

01 EXAMINATION UNDER OATH
02 OF
03 LUTHER MARRS
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 Friday, March 24, 2006, at 2:28
13 p.m.

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

02
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04 U.S. Department of Labor
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08 Arlington, VA 22209-2247

09
10 WILLIAM TUCKER
11 Assistant Inspector at Large
12 West Virginia Office of Miners'
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16
17 WILLIAM J. FRANCAERT, P.E.
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24 Pittsburgh, PA 15236

25

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

02

03 ALSO PRESENT:

04 STEVE COX

05 MICHAEL FINNIE
06 DENNIS A. BEITER
07 RONALD W. STAHLHUT
08 CHARLES W. POGUE
09 BETH SPENCE

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01 I N D E X

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04 WITNESS: LUTHER MARRS

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

02 -----

03 MR. BEITER:

04 My name is Dennis
05 Beiter. I represent the Mine
06 Safety and Health
07 Administration, which is an
08 Agency of the U.S. Department
09 of Labor. I'm a member of
10 MSHA's accident investigation
11 team that's assigned the task

12 of investigating the accident
13 that occurred at the Aracoma
14 Coal Company, Incorporated,
15 Aracoma Alma Mine Number One,
16 on January 19th, 2006.

17 This is a joint
18 investigation that MSHA is
19 conducting with the State of
20 West Virginia. I will be
21 asking the questions for MSHA
22 in today's interview. With me
23 here today are other members
24 of MSHA's team and the state's
25 team. MSHA's team includes

7

01 various subject matter experts
02 from throughout the United
03 States along with members of
04 the Solicitor's Office from
05 Arlington, Virginia. At this
06 time, I'd ask each member of
07 the MSHA team to identify
08 themselves for the record.

09 ATTORNEY BARISH:

10 Hello, Luther. I know
11 you know me, but for the
12 record, my name is Dan Barish.
13 I'm an attorney in the
14 Arlington Regional Solicitor's

15 Office representing MSHA and
16 I'll pass it on to Ron.

17 MR. STAHLHUT:

18 Ron Stahlhut of MSHA of
19 Vincennes, Indiana.

20 MR. POGUE:

21 Charlie Pogue, MSHA,
22 Hunker, Pennsylvania.

23 MR. FINNIE:

24 Mike Finnie, MSHA of
25 Madisonville, Kentucky.

8

01 MR. FRANCCART:

02 Bill Francart,
03 Pittsburgh, Pennsylvania.

04 MR. BEITER:

05 And Luther, you know
06 I'm out of the Triadelphia,
07 West Virginia office of Tech
08 Support. Here with us today
09 representing the State of West
10 Virginia is Mr. Bill Tucker.
11 Mr. Tucker will be asking the
12 questions for the State. And
13 at this time, I ask Mr. Tucker
14 to introduce himself and the
15 State's team who is present
16 today.

17 MR. TUCKER:
18 I also have a brief
19 statement I just need to read
20 for the record. The West
21 Virginia Office of Miners'
22 Health, Safety & Training is
23 conducting this interview
24 session jointly with MSHA.
25 We're in agreement with the

9

01 procedures outlined by Mr.
02 Beiter. However, let me make
03 it clear that the Director
04 reserves the right, if
05 necessary, to call or subpoena
06 witnesses or require the
07 production of any record,
08 document, photograph or other
09 relevant materials necessary
10 to conduct this investigation.
11 Again, my name is Bill Tucker,
12 I work out of Region Four and
13 that's in Oak Hill.
14 Appreciate you coming in
15 today.

16 MR. COX:
17 Steve Cox, Region
18 Three, Danville.

19 MS. SPENCE:

20 Beth Spence with the
21 Governor's Office.

22 MR. BEITER:

23 This investigation is
24 being conducted by MSHA and
25 the State of West Virginia to

10

01 gather information to
02 determine the cause of the
03 accident, to help prevent this
04 from happening in the future.

05 These interviews are an
06 important part of the
07 investigation. After the
08 investigation is completed,
09 MSHA will issue a written
10 report detailing the nature
11 and causes of the accident.

12 MSHA accident reports are made
13 available to the public in the
14 hope that greater awareness
15 about the causes of accidents
16 can reduce their occurrence in
17 the future. The information
18 obtained through witness
19 interviews is frequently
20 included in these reports.

21 Your statement may also be

22 used in other enforcement
23 proceedings.

24 I would like to thank
25 you in advance for your

11

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

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

24 This interview is being

25 conducted at the State of West

12

01 Virginia Department of
02 Environmental Protection
03 Division of Mining and
04 Reclamation at 1101 George
05 Kostas Drive, Logan, West
06 Virginia, 25601 on March 24th,
07 2006.

08 Mr. Marrs, the
09 interview will begin by asking
10 you a series of questions.

11 MR. BEITER:

12 May I call you Luther?

13 MR. MARRS:

14 Yes.

15 MR. BEITER:

16 Thank you. Please feel
17 free at any time to clarify
18 any statement that you make in
19 response to the questions.
20 After we have finished asking
21 questions, you will also be
22 given an opportunity to make a
23 statement of your own and
24 provide us with any other
25 information that you believe

13

01 may be important. You are
02 permitted to have a
03 representative with you during
04 this interview, and you may
05 consult with your
06 representative at any time.
07 You may designate any person
08 to be your representative.

09 MR. BEITER:

10 Do you have a
11 representative with you today?

12 MR. MARRS:

13 No.

14 MR. BEITER:

15 Do you wish to have
16 one?

17 MR. MARRS:

18 No.

19 MR. BEITER:

20 Your statement is
21 completely voluntary. You may
22 refuse to answer any question
23 and you may end your interview
24 at any time. If you do not
25 understand a question, please

14

01 let me know and we'll rephrase
02 it. If you need a break for
03 any reason, just let us know

04 and we'll take a break. You
05 may request the opportunity to
06 make a confidential statement,
07 which we will withhold from
08 the public to the extent
09 allowed by law. Should you
10 desire to give a confidential
11 statement, you should advise
12 me before I begin so that I
13 can reschedule your interview
14 in order to properly consider
15 your request. Do you want to
16 have a confidential interview?

17 MR. MARRS:

18 No.

19 MR. BEITER:

20 A court reporter will
21 record your interview and will
22 later produce a written
23 transcript of the interview.
24 I ask that you state all of
25 your answers verbally because

15

01 the court reporter cannot
02 record gestures like nodding
03 your head.

04 MR. MARRS:

05 Okay.

06 MR. BEITER:
07 Neither the transcript
08 of this interview nor the
09 content of this interview will
10 be released to the public or
11 the media until MSHA's final
12 accident investigation report
13 is issued or until required by
14 court order or until a public
15 hearing takes place.

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

16

01 ask the right questions to
02 learn the information that you
03 have, so please don't feel
04 limited by the precise
05 question that's asked. If you
06 have any information about the
07 subject area of a question,
08 please provide us with that

09 information. Do you have any
10 questions about the manner in
11 which this interview will be
12 conducted?

13 MR. MARRS:

14 No.

15 MR. BEITER:

16 Would you please swear

17 ---?

18 -----

19 LUTHER MARRS, HAVING FIRST BEEN DULY

20 SWORN, TESTIFIED AS FOLLOWS:

21 -----

22 BY MR. BEITER:

23 Q. Luther, please state your full
24 name, address, telephone number and
25 please spell your last name for the

17

01 record.

02 A. [REDACTED]

[REDACTED]

06 Q. There's a fan in the back of
07 the room, Luther, which kind of makes
08 it hard for the people in the back to
09 hear. If you could speak up, it'd be
10 good. I talk low myself.

11 A. I'll try.

12 Q. I get told a lot to speak up,
13 too.

14 A. I'll try. I'm not a very loud
15 person.

16 Q. I'm not either all the time.
17 Are you appearing voluntarily at this
18 interview?

19 A. Yes, I am.

20 Q. Has anyone made any promises
21 to you for giving this statement?

22 A. No.

23 Q. Has anyone offered you any
24 rewards in exchange for making this
25 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. No.

13 Q. Do you wish to proceed?

14 A. Yes.

15 Q. Luther, how long have you
16 worked for MSHA?

17 A. Since early fall of '91.

18 Q. What is your current duty
19 station?

20 A. Mount Hope, West Virginia.

21 Q. And what is your current job
22 title?

23 A. Assistant District Manager
24 over Inspection Division Two.

25 Q. How long have you held that

19

01 position?

02 A. September, mid-September '04.

03 Q. What other jobs have you held
04 with MSHA?

05 A. I've held field office
06 supervisory position in District Five
07 in Richland, Virginia. And then
08 inspector.

09 Q. What district was that in?

10 A. District Six and in District
11 Five.

12 Q. Did you work in the mining
13 industry prior to beginning with
14 MSHA?

15 A. Yes.

16 Q. Could you elaborate a little
17 bit on your experience there?

18 A. Went in mining at U.S. Steel
19 '70 --- sometime in mid-'73, started
20 as a laborer, went into electrician,
21 foremen. I took a foreman's job
22 after three and a half, four years,
23 supervisory capacity, mostly
24 longwalls up until --- I'm not sure
25 of the date, somewhere around '79,

20

01 '80. I retained a pension when they
02 shut Gary Hollow down. When they
03 shut the Gary Division down at U.S.
04 Steel in McDowell County, I retained
05 the position with them and I think it
06 opened about '81 before I officially
07 went off the books.

08 After I left U.S. Steel, I
09 took a position as a
10 --- started out as an electrician for
11 a company. It was a small mining
12 company or roofing mines. The ended
13 up owning about five mines. Worked
14 from there to a superintendent's
15 position to a general superintendent
16 position over all five mines. Then
17 as a general maintenance
18 superintendent over the five mines.

19 Went from there, worked on my own as
20 a contractor laborer for a while and
21 did --- did a lot of training
22 classes, troubleshooting, a lot of
23 troubleshooting for a lot of the
24 mining companies in the area.
25 Contract rebuild. Stayed in that a

21

01 while and didn't --- the mine started
02 going down again, and then I took
03 another job as a --- I went back with
04 U.S. Steel. Took the job of
05 superintendent prior to that for
06 maybe two years. That mine worked
07 out and then I went back to U.S.
08 Steel for about a year until I come
09 in basically. There were two or
10 three little odd jobs between that
11 time, but basically that's the extent
12 of it.

13 Q. Do you know about how many
14 total years of mining experience you
15 have?

16 A. '73 to now minus maybe six
17 months.

18 Q. Okay. Thank you. I want to
19 talk about January 19th, 2006. Where
20 were you working that day?

21 A. Working in the Mount Hope
22 Field Office --- or District office.

23 Q. Did you speak with anyone from
24 Massey during the day?

25 A. Not that I can recall. I may

22

01 have but I don't recall.

02 Q. Did you speak with anyone from
03 Aracoma specifically?

04 A. No.

05 Q. What time did you leave the
06 office that day?

07 A. I don't recall, it was
08 probably a little after 5:00. I
09 don't recall exactly what time it
10 was.

11 Q. Do you remember what time you
12 received a call advising you that
13 there was a fire at Aracoma?

14 A. From the office to the house
15 is about an hour and 35 minutes or so
16 and I didn't get home 'til, it was
17 6:30 something to 7:00. And I hadn't
18 been home to --- really hadn't even
19 had time to get my shoes off or
20 whatever that Rich Kline had called.
21 And I'm thinking it's somewhere
22 toward eight o'clock. I'm not sure.

23 Q. And you said it was Mr. Kline

24 who notified you initially?

25 A. Yes.

23

01 Q. Do you know where he called

02 you from?

03 A. I assumed he called me from

04 his home.

05 Q. Did you make any notes of the

06 phone call from him?

07 A. I may have jotted down on a

08 piece of scratch paper at the house

09 that we had had an accident. There

10 had been a reported fire with two men

11 missing at the Aracoma Mine and that

12 they was unable to get ahold of Jake

13 or whatever, Mr. Blevins (phonetic)

14 and I told him I would be there, I'd

15 make contact with the other

16 supervisor and I was on my way. So

17 it may have been a note or two jotted

18 down, I'm not --- I don't recall. On

19 a little scratch pad or something.

20 Q. And Mr. Kline had told you

21 that they --- the mine had attempted

22 to call Mr. Blevins?

23 A. He said that he hadn't --- or

24 the way I understood it, they hadn't

25 been able to get ahold of him at that

01 --- at the present time, at that
02 time.

03 Q. The mine?

04 A. Right. The mine --- or I
05 don't know who he said that they had
06 tried to make that call. He did tell
07 me Vicki Mullins, an inspector, was
08 onsite and that they was unable ---
09 had been unable to get ahold of Jake.
10 So I don't know if she had attempted
11 or the mine had attempted or Rich had
12 attempted. I don't know which one of
13 them had attempted to make the call.

14 Q. Was Mr. Blevins a field office
15 supervisor?

16 A. Yes.

17 Q. For the Logan Field Office?

18 A. Yes.

19 Q. And was that one of the mines
20 that was assigned to group?

21 A. Yes.

22 Q. At that initial conversation
23 with Mr. Kline, did Richard tell you
24 what time the fire had started?

25 A. No, he just said he just

01 received a call and they did a report
02 that they had had a fire and he

03 didn't have a lot of information.

04 Q. Did he know that there was ---
05 or did you find out that there were
06 people missing at that time?

07 A. He told me at that time that
08 they had reported that they had a
09 fire on the belt and that there was
10 two people unaccounted for. And I
11 said I was on the way. I had
12 contacted Linc Selfe to meet me at
13 office up there. He had already
14 contacted the mine emergency people.
15 And I was going to meet him up there
16 and we was going travel from Mount
17 Hope. I had to travel all the way to
18 Mount Hope to get my mining equipment
19 to be able to go. So that was the
20 best I could do, I was three and a
21 half, four hours away.

22 Q. From the mine?

23 A. From the mine.

24 Q. An hour and a half to Mount
25 Hope and two hours from Mount Hope to

26

01 Aracoma?

02 A. Yeah.

03 Q. Did you say you called Linc?

04 A. I called Linc. I think I

05 called him on my cell phone on my way
06 though when I discussed it with Linc.
07 And he told me that's where he would
08 meet me because I told him I was on
09 the way up there.

10 Q. And who is Linc?

11 A. Lincoln Selfe. He's the other
12 ADM over the division, Inspection
13 Division Two. And he's a member of
14 the MSHA mine emergency team.

15 Q. Is the Logan Field Office
16 under your ---?

17 A. The Logan Field Office is
18 under my jurisdiction or my area of
19 responsibility.

20 Q. Was there anyone else you
21 called besides Linc?

22 A. On the way I called Bill
23 Gillenwater. He is the other
24 supervisor over the Number Two work
25 group out of the Logan Field Office.

27

01 And told him I needed him to go to
02 the mines to be involved before I get
03 there. Go to the mines and set up a
04 command center and we'd --- I was on
05 the way. And as far as I know, Rich
06 had already contacted Jesse Cole and
07 he was on the way.

08 Q. Do you know what time you
09 contacted him?

10 A. No, I don't recall.

11 Q. Was it during the drive from
12 your home?

13 A. It was during the drive.

14 Q. To Mount Hope?

15 A. Right.

16 Q. Do you know all of the MSHA
17 employees who were sent to the mine
18 site?

19 A. Not --- I don't have a list of
20 them. I don't recall everyone that
21 were there, no. I probably know most
22 of them, but not everyone.

23 Q. If you --- you know, just go
24 by memory and ---.

25 A. Vicki Mullins, I think she was

28

01 contacted. Talking to her after I
02 got to the mine, she was contacted
03 and she come from home. There was --
04 - Minness Justice was there. It was
05 his assigned mine. Timmy Justice was
06 there. We met at the Logan Field
07 Office. When I got to the Logan
08 Field Office, it was Linc Selfe.
09 Jesse Cole was already there.

10 Q. At the Logan Field Office?

11 A. At the Logan Field Office, he
12 had come from Barboursville, from a
13 different direction. So we kind of
14 merged at the Logan Field Office
15 about the same time.

16 Q. Do you know what time it was?

17 A. It was before 12:00, exactly
18 what time I don't know. Around 11:30
19 or something to 12:00. Joe Mackowiak
20 was there. He had also --- they had
21 brought some of the mine rescue
22 people was there. I think Gerald
23 Cook may have been there at that
24 time.

25 Q. Some of the District Four,

29

01 members of the mine rescue team?

02 A. District Four.

03 Q. Is Gerry out of the Logan
04 office?

05 A. No. Gerry's out of the Mount
06 Hope office --- well, he's actually
07 out of the Pineville office at that
08 particular time. The reason we met
09 there is I didn't know the direction
10 to the mine. I had never been to the
11 mine so I didn't know how to get
12 there. So we had to have somebody at

13 the Logan office to show us where the
14 location of where the mine was at.
15 We got there and we went to the mine.

16

17 Q. Okay. Do you know what time
18 you arrived at the mine?

19 A. Like I say, it was before
20 12:00. Exactly --- it was before
21 ---.

22 Q. You arrived at the mine before
23 12:00 as well?

24 A. Correct.

25 Q. Do you know what the

30

01 respective assignments were for
02 people for MSHA at the mine?

03 A. When we got to the mine, Bill
04 Gillenwater was already at the mine
05 and he was in the command center.
06 Jesse and Linc went in to the command
07 center. There was Dennis Holbrook,
08 he was there. Dennis was in the
09 other room off to the back, and was
10 documenting the conversation that
11 transpired between underground and
12 the command center. We decided to
13 set it up to where we didn't have to
14 listen to the clutter of the back and

15 forth argument or discussion within
16 the command center. We could
17 document only what was said over the
18 telephone. So that was set up in
19 that documentation. That was
20 documented verbatim. So that ended
21 up being my area of responsibility.
22 I let them stay in the command center
23 and we stayed in there and brought in
24 the information as far as the air
25 readings from the fans, the bottle

31

01 sample results, whatever, they come
02 to where I was located at. And we
03 listened in and took the conversation
04 that transpired between the command
05 center and underground. And if there
06 was any readings that were out of the
07 ordinary or there seemed to be a rise
08 in the trend, then we would --- I
09 would pass that information along to
10 the command center. But basically,
11 we stepped back out and let the
12 command center do what they needed to
13 do on that end of it.

14 Q. Do you recall when Bill Ross
15 and Dave --?

16 A. Bill Ross and --- he brought
17 Dave --- I can't think of Dave's last

18 name now.

19 Q. I forgot it myself and I know
20 it very well. The other --- one of
21 the ventilation specialists.

22 A. One of the ventilation
23 specialists.

24 Q. Dave Morrison.

25 A. Dave Morrison.

32

01 Q. Yes.

02 A. When Dave Morrison, he ---
03 when they showed up, we basically had
04 them on standby until --- well, we
05 had people collecting samples at the
06 --- and air readings. I think it was
07 about every 15 minutes at the ethyl
08 fan and the ---.

09 Q. Mecca.

10 A. Mecca fan. We had them taking
11 them air samples and we was recording
12 them, you know, if there was any
13 change in the trend, then we passed
14 that information on. Later on that
15 night, I think that same night, we
16 had Bill and them go to a borehole on
17 top of the hill to start collecting
18 samples at that location.

19 Q. The conversations that you

20 talked about where you had the pager
21 phone and you just had someone in
22 that room recording the information,
23 how was that information recorded?
24 Was it handwritten? Was it typed
25 into a computer or was it ---?

33

01 A. That information was
02 handwritten and we changed them out
03 during the course of the recovery
04 operation at two or three days. We
05 changed the people out, some would
06 man that phone and wrote down
07 verbatim everything that was said.
08 Then the information was taken back
09 to the field office in Logan and it
10 was transcribed. There should be
11 both the handwritten copy and a
12 transcript. And it was turned over
13 to the accident investigation team.

14 Q. Okay. The air readings that
15 were called in, the air quality
16 readings called in from the two fans
17 that were being monitored and the
18 borehole, do you know if that
19 information was included in the notes
20 that the inspectors had as well?

21 A. There was another individual
22 in that room that took down all air

23 readings, the times they was taken,
24 one for the State and one for MSHA.
25 And also you were in that room in

34

01 that time and you all recorded the
02 information on a computer and we got
03 a computer readout on bottled samples
04 and that information. It was trended
05 on a computer graph.

06 Q. Right. Okay. Thank you. And
07 that was --- you referred to me,
08 that's Dennis Beiter?

09 A. Right.

10 Q. And as well was other members
11 of the ventilation division that was
12 responsible for the report?

13 A. It was a rotational shift
14 change. Most of the time earlier on,
15 it was 12 to 24 hours at a time.

16 Q. Yeah.

17 A. It wasn't a very --- there
18 wasn't nobody there to rotate.

19 Q. Thanks, Luther. What days
20 were you at the mine?

21 A. I was at the mine, I don't
22 recall every day. I was at the mine
23 until the recovery process, when we
24 recovered the bodies. After that

25 point, I worked into Sunday.

35

01 Q. Them being recovered on

02 Saturday?

03 A. Right. And then Sunday

04 morning when I did go to the house

05 Sunday morning and then we went on

06 the rotational of 12 on and 24 off.

07 And we were --- the three ADMS were

08 working a 12 on, 24 off rotation

09 until after the investigation team

10 showed.

11 Q. You said that you needed

12 directions to the mine. Had you ever

13 been at Aracoma Alma Number One

14 before?

15 A. No, I had not.

16 Q. And I guess I had some

17 questions about 75-1200 map that's

18 maintained at the mine, required to

19 be maintained. Would you have any

20 knowledge about prior to the 19th,

21 anything about the 1200 map that's

22 required to be maintained?

23 A. The day on the 19th, that day,

24 the ventilation department asked to

25 see me that evening, that's the

36

01 reason we was running over five

02 o'clock.

03 Q. Back at the district office?

04 A. Back at the district office.

05 The supervisor had issued --- not the

06 supervisor, but the inspector,

07 Minness Justice, had issued a

08 citation for the operator not

09 complying with his 1200 map. The

10 operator had come in sometime that

11 day, okay, and asked to ventilate

12 --- brought in a map ventilation for

13 a revision. But he didn't say what

14 he was revising from my

15 understanding. So he was told, you

16 know, you're going to have to come

17 back with whatever it is that you're

18 revising. So I had talked to Bill

19 and he had planned on going down to

20 do a survey to find out what was

21 going on at the mine.

22 Q. And that's Bill Ross?

23 A. Bill Ross.

24 Q. The ventilation supervisor for

25 District Four?

37

01 A. Right. And then that evening

02 is when the fire occurred.

03 Q. When you say planned on doing

04 a survey, that's a ventilation
05 survey, an investigation?
06 A. Yeah, we was going to look and
07 check to see what changes they had
08 made, what they had been cited for
09 and what corrections they had took to
10 --- you know, to abate the violation.
11 That was my first indication that
12 they had had a problem with anything
13 on the ventilation.
14 Q. And that was a violation that
15 Minness had cited you said?
16 A. The best I can recall. He
17 said the inspector had issued a
18 violation. He didn't say a name. I
19 took it to be Minness because he was
20 assigned the mine at that time.
21 Q. Okay. Do you know what was
22 cited in that citation?
23 A. No, I do not.
24 Q. And all that occurred on the
25 19th ---

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01 A. Correct.
02 Q. --- of January in the office?
03 A. Correct.
04 Q. Do you know who is responsible
05 for ventilation at Aracoma Alma Mine
06 Number One from the operator's side?

07 A. As in any other mine,
08 ultimately it's the mine foreman's
09 responsibility. To know --- put an
10 individual name to it, no I do not.
11 And I don't know how their, I guess,
12 company or whatever is structured.
13 If they place that responsibility on
14 another individual or not, I'm not
15 aware of that.

16 Q. Okay. Are you --- do you know
17 who submits their ventilation plans
18 of revisions to the ventilation plans
19 to the district office?

20 A. It's probably according to
21 which revisions are submitted,
22 because about every one submitted,
23 somebody else's name's on it. You
24 got an engineer that may submit it.
25 It may be Frank Foster's name. It

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01 may be --- well, Chris Adkins, I
02 haven't seen his name on one in a
03 while, but it's --- I guess it's
04 whoever at the main office that signs
05 the letter when it comes through.
06 Dwayne Francisco supposedly is the
07 individual that's over the
08 engineering department for the

09 company, that last I heard. And
10 sometimes you see his name on it, but
11 there's --- it's usually a different
12 name about every time it comes
13 through.

14 Q. Okay. Do you deal with
15 anybody on a regular basis regarding
16 Aracoma from the operator's side?

17 A. No. No. That is if you're
18 speaking of the past before, prior to
19 1 ---.

20 Q. Prior to 1/19.

21 A. Yeah. Yes.

22 Q. Since 1/19, since January
23 19th, who do you deal with?

24 A. Again, that's different, but I
25 deal with Chris Adkins pretty much

40

01 until him, Drexel Short and Frank
02 Foster, usually when you deal with
03 them, you deal with them --- and
04 Dwayne, the four. There's four
05 usually when you have conversation,
06 the four of them is there. Since
07 here recently, it's been dealing
08 directly with the people at the
09 mines, Eddie Lester and Gary Goff.

10 Q. You said before ---?

11 A. This is your --- in the last

12 week or so you deal with these
13 people. And but see somewhere in the
14 conversations or during the meeting,
15 you'll end up that meeting will be
16 postponed and you'll have one that
17 has Frank Foster and the others
18 involved in it.

19 Q. Are Frank and Dwayne and
20 Drexel and Chris --- did you say
21 Chris?

22 A. Chris Adkins.

23 Q. Are those four gentlemen
24 normally involved with the day-to-day
25 actions at the mine ---

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01 A. I haven't ---

02 Q. --- from your perspective?

03 A. I haven't --- dealing with
04 other Massey operations, usually when
05 Chris Adkins and Drexel gets involved
06 in it the company puts it a pretty
07 high priority and it's pretty
08 serious, something is not going
09 exactly the way they want. Normally
10 you would deal from a ventilation or
11 a plan standpoint, you'll deal with
12 Dwayne or one of the engineers that's
13 under him. And if it's a

14 disagreement on enforcement action or
15 some plans that come through, it will
16 be Frank Foster.

17 Q. When it gets elevated to their
18 level, do they --- not since January,
19 but prior to that, did they normally
20 bring one of the local mine managers,
21 one of the local managers at that
22 mine, along with them?

23 A. Sometimes. Normally they
24 would bring somebody from the mines
25 with them. And they fly in. They

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01 fly into Mount Hope and meet normally
02 with the District Manager and the ADM
03 over that division. And if it
04 involved roof, you know, they had
05 roof control people there,
06 specialists there, supervisor. And
07 if it involved ventilation, they had
08 Bill Ross and his people there.

09 Q. On January 19th and into the
10 20th, probably more so being that you
11 arrived at near --- prior to
12 midnight, but ---

13 A. Right.

14 Q. --- probably not much prior to
15 midnight?

16 A. No. It wasn't much.

17 Q. On the 19th, was there a map
18 that was brought into the --- it's
19 not the command center, but it's the
20 room where you talked about the
21 conversations being recorded, so it
22 would be like the side command center
23 room?

24 A. There was a --- I don't recall
25 if Jesse Cole was trying to give a

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01 briefing to Arlington. I think that
02 may have been one of the first
03 reasons the map was brought in there.
04 But we had brought it in there and
05 held it up and he was trying to
06 discuss some things with Arlington.
07 If I recall that was the first reason
08 it come but it stayed. And I ended
09 up putting it on a wall to where we
10 could track where the team was going
11 because we could --- we didn't have
12 to listen to the clutter that went on
13 in the command center. We heard what
14 the command center told them, we
15 heard what the team said and we could
16 put them around the map where they
17 said they was at and where they was
18 told to go. And we could kind of

19 track pretty good on the map, and we
20 were doing that. I don't recall,
21 sometime --- it was probably put on
22 the wall early in the morning on
23 probably the 20th, sometime before 12
24 o'clock anyway, between midnight and
25 12:00 that day.

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01 Q. Midnight and noon?

02 A. Noon. And it was probably
03 still there. It stayed there after
04 the recovery.

05 Q. After they were found?

06 A. Because we had done started
07 swapping shifts and I come on one of
08 the shifts and the map was gone, and
09 I wanted to know where it was at, but
10 nobody knew where it was at.

11 Q. You said you worked Saturday
12 into Sunday following --- so it would
13 have been like the 22nd.

14 A. Yeah.

15 Q. Was it --- do you recall if it
16 was still on the wall on the 22nd
17 when you left on Sunday?

18 A. I don't recall at what point
19 it become missing.

20 Q. Okay.

21 A. I know it was there and we

22 used it for --- it seemed to me like
23 a day or close to it, but then it
24 become missing.

25 Q. Okay. Can you describe the

45

01 size of that map, dimensions?

02 A. It was a large scale map,
03 probably --- it was a probably 100 to
04 100 scale, maybe a 100 to 200, 100 at
05 the smallest. But I think it may
06 have been a one to one or 100-foot
07 scale, one inch to 100 foot.

08 Q. Do you know what area of the
09 mine it encompassed?

10 A. It was the entire mine because
11 we had it folded up. The area we had
12 folded up was just showing the top
13 end of the mine, similar to what you
14 got there. What scale you got there,
15 that same area would cover about half
16 of the wall.

17 Q. It covered pretty much most of
18 the wall?

19 A. About one inch to 100 foot I
20 think is maybe what it was.

21 Q. Did you notice if there were
22 any --- you said you used it to mark
23 things up as far as progress and

24 that. Prior to you indicating any
25 notations on it, not just you but

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01 anybody that was working in that
02 room, whether it be the State or MSHA
03 or company personnel, do you recall
04 noticing if there were --- it was an
05 AutoCAD map; is that correct?

06 A. It was AutoCAD map with all
07 your ventilation controls and all
08 that on it.

09 Q. Do you recall if there were
10 any handmade notations relative to
11 the location of ventilation controls
12 or white-out showing that there were
13 controls that were off, you know, not
14 there or anything like that that
15 would not have been something that
16 the AutoCAD would have printed out in
17 the plotter?

18 A. I don't recall any, but at
19 that time, I wasn't looking at it so
20 much for that. I was plotting the
21 fresh air bases as they advanced them
22 from both ends, from the top end and
23 the bottom end to see basically how
24 much area had not been explored. I
25 was trying to look at ventilation

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01 controls inasmuch as where they were
02 sending the air readings they had.
03 They'd go here and they'd say they
04 had so much CO and I'd try to look to
05 see why or where it should be coming
06 from, how is it getting there or
07 whatever, from that respect. But as
08 far as to look to see if there had
09 been anything whited out or changed
10 or altered on the map, I didn't --- I
11 don't recall even paying that type
12 attention to the map.

13 Q. Do you recall remembering
14 whether or not the faces for --- are
15 you aware --- I guess, let me back
16 up.

17 You're aware today, I'm
18 assuming --- are you aware today of
19 where the faces are in the Number Two
20 section presently?

21 A. Oh, yes, well aware of that.

22 Q. Do you recall whether or not
23 the faces for the Number Two section
24 were shown updated on that map, on
25 the map that we're talking about, the

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01 large 100 foot to inch scale of the
02 entire mine?

03 A. I don't think there were. I
04 don't think there were. There may
05 have been, but I don't think there
06 were.

07 Q. Okay. And I'm sure that today
08 you know where the longwall face is
09 located.

10 A. Yes.

11 Q. At least the headgate side?

12 A. Yes.

13 Q. Do you recall if that map
14 indicated the present location of the
15 longwall face on it?

16 A. No, I do not. I was going to
17 say, what I was looking at is, when
18 they was advancing up --- when they
19 went into the connectors to check for
20 the air and everything, we plotted
21 that on it and we had assumed since
22 everybody was gone from the wall, had
23 escaped from the wall, that that
24 wasn't an area you really --- I was
25 concerned with or looking except the

01 fact which way is the air going. And
02 a team had already been on the lower
03 end to tell us where the air was
04 coming. So that area hadn't really
05 concerned me because I didn't think

06 that the people that were missing had
07 anything --- I didn't think they had
08 any reason to go in that direction.

09 Q. Do you recall any callouts
10 that were recorded from underground
11 or from the command center that there
12 were any markings that you made on
13 that map or someone else made on that
14 map that resulted in discrepancy
15 between what was being found
16 underground and what was indicated on
17 that map relating to ventilation
18 controls, overcasts, stoppings,
19 doors?

20 A. There were not only --- the
21 first team had went underground and I
22 don't think we had the map at that
23 time. But the first team when they
24 come out to be debriefed downstairs,
25 I was sitting in on that debriefing,

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01 and the captain --- I think it was
02 the captain. It may have been the
03 map man from the Massey team out of
04 Kentucky.

05 Q. The Elk Run or Sydney?

06 A. Sydney, out of Sydney. He was
07 one of the team --- it was the team

08 that was being debriefed. And Drexel
09 Short was doing --- the one that was
10 debriefing and he asked them about
11 the mine, the map, you know, what
12 they thought about the condition of
13 the map. And the Sydney captain or
14 the map man, I'm not sure which,
15 stated believe it or not, buddy, he
16 says, your map ain't worth the paper
17 it's printed on. He said the
18 brattice or your spad number says
19 it's here and in reality it's three
20 breaks above here. And he was
21 pointing on the map. And that map
22 was laid out downstairs. The company
23 should have that map because it was
24 the map that the team had that they
25 were debriefing them on.

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01 Q. And that would have been the
02 Sydney team?

03 A. Right.

04 Q. So if we looked at the Sydney
05 team and we looked at that map ---

06 A. You should have it.

07 Q. --- it'd be ---?

08 A. And he says this door shows to
09 be at this location and it's actually
10 three breaks inby. This spad is

11 supposed to be here and it's two
12 breaks outby. He said you can't pay
13 no attention to what's on the map, it
14 ain't worth the paper it's written
15 on. And Drexel asked him, so then
16 just what company do you work for?
17 He said I'm --- I thought he said the
18 captain, but he may have said the map
19 man from the Sydney team. He said
20 oh, you're one of ours and he shut
21 up.

22 Q. Okay. You say that was Drexel
23 Short?

24 A. Drexel.

25 Q. Short?

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01 A. Drexel Short. I think that's
02 his last name, Drexel Short.

03 Q. And Drexel works for Massey?

04 A. Correct. He's over --- as far
05 as I know, he's over the production.

06 Q. For the corporation?

07 A. Right.

08 Q. Do you have any recollection
09 about the accuracy of the ventilation
10 controls that were depicted on the
11 map that --- that large scale map
12 that you had hung on the wall in that

13 side room? Do you recall anything
14 about the accuracy of the vent
15 controls shown on that map?
16 A. After the debriefing, we
17 looked at that map and looked at the
18 door where he said it was supposed to
19 be there and he kind of looked in.
20 It was where --- the door was not
21 where the team said it was. In other
22 words, he was correct in the
23 direction. I don't recall the
24 directions he said it was off, but he
25 was correct in what he said,

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01 according to the map.
02 Q. In other words, your map ---?
03 A. If he was right, then the map
04 was wrong.
05 Q. Are you saying that the map
06 that you had ---
07 A. He indicated --- said ---.
08 Q. --- there was an error that
09 was on the map that he indicated to
10 be there?
11 A. Right. Right.
12 Q. Both of those maps were not
13 correctly reflecting the actual
14 location of that area underground?
15 A. Correct. Correct.

16 Q. Was that a man door and a
17 stopping?

18 A. One of them was a man door and
19 a stopping.

20 Q. Was there more than that?

21 A. Oh, yes, there was more but
22 they didn't elaborate on a whole lot
23 of it. When he was doing the
24 debriefing, once he seen that he
25 didn't like his map, he quit

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01 questioning along them lines and
02 started questioning on what he had
03 found and where they had went to.

04 Q. Did you ever hear Drexel
05 indicate to that person that they
06 were aware that they had a problem
07 with the accuracy of the map and that
08 they had another map that was more
09 accurate that they could get them, to
10 better keep the rescue team members
11 informed of the actual locations
12 underground?

13 A. If he did, I do not recall.

14 Q. Okay. Do you know who brought
15 that map into that room?

16 A. No, I do not.

17 Q. Do you know where it came

18 from?

19 A. I assume it come from the
20 command center or right there on that
21 floor because at the time, nobody was
22 leaving that floor basically. I
23 think the Governor may have done
24 showed up at that time and they had
25 their security guards and after Sago,

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01 they was taking precautions to make
02 sure nothing left that floor,
03 information wise.

04 Q. When you came back and saw
05 that --- back to the mine and noticed
06 that the map wasn't missing --- or
07 that the map was missing out of that
08 room, did you ask anybody from the
09 company where that map was?

10 A. Remember I asked you where ---
11 if you know what happened to the map.
12 And you said, no, it was gone when
13 you had come on that shift. So I
14 asked around, but nobody knows where
15 the map went. Nobody seen anybody
16 get it, nobody knows where the map
17 went, it just disappeared.

18 Q. I hadn't remembered that it
19 was gone before I left the mine. And
20 that would have been on Saturday

21 morning?

22 A. I believe Saturday morning or
23 early --- late Saturday night. You
24 know, I don't recall.

25 Q. Okay. Because I believe I

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01 left about four o'clock on Saturday
02 afternoon.

03 A. Afternoon. Was it there when
04 you was ---?

05 Q. I don't recall.

06 A. I think it was there Saturday
07 evening. I think it was Sunday.
08 When I come back --- I think it may
09 have even been there Sunday morning
10 when I left, but when I come back the
11 following day after being off, you
12 know, Monday morning, it was gone and
13 nobody knows where it was at.

14 Q. Could you have asked somebody
15 else besides me? Because I left
16 that Saturday night. Any of the
17 people that replaced me at the mine?

18 A. I don't recall who all I
19 asked, but I asked quite a few
20 people. I'm thinking I may have
21 asked Drexel. I may have asked ---
22 I've asked three or four people

23 within management what happened to
24 it, nobody knows what happened to it.

25 Q. Do you know if --- what was

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01 their response when you asked them?

02 A. Really they had let on like
03 they didn't know what map I was
04 talking about, because for the most
05 part, the company had not been in
06 there, management had not been in
07 there. They had one or two people in
08 there from the company that answered
09 outside telephone line. But other
10 than that, for the most part,
11 management, upper management, didn't
12 come in that room. Very little.

13 Q. Do you know if that map that
14 we've been talking about that was a
15 large map that was on the wall that
16 you had hung on the wall, if that was
17 a new map that was created? Did it
18 appear to be a new map that was
19 created by their engineering
20 department or did it appear to be a
21 map that had been in the mine office
22 and then used and then just brought
23 into that room from, you know, from
24 another office?

25 A. When they started running

01 maps, they was looking for the inch,
02 the 100 inch to 200 scale. They was
03 looking for a large scaled map to
04 provide to the mine rescue team. And
05 it looked like that that was one of
06 the first large maps of the entire
07 mine that they run before they
08 started sectioning them out. After a
09 while, they started sectioning,
10 saying, okay, this is the area you're
11 going to explore, then they'd cut
12 part of it off. It looked like one
13 of the maps they had been cutting
14 sections off of, you know, or the
15 same scale. So whether that was just
16 a spare one that they had never
17 sectioned out yet or whether it was a
18 new map or had been, I have no way of
19 knowing.

20 Q. It was all taped together,
21 wasn't it?

22 A. Right. There was sections
23 where it had been taped together,
24 yes.

25 Q. And there wasn't any pieces

01 that --- cut out of it, was there?

02 A. No. But it looked ---
03 appeared to be the same scale where
04 they had been cutting pieces out of.

05 Q. Did it appear to be dirty or
06 dusty where somebody had ---?

07 A. No. It seemed to be a fairly
08 clean map. It didn't appear to be
09 --- it hadn't been wore very much.
10 In other words, nobody had handled it
11 until we started messing with it.

12 Q. Were most of the other maps
13 --- or were any of the other maps ---
14 did you notice any other maps in the
15 mine offices up there that were
16 posted on the walls or that were
17 being used?

18 A. Just in the command center.

19 Q. How about the map in the
20 hallway or across from the command
21 center in the hallway?

22 A. Where they debriefed and
23 briefed the mine rescue teams as they
24 come up, it was --- it was a fairly
25 large map and it appeared to be about

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01 the same scale that we had in that
02 room.

03 Q. Was it as clean as the map
04 that was brought into that room,

05 cleaned by any ---?

06 A. I really don't recall. I
07 couldn't say for sure one way or the
08 other.

09 Q. Was someone from MSHA always
10 in that room where the map was?

11 A. Yeah.

12 Q. Even when you weren't there?

13 A. Yes. Somebody from MSHA ---
14 usually there was --- I was usually
15 there or when we did go to changing
16 shifts, you know, after the people
17 were recovered, I had a supervisor
18 that manned that room basically all
19 the time. I had one individual that
20 manned the telephone that was manned
21 24/7 from the day the fire occurred
22 until the accident investigation team
23 took over, and then a while after
24 that. And someone, they basically
25 hotseated. When one left, their

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01 notes were put to the side and they
02 stated on their own notes. And I had
03 another individual that took the
04 readings for the fans. When they
05 called the fan readings in, one
06 individual did that, one manned the

07 phone and there was usually a
08 supervisor that was there and he
09 would --- he would go down and meet
10 with the crews coming on and tell
11 them, you know, what their duties
12 were that day or which fan they was
13 going to have be the runner for or
14 whatever, and he would carry any
15 trend or whatever back and forth to
16 the command center.

17 Q. Was there also a member from
18 the State's ---?

19 A. The State had a member there
20 also. They didn't man the
21 telephones, but they --- you know,
22 they kind of looked at the notes and
23 things we took. But he did record
24 all the air readings and the trends
25 as they come back and forth. He also

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01 passed to his people any trend or
02 changes.

03 Q. And the person from the
04 company, there was --- was there
05 generally someone from the company
06 there the entire time on the
07 telephone in the front --- sitting at
08 in the desk in front of the wall map
09 that you had hung?

10 A. That individual was normally
11 --- I don't know if he was a parts
12 runner or if he was just a security
13 guard. He was a member of the
14 company or a management person, but
15 he was, I think, very low in level.
16 And he --- I don't think he had a lot
17 --- I don't think he would have
18 understood a whole lot of what the
19 map was anyway.

20 Q. Okay. Did anybody indicate to
21 you that that map was the 1200 map?

22 A. No. And I don't recall seeing
23 if it had been signed off on as such.

24 Q. And did you say that --- did
25 anybody from the company seem alarmed

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01 when you told them that that map was
02 gone and asked them where it was?

03 A. No.

04 Q. If that had been the 1200 map
05 that was required to be updated with
06 all the accurate information
07 reflecting the ventilation controls
08 underground at the mine, do you think
09 that they would --- if they believed
10 that that was a 1200 map, do you
11 think that they would have been

12 concerned that it was missing?
13 A. You would have thought so. I
14 don't recall no temporary notations
15 on it to indicate it would have been
16 a 1200 map that was maintained as a
17 1200 map. If it had been a 1200 map,
18 you would have a 1200 map, you would
19 have seen temporary notations for the
20 daily advancement of both sections,
21 plus your longwall, and I don't
22 recall that being on that map. That
23 particular map was in the command
24 center hanging on the wall in a
25 conference room. It was behind the

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01 --- as you walked in the first door
02 coming up the steps to the right, it
03 was hanging behind the second door.
04 There was a map of temporary
05 notations on that wall.

06 Q. How large was it?

07 A. It wasn't near the 100 scale.
08 It was a fairly small scale. You
09 would have had to have had a
10 magnifying glass to see spad numbers
11 on it. A little bit ---.

12 Q. Like a 200 map?

13 A. Maybe a little bit larger but
14 about like that one probably, about a

15 200.

16 Q. Okay. Did you ask each MSHA
17 person who was in that room after you
18 found that map was missing where it
19 was?

20 A. I asked for three or four days
21 where the map went, and --- every one
22 that I know that had come through
23 there and no one seemed to know what
24 happened to the map.

25 Q. The information that you were

65

01 recording on that map, do you know if
02 that information was transferred to
03 the command center map?

04 A. I take it the command center
05 was recording the same information on
06 their map because what we were doing
07 was basically duplicating. I was
08 marking on the map basically for my
09 own information, just so I would know
10 where we stood. One occasion we got
11 one of our air readings --- they had
12 made one change and we marked that
13 change on the map. What he did is
14 the return going toward the bleeder
15 over there was Two entry. And they
16 checked one of them off to try to get

17 some air off the belt up in that area
18 or to clear the smoke up in that
19 area. And when they did that, they
20 dropped the water gauge an inch, so
21 we transferred that information. And
22 that was the type of reasons that I
23 was maintaining the map so I could
24 document what ventilation controls
25 they changed. So if I got any

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01 readings different back from the fan,
02 I could kind of determine myself what
03 caused, then I'd pass that
04 information along to Wilson, the
05 ventilation individual out of Tech
06 Support.

07 Q. Wilson?

08 A. Wilson. He come --- John come
09 in and him and Jesse Cole come in
10 when that change occurred. I don't
11 know if you was there that night when
12 it occurred. But they come in and
13 they looked at the map at that time.
14 So people was aware that the map was
15 there. But now what happened to it?
16 Do not know.

17 Q. Do you know what the location
18 of the mine electrical map was? Do
19 you know where it was located on the

20 19th of January?
21 A. The room directly across from
22 where we was taking, had this
23 secondary command center, whatever
24 you want to call it, was the
25 electrical shop.

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01 Q. That small room ---

02 A. Yeah.

03 Q. --- when you come through the
04 door from the steps, internal steps?

05 A. To the right.

06 Q. On the right instead of going
07 left ---?

08 A. That room had an electrical
09 map there on the wall. Now, it was
10 in there --- the last I recall was
11 still in there.

12 Q. Was that after --- did you
13 notice if it was in there after the
14 Sunday, the 22nd?

15 A. Yes, it was in there because
16 me and the State people --- the State
17 kind of congregated --- they met in
18 that room.

19 Q. Yes.

20 A. And we were looking at it.

21 And that's where they usually

22 accessed telephones. That was the
23 electrical room, that's where their
24 map was at.

25 Q. Okay. Do you know if that map

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01 was ever taken down from the wall in
02 that room?

03 A. It wasn't taken down that I
04 know of. It was still there, last I
05 recall, it was still there.

06 Q. Okay.

07 A. Because we were looking at
08 some of the ventilation controls on
09 it. It wasn't nowhere near right.
10 But that wasn't the purpose for it
11 being up there.

12 Q. Yeah. And you're saying near
13 right compared with what they found
14 underground?

15 A. Right. Compared to what the
16 other map was showing of what they
17 had found underground.

18 Q. Discrepancies between just the
19 maps themselves ---

20 A. Right.

21 Q. --- and between what was
22 underground?

23 A. Correct.

24 Q. Okay. Did you see ---?

25 A. Because we were looking ---

69

01 after they had found them, after they
02 had found the --- after they found
03 the bodies and they found --- for
04 that one brattice, they was called
05 out to the side and they said there's
06 no brattice here. Okay. We went and
07 looked and the brattice showed to
08 exist on the left from that.

09 Q. What brattice was that?

10 A. The one directly behind the
11 tailpiece.

12 Q. And by brattice, you mean a
13 stopping?

14 A. The stopping. It was showed
15 to exist.

16 Q. And the tailpiece ---?

17 A. On the left of that.

18 Q. And the tailpiece was a
19 72-inch belt?

20 A. Right.

21 Q. The Number Seven 72-inch belt?

22 A. Correct.

23 Q. And that stopping was just
24 located just beyond the tailpiece
25 point ---

70

01 A. Correct.

02 Q. --- of the Number Two section?

03 A. According to that map.

04 Q. And who told called --- do you

05 remember who called that out? Was it

06 one of the rescue teams?

07 A. I forget which rescue team,

08 when they come up in there, they was

09 talking about the brattice and they

10 said there was none here. They told

11 them to do something at this

12 location. Anyway, there was --- they

13 said there was none there. I don't

14 exactly recall.

15 Q. And they didn't say --- did

16 they indicate that the stoppings ---?

17 A. We were just tracking them on

18 that map so they probably didn't call

19 a spad or nothing but where they said

20 to the right what you got, and they

21 said, to the right, we got nothing or

22 whatever.

23 Q. Yes.

24 A. We knowed that there wasn't

25 nothing there at that location.

71

01 Q. Okay. And that's between the

02 tailpiece and the first intersection

03 ---

04 A. Correct.

05 Q. --- beyond that ---? And was

06 that one of the --- was that the

07 first rescue team that explored that

08 area that made that call out?

09 A. I do not recall who it was.

10 Q. Okay.

11 A. I was --- I don't --- I'm not

12 sure. I was thinking it was --- not

13 the --- it's not the Mingo-Logan

14 team, it was the other team. The

15 Justice boy's on the team. He may be

16 the captain of the team, Justice.

17 Q. Was it Southern Appalachia?

18 A. Probably.

19 Q. Southern Coalfield?

20 A. It may be Southern Coalfield.

21 I'm not sure the name of the team.

22 Brad Justice is the individual. I

23 know Brad.

24 Q. Did you see a map in the

25 hallway across from the command

01 center?

02 A. Yeah. That's the map that we

03 discussed a while ago. That's the

04 map that they used to debrief the

05 mine --- or brief the mine rescue

06 teams when they come up.

07 Q. What was it --- it was a

08 fairly small map as well, wasn't it?

09 A. It was fairly small. What

10 they do is they bring the mine rescue

11 team up along with the captain and

12 kind of go over where everybody was

13 at and where they --- what they had

14 explored up to at that point, where

15 the fresh air base was and everything

16 and then they would take them into

17 the command center and they would go

18 over them, this is what we want you

19 to do. You know, they would go over

20 that at the command center. But

21 yeah, their first stop was at the map

22 in the hall.

23 Q. You know Mr. Pavlovich, don't

24 you?

25 A. Joe, yes.

73

01 Q. Do you know what time --- was

02 Joe there when you got there?

03 A. No. Joe showed up later. Joe

04 showed up about the same time I'm

05 thinking that the Governor did and

06 his ---.

07 Q. Do you know what time that

08 was?

09 A. Do not know. It was early
10 morning or the next evening. It may
11 have been into Saturday evening
12 before they showed up.

13 Q. Do you know who was
14 responsible for the briefing and
15 debriefing of rescue teams prior to
16 Joe showing up?

17 A. Drexel Short run around most
18 of the time telling them what they
19 had. Drexel, he was the one that
20 would brief them on the maps and
21 everything.

22 Q. Okay.

23 A. That I recall, he was doing
24 most of it.

25 Q. Do you know if anybody from

74

01 MSHA participated in those briefings
02 or debriefings?

03 A. I don't recall. Jesse Cole or
04 Linc Selfe may have observed it. I
05 don't know if anybody from MSHA
06 participated or not. I observed a
07 few of them. But as far as
08 participating, no.

09 Q. Do you know if the information
10 from the debriefing was provided to

11 the command center by Drexel or any
12 other individuals who were debriefing
13 the rescue teams?

14 A. I do not know, I wasn't in the
15 command center. And that's part of
16 the conversation or discussion that
17 took place in there. The only thing
18 we recorded where I was at was what
19 we directly requested the teams
20 underground and what they called out.

21 Q. Did you see any other maps in
22 the mine office or command center
23 indicating the locations of the
24 working places in the Number Two or
25 Three or longwall sections, the

75

01 section workup maps or anything?

02 A. No, I don't recall that.

03 Q. Did you go into any of the
04 other offices that were down the
05 hallway past the command center on
06 the left-hand side?

07 A. I was probably in another
08 office there at one point or another,
09 but it was usually for a sidebar
10 meeting with Mr. Cole or someone or
11 discussions, and I really wasn't
12 looking so, you know, I really don't
13 recall.

14 Q. Okay. Do you know if Aracoma
15 Alma Number One Mine had a Petition
16 for Modification to use belt air
17 prior to the new regulations in 2004?

18 A. No, I don't. In 2004, it was
19 --- that was before I got there and
20 it had been superseded prior to me
21 getting there and I never --- I never
22 had no reason to look back to see.

23 Q. Okay. Following the 2004 belt
24 air regulations, what were the ---
25 how should violations concerning the

76

01 CO monitoring system have been cited?

02 A. Under the new regulation all
03 Petition for Modification were
04 superseded by the new regulations.
05 They were non-existent.

06 MR. BEITER:

07 Bill, do you have any
08 questions?

09 MR. FRANCCART:

10 I don't.

11 BY MR. BEITER:

12 Q. Did you personally listen to
13 any of the phone conversations
14 between the command center and
15 underground or between underground

16 and the command center?
17 A. I don't recall. No. I may
18 have been close enough to hear some
19 of it, but as far as listening and
20 actually taking notations myself, no.
21 There was always someone listening to
22 that, you know. At times, it was
23 pretty loud to where you could ---
24 could hear one side of it sometimes.
25 Some of them talked pretty loud.

77

01 Other than that, no.
02 Q. Do you know who was talking on
03 the phone from the command center at
04 any time? Did you notice anybody's
05 voice that sounded familiar?
06 A. Most of the time, I think
07 Drexel Short did a lot of the
08 talking. After they got out because
09 see ---
10 Q. After who got out?
11 A. --- or Frank Foster. See,
12 Frank stayed in for quite a while.
13 They was underground when I got
14 there, part of them, the mine rescue
15 team --- the Massey's team.
16 Q. Frank Foster?
17 A. Frank Foster. He --- I think
18 he talked and carried that end of it

19 for the company for a little while,
20 him and Drexel. And I'm not sure
21 about Frank. I remember several
22 times when I was in there, I've heard
23 him --- I heard him on the phone.

24 Q. Do you know Johnny Robertson?

25 A. Johnny Robertson?

78

01 Q. I believe he's a Massey
02 employee.

03 A. Don't really, no. Don't
04 recognize the name anyway.

05 Q. Okay.

06 A. I don't do good with the
07 names. To see the face --- put a
08 face with it, I may recognize it, but
09 I'm not very good with names.

10 Q. Did you talk to anyone about
11 the cause of the fire or what
12 happened underground on January 19th?

13 A. There was --- no. At that
14 night in that room, the one we was
15 in, you know, there was a lot of
16 speculation. But as far as sit down
17 and talk with someone that, you know,
18 this caused the fire or you did this
19 wrong or they did this wrong or
20 whatever, no.

21 MR. BEITER:

22 Bill?

23 MR. FRANCAERT:

24 I just have a couple.

25 BY MR. FRANCAERT:

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01 Q. Concerning the mine rescue
02 members, as far as when you was ---
03 maybe went down the stairs to the
04 bathhouse, like there in the waiting
05 room where they had the food on the
06 table or --- did you ever notice or
07 hear of any mine rescue members maybe
08 having trouble getting up to the
09 command center or as far as coming up
10 to communicate with the command
11 center?

12 A. I didn't hear them say, but I
13 know that that was the case because
14 of the guards, the state police, that
15 were positioned, posted upstairs.
16 Plus at the time prior to, the
17 Governor come with the state police,
18 they usually come with him after he
19 got there, but prior to that, there
20 were some security guards. They
21 didn't even let me up there. They
22 made me and Jesse Cole both stay
23 downstairs for a while until Drexel

24 basically come and told them we could
25 almost go anywhere we wanted to. But

80

01 yes, they had security people that
02 prevented mine rescue teams,
03 captains, MSHA personnel, they
04 prevented everybody from going
05 upstairs.

06 Q. Okay. Did you happen to hear
07 any other comments besides that that
08 maybe problems that the mine rescue
09 teams were having, any type of
10 problems, whether it be underground
11 or communicating or whatever?

12 A. No. I don't recall anything,
13 not anything specific. You know, you
14 hear the teams talking, but I don't
15 recall no specifics on what was said.

16 Q. Okay.

17 MR. FRANCAERT:

18 Thank you.

19 BY MR. BEITER:

20 Q. Did anybody from the company,
21 whether it be from the Aracoma Mine
22 itself or any of the other
23 representatives of Massey bring to
24 your attention that they couldn't
25 find the 1200 map?

01 A. No.

02 Q. Did anybody tell you that
03 Massey was looking for the 1200 map
04 and couldn't find it?

05 A. This is after, okay.

06 Q. During the accident itself and
07 during the rescue ---

08 A. No.

09 Q. --- operation ---

10 A. No.

11 Q. --- ongoing?

12 A. No.

13 Q. Through Sunday, the day after
14 the individuals were found?

15 A. No. Since then, we've asked
16 for a 1200 map, but during the
17 ongoing

18 --- see, we were doing ongoing EO-1
19 inspection there, there was people
20 trying to get full coverage of the
21 mine. We've asked and they said you
22 confiscated it. That's the reason
23 they don't have a 1200 map. The
24 reason they didn't have it. That the
25 accident investigation team had their

01 1200 map. That's what they ---.

02 Q. Did they identify which map we

03 had that was a 1200 map?

04 A. No, they did not. They just
05 said that you had the 1200 map
06 because we had asked for different
07 records and everything and they said
08 the accident investigation team got
09 that.

10 Q. Do you remember what
11 individual told you about it?

12 A. No, I don't. Probably Gary
13 Goff. No, I don't.

14 Q. Was it a member of management
15 at the Aracoma Alma Mine Number One?

16 A. I think --- Gary Goff, I
17 think, is management there.

18 Q. Would he ---?

19 A. I don't recall the individual
20 and I don't know --- recall him --- I
21 don't remember seeing --- he may have
22 been but I don't remember seeing him
23 around at the time of the -- that
24 much at the time of the recovery.

25 Q. Did Mr. Goff know what the

83

01 1200 map was at Aracoma Alma Mine
02 Number One?

03 A. I think he's the
04 superintendent, he should. But then

05 I can't answer that question. You'll
06 have to ask him that.

07 Q. Should he know what the 1200
08 map is?

09 A. He should.

10 Q. Did he indicate to you who ---
11 when he said you confiscated, do you
12 ---?

13 A. He indicated the accident
14 investigation team took all the maps,
15 all the books, everything. Because
16 we've asked for some record books on
17 electrical examinations and different
18 things because of some conditions we
19 found that would have existed prior
20 to the fire and we wanted to see when
21 the last examinations were conducted
22 or more of a consideration and he
23 says, the accident investigation team
24 had all their books.

25 Q. And he specifically --- or did

84

01 he specifically identify the 1200 map
02 as something that the accident
03 investigation team had had?

04 A. Vaughn Gartin, one of the
05 inspectors, Clark Blackburn had asked
06 him for the 1200 map due to some
07 ventilation controls that were

08 damaged, misplaced, not even there,
09 and they said that the accident
10 investigation team had the 1200 map
11 along with every other map that they
12 had at the mine.

13 Q. Okay. Did Mr. Goff say that
14 we gave them a copy of the 1200 map,
15 of every map that we took into
16 possession with a receipt ---

17 A. No.

18 Q. --- that we provided them with
19 a copy of those maps?

20 A. No. And I'm not sure if Mr.
21 Goff made the statement; okay?

22 Q. Did he let you know that ----
23 or did he tell you that the accident
24 investigation team provided the
25 company with a copy of all the record

85

01 books that the accident investigation
02 team for MSHA took into possession
03 with a receipt?

04 A. No. He indicated that you all
05 had them and he didn't have access to
06 them. We would have to contact you
07 to get a copy.

08 Q. Does Mr. Goff know who Mr.
09 Heath and Mr. Hardy are?

10 A. Again, I would assume but
11 you'll have to ask him that question.

12 Q. Well, I guess maybe you
13 wouldn't if he knows who they are?

14 A. No. Oh, I know who they are,
15 but I don't know if he knows.

16 Q. Okay. Was Jake Blevins the
17 MSHA supervisor over this mine on
18 January 19th, 2006?

19 A. Yes, he was.

20 Q. Was he working then?

21 A. No.

22 Q. Was he off work?

23 A. He had been off approximately
24 four weeks or so. He had some use or
25 lose leave and he had some health

86

01 issues.

02 Q. Was someone acting for him?

03 A. At that point, no. Bill
04 Gillenwater, he was due to be back.
05 He wasn't off for --- he was supposed
06 to be there. Okay. And he had still
07 off and he was still going off. Bill
08 Gillenwater was doing his day-to-day
09 routine, all his paperwork in the
10 office. I had not put no one in his
11 position at that time.

12 Q. Did Jake go to the mine, Jake

13 Blevins? Did he go to ---?

14 A. No. Jake had returned to the
15 mines after it was --- after the
16 accident occurred.

17 Q. After, it not being during the
18 actual rescue operation itself?

19 A. Right.

20 Q. Sometime after that?

21 A. Sometime after that. The
22 exact day, I do not recall. But he
23 returned and after he returned, since
24 he was the supervisor at the mine, I
25 was not allowed to go back.

87

01 Q. And Bill Gillenwater?

02 A. Bill was there during the
03 recovery and since then, he worked in
04 the command center. He was one of
05 the ones I rotated in and out with of
06 the command center itself to take
07 notes in there. And he was there
08 basically because he was the first
09 one there and he worked most of the
10 recovery that first day or two. And
11 then I rotated him in and out there
12 until such time as I could pull
13 people from the other offices. But
14 yeah, Bill had been there at the

15 command center for being underground
16 or anywhere, he had not been.
17 Q. When Mr. Goff indicated to you
18 that the accident investigation team
19 had obtained a copy of --- or had
20 obtained his --- his 1200 map, did he
21 indicate that there were other
22 portions of other maps or portions of
23 other maps or other maps that were
24 missing that may have been a part of
25 the 1200 map, but not obtained by

88

01 MSHA?

02 A. No. And again, I can't say
03 with 100 percent certainty it was Mr.
04 Goff. I'm just saying that since
05 he's the superintendent, I think he
06 was the one that had given --- passed
07 that information to Clark and then
08 and made them allegations ---.

09 Q. So Clark might be able to ---

10 A. Clark may be able to tell you.

11 Q. --- tell us who that person
12 was that indicated to him?

13 A. Correct.

14 Q. But I guess I'm --- so what
15 I'm hearing then is your statement
16 then regarding what Clark's ---?

17 A. Right. That's what I've been

18 told because when they questioned me
19 where we going to get a copy of this,
20 because management at the mines ---
21 and he indicated Goff and Eddie
22 Lester, that's the only two
23 individuals was there that I think
24 would have been able to pass that
25 information. And they said that they

89

01 --- we've been told by them that MSHA
02 has all the record books and all the
03 maps.

04 Q. Okay. Do you recall the
05 approximate date or what the date was
06 when the 1200 map and electrical
07 books were requested from the mine
08 operator, the mine official at
09 Aracoma Alma Number One?

10 A. It was later in February but I
11 don't recall exactly what date.

12 Q. The latter part of February?

13 A. Correct. It'd be from the
14 14th on, I would say.

15 Q. After the 14th of February?

16 A. Right.

17 Q. You said Bill Gillenwater was
18 the first MSHA supervisor onsite; is
19 that correct?

20 A. Right.

21 Q. But was he the first MSHA
22 person?

23 A. No.

24 Q. And do you know who that
25 person was?

90

01 A. Vicki Mullins.

02 Q. Do you know who the second
03 person was?

04 A. She called --- I don't know if
05 it was Minness Justice or Timmy, but
06 she called one of them to stop by the
07 office and pick her vehicle up so she
08 would have a hardhat and that type of
09 gear there. She, from what I
10 understand, does not live very far
11 from the mine, so she went from the
12 mine straight there and it didn't
13 take her 10, 15 minutes to get there.
14 But she had to wait on her gear, you
15 know, to get there, following that
16 up.

17 Q. Did you have any difficulty
18 contacting Bill Gillenwater on
19 January 19th?

20 A. None that I recall. He
21 answered the phone I think the first
22 time I tried.

23 Q. Was that the phone number
24 that's listed as a contact for him?

25 A. The contact number that I got.

91

01 I don't know if it's ---.

02 Q. Has your contact number for
03 him changed?

04 A. He's moved recently. He had
05 moved.

06 Q. Prior to the accident?

07 A. Prior to the accident.

08 Q. Do you know how recently?

09 A. Well, let me back up. I think
10 it was prior to the accident. I know
11 he's moved real recently, and his
12 number had changed. But now the
13 number I called, I got ahold of him.
14 Now, whether it's changed since then,
15 I don't recall. I know he just had
16 bought a new house towards Madison.
17 When that occurred, exact date of
18 when the phone number changed, I'm
19 not exactly sure if it was before or
20 after, but I do know it was around
21 that time.

22 Q. Okay. Luther, is there
23 anything else regarding what happened
24 on the day of the accident that you

25 wish to share with us?

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01 A. I don't recall anything right
02 now.

03 MR. BEITER:

04 Luther, on behalf of
05 MSHA and the accident
06 investigation team, I thank
07 you for appearing here today
08 and answering our questions
09 and sharing your information
10 with us about the mines. Your
11 cooperation to us is very
12 important as we work to
13 determine the cause of the
14 accident. If you wish, you
15 may go back now over any
16 question (sic) that you have
17 given during the interview and
18 you may also make a closing
19 statement covering any
20 additional points you believe
21 should be raised. Do you have
22 anything to add?

23 A. No.

24 MR. BEITER:

25 Luther, we ask that you

93

01 not discuss your interview

02 today with any person who may
03 have already been interviewed
04 or who may be asked to give a
05 statement in the future. And
06 this is to ensure that we
07 obtain everybody's independent
08 memory of the events
09 surrounding the accident.

10 After questioning other
11 witnesses and obtaining
12 additional information, we may
13 need to ask you back for
14 further questions. If at some
15 later point you have
16 additional information
17 regarding the accident that
18 you would like to provide us,
19 please contact Anthony Webb,
20 who's a staff assistant of
21 Kenny Murray, Pikeville, or
22 Kenny Murray, who I know you
23 know. And we have business
24 cards for you, but I know you
25 already have his number as

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01 well. And Luther, again,
02 thank you very much.

03 MR. FRANCAERT:

04 Also on behalf of
05 Miners' Health, Safety &
06 Training, I'd just like to say
07 that we appreciate you coming
08 in today.

09 A. No problem.

10 * * * * *

11 EXAMINATION CONCLUDED AT 3:46 P.M.

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