15 here was the rest of the MRSs.

16 Q. Would you label that, also
17 that last section? That would be
18 where you left the units before you
19 came out of the mine?

20 A. Yes, only one unit. There was
21 already two sitting there that had
22 trammed earlier in the week.

23 Q. Okay. And could we go to the
24 red marker just a minute, and if you
25 could mark your route of travel from

31

01 where you started with the MRS
02 to ---.

03 A. Do you want me to go to the
04 --- like we pulled into the crosscut?

05 Q. Sure. That would be great.

06 WITNESS COMPLIES

07 BY MR. FRANCAERT:

08 Q. Now, while you're up here, in
09 case we don't have to come back up,
10 can you go ahead and just sign and
11 date the map on the top here?

12 A. Just like this?

13 Q. Either top, yeah. That's
14 fine.

15 A. Today's date?

16 Q. The 22nd. Okay. Thanks,
17 Brandon. You can go ahead and have a

18 seat. So we started pulling the MRS
19 out of that location at what time, do
20 you think, if you got in at 4:19?
21 A. Where we added the cable to
22 it, I'd say it was close to --- we
23 went in 4:19. It was probably around
24 4:30 when we started out with it.
25 Q. And at what time do you think

32

01 Mr. Morrison passed you, if you had
02 to give us an estimate?
03 A. The MRS tram was pretty slow,
04 so I'd say it was getting close to
05 5:15, 5:20, around that time.
06 Q. You pulled the MRS into the
07 crosscut. Did they indicate to you
08 that there may be other people coming
09 in, that you needed to stay out of
10 their way or ---?
11 A. No.
12 Q. They just went by you?
13 A. Right.
14 Q. And did they tell you to go
15 ahead back to work or what did they
16 tell you at that point?
17 A. Well, he didn't say anything.
18 He said that they didn't know how bad
19 it was, but there was a fire. He

20 didn't say that anybody else would be
21 coming in. They said they was going
22 to see if it was bad.

23 Q. But you knew there was a fire
24 at that point?

25 A. Uh-huh (yes).

33

01 Q. And did Mr. Ellis say anything
02 to you about maybe just leaving the
03 MRS parked so that you wouldn't be in
04 anybody's way or did that thought
05 ever cross your mind?

06 A. No, because I didn't think
07 anybody else would be coming in. I
08 figured that it was a small fire and
09 it was going to be controllable.

10 Q. Do you know a miner by the
11 name of, last name Grimmett? You
12 don't know?

13 A. Not right off.

14 Q. You didn't see him come in
15 with a grader?

16 A. Yeah, he came by us before Rod
17 did. I forgot that there. It's well
18 before Rod did.

19 Q. Do you have any idea what time
20 that would have been?

21 A. I have no idea on that.

22 Q. Did you have to pull out of

23 your way into a crosscut to let him
24 by also?

25 A. I think he came by when we was

34

01 pulling the cable up. We went as far
02 as the cable would allow us to go.

03 And we had already had it in a
04 crosscut out of everybody's way, and
05 we was pulling the cable up to the
06 next power box.

07 Q. Okay. So you continued ---
08 after you pulled into the crosscut
09 and let Mr. Morrison by, you continue
10 to move this unit back in toward
11 Three section. What time did you
12 actually pull into the mouth of Three
13 section?

14 A. Around 5:30, I believe. I'm
15 not real sure on the time because I
16 don't wear a watch underground.

17 Q. Okay. That's fine. You
18 continued then inby the mouth to park
19 that unit, what, about four crosscuts
20 in?

21 A. Yes, just past the overcast.

22 Q. And what did you do at that
23 point?

24 A. We pulled the cable back just

25 inside of Three section, took the cat

35

01 head out of the box and put it just
02 inside of Three section. And then as
03 we was coming out, Billy Hall said
04 that we need to go outside.

05 Q. Was there anybody else working
06 on Three section that day?

07 A. No.

08 Q. Did Mr. Morrison or Mr. Ellis
09 give you any directions or any work
10 orders about or concerning the fire
11 when they went by?

12 A. No.

13 Q. Did you have any
14 communications with the surface while
15 you were traveling in?

16 A. Just the phones.

17 Q. The pager phones that are
18 installed in the mine?

19 A. Uh-huh (yes).

20 Q. Did you hear anyone talking on
21 the phone at any time?

22 A. I did not. I didn't.

23 Q. Would it have been an easy
24 chore for somebody to contact you to
25 tell you to evacuate, had they needed

36

01 to call you?

02 A. Yeah, it would have been very
03 easy.

04 Q. How would they have done that,
05 just page you on the phone?

06 A. Uh-huh (yes).

07 Q. And you would have heard that?

08 A. Most likely, yeah.

09 Q. Do you know where the nearest
10 phone was to you?

11 A. I know that there's one at the
12 Threeway. I think there's one at the
13 next power box setup, and then
14 there's one at the head --- Five
15 head, which is next to Three section.

16 Q. Maybe you can clarify for the
17 record --- we have a number of
18 Ellises I guess that work at the
19 mine; is that right?

20 A. Yes.

21 Q. The Ellis that you worked with
22 that day was Bryson Ellis?

23 A. Yes.

24 Q. Okay. And Ed Ellis, did you
25 happen to see him that day also?

01 A. Yes. He was with Rod.

02 Q. He came in with Rod, ---

03 A. Uh-huh (yes).

04 Q. --- Rod Morrison? Did you
05 talk to him at all?
06 A. No.
07 Q. Did anybody tell you where the
08 fire was located when they went by?
09 A. Rod said it was in the storage
10 unit.
11 Q. On the mother drive?
12 A. He didn't clarify.
13 Q. He just said it was on the
14 storage unit?
15 A. Right.
16 Q. Did you ask him any questions
17 about the fire or did you just listen
18 to what he had to say?
19 A. I listened to what he had to
20 say, and he seemed to be in a hurry.
21 Q. He said they didn't know how
22 big the fire was at that point?
23 A. Correct.
24 Q. And they didn't know if they
25 would be able to control it?
38
01 A. He never said anything about
02 being able to control it. He just
03 said that they was going to see what
04 they could do with it.
05 Q. Have you ever seen or
06 experienced a fire in a mine before?

07 A. No.

08 Q. Do you have any idea what time
09 you left the mine eventually?

10 A. It was as soon as we got the
11 MRS to Three section, around 5:30 or
12 so.

13 Q. And would you have come
14 outside whether or not there was a
15 fire at that point?

16 A. We was headed back outside to
17 get the other MRS, which was still
18 sitting in the box cut.

19 Q. So it was outside already?

20 A. Uh-huh (yes).

21 Q. Okay. As far as your
22 transportation, you had to walk out
23 of the mine?

24 A. Yes. Because we had to have a
25 five-man diesel ride, and Rod and me

39

01 took it.

02 Q. So you don't have a normal
03 work location as far as working on
04 Three section or Two section?

05 A. Well, usually I'm on Three
06 section. But like I said, at the
07 first of the year, it was after the
08 drug test, we didn't have enough men

09 to fully staff Three section, and
10 they put me doing outby work. They
11 sent what was left of us up to Two
12 section. And the ones that they
13 didn't send to Two section they put
14 outby.

15 Q. When you say outby work, could
16 you explain a little bit about what
17 your job assignments would be?

18 A. All right. On outby, when I
19 started the first of the year, they
20 had a violation up on --- about where
21 the seal is, and it needed to be
22 ventilated around. So we had to go
23 up and build a regulator next to the
24 four-foot belt, which is the one up
25 on Two section, and build stoppings

40

01 all the way around until you make
02 their left return.

03 Q. Who did you work for on that
04 project?

05 A. On that project, Pat Callaway.

06 Q. Were you involved in taking
07 supplies into that work area?

08 A. Just block and plaster and
09 stuff.

10 Q. How did you get the supplies
11 in there?

12 A. Well, we had Joey Kennedy,
13 which is --- he was the miner man on
14 Three section, but the first year he
15 was running tractor. He took block
16 up there for us to use. And then
17 after we got the block up there, we
18 used their W2 (phonetic) scoop to go
19 down on left return to deliver the
20 block to build all the stoppings over
21 in there. Most of the block was
22 still laying. We just picked it up.

23 Q. I think I know where you built
24 these stoppings. Did you travel with
25 Mr. Callaway when you traveled

41

01 through Two section to get to that
02 work location?

03 A. Yes, but not on that --- not
04 on the 19th. That's when I was with
05 Bryson. But usually we took a
06 five-man ride up to Two section,
07 parked it, and then got their W2
08 scoop, and then went down the left
09 return.

10 Q. Did you ever operate that
11 scoop?

12 A. No, I did not.

13 Q. Did you ever see Mr. Callaway

14 knock the stopping out in that
15 return?

16 A. Yes.

17 Q. And you would pull through
18 that location and rebuild the
19 stopping every day?

20 A. Yes, every day.

21 Q. Did that seem like an
22 efficient use of time?

23 A. No. I mean, it --- really,
24 the things up there should have never
25 been changed, is what I was thinking.

42

01 Q. Do you know why you were
02 required to build those stoppings?

03 A. There was a violation. Around
04 that seal had to be ventilated, and
05 we had to clear that violation up.

06 Q. Did they tell you what the
07 violation was?

08 A. No. I just knew that there
09 was a violation with the ventilation
10 around the seal.

11 Q. Do you have any idea when that
12 project was completed?

13 A. Yes. We stayed back on the
14 night of the 17th, finished up most
15 of it. And then on the 18th, me and
16 the new guy that was with us, Joe

17 Rose, he had come maybe the Thursday
18 before that, I believe, and we had to
19 go up on Two section and set
20 Heinzmann jacks with beams because
21 the top was giving way. After we set
22 that, we went back and finished
23 everything else up.
24 Q. So this is just a couple days
25 before the fire ---

43

01 A. Yes.

02 Q. --- you finished the work
03 around the seal?

04 A. Yes.

05 Q. Was the seal not being
06 ventilated before; do you know?

07 A. I have no idea about it. I
08 never knew anything about that area
09 of the mine before I went up there.

10 Q. Did anybody instruct you on
11 which particular location to build
12 stoppings in?

13 A. Just they said at the
14 four-foot belt line build a regulator
15 right in front of it, and then build
16 stoppings on up and around.

17 Q. Did one person tell you where
18 those stoppings would be?

19 A. You could see, because there
20 was stoppings there at one point in
21 time that they had knocked. I mean,
22 you could still see the plaster ring
23 around --- on the ribs and stuff.
24 Q. Did Mr. Callaway give the
25 orders for the work project or did he

44

01 take them from someone else?
02 A. He had --- as far as I know,
03 Dusty Dotson wanted us to go up there
04 and ventilate around that seal. But
05 they told him --- they showed him on
06 a map where to build the stoppings,
07 and then he relayed to me and Joe and
08 we built the stoppings and plastered
09 them.
10 Q. So somebody showed Dusty where
11 to build the stoppings you say?
12 A. Somebody showed Pat ---
13 Q. Oh, showed Pat.
14 A. --- where to build them when
15 we was outside.
16 Q. And that would have been who?
17 A. Dusty Dotson.
18 Q. Dusty. Okay. Thank you. If
19 you don't mind, Bryson (sic), we're
20 going to take a short break to put
21 another map on the wall.

22 A. Okay.

23 SHORT BREAK TAKEN

24 BY MR. FRANCAERT:

25 Q. A couple quick questions, then

45

01 I'm going to have you come up to the
02 new map.

03 A. Okay.

04 Q. Just to clarify for the
05 record, the stoppings that you built
06 up around that seal, what month was
07 that?

08 A. That was in January.

09 Q. Of 2006?

10 A. Yes. At the first of the
11 year.

12 Q. And we talked before about
13 your thoughts on the fire when you
14 were first told about the fire. Did
15 you talk about what you thought the
16 size of the fire would be and how
17 that would be or not be controlled?

18 A. No. I didn't know anything.

19 I figured, you know, if it was a
20 roller or something, it was --- I
21 didn't know anything about the
22 storage unit or anything like that.

23 I've never been around longwall. And

24 I figured, you know, belt fire, it's
25 probably just a roller and it will be

46

01 fine.

02 Q. Did you have hot rollers often
03 at this mine?

04 A. Not often.

05 Q. You've heard about them,
06 though?

07 A. Uh-huh (yes).

08 Q. Have you heard those causing
09 flames in the past?

10 A. Not that I can recall.

11 Q. How about CO warnings and
12 alarms? We talked before about
13 whether or not --- you need to say
14 yes or no.

15 A. Right. I don't know anything
16 about the COs, the alarms or anything
17 like that.

18 Q. Do you have any recollection
19 of where those hot rollers may have
20 occurred in the past?

21 A. No.

22 Q. How often they have occurred,
23 if you had to give us a guess?

24 A. Not often. Not often.

25 Q. How long have you been at the

47

01 mine?

02 A. Since the 1st of September.

03 Q. First (1st) of September. So

04 you have heard of at least one other

05 time there had been a hot roller?

06 Could you give us ---?

07 A. Yeah, a hot roller.

08 Q. Can you give us a guess how

09 many you've heard since you started

10 at the mine?

11 A. Maybe three.

12 Q. Why don't we have you come up

13 to the map then? And let's pick a

14 color that you like and we'll map a

15 little bit on the new map. This is

16 going to be Exhibit C, Lusk. And if

17 you can go ahead and sign and date

18 that while we're here, we'll get that

19 out of the way.

20 WITNESS COMPLIES

21 (Lusk Exhibit C marked

22 for identification.)

23 BY MR. FRANCAERT:

24 Q. Brandon, this is a mapped

25 course of the northeast mains. And

48

01 you said you were assigned to build

02 some stoppings ---

03 A. Right.

04 Q. --- up around the seal. And

05 the seal is right here.

06 A. Uh-huh (yes).

07 Q. Could you go ahead and show us

08 which stoppings you were involved in

09 building?

10 A. We had a regulator here.

11 Q. And you marked that with an R?

12 A. Uh-huh (yes).

13 Q. Okay.

14 A. And there's a stopping here

15 and here that we built here. None of

16 this was --- that wasn't there.

17 Q. Can you circle the ones that

18 weren't there?

19 A. That wasn't --- that wasn't

20 there until we built it, so ---.

21 Q. You can go ahead and mark that

22 one as built then also.

23 WITNESS COMPLIES

24 A. And then we built that one.

25 That one wasn't there. It just

01 needed plastered.

02 BY MR. FRANCAERT:

03 Q. Did it have a door in it also?

04 A. I believe, yes.

05 Q. Okay.

06 A. And all these, these last ones
07 here, were built. Just needed a
08 little bit of touch-up on the plaster
09 and just --- because the wood and
10 stuff in it needed redone. And then
11 we built one here, here, here. Some
12 of them was already there.

13 MR. FRANCCART:

14 And just for the
15 record, Brandon's marked on
16 the map with double lines
17 indicating stoppings along the
18 north side of the northeast
19 mains.

20 BY MR. FRANCCART:

21 Q. And the purpose of this was to
22 create a return to ventilate the
23 seal?

24 A. Yes.

25 Q. And did you do anything to

50

01 this stopping at the very end inby
02 spad 3632?

03 A. At the end, on the last day,
04 we rebuilt it and plastered both
05 sides, took out maybe four blocks to
06 form a small regulator.

07 Q. Could you just mark on there

08 then that you made that a regulator?

09 WITNESS COMPLIES

10 BY MR. FRANCCART:

11 Q. And after you finished that
12 regulator, that finished the project?

13 A. Yes, that finished the
14 project.

15 Q. If I could borrow your pen,
16 I'll go ahead and mark on here the
17 seal. And this stopping with the
18 door south of spad 3572, you said
19 that door was in?

20 A. As far as I know, it was.

21 Q. This door, do you know which
22 direction it opened?

23 A. I have no idea, no.

24 Q. That's no problem. Every day
25 that you came in and knocked this

51

01 stopping down, did you replaster that
02 stopping?

03 A. No.

04 Q. So you didn't replaster it
05 until you were done with the project?

06 A. Right.

07 Q. When did the project start,
08 what day?

09 A. I'm not sure what day it
10 started. I just know that when we

11 went back, that's what they had me
12 doing.

13 Q. Do you have any idea how many
14 days you worked on that project?

15 A. It was probably close to a
16 week and a half on, but one week Two
17 section was setting the belt head so
18 they put two crews back on Three
19 section.

20 Q. Were you involved in this
21 project from the very beginning or
22 were other people assigned that
23 before you got involved?

24 A. I have no idea on that. As
25 far as I know, we were the only ones

52

01 that day working on that.

02 Q. The stopping that was knocked
03 out every day, did --- well, who
04 knocked that stopping out?

05 A. Each day Pat knocked it.

06 Q. Pat did every day. So you all
07 rebuilt it then?

08 A. Yes.

09 Q. And how many people did you
10 have assigned up there that day?

11 A. A total of three, counting

12 Pat.

13 Q. And Joe Rose was the third
14 person you had?
15 A. Yes. But he had only been
16 there for maybe a week, a week or so.
17 Q. And the stopping you knocked
18 out was the same one you made a
19 regulator out of?
20 A. Yes. Yes.
21 Q. Okay, Brandon. We'll go ahead
22 and sit down now. Thank you. You
23 said before you worked on Three
24 section. Did you participate in any
25 evacuation drills on the section?

53

01 A. Yes. We just walked their
02 secondary escapeway.
03 Q. Just the secondary?
04 A. I can't ever recall walking
05 the primary, but I know where the
06 primary was.
07 Q. Where was the primary?
08 A. The primary was the same entry
09 as their power entry. It would be
10 Number Three from the section.
11 Q. And was it marked in any way
12 underground?
13 A. Yes. It had green reflectors.
14 Q. Were they just green
15 reflectors? Were there any other

16 colors on those reflectors?

17 A. Well, walking back towards the
18 section, it would have been red
19 reflectors. And the same for the
20 secondary, only the secondary was
21 amber and red reflectors.

22 Q. Did you have amber reflectors
23 through the entire course of that
24 secondary escapeway?

25 A. Yes.

54

01 Q. Your primary, did it have
02 green reflectors the whole way out,
03 also?

04 A. As far as I know, yes, one a
05 break. For each break, we had the
06 reflectors.

07 Q. What about escapeway maps, did
08 anybody ever train you on escapeways
09 using any maps?

10 A. Yes.

11 Q. Who would that have been?

12 A. That would have been my boss
13 that I'm with on Three section, Dave
14 Meade.

15 Q. Dave Meade instructed you on
16 the escapeways?

17 A. Yes.

18 Q. Did he use a map on the
19 surface to instruct you?
20 A. He done both, on the surface
21 and when we got underground, he
22 showed me the map that was on the
23 power box, they kept at the power
24 box.

25 Q. That's on Three section ---

55

01 A. Uh-huh (yes).

02 Q. --- at the power box? Is that
03 map pretty much accurate?

04 A. Yes.

05 Q. And the map on the surface
06 that he used, where was that located?

07 A. It was in the boss' office.

08 Q. And that's on the second
09 floor?

10 A. Yes.

11 Q. Were there any other maps on
12 the surface that you know of that
13 designated escapeways?

14 A. Yes. There's one downstairs.

15 Q. Where was that located?

16 A. It's on the table. They got a
17 glass cover --- not glass, but Plexi
18 stuff covering it.

19 Q. Is that map also accurate?

20 A. Yes.

21 Q. Did you ever have to work on
22 Two section?
23 A. Not until I went doing outby
24 stuff. I've never run coal up there
25 or anything.

56

01 Q. Were you instructed on
02 escapeways when you worked up in that
03 area?

04 A. Yes.

05 Q. And who did that work?

06 A. Pat.

07 Q. Pat Callaway. When you
08 finished your project on the seal
09 ventilation, did you take any air
10 readings through the regulator or in
11 any location in that air split to
12 determine what kind of air quality
13 ---?

14 A. I didn't.

15 Q. Do you know if anybody did?

16 A. Pat did.

17 Q. Pat did?

18 A. I don't know what he come up
19 with, but I know for a fact that he
20 did take one.

21 Q. And when you knocked that
22 stopping out --- or when Pat knocked

23 the stopping out, did you hang any
24 temporary ventilation controls?

25 A. Yes. We hanged curtain in

57

01 front of it.

02 Q. And then you would rebuild the
03 stopping? Would you have to knock it
04 out at the end of the shift again,
05 then?

06 A. Yes.

07 Q. So you knocked that stopping
08 twice a day?

09 A. Didn't take long to build it
10 back. I mean, all the blocks was
11 laying there.

12 Q. You got pretty good at it
13 after a while.

14 A. Oh, yeah.

15 Q. Lots of practice. So how long
16 was that stopping out do you think
17 each day in total, between the time
18 it was knocked out and the time the
19 curtain was hung?

20 A. Not long.

21 Q. Ten minutes, 20 minutes?

22 A. If even ten. If even ten.

23 Q. Do you know if Two section
24 knew when you were doing that work?

25 A. I don't know if they knew or

01 not, to be honest with you. But I
02 mean, they seen us. But --- and they
03 knew that we had their scoop.

04 Q. Did they know you were
05 changing air outby them?

06 A. I have no idea.

07 Q. So you hung the temporary and
08 then built the stopping and then went
09 and did your work. And at the end of
10 the shift, you would come out and
11 knock the stopping, build a curtain,
12 rebuild the stopping?

13 A. Yes.

14 Q. And how many days did you do
15 this?

16 A. Probably about a week and a
17 half.

18 Q. Week and a half. Did you ever
19 ask, is there a better way to do
20 this?

21 A. All the time.

22 Q. Did you get any answers on
23 that?

24 A. No, I never got an answer. I
25 mean, that was pretty much the only

01 way. You couldn't --- you'd have to

02 knock another stopping somewhere else
03 because you couldn't get supplies
04 over in there.

05 Q. When you rebuilt that
06 stopping, you didn't replaster every
07 day, did you?

08 A. No.

09 Q. It was just dry stacked?

10 A. Right.

11 Q. Did anybody have any concerns
12 that when you knocked that stopping
13 it would affect ventilation in
14 another part of the mine?

15 A. I have no idea. Nothing was
16 ever said to me.

17 Q. Mr. Callaway never said
18 anything to you?

19 A. The only thing he said was,
20 now, when we knock it, we have to
21 build it back.

22 Q. That was the stopping, not the
23 installation of the curtain you're
24 talking about?

25 A. Right.

60

01 Q. Where did you hang that
02 curtain?

03 A. We hung curtain right in front
04 of it.

05 Q. So it was after you pulled the
06 scoop in, you would build the curtain
07 right in front of the stopping?

08 A. Right.

09 Q. Do you know if there was any
10 air changes on Two section? Did
11 anybody ever tell you up there that,
12 hey, you really screwed us up today
13 or ---?

14 A. No, I never heard anything. I
15 never heard anybody say anything.

16 Q. When you knocked that
17 stopping, could you tell which way
18 the air would come, whether it would
19 come toward you or go outby?

20 A. I couldn't tell.

21 Q. You couldn't tell any
22 difference?

23 A. Uh-uh (no).

24 Q. So you never discussed the
25 construction project with Two section

61

01 yourself, ---

02 A. No.

03 Q. --- is that what you're
04 telling us?

05 A. Not myself. Now, Pat may
06 have. Dusty may have. But I don't

07 know.

08 Q. That shift that you worked,
09 was that all dayshift?

10 A. No. Every bit of it was
11 evening.

12 Q. All evening shift?

13 A. All evening.

14 Q. That was 4:00 to 12:00?

15 A. Right.

16 Q. And was Pat Callaway your
17 supervisor the entire time on that
18 project?

19 A. Yes.

20 Q. Did anybody else supervise
21 that project; do you know?

22 A. Not that I'm aware of. And
23 you said 4:00 to 12:00 on second
24 shift, and it's 4:00 to 1:00.

25 Q. 4:00 to 1:00?

62

01 A. We had to work nine hours.

02 Q. Okay. Thank you. In your
03 experience, have you --- at
04 Rockhouse, did they have any fires at
05 Rockhouse?

06 A. No.

07 Q. Did they have a CO system at
08 Rockhouse; do you know?

09 A. I don't know. I was --- I

10 never dealt with any of the belts or
11 anything.

12 Q. You said there was a need to
13 make this ventilation change because
14 of a violation of the law?

15 A. Yes.

16 Q. Was there actually a citation
17 written by someone?

18 A. I'm not sure. I don't know.
19 I just --- I only know what I was
20 told.

21 Q. You don't know if it was MSHA
22 or the State that made an issue of
23 that?

24 A. I have no idea.

25 Q. I know I asked you before

63

01 about when you knocked that stopping,
02 whether or not there was an air
03 change, if you could notice.

04 A. I could not notice an air
05 change.

06 Q. So there was no flow through
07 that stopping when you knocked it?

08 A. Not that I'm aware of. I
09 mean, I couldn't --- I really
10 couldn't feel any difference.

11 Q. So if there was any airflow,

12 it would be something that you'd have
13 to use chemical smoke to see if it
14 was moving?

15 A. Right.

16 Q. You couldn't notice any dust
17 in the air coming through that
18 stopping?

19 A. No.

20 Q. You started work in September
21 at the mine?

22 A. Yes.

23 Q. You probably weren't there
24 when the ventilation survey was
25 conducted last summer. But were you

64

01 aware that there was a ventilation
02 survey conducted?

03 A. No, I was not.

04 Q. When you hung your curtain
05 after knocking that stopping, could
06 you tell that the curtain was pushed
07 in any direction by the airflow?

08 A. No.

09 Q. Pretty much still?

10 A. Couldn't tell anything about
11 it.

12 Q. After you got the curtain put
13 back up, was there any pressure on
14 the curtain one way or the other?

15 A. Not that I could tell.

16 Q. It didn't puff out ---

17 A. No.

18 Q. --- toward the section? Did

19 you have to hang a curtain into that

20 seal from your regulator?

21 A. Pat did. Pat hung curtain. I

22 never hung it, but Pat hung curtain

23 in all the entries.

24 MR. FRANCAERT:

25 Bill, you got some

65

01 questions?

02 MR. TUCKER:

03 I have a few.

04 BY MR. TUCKER:

05 Q. On the CO project that you was

06 working on, you mentioned on the 17th

07 that you pretty much finished it up?

08 A. For the most part.

09 Q. For the most part. And you

10 went back on the 18th to put the

11 finishing touches on it?

12 A. Right. We went through the

13 man doors to do that. We did not

14 knock that stopping on the ---.

15 Q. What about on the 17th, did

16 you knock it on the 17th?

17 A. On the 17th, yes.

18 Q. Do you recall for sure when

19 you came out on the 17th if the

20 stopping was put back and the blocks

21 taken out or ---?

22 A. On the 17th, the stopping was

23 built back with the four blocks

24 missing out of the top left-hand

25 corner.

66

01 Q. Okay. We'll move on up to the

02 19th now.

03 A. Okay.

04 Q. Okay? You mentioned that

05 where you parked the MRS unit at,

06 there was a couple other MRSs up on

07 the ---

08 A. Right.

09 Q. --- Three section.

10 A. Correct. There's two.

11 Q. That they had been moved

12 earlier in the week. Do you know who

13 moved those or what days?

14 A. I don't know what days, but I

15 know Bryson was assigned to that

16 project, getting them MRSs out.

17 Q. And as far as your instruction

18 that day, on the 19th, on what you

19 were to do, who gave you those

20 instructions on moving --- tramping
21 the MRS up to Three section?
22 A. As far as I know, Dusty did.
23 I mean, I wasn't told specifically,
24 but Bryson said, Dusty said you're
25 going with me today. And Pat knew

67

01 about it, or else he would have said
02 something different, so ---.

03 Q. Because normally you would
04 have went with Pat?

05 A. Exactly.

06 Q. Okay. Did they say anything
07 about --- well, first of all, do you
08 have any type of firefighting
09 equipment with you, extra fire
10 extinguishers or anything?

11 A. Just on that five-man ride, it
12 had the fire extinguisher on it.

13 Q. Just the one that's provided
14 for the mantrip?

15 A. Uh-huh (yes). And in each
16 power box they're there.

17 Q. Right. Did anybody mention
18 anything about that being considered
19 an equipment move or coordinating
20 anything with the dispatcher?

21 A. Well, the dispatcher knew that

22 we was moving.

23 Q. Do you know if there's a light
24 at your drift mouth that, say, if you
25 were going to move equipment, it

68

01 would be a move light that you would
02 turn on during an equipment move?

03 A. I have no idea.

04 Q. Okay. Are you employed by
05 Aracoma ---

06 A. Yes.

07 Q. --- or are you with a
08 contractor?

09 A. Employed by Aracoma.

10 Q. So you hired in --- right in
11 with the company?

12 A. Uh-huh (yes), straight to the
13 company.

14 MR. TUCKER:

15 We have another member
16 of our State team with us. So
17 just for the record, I'd have
18 you introduce yourself.

19 ATTORNEY MCATEER:

20 I'm Davitt McAteer.

21 Thank you.

22 MR. TUCKER:

23 Thank you.

24 BY MR. TUCKER:

25 Q. You mentioned that there were

69

01 a couple telephones along your ---

02 A. Yes.

03 Q. --- travel that day. Did you

04 listen or hear any conversation over

05 a telephone at any time?

06 A. No, I did not. I did not, no.

07 Q. Okay. Did you see Fred Horton

08 on your shift?

09 A. I don't remember. I don't

10 remember seeing Fred. I mean, I know

11 he was there outside. I seen him

12 before we went underground.

13 Q. As far as underground, ---?

14 A. As far as underground, no, I

15 don't remember seeing Fred.

16 Q. Could he have possibly have

17 went in before you or do you know ---

18 if he would have went in normally,

19 would he have passed you?

20 A. If he would have went in

21 normally, he would have probably been

22 in before us.

23 Q. Did Pat Callaway come in

24 behind ---

25 A. No, he was in front of us.

70

01 Q. --- you and Bryson?
02 A. He was before you?
03 A. As far as I know.
04 Q. Okay. Did he stop ---
05 A. No.
06 Q. --- and have any conversation
07 as far as ---
08 A. No.
09 Q. --- what you were doing that
10 day?
11 A. Now, I know that when we was
12 adding the cable to the MRS, I know
13 there was a couple buses that went
14 by. Now, who was on them, I can't
15 --- I don't know.
16 Q. So you were kind of out of the
17 way when you were making the splice
18 ---
19 A. Right.
20 Q. --- or Bryson was making the
21 splice?
22 A. Right. There was a couple
23 going by. I don't know who they
24 were. Now, Fred could have been one
25 of them, but I don't remember.

01 Q. You had mentioned that you
02 were never on the phone, but do you
03 recall if Bryson Ellis was ever on

04 the phone talking to anybody ---

05 A. Not that I'm aware of.

06 Q. --- during the time he was

07 with you?

08 A. Not that I'm aware of. I

09 mean, he --- when we got the splice

10 made, he called the dispatcher and

11 told them we was going to be moving

12 out into the roadway with the MRS.

13 Q. Okay. I know you mentioned

14 that you don't wear a watch

15 underground.

16 A. Right.

17 Q. Do you recall what time you

18 got outside that night?

19 A. Not right off. Not right off.

20 It was --- I know it was shortly

21 after we got the MRS to Three

22 section. It was --- well, it was

23 long enough to, you know, walk out.

24 Q. Once you got outside, did you

25 hear any conversation at that point

72

01 about what was going on or ---

02 A. No.

03 Q. --- anything about the

04 situation underground?

05 A. I never heard anything until

06 later on they said that there was a
07 fire and just the stuff that had
08 already come about, two was missing
09 and they had called rescue teams and
10 stuff.

11 Q. When you got outside, did you
12 report to anybody?

13 A. Yes. Eddie Lester was
14 standing there waiting on us when we
15 got outside.

16 Q. And you didn't have any
17 discussion with him as far as what
18 was going on?

19 A. As far as what was going on,
20 no.

21 Q. Okay.

22 BY MR. FRANCCART:

23 Q. Brandon, do you know what time
24 you came out of the mine?

25 A. I do not recall.

73

01 Q. What did anybody assign you
02 for the rest of your shift? Did you
03 get assigned any special projects to
04 assist?

05 A. No.

06 Q. Did they utilize you in any
07 way to assist in firefighting?

08 A. No.

09 Q. So what did you do the rest of
10 your shift?

11 A. After we got outside and
12 reported to Eddie, he told us, just
13 stay put, stay upstairs, not to
14 leave.

15 Q. So what time did you actually
16 leave the mine site?

17 A. Around normal time, around
18 1:00. Maybe a little bit later.

19 Q. Has the company ever done any
20 training as far as reporting to you
21 other incidents of fire at other
22 mines to instruct you on proper
23 evacuation or ---?

24 A. Not that I'm aware of.

25 Q. Did you ever hear of mine

74

01 fires at other mines, such as 84 Mine
02 or Wilberg Mine?

03 A. No.

04 Q. Did you ever get to work up in
05 Nine tailgate at all?

06 A. Nine tailgate, not that I'm
07 aware of. I mean, I don't know
08 exactly what Nine tailgate is.

09 Q. Nine tailgate would be up in
10 this area on this map, any

11 construction project on the belt?

12 A. No, never did.

13 Q. Never set posts up in there?

14 A. Well, that was --- after the
15 fire, we set props up there, the
16 wooden props.

17 Q. But not before the fire?

18 A. But not before the fire.

19 Q. Do you know if there were any
20 ventilation changes made on either
21 the longwall section or Two section
22 prior to the fire, say a week before
23 the fire?

24 A. Just what we was doing down
25 near the return.

75

01 Q. So that was the only
02 ventilation change you were aware of?

03 A. That I was aware of, yeah.

04 Q. What about on the longwall
05 section?

06 A. I have no idea.

07 Q. You haven't heard any talk
08 around the mine about air reversals
09 in the longwall?

10 A. Nope.

11 Q. The cable you had in the MRS,
12 was that in the box cut before you
13 went in the mine or while you were

14 underground?

15 A. The cable that we added to?

16 Q. Yes.

17 A. Yeah, that was underground.

18 Q. The MRS was already

19 underground?

20 A. Yes. It was just a break

21 above the double doors at the

22 Threeway.

23 Q. In your fire drills that

24 you've practiced, did any of those

25 involve a fire on a piece of

76

01 equipment being moved in the outby

02 areas?

03 A. No.

04 Q. Did anybody describe to you a

05 situation such as an equipment fire

06 that you would have to evacuate the

07 mine, or was it just walking the

08 escapeways?

09 A. Just walking the escapeways.

10 Q. So nobody said, we have a fire

11 in Number Four entry in north mains

12 and you have to get out of here?

13 That wasn't the type of drill you

14 had?

15 A. No. That was never mentioned.

16 Q. After you spoke to Billy Hall
17 the day of the fire, did you ever
18 speak to him again afterwards that
19 shift?

20 A. No.

21 Q. He's the one that told you to
22 leave the mine?

23 A. Well, Rod Morrison had told us
24 when he had come back through to tell
25 us to go --- he came just to tell us

77

01 that we needed to go outside and
02 report to Eddie. And then as soon as
03 we started leaving, there come Billy
04 Ray.

05 Q. So Rod Morrison is actually
06 the person that told you to evacuate?

07 A. Yes.

08 Q. And that was because of the
09 fire?

10 A. Yes.

11 Q. I think we asked this in a
12 sense before. Just to clarify,
13 though, did you get involved in the
14 extension project in the Number Seven
15 belt, the northeast mains?

16 A. The extension project, I don't
17 ---.

18 Q. Number Seven belt, I don't

19 know if you can see on the map here,
20 it ends --- the tail of that belt is
21 right here. That belt is being
22 extended up toward Number Two
23 section?

24 A. I know nothing about it.
25 That's the first that I've ever heard

78

01 anything about it.

02 Q. We talked before about you
03 working on Three section.

04 A. Uh-huh (yes).

05 Q. Are you and Bryson normally
06 both part of that production crew?

07 A. The same production crew, yes.
08 He's the section electrician.

09 Q. And Pat Callaway is the
10 supervisor of that section?

11 A. No, the --- well, he's the
12 other crew. Now, I was usually with
13 Dave Meade.

14 Q. Dave Meade was your
15 supervisor?

16 A. Yes.

17 Q. Do you have any idea how long
18 it was after Rod Morrison went into
19 the mine before he came back out to
20 tell you to evacuate?

21 A. I have no idea. Probably not
22 more than 30 minutes. No more than
23 30 minutes, just guessing.

24 Q. How long would it have taken
25 him to get up to the fire and come

79

01 back? Do you think it would have
02 been about that long or longer?

03 A. I'm not sure. I'm not sure
04 about the time it would have took.

05 And I think he used a cut-through to
06 go up and around.

07 Q. On the Three section, when you
08 did produce coal, what was the
09 direction of the air on the belt?
10 Was it toward the faces or away from
11 the section?

12 A. I'm not sure how the common
13 air on our section went. I know it
14 come up Three and split and then went
15 down One and Seven in the returns.
16 There was a stopping line between Six
17 and Seven, a stopping line between
18 Three and Four, and a stopping
19 between One and Two.

20 Q. You were a bolter on that
21 section; is that right?

22 A. Yes.

23 Q. Did you ever notice a check

24 curtain near the section loading
25 point, across the entry? It would

80

01 have been outby the feeder?

02 A. It was right in front of the
03 feeder, yeah.

04 Q. There was a curtain in front
05 of the feeder?

06 A. Uh-huh (yes), hanging across
07 --- like over the belt. It was cut
08 over the belt.

09 Q. So it would have been outby
10 the feeder?

11 A. Uh-huh (yes).

12 Q. When you were on that
13 construction project in the northeast
14 mains that's on the ---

15 A. Uh-huh (yes).

16 Q. --- building the stoppings,
17 and you busted through the stopping,
18 did you notice if the 48-inch belt
19 was running at that time?

20 A. When I --- I know for a fact
21 that when I built the regulator, the
22 48-inch belt was running. And that
23 was on the first day I was down
24 there. And as far as I know, it was
25 running every day after.

01 Q. But at that precise time that
02 you knocked that stopping, do you
03 know if the belt was running while
04 you were putting the check curtain
05 up, knocking the stopping ---?

06 A. As far as I know, it was. As
07 far as I know.

08 Q. Was Two section running coal
09 at that time?

10 A. As far as I know.

11 Q. And how would you know that?

12 A. Because that's, you know,
13 where they usually run coal. They
14 leave the box cut early to get up
15 there right at four o'clock so that
16 they could, as far as I know, hot
17 seat.

18 Q. Did you actually see coal on
19 the belt while you ---?

20 A. No, I never seen coal on the
21 belt. I didn't really pay any
22 attention to it. I was just trying
23 to get what I knew needed done, done.

24 Q. Do you know where Bill Hall
25 was coming from the date of the fire

01 when he came by?

02 A. I have no idea.

03 Q. He didn't say anything to you
04 where he came from? Did he tell you
05 where he was going?

06 A. He said he was going outside.

07 MR. FRANCCART:

08 Bill, any other

09 questions?

10 MR. TUCKER:

11 I just have a couple

12 more, Brandon.

13 BY MR. TUCKER:

14 Q. Are you aware of any other
15 fires at the mine, heard any talk
16 about a ---

17 A. No, never.

18 Q. --- fire? So you haven't
19 heard anything about a possible fire
20 on December 23rd?

21 A. I have no idea. I never heard
22 anything about it.

23 Q. Okay. How often is the roof
24 control plan gone over with you? You
25 said you're a roofbolter operator.

83

01 I'm speaking of the time that you're
02 on a section working in production,
03 installing roof support. How often
04 would you say the roof control plan

05 is reviewed with you?

06 A. Well, Dave always came by at
07 least once a day and said something
08 about it, just --- he said, just make
09 sure that you're not too far away
10 from the rib. It was different stuff
11 he said.

12 Q. Different things, okay.

13 A. Just different things about
14 it.

15 Q. In the sealed area, when you
16 was working on that project, when you
17 was like --- I understand you got the
18 section scooped, ---

19 A. Uh-huh (yes).

20 Q. --- you'd go over in the
21 return entry and go down to where the
22 stopping was at, knock the stopping
23 and go through, when you was
24 traveling down that return entry to
25 that stopping, did you ever notice

84

01 dust like in suspension in the airway
02 while you were traveling down to the
03 stopping?

04 A. No.

05 Q. Couldn't tell a difference
06 with the dust on one side of the
07 stopping compared to the other side

08 of the stopping?
09 A. Nope.
10 Q. Okay. Have you ever
11 participated in a fire drill on the
12 section, say simulate you have a fire
13 in a certain area and you give out
14 job assignments or ---?
15 A. No, not that, but we have
16 walked the escapeways.
17 Q. Okay. Has anybody ever
18 demonstrated to you, say, how to
19 spray water on a fire or to hook up a
20 fire hose to an outlet or ---?
21 A. No.
22 Q. No type of training like that?
23 Okay. When you got outside on the
24 19th, was you told --- given any
25 instruction as far as using the

85

01 telephone, as far as calling home or
02 making any type of phone calls?
03 A. Not that I know. Not that I
04 remember.
05 Q. Okay.
06 MR. TUCKER:
07 That's all I have.
08 Thank you, Brandon.
09 BY MR. FRANCAERT:

10 Q. Brandon, just a few more and

11 then we're going to let you go.

12 A. Okay.

13 Q. When you traveled up the

14 northeast mains, you had to travel

15 through the mother drive area; is

16 that right?

17 A. Yes.

18 Q. When you drove into those

19 equipment door areas, did you have to

20 open those doors?

21 A. Uh-huh (yes).

22 Q. Did you ever find them open?

23 A. No.

24 Q. They were always --- both sets

25 were always closed?

86

01 A. Always closed. There was four

02 different sets of --- well, I mean,

03 you had one set and then one set, and

04 then a little bit further up you had

05 one set and another set. And every

06 time I've ever been through there,

07 every one of them have been closed.

08 Q. Did anybody ever open them for

09 you? Was there ever a belt attendant

10 at the drive area that would open

11 those doors?

12 A. No, nobody ever opened the

13 doors. But I know that when you
14 crossed under the belt, I remember
15 one day we took a case of grease to
16 Brandon Conley, which was the beltman
17 up there.

18 Q. Was there anything special
19 about that day you remember, about
20 the doors?

21 A. No.

22 Q. What about other doors outby?
23 Were there any other doors ---
24 equipment doors you would find open?

25 A. No.

87

01 Q. They were always kept closed?

02 A. Yeah.

03 Q. When you went back outside at
04 the end of the day of the fire, you
05 left rather early and you were told
06 to stay on mine property, did you
07 stay in the box cut?

08 A. No, up in the office, just on
09 the bottom floor.

10 Q. Did you happen to talk to
11 anybody from Two section that day?

12 A. No.

13 Q. After they came out of the
14 mine, you didn't see them at all?

15 A. Well, I seen them, but I never

16 --- I never talked to them.

17 Q. Did you hear from anybody what

18 the cause of the fire was?

19 A. No.

20 Q. Did anybody mention to you how

21 the smoke got into the intake primary

22 escapeway for Two section?

23 A. Nope. I had never heard

24 anything about it.

25 Q. Did the company interview you

88

01 concerning the accident at any time?

02 A. No.

03 Q. Did you attend a meeting at a

04 local grade school sometime after the

05 accident?

06 A. Yeah.

07 Q. Can you tell us what that

08 meeting was about?

09 A. It was just about returning

10 back to work. Nothing was ever said

11 about the fire.

12 Q. They never discussed the cause

13 of the fire?

14 A. Never discussed the cause of

15 the fire or anything.

16 Q. Did they give you an idea how

17 long the longwall section might be

18 down or any clues on production, when
19 it would resume?

20 A. No. They said that when you
21 --- when we would get to go back to
22 work it would be just dead work.

23 Q. When Rod Morrison told you to
24 evacuate, do you know if the other
25 sections inby had been evacuated at

89

01 that point?

02 A. I didn't know at that time,
03 but when I got outside, Two section
04 was sitting out there.

05 Q. They were outside when you got
06 out?

07 A. Yes.

08 Q. Would that mean that they had
09 to pass you coming out while you were
10 underground?

11 A. They've had to. I mean,
12 that's --- but like I was saying, we
13 took the MRS up in the Three section.
14 There could have been a ride that
15 went by.

16 Q. So you figure that about that
17 time you were in Three section would
18 be the time they would have to pass
19 you?

20 A. Yes.

21 Q. When you went in the mine, you
22 rode in on a five-man trip?

23 A. Yes.

24 Q. And you had to walk out?

25 A. Yes.

90

01 Q. Why is that?

02 A. Because Rod had our five-man.

03 Q. Why did he take yours; do you
04 know?

05 A. Him and Ed was walking when
06 they come back to us. And then they
07 took their five-man, and I have no
08 idea where they took it to.

09 Q. Did they tell you where they
10 were coming from, or do you know
11 where they came from?

12 A. I do not know where they came
13 from, and they never said anything
14 about where they had been. And
15 that's when he had come back and told
16 us to go ahead and go outside.

17 Q. When you exited the mine and
18 came back out to the box cut, were
19 there any federal inspectors or state
20 inspectors on site?

21 A. Whereabouts? I mean, ---

22 Q. In the box cut.

23 A. --- was it in the box cut? I
24 don't remember seeing any.

25 Q. Did you see some on the

91

01 surface?

02 A. Yeah, there was some on the
03 surface.

04 Q. Do you know who they were or
05 recognize them?

06 A. I didn't recognize any of
07 them.

08 Q. Do you have any idea how many
09 federal inspectors were on site at
10 that time?

11 A. I couldn't tell you. I have
12 no idea.

13 Q. Was there a lady inspector at
14 the mine?

15 A. Yeah, there was a woman.

16 Q. And you said before you don't
17 wear a watch underground.

18 A. Right.

19 Q. So you don't know what time
20 you were evacuated from the mine?

21 A. Right.

22 Q. Did you recognize any of the
23 people from Two section outside that
24 you could give us their names?

25 A. Yeah. I know about all of

92

01 them.

02 Q. Who did you see?

03 A. The first person I remember

04 seeing is Pat Kinser. And I remember

05 seeing Earl, which is --- I think

06 that's just a nickname they gave him.

07 I can't think of his real name right

08 off. Randall Crouse. Randall

09 Crouse.

10 Q. Why do they call him Earl?

11 A. I have no idea. I have no

12 idea. Just that's --- when I first

13 met him, when I first got there,

14 that's how I was introduced to him.

15 Q. Okay. Did anybody take your

16 name and put it on a piece of paper

17 when you came out?

18 A. Several people did. When I

19 got outside, Eddie was standing there

20 with a thing of paper, and he wrote

21 mine and Bryson's name down. When we

22 got upstairs, I forget who it was,

23 but somebody else took our name when

24 we got upstairs. And then also the

25 woman inspector took our names.

93

01 Q. Did you check out of the mine

02 with the normal tag in and out
03 system ---
04 A. Yes.
05 Q. --- also? After you were told
06 by Rod Morrison to evacuate, at that
07 point did you immediately evacuate?
08 A. Yes. The only thing that we
09 done was we got the cable that was
10 laying across the roadway, we got it
11 out. We pulled the cat head and
12 pulled it over to Three section, over
13 just inside the doors.
14 Q. And why did you do that?
15 A. So nobody would run over it.
16 Q. Didn't want to see it damaged?
17 A. Exactly.
18 Q. Do you have any idea how many
19 hours you were underground that day?
20 A. One and a half, two at most.
21 MR. FRANCAERT:
22 Bill?
23 BY MR. TUCKER:
24 Q. Are you still working at
25 Aracoma?

94

01 A. Yes.
02 Q. Okay. You mentioned several
03 people put your name on a list. Did

04 you happen to see the list? Do you
05 know if your and Bryson's names are
06 the first ones on the list or was
07 there other people, or do you recall?
08 A. I don't recall. I never seen
09 the list. I just know that they was
10 writing names down.

11 MR. TUCKER:

12 Thank you.

13 BY MR. FRANCCART:

14 Q. Brandon, is there anything
15 you'd like to tell us that we haven't
16 asked?

17 A. I've told you all I know about
18 it. I know it wasn't very much, but
19 I hope it will be helpful to you.

20 Q. You told us a wealth of
21 information, believe me. It's been a
22 big help to us. Is there any closing
23 statement that you would like to
24 make?

25 A. No.

95

01 MR. FRANCCART:

02 I think we have one
03 more question coming up from
04 the back.

05 A. Okay.

06 MR. FRANCCART:

07 And this will be the
08 last one.
09 BY MR. FRANCCART:
10 Q. When Rod Morrison took your
11 five-man trip and told you to
12 evacuate, did he know you'd have to
13 walk out?
14 A. As far as I know, yes.
15 Q. Did that bother you at all?
16 A. Well, I was outby it. I knew
17 that --- I knew that I wasn't in
18 harm's way. So no, it really didn't
19 bother me because it's not really all
20 that far.
21 Q. How long did it take you to
22 walk out?
23 A. Maybe ten minutes. It don't
24 take long. I've walked it several
25 times. Like when we still had track,

96

01 when the rail was down, we walked the
02 Three section and stuff like that.

03 MR. FRANCCART:

04 Anything else, Bill?

05 MR. TUCKER:

06 No.

07 MR. FRANCCART:

08 Brandon, on behalf of

09 MSHA and the State, they'll
10 have a closing statement for
11 you also, we thank you for
12 appearing here today and
13 answering all of our questions
14 and sharing your information
15 about the day of the accident.
16 Your cooperation has been very
17 helpful to us in determining
18 the cause of the accident and
19 the conditions surrounding the
20 accident. I'll give you one
21 last chance. If you want to
22 take just a second to think
23 about what happened that day
24 and if there's something you'd
25 like to add to the record

97

01 while we're here, we'll give
02 you a moment to think about
03 that.

04 A. No.

05 MR. FRANCCART:

06 We do ask that you not
07 discuss your interview today
08 with anyone who has already
09 been interviewed or who may be
10 interviewed in the future
11 regarding the accident. And

12 that will ensure that we
13 obtain everybody's independent
14 memory of what's happened the
15 day of the accident.

16 After questioning other
17 witnesses and obtaining
18 additional information, we may
19 be asking you back for further
20 questions. If at some later
21 point you have additional
22 information, remember
23 something that you may think
24 helpful to the investigation,
25 we'd ask you to call either

98

01 Mr. Kenny Murray, who you met
02 earlier, or Mr. Arlie Webb,
03 his staff assistant. And we
04 have business cards with their
05 contact numbers.

06 A. Okay.

07 MR. FRANCCART:

08 The Mine Act does
09 provide certain protection for
10 individuals who participate in
11 accident investigations. And
12 if you feel at any time you've
13 been treated unfairly because

14 of your cooperation with the
15 investigation, please call Mr.
16 Murray or Mr. Webb. And Bill,
17 you have a closing statement?

18 MR. TUCKER:

19 I'd just like to say
20 also we appreciate you coming
21 in today. And State law also
22 gives you protection against
23 being discriminated against
24 concerning safety issues.
25 Here's my card if you need to

99

01 contact me for anything. And
02 this is C.A. Phillips' card.
03 He's our Deputy Director out
04 of the Charleston office.
05 Thank you.

06 * * * * *

07 EXAMINATION CONCLUDED

08 AT 9:30 A.M.

09 * * * * *

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