

01                   EXAMINATION UNDER OATH  
02                                   OF  
03                   JOHN MCNEELY  
04  
05  
06       Taken pursuant to Notice by Autumn D.  
07       Furby-Pritt, a Court Reporter and  
08       Notary Public in and for the State of  
09       West Virginia, at Department of  
10       Environmental Protection, 1101 George  
11       Kostas Drive, Logan, West Virginia,  
12       on Thursday, March 15, 2006, at 2:53  
13       p.m.

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

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3

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

02

03 KEITH A. BELL, ESQUIRE

04 U.S. Department of Labor

05 Office of the Solicitor  
06 1100 Wilson Boulevard  
07 Arlington, VA 22209-2296  
08  
09 ANTHONY WEBB  
10 U.S. Department of Labor  
11 Mine Safety and Health Administration  
12 Coal Mine Safety and Health  
13 District 6  
14 100 Fae Ramsey Lane  
15 Pikeville, KY 41501  
16  
17

18 ALSO PRESENT:

19 STEVE COX  
20 RONALD W. STAHLHUT  
21 CHARLES W. POGUE  
22 C.A. PHILLIPS  
23 EUGENE WHITE  
24 BETH SPENCE  
25

4

01 I N D E X

02

03 DISCUSSION 6 - 16

04 WITNESS: JOHN MCNEELY

05 QUESTIONS

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

02           -----

03           MR. WEBB:

04           My name is Anthony Webb  
05           and I represent the Mine  
06           Safety and Health  
07           Administration, which is an  
08           Agency of the U.S. Department  
09           of Labor. I am assigned to  
10           the District Six office in  
11           Pikeville, Kentucky. And I'm

12 a member of MSHA's accident  
13 investigation team that's  
14 charged with investigating the  
15 accident that occurred at the  
16 Aracoma Coal Company,  
17 Incorporated, Aracoma Alma  
18 Mine Number One, on January  
19 19th, 2006.

20 This is a joint  
21 accident investigation that  
22 MSHA is conducting with the  
23 State of West Virginia. I  
24 will be asking the questions  
25 for MSHA in this interview.

7

01 Also here today with me are  
02 other members of both MSHA's  
03 and the State investigation  
04 teams. MSHA's team includes  
05 various subject specialists  
06 from around the county and  
07 members of the Solicitor's  
08 Office. At this time, I would  
09 like to ask each member of  
10 MSHA's team to identify  
11 themselves for the record.

12 ATTORNEY BELL:

13 Good afternoon. My  
14 name is Keith Bell. I'm from

15 the Solicitor's Office in  
16 Arlington, Virginia.

17 MR. STAHLHUT:

18 Ron Stahlhut, MSHA of  
19 Vincennes, Indiana.

20 MR. POGUE:

21 Charlie Pogue, MSHA,  
22 Hunker, Pennsylvania.

23 MR. FRANCCART:

24 Bill Francart,  
25 Pittsburgh, Pennsylvania.

8

01 MR. WEBB:

02 Also here today  
03 representing the State of West  
04 Virginia is Mr. Bill Tucker.  
05 Mr. Tucker will also be asking  
06 you questions. At this time,  
07 I would like to ask Mr. Tucker  
08 to make his opening statement  
09 and identify the members of  
10 the State's team.

11 MR. TUCKER:

12 The West Virginia  
13 Office of Miners' Health,  
14 Safety & Training is  
15 conducting this interview  
16 session jointly with MSHA.

17 We're in agreement with the  
18 procedures outlined by Mr.  
19 Webb. However, let me make it  
20 clear that the Director  
21 reserves the right, if  
22 necessary, to call or subpoena  
23 witnesses or require the  
24 production of any record,  
25 document, photograph or other

9

01 relevant materials necessary  
02 to conduct this investigation.  
03 My name is Bill Tucker and I'm  
04 the Assistant Inspector in  
05 Large --- at Large out of the  
06 Oak Hill office for Miners'  
07 Health, Safety & Training.

08 MR. PHILLIPS:

09 Good afternoon, John.

10 My name's C.A. Phillips. I'm  
11 the Deputy Director for  
12 Charleston, West Virginia with  
13 Miners' Health, Safety &  
14 Training.

15 MR. WHITE:

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

19 MR. COX:



20 Steve Cox, Region

21 Three, Danville.

22 MS. SPENCE:

23 Beth Spence with the

24 Governor's Office.

25 MR. WEBB:

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

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

11

01 used in other enforcement  
02 proceedings.

03 I want to thank you in  
04 advance for appearing here  
05 today. We appreciate your  
06 assistance in this  
07 investigation because it's the  
08 willingness of miners and mine  
09 operators to work with us  
10 that's critical to our success  
11 in making the nation's mines  
12 safer.

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

25 North, Bandmill Hollow Road,

12

01 Stollings, West Virginia,

02 25646.

03 This interview is being  
04 conducted at the West Virginia  
05 Department of Environmental  
06 Protection in Logan, West  
07 Virginia on March 15, 2006.

08 The current time is 2:57 p.m.  
09 Eastern Standard Time.

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

13

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

12 Your statement is  
13 completely voluntary. You may  
14 refuse to answer any question  
15 and you can end your interview  
16 at any time. If you do not  
17 understand a question, please  
18 tell me so that I can clarify  
19 it for you. If you need a  
20 break at any time for any  
21 reason, just let me know. You  
22 may request the opportunity to  
23 make a confidential statement,  
24 which we will withhold from  
25 the public to the extent

14

01 allowed by law. Should you  
02 desire to give a confidential  
03 statement, you should advise

04 me before I begin your  
05 interview so that I can  
06 properly consider your  
07 request. Do you wish to have  
08 a confidential interview?

09 MR. MCNEELY:

10 No.

11 MR. WEBB:

12 Okay. Thank you. A  
13 court reporter will record  
14 your interview and will later  
15 produce a written transcript  
16 of the interview. I ask that  
17 you state all of your answers  
18 verbally because the court  
19 reporter cannot record  
20 gestures like nodding or  
21 shaking your head.

22 MR. MCNEELY:

23 Okay.

24 MR. WEBB:

25 I would also like to

15

01 ask that you speak loudly so  
02 that everyone can hear you.

03 Neither the transcript  
04 of this interview nor the  
05 content of this interview will

06 be released to the public or  
07 the media until MSHA's final  
08 accident investigation report  
09 is issued or until required by  
10 court order or until a public  
11 hearing takes place.

12 If any part of your  
13 statement is based on  
14 information that you've  
15 learned from someone else,  
16 please let us know that.

17 Please answer each question as  
18 fully as you can, including  
19 any information that you may  
20 have learned from someone  
21 else. We may not ask the  
22 right question to learn all  
23 the information you have, so  
24 do not feel limited by the  
25 precise question asked. If

16

01 you have information about the  
02 topic of the question, please  
03 provide us with that  
04 information. Do you have any  
05 questions about the manner in  
06 which this interview will be  
07 conducted?

08 MR. MCNEELY:

09 No. No, I don't.

10 MR. WEBB:

11 Okay. At this time,  
12 I'll ask the court reporter to  
13 administer the oath.

14 -----

15 JOHN MCNEELY, HAVING FIRST BEEN DULY  
16 SWORN, TESTIFIED AS FOLLOWS:

17 -----

18 BY MR. WEBB:

19 Q. Mr. McNeely, may I call you  
20 John?

21 A. Yes, call me John.

22 Q. Thank you. Please state your  
23 full name.

24 A. John McNeely.

25 Q. [REDACTED]

[REDACTED]

07 Q. And please spell your last  
08 name for the record.

09 A. M-C-N-E-E-L-Y.

10 Q. Are you appearing voluntarily

11 at this interview?

12 A. Yes.

13 Q. Has anyone made any promises  
14 to you for giving your statement or  
15 offered you any rewards in exchange  
16 for making this statement?

17 A. No.

18 Q. Has anyone threatened you or  
19 warned you not to provide a  
20 statement?

21 A. No.

22 Q. Do you understand that you may  
23 refuse to answer any question or  
24 terminate the interview at any time?

25 A. Yes, I do.

18

01 Q. Do you have a representative  
02 with you?

03 A. No, I don't. He's from the  
04 company I guess. Are you my ---?

05 ATTORNEY HEATH:

06 Yeah.

07 A. Okay. He is.

08 ATTORNEY HEATH:

09 I'm company --- let me  
10 put for the record. This is  
11 Mark Heath ---

12 A. Okay.

13 ATTORNEY HEATH:



14            --- Counsel for Aracoma  
15       Coal. He's an agent of the  
16       operator and I'm here as a  
17       representative under the Mine  
18       Act for him.

19       BY MR. WEBB:

20       Q.    When did you first meet Mr.  
21       Heath?

22       A.    Probably the 20th, 21st maybe  
23       or 22nd, somewhere in there.

24       Q.    And how did this ---?

25       A.    Of January.

19

01       Q.    Okay. And how did this  
02       meeting come about?

03       A.    He just --- was just asking  
04       what happened.

05       Q.    Did you contact Mr. Heath ---

06       A.    No, sir, I didn't.

07       Q.    --- or did Mr. Heath contact  
08       you?

09       A.    We just kind of met in the  
10       hall almost.

11       Q.    Did you make the decision to  
12       choose Mr. Heath as your  
13       representative?

14       A.    As of right now, I guess, yes.

15       Q.    Have you been made aware that

16 Mr. Heath also represents the company  
17 in this matter?

18 A. Yes.

19 Q. And that there is a potential  
20 for a conflict of interest to arise  
21 between yourself and the company?

22 A. Yes.

23 Q. Do you want to proceed with  
24 Mr. Heath as your representative?

25 A. Yes.

20

01 Q. Did Mr. Heath discuss what was  
02 going to take place in today's  
03 interview?

04 A. He said that you all would be  
05 asking the questions, how it was set  
06 up, yes.

07 Q. Have you been interviewed by  
08 the company before today?

09 A. By the company?

10 Q. Yes, sir.

11 A. I've talked with him, Mr.  
12 Heath.

13 Q. Who was present?

14 A. What's his name? You and what  
15 is the other guy's name.

16 ATTORNEY HEATH:

17 Dave Hardy.

18 A. Dave Hardy and Dave, yeah. I

19 just know him by Dave.

20 BY MR. WEBB:

21 Q. And what was discussed?

22 A. Just what had happened.

23 Q. Were there any representatives  
24 from the state or MSHA present?

25 A. No, sir.

21

01 Q. Did you attend a meeting at a  
02 local grade school regarding the  
03 fire?

04 A. No, sir.

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

08 A. I would say since 2000,  
09 probably April.

10 Q. And what is your current job  
11 title?

12 A. I walk airways.

13 Q. Is that a job title, airway  
14 walker or ---?

15 A. Airway walker.

16 Q. How long have you had that  
17 job?

18 A. Since October 1st or October  
19 the --- about the 5th or 6th of  
20 October, somewhere through there.

21 Q. Of 2005?

22 A. Yes.

23 Q. And was that your job title on

24 January the 19th ---

25 A. Yes.

22

01 Q. --- of 2006?

02 A. Yes.

03 Q. Are you a member of

04 management?

05 A. Yes.

06 Q. What other jobs have you held

07 at this mine?

08 A. I held everything from belt

09 job to mine foreman to buggy man to

10 airway walker.

11 Q. And you say you were a mine

12 foreman?

13 A. Yes.

14 Q. Can you tell me about when you

15 were a mine foreman?

16 A. I'm going to say about a year

17 before October. A year leading up to

18 October, I would say.

19 Q. That seems to me to be a

20 pretty big change. Can you tell me

21 how or why you went from the mine

22 foreman to being an airway walker?

23 A. I guess it was just time for a

24 change. I mean, it's --- what was it  
25 one boy said, said they got you in

23

01 time-out.

02 Q. And this occurred about in

03 ---?

04 A. October.

05 Q. Of 2005?

06 A. Last of September, first of  
07 October is when all this took place.

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

10 A. I would say roughly 31.

11 Q. And who's your immediate  
12 supervisor?

13 A. My immediate supervisor would  
14 be Dusty Dotson.

15 Q. Dusty Dotson. And what's his  
16 title?

17 A. He's the dayshift mine foreman  
18 and general mine foreman.

19 Q. Does he work the same shift  
20 that you work?

21 A. Yes.

22 Q. And what shift do you work?

23 A. Dayshift.

24 Q. You work the same shift all  
25 the time?

01 A. Yes.

02 Q. About when does your shift end

03 --- or start and end?

04 A. Right now since the fire,

05 we've been starting at 8:00 and I've

06 been quitting at 5:00.

07 Q. And what about before?

08 A. Before we started at 7:00 and

09 I quit at 5:00.

10 Q. So I may have asked this

11 before, but about how long have you

12 been performing examinations at this

13 mine?

14 A. Performing examinations? I'm

15 going to say probably since 2002,

16 2001.

17 Q. And what kind of examinations

18 have you conducted?

19 A. Belt examinations.

20 Q. It's always been belt

21 examinations?

22 A. Yes. Well, belt examinations

23 and I have fire bossed other areas in

24 the mine.

25 Q. Would you say you're pretty

01 much familiar with the whole mine?

02 A. Yes.

03 Q. Do you think that a mine  
04 examiner should be familiar with the  
05 whole mine?

06 A. I would think.

07 Q. Did you receive any kind of  
08 training relative on how to conduct  
09 weekly examinations?

10 A. What kind of training on the  
11 belts? I don't understand that.

12 Q. How did you learn what areas  
13 of the mine needed to be examined?

14 A. Learn what areas in the mine  
15 needed to be examined? I still don't  
16 understand.

17 Q. Okay. Did --- when you made  
18 your --- you make weekly  
19 examinations, fire boss examinations?

20 A. For the airways, yes.

21 Q. When you made your very first  
22 examination, did someone tell you how  
23 to make that or train you?

24 A. Tell me or train me? Well, I  
25 was already trained because I was

26

01 already doing it. When I was mine  
02 foreman, I was already doing it.

03 Q. Okay. Did you ever receive  
04 any kind of training on what kind of

05 conditions or situations would be  
06 noted as being hazardous?  
07 A. Any kind of training?  
08 Q. Yes, sir.  
09 A. Just the test that I took.  
10 Q. Was that a state test?  
11 A. Yes.  
12 Q. Along that same line, during  
13 the course of an examination, what  
14 kind of things might you find that  
15 you would consider to be hazardous?  
16 A. Roofs, bad roof, bad ribs,  
17 water, a fall.  
18 Q. Did anyone in particular show  
19 you which areas of the mine you were  
20 supposed to examine?  
21 A. About, I would say, a week  
22 before this, they had me draw out a  
23 map of the areas I would be in so I  
24 guess if something would have  
25 happened to me, they would know where  
27  
01 to look for me. I made a map out for  
02 them.  
03 Q. Are you ---?  
04 A. Well, they asked for the map.  
05 Q. I'm sorry. Go ahead.  
06 A. They asked for the map.  
07 Q. Are you familiar with the



08 mine's approved ventilation plan?

09 A. Somewhat. It changes from day  
10 to day, so I guess you could say ---  
11 or week to week, whatever. It  
12 changes.

13 Q. Do you know where measurements  
14 for air direction and quantity should  
15 be taken?

16 A. Yes.

17 Q. We'll go up to the map just in  
18 a little bit.

19 A. Okay.

20 Q. But for right now, I'd kind of  
21 like for you to describe for me how  
22 would you go about evaluating a  
23 bleeder system.

24 A. Evaluating a bleeder system.

25 Q. Do you have bleeder systems in

01 the mine?

02 A. Yes.

03 Q. Okay. How would you go about  
04 evaluating those?

05 A. You take the air readings at  
06 the bottom when air's coming out.

07 Q. During the course of your  
08 examinations, do you examine for ---  
09 do you look for float dust?

10 A. Yes.

11 Q. Do you look at fire

12 suppression systems?

13 A. Not in the airways.

14 Q. Do you have any --- do any

15 parts of your examinations involve

16 the mine monitoring system?

17 A. No.

18 Q. And I believe you told me you

19 did check air direction?

20 A. Yes.

21 Q. And ventilation controls?

22 A. On my path, yes, I do. My

23 route of travel, I guess I should

24 say.

25 Q. Do any of your examinations

29

01 include belt conveyors or belt

02 drives?

03 A. No.

04 Q. Do you examine stopping lines

05 to make sure they're intact?

06 A. Yeah. I always look at

07 stopping lines.

08 Q. And what about regulators?

09 A. Yes, the regulators is in the

10 airways, yes.

11 Q. Are there any water pumps in

12 the mine that you examine as part of

13 your ---?

14 A. No.

15 Q. During one of your

16 examinations, if you found stoppings

17 that were missing, what would be your

18 reaction? How would you handle that?

19 A. I would tell somebody

20 immediately.

21 Q. Do you ever do a combination

22 examination like while you're doing a

23 weekly examination, would that also

24 be a pre-shift for somebody else?

25 A. No. No.

30

01 Q. Okay. How would --- what

02 method do you use to indicate that

03 you've visited enough locations to

04 show that you've made an examination

05 of an area?

06 A. Dates, times and initials.

07 Q. Is that what you do?

08 A. Yes. Yeah.

09 Q. Do you date, time and initial

10 often?

11 A. Well, I would say every 1,000

12 foot, 1,500 foot, something like

13 that.

14 Q. All right. As a part of your

15 weekly examinations, do you --- do  
16 you check air direction and quantity  
17 for the sections for the intakes?

18 A. For the sections?

19 Q. Yes.

20 A. Yes, it would be for the  
21 mines. Uh-huh (yes).

22 Q. And can you kind of explain to  
23 me how you get those --- how you do  
24 those measurements?

25 A. You mean where?

31

01 Q. How?

02 A. With an anemometer.

03 Q. Okay. You have an anemometer?

04 A. Yes, I do. And I have got an  
05 iTX spotter --- detector I guess you  
06 could call it.

07 Q. I'm not real familiar with an  
08 iTX?

09 A. Yeah. It reads like six  
10 different gasses.

11 Q. What gasses does it read out?

12 A. Methane, CO, oxygen, NO<sub>2</sub>, NO,  
13 and CO<sub>2</sub>.

14 Q. Sounds like a pretty  
15 sophisticated ---?

16 A. It is. It's a tiny  
17 instrument.

18 Q. Do you know if belt air is  
19 being used to ventilate any of the  
20 working sections ---

21 A. Yes.

22 Q. --- in the mine? It is?

23 A. Yes. Number Two Section.

24 Q. Number Two Section?

25 A. Yes.

32

01 Q. Is that the only one?

02 A. Yes.

03 Q. When was the last examination  
04 you made prior to the fire? The fire  
05 was January 19th.

06 A. Examination of which area?

07 Q. An underground examination.

08 A. I was above that mother drive  
09 on the 17th. I'd say, yeah, the  
10 17th.

11 Q. Did you notice any hazardous  
12 conditions at that time?

13 A. It was getting close to rock  
14 dusted.

15 Q. If you're ---?

16 A. Could I also say on that that  
17 ---

18 Q. Yeah, go ahead.

19 A. --- it usually it stays wet up

20 in there also. It usually stays wet.

21 Q. Okay. If you're off sick or

22 you have to be gone for some length

23 of time, who takes over and does the

24 weeklies?

25 A. I don't know.

33

01 Q. You don't know who does that?

02 A. I don't know.

03 Q. And I think you've said that

04 your examination times had changed

05 since January the 19th.

06 A. Yeah.

07 Q. Have your examination duties

08 or areas changed since then?

09 A. Yes, I've had to pick up the

10 end take going across the longwall

11 face down, the intake coming down Ten

12 Headgate, and also a return coming

13 from the seal dumping back into the

14 Two Section's return.

15 Q. Okay. Did you work on the day

16 of January 19th?

17 A. Yes.

18 Q. Were you scheduled to work

19 your usual shift?

20 A. Yes.

21 Q. And I believe you said on that

22 day, you would have been scheduled to

23 start at 7:00?

24 A. Yes.

25 Q. Okay. Who was your supervisor

34

01 on that day?

02 A. Dusty.

03 Q. And he's your normal

04 supervisor?

05 A. Yes.

06 Q. What was your work assignment

07 for that day?

08 A. On Wednesday --- because this

09 changed. It's hard for me because

10 it's changed since then. I would

11 probably have been picking up the

12 main --- the Nine Tailgate probably

13 at the longwall intake and I would

14 get the intake from the fan around

15 and I'd go down and get Four, Five

16 and Six EP, One Left.

17 ATTORNEY HEATH:

18 John, did you say that

19 was Wednesday?

20 A. No, that would have been

21 Thursday.

22 ATTORNEY HEATH:

23 Thursday, okay. You

24 said that, that's why I wanted

25 to make sure what day you were

35

01 talking about.

02 A. I was counting the days.

03 ATTORNEY HEATH:

04 Okay.

05 A. Because it ---

06 BY MR. WEBB:

07 Q. It had changed?

08 A. It's changed since then.

09 Q. If you don't mind, if I could

10 get you to speak up just a little

11 bit.

12 A. Okay. I'm sorry.

13 Q. I'm normally loud, so that's

14 --- that kind of throws people off

15 sometimes. What I'd like for you to

16 do now, if you would, was kind of

17 take me through your shift on the

18 19th and just kind of tell me what

19 you did from the time you got to the

20 mine right up through the end of your

21 shift.

22 A. I would have went in, I was

23 going to make the longwall intake and

24 I had a bus broke down. My bus was

25 broke down on the hill. And myself

36

01 and an electrician, D.J. Peck, we



02 went in to fix the bus. And at that  
03 time, somebody come through at that  
04 time and I'm thinking --- I might be  
05 getting my days mixed up, but I'm  
06 thinking somebody sent us up to Nine  
07 Tailgate to get a boy because his  
08 wife was having a baby. But the bus  
09 was broke down and we come back down  
10 and worked on the bus most of the ---  
11 rest of the day almost.

12 Q. So what area were you in for  
13 most of the day then?

14 A. It was close to Six Head in  
15 the intake.

16 Q. Working on a bus?

17 A. Working on a bus most of the  
18 day.

19 Q. Were you at the mine when the  
20 fire occurred?

21 A. No, sir.

22 Q. How did you learn about the  
23 fire?

24 A. My wife called me. She works  
25 at the hospital and she called me,

37

01 she said ---- told me --- she said, a  
02 lot of vehicles is going up there. I  
03 think she talked to security guard

04 there that had a radio and they heard  
05 that there was a fire at Aracoma and  
06 she called me. That was probably  
07 7:30.

08 Q. Did you ever go underground to  
09 help fight the fire or ---?

10 A. No, sir.

11 Q. How did you learn about the  
12 decision to evacuate the mine?

13 A. I wasn't there, I don't know.

14 Q. Did you --- let me rephrase  
15 that.

16 When did you find out that the  
17 mine had been evacuated?

18 A. When I got to the mine.

19 Q. And when was that?

20 A. That was probably 15 'til 8:00  
21 maybe.

22 Q. On?

23 A. Twenty (20) 'til 8:00 on the  
24 19th?

25 Q. The night of the 19th?

38

01 A. Yes. And I think one, one or  
02 two of the boys was standing out in  
03 the parking lot that was --- come off  
04 the section.

05 Q. Did you hear any talk about  
06 what people thought might have caused

07 the fire?

08 A. No, not ---.

09 Q. Have you ever had an occasion

10 to fight a fire or help fight a fire

11 anywhere in the Aracoma Mine?

12 A. Probably put a tail roller out

13 once.

14 Q. Okay. Could you kind of

15 describe that for me?

16 A. It was --- I just throwed some

17 rock dust on it and it was out. It

18 wasn't nothing.

19 Q. What tail roller was that? Do

20 you remember what belt line it was

21 on?

22 A. Number Four Belt.

23 Q. Number Four? And you used

24 rock dust to put it out?

25 A. Yes. Yes.

39

01 Q. Did you make an effort to find

02 out what had caused it or ---?

03 A. Oh, you could see it was the

04 tail roller down.

05 Q. A tail roller ---?

06 A. Yeah, the bearing was coming

07 --- it was ---.

08 Q. Was it an actual fire?

09 A. It wasn't far from it.  
10 Q. Did you see --- did you see  
11 flames?  
12 A. I seen red.  
13 Q. Saw red?  
14 A. Saw a lot of red. That's why  
15 I say, it wasn't far from it.  
16 Q. Have you ever participated in  
17 an emergency fire drill, an  
18 evacuation drill at this mine?  
19 A. Yes.  
20 Q. Could you kind of describe it  
21 for me?  
22 A. You just simulate a fire  
23 somewhere and you put people to the  
24 firefighting, the duties.  
25 Q. And where were you in the mine  
40  
01 when you had --- when you  
02 participated in the drill?  
03 A. Participated in the drill?  
04 Probably on a belt line.  
05 Q. You don't remember what belt?  
06 A. No, I do not. No, I do not.  
07 Q. Are you familiar with the  
08 construction project that was going  
09 on up on northeast mains to extend  
10 that 72-inch belt?  
11 A. I know they was up there

12 setting a head, yes.

13 Q. Do you know who was in charge  
14 of that project?

15 A. No. It was either Hagy or  
16 Shiner, I don't know which one. I  
17 don't know who was who on that.

18 Q. Did you ever have a chance to  
19 work on that project?

20 A. No.

21 Q. Did you ever get into that  
22 area during any of your examinations?

23 A. Yeah. In fact, I do now, I  
24 have to walk down past it because  
25 it's the intake going down to the

41

01 longwall setup.

02 Q. What about previous to the  
03 fire?

04 A. I would go down the return  
05 side.

06 Q. Do you notice anything unusual  
07 in that area during your exams?

08 A. No.

09 Q. Do you notice any stoppings  
10 missing?

11 A. Down that way, no. It would  
12 impact return all the way down  
13 through there.

14 Q. Posted on the wall behind me  
15 is a map of the Aracoma Alma Mine.

16 A. Uh-huh (yes).

17 Q. And for purposes of this  
18 interview, we're going to call this  
19 one Exhibit A McNeely.

20 (McNeely Exhibit A  
21 marked for  
22 identification.)

23 A. Okay.

24 BY MR. WEBB:

25 Q. This is a pretty big mine. Do

42

01 you make the whole mine all at one  
02 time on your examinations?

03 A. No.

04 Q. You break your examinations  
05 up?

06 A. Uh-huh (yes).

07 Q. Can you kind of explain how  
08 you do that?

09 A. I just take so much of the  
10 mine and just make it per day.

11 Q. So you divide it up into days?

12 A. Yes.

13 Q. Do you hold pretty tight to  
14 that schedule?

15 A. As tight as it can.

16 Q. Are you comfortable with mine

17 maps?

18 A. Yes.

19 Q. Okay. Please, if you will,  
20 come up to the map. And if you could  
21 speak up a little bit.

22 A. Okay.

23 Q. What I'd like for you to do is  
24 to kind of mark for me where you  
25 would travel during your examinations

43

01 and since you said you started on ---  
02 you kind of did it during the days of  
03 the week ---.

04 A. It has changed since then.

05 Which day would you want?

06 Q. Let's talk about what you did  
07 prior to the fire.

08 A. The two days prior, or three  
09 days prior.

10 Q. Well, what we do is, like I  
11 say, on a Monday, we'll let you use a  
12 red marker, and just let you mark  
13 what you ---.

14 A. Do you have that map, Mark?

15 ATTORNEY HEATH:

16 He's got it as well.

17 What he's talking about is his

18 fire boss map that he uses.

19 A. On that ---.  
20 WITNESS COMPLIES  
21 BY MR. WEBB:  
22 Q. It looks like what you've  
23 marked is an area in northeast mains  
24 that is inby Ten Headgate going up  
25 onto the Number Two Section and then

44

01 coming down the full length of Ten  
02 Headgate and then turning from Ten  
03 Headgate left up into Four Right, to  
04 the face of Four Right, then back out  
05 of Four Right, to the ---

06 A. The mains.

07 Q. --- the north mains and then  
08 back to ---

09 A. Number Nine EP.

10 Q. Number Nine EP, which in Three  
11 Tailgate.

12 A. Uh-huh (yes).

13 Q. Okay. Could you draw a little  
14 line right here and just write Monday  
15 exam. Let's move on to Tuesday and  
16 we'll give you a green marker, let  
17 you show what area you examined on  
18 ---.

19 A. This is prior to the fire;  
20 right?

21 Q. Prior to the fire.



22 WITNESS COMPLIES

23 A. I remember ---. I think I got  
24 this here on Tuesday, I don't believe  
25 I did.

45

01 BY MR. WEBB:

02 Q. If you would, draw a line  
03 there and just write Tuesday.

04 WITNESS COMPLIES

05 BY MR. WEBB:

06 Q. And it looks like what you've  
07 showed is the area in northeast mains  
08 from north mains up the travel road  
09 toward Two Section?

10 A. Yes.

11 Q. Is that not --- is that ---?

12 A. The travel road changes right  
13 here.

14 Q. Okay. So is the primary  
15 escapeway that you traveled?

16 A. Yes.

17 Q. Okay. And then you're  
18 traveling --- is this the --- this is  
19 north mains in the Number One entry  
20 from Eight Headgate outby to Five  
21 Tailgate. All right. Let's move on  
22 to Wednesday. And we'll use a blue  
23 marker, let you mark Wednesday's exam

24 for me.

25 WITNESS COMPLIES

46

01 BY MR. WEBB:

02 Q. All right. It looks on  
03 Wednesday, what we've marked is an  
04 area in north mains from Five  
05 Tailgate outby and all of the  
06 separate air courses up to the face  
07 of Three Section and then outby in  
08 northeast mains to --- is it what you  
09 call the Threeway?

10 A. Yeah.

11 Q. To the Threeway?

12 A. Yes.

13 Q. Okay. Let's go on to  
14 Thursday. And we'll use a black  
15 marker for Thursday and let you show  
16 me what you examined on Thursday.

17 WITNESS COMPLIES

18 A. As I said, that's maybe not  
19 ---.

20 BY MR. WEBB:

21 Q. Okay. If you would just draw  
22 a line and write Thursday on there  
23 for me.

24 WITNESS COMPLIES

25 BY MR. WEBB:

47

01 Q. It looks like on Thursday  
02 we've got an area that involves Nine  
03 Tailgate from the northeast mains up  
04 to near where the longwall face would  
05 be. An area from north mains through  
06 the Number Two cut-through into Nine  
07 Headgate up to near the longwall  
08 face. Plus we have an area in north  
09 mains that involves traveling through  
10 a triangle out to the box cut and  
11 Three Headgate and Four Headgate.  
12 Also have an area in north mains that  
13 travels up and includes the  
14 evaluation points at the longwall  
15 headgate Number one entries, the  
16 Number One panel tailgate entries and  
17 the Number Two panel ---.  
18 A. That's EP points.  
19 Q. --- EP points.  
20 A. Yes. That was it.  
21 Q. All right. Now, we'll move to  
22 Friday and I'll give you a purple  
23 marker and let you show me what you  
24 examined on Friday.  
25 WITNESS COMPLIES

48

01 A. I think I went back over here.  
02 Going right in here, that's the belt

03 entry.

04 BY MR. WEBB:

05 Q. And what we'll do, if you  
06 don't care, is in this area where you  
07 --- just mark a couple of Xs through  
08 that line. All right. It looks like  
09 on Friday, you're over in the intake  
10 air course?

11 A. In the intake, yes.

12 Q. In northeast mains --- or from  
13 northeast mains down north mains to  
14 the box cut and then you also  
15 examined the Four Right area behind  
16 the longwall.

17 A. I did this area, yes.

18 Q. And you have two EPs in that  
19 area?

20 A. Yes, 19 and 20, yes.

21 Q. Okay. Now, I have a brown  
22 pen. What I'd like for you to do is  
23 make a circle on that map in the  
24 locations where --- that you have EPs  
25 and number them if you don't care.

49

01 Do you remember the numbers?

02 A. You make it hard on me, ain't  
03 ya?

04 A. Where they're at now or where  
05 they were?

06 Q. Where they were prior to the  
07 fire.

08 WITNESS COMPLIES

09 A. I don't remember where they  
10 were before the fire.

11 BY MR. WEBB:

12 Q. Now, you're going to have to  
13 help me a little bit on this one.

14 A. Okay.

15 Q. Now, the EPs you've got  
16 marked, number one is ---

17 A. It says make a fan.

18 Q. --- make a fan. Is there a  
19 number two?

20 A. The number two is on the  
21 longwall and I don't get this. I  
22 think number two is one break --- one  
23 break inby the face. And put three  
24 here, which is --- number one is one  
25 break inby the face. Number three's

50

01 outby the face.

02 Q. Okay. Do you know where those  
03 are as you ---?

04 A. No, it moves to the face, then  
05 the longwall gets it.

06 Q. What about number four, how  
07 would you describe that location?

08 A. How would I describe it?  
09 Q. Yeah, if I asked you where  
10 number four EP was?  
11 A. Okay. About one length.  
12 Q. One length?  
13 A. Uh-huh (yes).  
14 Q. And number five (a)?  
15 A. Five (a), five (b), six (a),  
16 six (b), there all one length.  
17 Q. One length?  
18 A. Yeah.  
19 Q. What about number seven?  
20 A. Ethyl fan.  
21 Q. Ethyl fan? And number eight?  
22 A. It's Four Head fan.  
23 Q. And number nine?  
24 A. Three Tail drive.  
25 Q. Number ten?

01 A. Three Headgate.  
02 Q. Number 11?  
03 A. Five Tailgate.  
04 Q. Twelve (12)?  
05 A. Be at Five Headgate. This is  
06 the tailgate/headgate.  
07 Q. Okay. Eleven (11) ---  
08 A. Five.  
09 Q. --- is Five Tailgate? And 12  
10 is Five Headgate.

11 A. Headgate.  
12 Q. Number 13?  
13 A. Six Headgate.  
14 Q. Fourteen (14)?  
15 A. Seven Headgate.  
16 Q. Fifteen (15)?  
17 A. Eight Headgate. Nineteen (19)  
18 ---.  
19 Q. Is there a 16?  
20 A. No.  
21 Q. Is there a 17?  
22 A. No. We don't have any.  
23 Q. Eighteen (18)?  
24 A. No.  
25 Q. Okay. Number 19?

52

01 A. Number 19 is on the head side  
02 of longwall.  
03 Q. And Number 20?  
04 A. It's on the tail side of the  
05 longwall.  
06 Q. And that's all of them?  
07 A. Yeah.  
08 Q. Okay. Let's take a --- I  
09 guess we'll have to go back to red.  
10 Other than the EPs, are there any  
11 other areas where you would take an  
12 air measurement or check for air

13 direction or quantity?

14 A. Check for air direction in all  
15 of them.

16 Q. Okay. No special areas?

17 A. Yeah, I do.

18 Q. Could you kind of describe  
19 that for me?

20 A. I check it right here where it  
21 splits off the intake for Three  
22 Section.

23 Q. Would you take a --- what kind  
24 of measurements? Do you do a  
25 quantity?

53

01 A. How much air they have.

02 Q. Do you check airflow  
03 direction?

04 A. Yes, sir.

05 Q. I'm going to mark --- I marked  
06 quantity with a Q. I'll mark  
07 direction with a D.

08 A. Of course the quality, I  
09 haven't gotten that drawn on the map.

10 Q. Okay. So you're also checking  
11 for quality?

12 A. Yes.

13 Q. And I'll use a G for quality,  
14 just G for gasses. Any other  
15 locations where you ---?



16 A. Right here.  
17 Q. At the mouth of ---.  
18 A. No, right here.  
19 Q. At the mouth of ---  
20 A. This I do a EP here.  
21 Q. --- Three Tailgate?  
22 A. Unless that's an EP, I did it  
23 already.  
24 Q. Okay. You've shown me that  
25 one already.

54

01 A. Where the air splits off to  
02 the longwall.  
03 Q. Is that on the ---  
04 A. Intake.  
05 Q. --- the Number Two  
06 cut-through?  
07 A. Yeah.  
08 Q. Where the Number Two  
09 cut-through intersects north mains,  
10 do you do the same type of readings  
11 there?  
12 A. Yes.  
13 Q. So you take a quality, a  
14 quantity and an airflow direction?  
15 A. Yes.  
16 Q. Anyplace else?  
17 A. Of course you get all your

18 EPs. I've been on the section, every  
19 time I make them.

20 Q. Okay. Where at on the  
21 section?

22 A. Intakes and return.

23 Q. The intakes and returns?

24 A. Right. Outby the last  
25 permanent stopping. I got two (a),

55

01 two (b) over here, one (a), one (b)  
02 on each side.

03 Q. So you do that underground in  
04 the entries?

05 A. Yes.

06 Q. All right. Any other places?

07 A. EPs pretty much took care of  
08 the rest of them.

09 Q. Can you tell me how many seals  
10 do you have underground?

11 A. One seal.

12 Q. Just one seal.

13 A. Yes.

14 Q. Don't go yet. We're not ---  
15 we'll stick with the map for just a  
16 minute.

17 A. Okay.

18 Q. We'll give you this blue magic  
19 --- blue marker back and let you mark  
20 the location of that seal for me.

21 And just write seal there for me.

22 WITNESS COMPLIES

23 BY MR. WEBB:

24 Q. Do you know why that seal is

25 there?

56

01 A. Yeah.

02 Q. And why is that?

03 A. From what I know of it, they

04 said we cut into another mine. I

05 don't go for it, but hey, they said

06 we did.

07 Q. So do you examine ---?

08 A. Cut into water, yes.

09 Q. And how often do you examine

10 that?

11 A. Once a week.

12 Q. Any particular day or ---?

13 A. Oh, I didn't have that on

14 there. That's goes with the green.

15 Q. So that would be a Tuesday?

16 A. Yeah.

17 Q. All right. I'll let you mark

18 it, just draw a little line in green

19 and mark it as Tuesday. Okay. And

20 while I'm thinking about it, let me

21 go ahead and get you to sign and date

22 this map for me, if you would, just

23 right up here. Today's the 15th.  
24 All right. Thank you. We'll let you  
25 sit down for a little while. I have

57

01 a copy of a record book entitled  
02 weekly examinations ---

03 A. Uh-huh (yes).

04 Q. --- for methane and hazardous  
05 conditions ---

06 A. Yes.

07 Q. --- Aracoma Coal Company Alma  
08 Number One.

09 A. Yes, sir.

10 MR. WEBB:

11 On the cover of this  
12 book is marked by the company  
13 Aracoma 002144 and it has an  
14 MSHA document number on it of  
15 D251. I'm going to make that  
16 exhibit as Exhibit B McNeely.  
17 And it covers a time period  
18 that's designated in the book  
19 as being from the week ending  
20 December 24, 2005 to the week  
21 ending January 21st, 2006.

22 (McNeely Exhibit B  
23 marked for  
24 identification.)

25 BY MR. WEBB:

01 Q. Are you familiar with that  
02 book? Now, that's a copy. Are you  
03 familiar with that?

04 A. Yes.

05 Q. You'll have to speak up just a  
06 little bit.

07 A. Yes.

08 Q. What's the book used for?

09 A. To record air readings and the  
10 hazardous conditions.

11 Q. Okay. Let's take a look at  
12 the page that's designated by the  
13 company as Aracoma 002147.

14 A. Uh-huh (yes).

15 Q. At the top of the page, it  
16 indicates that it's a weekly  
17 examination for the week ending  
18 December 24th, 2005.

19 A. Okay.

20 Q. And over on the left column is  
21 a notation EPs and there's 17 lines  
22 of information on that page. If you  
23 would, describe for me what each one  
24 of these lines means. We'll just  
25 start with number one there.

01 A. Number one, that was fan

02 reading.

03 Q. And two?

04 A. Two and three, I didn't get.

05 Q. Okay. Now, out beside each

06 one of these looks like a --- are

07 those initials?

08 A. Yes.

09 Q. Line number one looks to have

10 --- is that a J.M.?

11 A. J.M.

12 Q. Are those your initials?

13 A. Those are my initials.

14 Q. Did you put them in the book?

15 A. Yes.

16 Q. Okay. Go ahead. I'm sorry.

17 A. Okay.

18 Q. So line number two?

19 A. Two and three I didn't get.

20 That's the EPs on the longwall.

21 Q. Okay. And those are not your

22 initials?

23 A. No.

24 Q. Do you know whose initials

25 those are?

60

01 A. C.W. would be Clarence

02 Workman.

03 Q. Okay. Line number four?

04 A. Number four is EP, 1,600 ---

05 1,617 cubic foot going through the EP  
06 hole, zero percent CH4, 20.702. The  
07 air's in the right direction, it's  
08 pulling in.

09 Q. So it's pulling inward ---

10 A. Yes.

11 Q. --- you mean in toward the ---

12 A. Yes.

13 Q. --- abandoned air?

14 A. All of them pulled in.

15 Q. Okay. Number five?

16 A. 1,154 cubic foot of air, zero  
17 CH4, 20.702. The air's pulling in in  
18 the right direction.

19 Q. All right. Moving right along  
20 to number six.

21 A. Number six, 4,702 cubic foot,  
22 zero percent CH4, 20.702. The air's  
23 pulling in the right direction.

24 Q. And just go right ahead.

25 A. Number seven was a fan

61

01 reading, at ethyl fan. Number eight,  
02 1,644 cubic foot, zero percent CH4,  
03 20.802. The air was pulling in in  
04 the right direction. Number nine EP,  
05 226,680 cubic foot, zero percent CH4,  
06 20.802, air in the right direction.

07 Number ten, 132 cubic foot, zero  
08 percent CH4, 20.702, air in the right  
09 direction. Number 11, 55,714 cubic  
10 foot, zero percent CH4, 20.702, air  
11 in the right direction. Number 12,  
12 1,957 cubic foot, zero percent CH4,  
13 20.902, air in the right direction.  
14 Number 13, 967 cubic foot, zero  
15 percent CH4, 20.502, air in the right  
16 direction. Number 14, 1,129 cubic  
17 foot, zero percent CH4, 20.602, air  
18 in the right direction. Number 15,  
19 827 cubic foot, zero percent CH4,  
20 20.602, air in the right direction.  
21 Number 19, 11,745 cubic foot, two-  
22 tenths CH4, 20.602, air in the right  
23 direction. Number 20, I've got  
24 42,550 cubic foot, .2 percent CH4,  
25 20.602, air in the right direction.

62

01 Q. All right. Thank you. And  
02 these numbers on the left-hand side  
03 of the page, they match the EP  
04 numbers on the map that we just did?

05 A. Yes.

06 Q. Okay. Did you visit all of  
07 these EPs in one day or is this ---?

08 A. No.

09 Q. This is --- corresponds to the



10 ---

11 A. Yes.

12 Q. --- to the days on the mine

13 map?

14 A. Yes. Yes. Because I couldn't

15 make it all in one day.

16 Q. By looking just at the record

17 book, would anybody, other than you,

18 be able to tell which day these areas

19 were visited?

20 A. No.

21 Q. So it would take a combination

22 of the record book ---

23 A. And the map.

24 Q. --- and the fire boss ---

25 A. Yes.

63

01 Q. --- map? And you explained to

02 me that the reason the EP numbering

03 skips from 19 --- from 15 to 19 was

04 because the other ones are proposed?

05 A. I think they're going to put

06 them up on top there somewhere, I

07 think. I really don't know on there.

08 Q. Okay.

09 A. I'm not for sure on it.

10 Q. Let's look at the next page

11 now. It's Aracoma 002148. And it

12 shows that the examination is for  
13 that same week, ending on December  
14 the 24th, 2005.

15 A. Right.

16 Q. It has 18 lines of information  
17 entered on me --- on it. And can you  
18 do the same thing for me and describe  
19 what each one of these lines means?

20 A. Okay. The mains intake was  
21 509,460 cubic foot, that's all four  
22 EPs added together --- I mean, all  
23 four air stations added together.  
24 Number Two Section intake, and like I  
25 said, that was one break outby the

64

01 last permanent stopping, had 19,526.

02 Two section Right return got 12,870.

03 Number Two Section Left return got

04 16,104. Then it goes to Three

05 Section. Three Section on their

06 intake had 37,479. Three Section

07 Right return had 14,556. And Number

08 Three Section Left return had 9,576.

09 Longwall intake, I did not get them.

10 The mains intake, none observed.

11 Number Two Section intake, none

12 observed. Number Two Section Right

13 return, none observed. Number Two

14 Section Left return none observed.

15 Number Three Section intake none  
16 observed. Three Section Right return  
17 none observed. Three Section Left  
18 return none observed. Then I've got  
19 the main seal, got 20.802, zero  
20 percent CH4, and there was nothing  
21 observed at the seal.

22 Q. Okay. Now, when you talk  
23 about none observed, are you talking  
24 about examination for the hazardous  
25 ---

65

01 A. Yes.

02 Q. --- for any hazardous  
03 conditions?

04 A. Yes.

05 Q. So what you're telling me is  
06 that during this week's examinations,  
07 you didn't find any hazardous  
08 conditions?

09 A. No, sir.

10 Q. On the 8th and the 16th lines  
11 on this page, there's --- it says  
12 longwall intake ---

13 A. Yes.

14 Q. --- under the air measurements  
15 ---

16 A. Uh-huh (yes).

17 Q. --- section and it says  
18 longwall intake under the examination  
19 for hazardous conditions section.  
20 There's a different set of initials  
21 on there.

22 A. Yes.

23 Q. Can you tell me what those  
24 initials are?

25 A. D.D.

66

01 Q. And do you know whose initials  
02 those are?

03 A. I would think Dusty Dotson.

04 Q. Do these two pages marked as  
05 Aracoma 002147 and Aracoma 002148  
06 constitute a record of a complete  
07 weekly examination for the mine?

08 A. A complete part that I done,  
09 yes.

10 Q. Is there any particular reason  
11 why the designation for the seal is  
12 called Number One main seal? I  
13 noticed on the map that it's actually  
14 ---

15 A. No, it's just ---.

16 Q. --- in northeast mains.

17 A. That's just what we called it.

18 At the time this Number One main  
19 section was driving that way, and so

20 it was called the Number One main  
21 seal.

22 Q. So you just --- even though  
23 you call that ---

24 A. Yeah.

25 Q. --- northeast mains ---

67

01 A. Yes.

02 Q. --- you just kept that name  
03 for the seal? During the course of  
04 your examinations when you visit this  
05 seal over the past several months,  
06 have you noticed any changes in the  
07 way that area around the seal was  
08 being ventilated?

09 A. Could you repeat that?

10 Q. During the course of your ---  
11 of your examinations when you visit  
12 ---.

13 A. Are we talking about now or  
14 before?

15 Q. Before the fire.

16 A. Okay.

17 Q. When you visited this area  
18 where this seal is, over the past  
19 several months prior to the fire,  
20 were there any changes in the way  
21 that area was being ventilated?

22 A. Any changes? Not that I can  
23 recall.

24 Q. Okay. When you're finished  
25 with your examinations, do you come

68

01 outside and fill out this book?

02 A. Every day?

03 Q. Yes, sir.

04 A. Sometimes I'm behind a day.

05 Q. Okay. Do you sometimes call  
06 out the results to the surface?

07 A. No.

08 Q. You always come out and fill  
09 out the book yourself?

10 A. Yes. Yes.

11 Q. Okay. And I noticed that the  
12 bottom of each page that we've talked  
13 about is signed by --- in the area  
14 where it says signature mine foreman,  
15 it's signed by Dusty Dotson?

16 A. Yes.

17 Q. Is he usually the one who  
18 signs ---

19 A. Yes.

20 Q. --- your examinations or signs  
21 the record book?

22 A. Yes.

23 Q. Okay. Let's move on over to  
24 the page that's designated as Aracoma

25 002151. And this page is for the

69

01 weekly examinations that were for the  
02 week ending January 7th, 2006. And I  
03 won't ask you to go through all those  
04 same readings again.

05 A. Okay.

06 Q. But I'd just like to ask you  
07 to look at that page and tell me if  
08 you've visited all the same areas  
09 that you did on the previous  
10 examinations? It looks like a usual  
11 ---.

12 A. Yes.

13 Q. Okay. I noticed that some of  
14 these initials are not J.M.

15 A. It's two and three EP.

16 Q. Two and three EPs?

17 A. Uh-huh (yes).

18 Q. What are those initials?

19 A. R.M.

20 Q. And whose initial would that  
21 be?

22 A. That'd be Rod Morrison.

23 Q. Rod Morrison. Does he  
24 sometimes ---

25 A. Yes.

70

01 Q. --- help with these  
02 examinations?  
03 A. Yes.  
04 Q. Does he do that often?  
05 A. The EPs? From time to time he  
06 does them.  
07 Q. Okay. Turning over to the  
08 next page, Aracoma 002152. And once  
09 again it looks like all of the  
10 entries are made --- or are initialed  
11 by you. There's an initial in an  
12 entry under examination for hazardous  
13 conditions that talks about Number  
14 Three Section Right return. Do you  
15 see that line? It says water in  
16 several places being pumped.  
17 A. Yes.  
18 Q. Can you tell me a little bit  
19 about that?  
20 A. That's one of the worst things  
21 I hate in the world to walk in and  
22 find a water hole and the pump  
23 sitting in and you got to wade  
24 through it.  
25 Q. So that was the case here?

01 A. That was the case.  
02 Q. So you ---?  
03 A. I hate that.



04 Q. This would indicate that  
05 during your examination, you found an  
06 area that ---.

07 A. Where a pump should have been  
08 running and it wasn't running. It  
09 was off.

10 Q. I don't like to wade in water  
11 myself.

12 A. No.

13 Q. So once again ---.

14 A. Especially a pump sitting in  
15 it.

16 Q. Once again, the combination of  
17 these two pages would constitute a  
18 part of the weekly examination that  
19 you do?

20 A. Yes.

21 Q. Okay. I noticed that on the  
22 previous two pages that we talked  
23 about, Aracoma 002147 and Aracoma  
24 002148, that there's a notation in  
25 there for the Number One mains seal,

72

01 but there's not on these two pages.  
02 Looking at the difference between  
03 those two ---.

04 A. Yeah, I see that.

05 Q. What would you think would be

06 the reason for that?  
07 A. I'd say I forgot to put it in  
08 there.  
09 Q. During the course of your  
10 examinations, do you keep any kind of  
11 a little personal notebook or  
12 anything with your air readings and  
13 ---  
14 A. At times, yes.  
15 Q. --- the conditions you find?  
16 A. At times I do, yes.  
17 Q. Do you keep that?  
18 A. No, I do not keep them. I  
19 wish I did, but I don't.  
20 Q. Okay. If you would, I'd like  
21 for you to just on the front page of  
22 this exhibit, just sign and date it  
23 right here under the --- under the  
24 label.  
25 A. Right here?

73

01 Q. That's fine.  
02 WITNESS COMPLIES  
03 BY MR. WEBB:  
04 Q. Thank you. I want to show you  
05 a copy of the map that was in the  
06 mine office. And the map is  
07 identified as airway map weekly fire  
08 boss. And on this map is an MSHA

09 document number D-35. And it's also  
10 marked by the company as Aracoma map  
11 000022. For the purposes of this  
12 interview, we're going to mark it as  
13 Exhibit C McNeely.

14 (McNeely Exhibit C  
15 marked for  
16 identification.)

17 BY MR. WEBB:

18 Q. Would you be more comfortable  
19 with it on the table or we can tape  
20 it up on the wall?

21 A. Right here on the table is  
22 fine.

23 Q. Are you familiar with this  
24 map?

25 A. Yes.

74

01 Q. Do you remember where it was  
02 posted or was it posted?

03 A. Yeah, it was posted in the  
04 superintendent's office.

05 Q. And that superintendent's  
06 office would be where?

07 A. Upstairs second door on your  
08 right coming through --- down the  
09 hallway.

10 Q. Okay. And is that at the top

11 of the box cut?

12 A. Yes, sir.

13 Q. What we call --- I think what

14 we call the Millville office?

15 A. Yeah. Uh-huh (yes).

16 Q. Who marked up this map to show

17 the areas that would be traveled?

18 A. I did.

19 Q. You did? Do you ever refer to

20 this map or are you --- you're

21 familiar with the areas?

22 A. I refer to it a lot.

23 Q. Does anybody ever update that

24 map ---

25 A. I have ---.

75

01 Q --- to show changes?

02 A. I have here just lately.

03 That's why it was so confusing for me

04 on that one because it's changed.

05 Q. So you're responsible for

06 updating this map?

07 A. I would think. Well, I refer

08 to it myself, so ---.

09 Q. Would there ever be a time

10 when someone else might have updated

11 and then say, hey, John, we've added

12 an area for you to look at, come and

13 take a look at the map again?

14 A. I would hope that they would.

15 Q. So you would be the one that  
16 --- as the mine grows and changes,  
17 you would be the one that would  
18 update this map, really to let them  
19 know what areas you're examining?

20 A. Yes, what areas I'm in.

21 Q. And you said you basically  
22 created this map?

23 A. No. But a week, maybe a week  
24 or so before the fire, Drexel wanted  
25 it because he wanted to know where

76

01 the fire bosses was. And so I done  
02 this in about maybe six, seven  
03 minutes. I mean, I done it real  
04 quick. Then they took it and they  
05 posted it on the wall.

06 Q. So it had been ---.

07 A. He wanted to know what area I  
08 was in is what it was.

09 Q. So it had been posted on the  
10 wall for about a week prior to ---

11 A. Yeah.

12 Q. --- January 19th?

13 A. Yes.

14 Q. Okay.

15 MR. WEBB:

16 Bill?

17 BY MR. TUCKER:

18 Q. I just have a few questions

19 for you, ---

20 A. Okay.

21 Q. --- John. On the 19th, did

22 you go by the mother drive area?

23 A. The roadway, yes, I went

24 through the double doors, through the

25 roadway.

77

01 Q. So you would have went under

02 the belt?

03 A. Yes.

04 Q. Was anybody there when you

05 went by?

06 A. Not that I can recall.

07 Q. Did you have to open the doors

08 yourself?

09 A. Yes.

10 Q. Did you have a ride ---

11 A. Yes.

12 Q. --- that day?

13 A. Yes.

14 Q. Did you notice anything

15 abnormal at all?

16 A. Not that day, no.

17 Q. Have you in the past possibly

18 noticed anything out of the way when

19 you went by that area?

20 A. I think it was Minnes and Jeff

21 Perry arrived up in here one day, he

22 checked the CO. He went and checked

23 the CO on the tailpiece of the belt.

24 And as we was coming back through,

25 there was a roller out and Minnes

78

01 wanted that roller put back in on it

02 right then. And so where the belt

03 was down, me and Jeff found a piece

04 of wire right around the corner right

05 here and we put a piece of wire up to

06 guard it where the belt was hanging

07 down. Other than that, ---.

08 Q. Are you aware of any problems

09 in the mother drive belt area ---

10 A. No.

11 Q. --- down to the takeup?

12 A. No. I'm in airways most of

13 the time.

14 Q. Okay. Do you recall if you

15 worked on December 23rd?

16 A. No, I do not recall because I

17 took ---I took a week's vacation

18 through there somewhere. A week at

19 Christmas, whatever it was, that's

20 the week I took off. Now, the 23rd,

21 I don't remember. I don't remember.

22 Q. I think that was the Friday

23 before Christmas.

24 A. Before Christmas, well, I

25 probably worked it, but I ain't for

79

01 sure.

02 Q. Would anything stand out in

03 your mind of any problems with the

04 belt on that day that --- did you

05 hear anything about any problems?

06 A. No.

07 Q. Okay. You mentioned that you

08 were mine foreman at the mine. Was

09 you the main mine foreman?

10 A. Yes.

11 Q. Did you have assistants or

12 other mine foreman under you?

13 A. No.

14 Q. So you was kind of --- you was

15 the go-to guy if somebody had a

16 problem at the mine?

17 A. Yeah.

18 Q. Okay. Who did you report to?

19 A. Pepé.

20 Q. Okay. You made a comment

21 about the seal that they thought they

22 cut into ---.

23 A. Yeah, I don't ---.



24 Q. If you would want to comment  
25 on it. Just kind of raised my

80

01 curiosity what you might think that  
02 was.

03 A. I think that was water coming  
04 from the mine above us. I think it  
05 was just a cavity. I don't think we  
06 was that close to that old mine  
07 because I live on around the hollow  
08 from of it. And water runs year  
09 round out of that mine. And I don't  
10 think that water would ever quit, you  
11 know, if that was it. I just think  
12 it was a cavity from --- that's just  
13 my opinion.

14 Q. It didn't have anything to do  
15 with the accident ---

16 A. No.

17 Q. --- just curiosity question.

18 A. Yeah. That's just my opinion  
19 on it.

20 Q. Okay. On the night of the  
21 fire on the 19th, did any of the  
22 company officials confer with you  
23 concerning the ventilation while they  
24 were in the mine rescue mode?

25 A. Not that I recall.

01 Q. Were you required to go back  
02 underground to assist in any of the  
03 work?

04 A. It was probably a week or so,  
05 I went up and when they was setting  
06 the water props around it, up there  
07 at the mother drive. I went up to  
08 help them a day or two.

09 Q. But as far as on the 19th, ---

10 A. Oh, no.

11 Q. --- you never went back  
12 underground?

13 A. No.

14 Q. And you had already left the  
15 mines ---

16 A. Yes.

17 Q. --- before you become aware of  
18 the fire?

19 A. Yes.

20 Q. Okay.

21 MR. TUCKER:

22 That's all I have at  
23 this time. Thank you, John.

24 BY MR. WEBB:

25 Q. I've got a couple more. Have

01 you read or studied the approved  
02 ventilation plan for this mine?

03 A. Have I read it?

04 Q. Yes, sir.

05 A. Yes, I've read it.

06 Q. Is it posted at the mine?

07 A. No. We've got a folder for

08 it, and I don't know if it was or

09 not. I really don't.

10 Q. Where would that folder be?

11 A. It's right at the top of the

12 stairs as you come up from downstairs

13 to upstairs in the office.

14 Q. In the mine office?

15 A. Yeah, there's a bulletin board

16 there.

17 Q. Do you remember what the plan

18 says about using belt air on the

19 Number Two Section?

20 A. I would have to refer back to

21 the plan. I can't ---.

22 Q. Do you remember what ---? I'm

23 sorry. Go ahead.

24 A. I couldn't remember, no.

25 Q. Do you remember what it would

01 say about using belt air on the

02 longwall section?

03 A. No, I couldn't.

04 Q. Going back to conducting your

05 examinations, if you found a stopping  
06 damaged, who would you tell about it?

07 A. Dusty.

08 Q. Dusty?

09 A. Yeah. That's who I report to.

10 Q. Would you stop your  
11 examination and go to a phone,  
12 immediately tell him or would you  
13 finish that part of your examination  
14 and then call him?

15 A. You got to fix it immediately.

16 Q. If you found that --- if you  
17 were traveling an area and were  
18 looking to the right or to the left  
19 as you traveled up an entry,  
20 expecting to see stoppings, and you  
21 came to an area where an entire  
22 stopping was missing, would you tell  
23 the same person about it?

24 A. No, I probably wouldn't.

25 Q. Who would you tell?

84

01 A. Probably nobody, because I  
02 wouldn't know if the ventilation had  
03 been changed. I wouldn't know.

04 Q. Do you know if any of the  
05 people at the mine --- well, let me  
06 rephrase that.

07 Who at the mine would be

08 responsible for approving changes in  
09 the ventilation system at the mine?

10 A. I think those would be the  
11 mine foreman.

12 Q. The mine foreman. And that  
13 would be?

14 A. Dusty.

15 Q. Dusty. How would you know if  
16 a ventilation change had been made in  
17 an area that you examined?

18 A. By my air reading.

19 Q. Is this something you would  
20 discover during your examination or  
21 would somebody tell you to be  
22 expecting that?

23 A. Well, they would probably tell  
24 me, I would think. I would hope they  
25 would tell me.

85

01 Q. Do you ever review a mine map  
02 to know if the proper air direction  
03 of the entries that you examined, if  
04 the air direction's correct?

05 A. You mean the airways on a map?

06 Q. Yes. Do you --- once you've  
07 made an examination, do you ever  
08 refer to a ventilation map to make  
09 sure that what the air directions

10 you've seen are what they're supposed  
11 to be?

12 A. No, probably not.

13 Q. Does anybody review the  
14 changes in mine ventilation or air  
15 currents or ventilation controls with  
16 you?

17 A. With me? I would hope that  
18 they would if they would change  
19 something. I hope that they would  
20 let me know.

21 Q. In your position as an  
22 examiner, do you have any input or do  
23 you have any --- are you questioned  
24 for comments or whatever concerning  
25 ventilation changes that the company

86

01 might want to make?

02 A. Ventilation changes they might  
03 want to make?

04 Q. Yes, sir.

05 A. At times they've asked me  
06 about ventilation, yes.

07 Q. Do you remember any of those?

08 A. No, I do not.

09 Q. Looking at the map on the wall  
10 here, you were an examiner when the  
11 current longwall began?

12 A. Yes.

13 Q. You were?  
14 A. Yes.  
15 Q. Do you remember how the  
16 ventilation change ---?  
17 A. No, I was mine foreman.  
18 Q. Oh, you were mine foreman ---  
19 A. Yes.  
20 Q. --- when this started?  
21 A. Yes.  
22 Q. Were you the mine foreman when  
23 the longwall passed the Number One  
24 cut-through?  
25 A. No, I don't think so.

87

01 Q. So you were a mine examiner by  
02 the time the ---?  
03 A. Walked airways.  
04 Q. You were an airway examiner by  
05 the time the longwall face passed  
06 though the Number One cut-through?  
07 A. I'm pretty sure.  
08 Q. Do you remember how the  
09 ventilation changed ---  
10 A. Yeah, I was ---.  
11 Q. --- when the longwall face  
12 passed that Number One cut-through?  
13 A. They sealed that, put  
14 stoppings in there.

15 Q. They put stoppings up?

16 A. Yeah. That cut-through was  
17 blocked off. That intake air was  
18 moved up to the next cut-through.

19 Q. The Number Two cut-through?

20 A. Yes.

21 MR. WEBB:

22 Bill?

23 BY MR. TUCKER:

24 Q. Did you walk the intake  
25 escapeway for Two Section, the

88

01 primary intake escapeway?

02 A. That air course that I walk  
03 down is in the same entry.

04 Q. Did you notice in walking that  
05 air course of any stoppings being out  
06 or damaged?

07 A. No. No, I did not.

08 Q. Did you notice --- now, the  
09 entry that you walked for that, did  
10 it have the reflectors in it ---

11 A. Yes.

12 Q. --- designating it as the  
13 escpeway?

14 A. Yes.

15 Q. Could you look from that entry  
16 and see belt structure or ---

17 A. No.



18 Q. --- maybe the ---?  
19 A. Oh. What do you mean belt  
20 structure?  
21 Q. When you was walking the ---?  
22 A. To the right, the belt  
23 structure to the right?  
24 Q. Yeah. If you were walking in?  
25 A. The new structure going in

89

01 that you're talking about?  
02 Q. Yes.  
03 A. Yeah, I could probably walk  
04 down past, probably see it from place  
05 to place.  
06 Q. Do you have any idea how the  
07 smoke from the fire on the longwall  
08 belt or why it went towards Two  
09 Section?  
10 A. Do I have any idea?  
11 Q. Yes, sir.  
12 A. The door was open or a  
13 stopping out.  
14 Q. Are you aware of any stoppings  
15 that are out that would have allowed  
16 that to happen?  
17 A. Yes, I am now. I've been up  
18 there.  
19 Q. Prior to the 19th ---

20 A. No.  
21 Q. --- would you have ---  
22 A. No.  
23 Q. --- thought that would have  
24 happened?  
25 A. No. No, sir.

90

01 Q. So when you walked out the  
02 escapeway, did you come down and go  
03 across the overcast at the double  
04 doors or would you travel through the  
05 double doors?  
06 A. Come down through the  
07 overcast, walked up on the overcast,  
08 but I was on a ride. Then got back  
09 on my ride and went back around and  
10 back through the double doors and  
11 that. I was on a diesel mantrip.  
12 And I rode its entry down through  
13 there is what I done. Because see  
14 where the structure was in, they only  
15 had one road you could go up and down  
16 the three breaks right there.  
17 Q. So you'd ride out the  
18 travelway?  
19 A. Yes. I rode up on the  
20 travelway and then I come down the  
21 top stopping line against the 48-inch  
22 belt, all the way down to the

23 overcast and then I went back and  
24 back around is how I done it.

25 Q. Okay. So you could ride down

91

01 the entire entry beside the 48-inch  
02 belt?

03 A. Yes. Yes.

04 Q. And then when --- you'd go all  
05 the way to the overcast and then turn  
06 around and come back?

07 A. Uh-huh (yes).

08 Q. And then where would you go  
09 through at to get back over to the  
10 travelway?

11 A. Under the belt. Through the  
12 double doors and under the belt.

13 Q. So you'd have to come back  
14 into the travelway ---

15 A. Uh-huh (yes).

16 Q. --- on the inby side of ---

17 A. Well, you'd have to go all the  
18 way ---.

19 Q. --- the double doors ---?

20 A. I would have to all the way  
21 back up almost to Nine Tailgate  
22 because that's where the roadway was  
23 until they had the fall right in  
24 here. And this here was the road

25 that come off. I think right there

92

01 where they come back up at the  
02 mantrip, where the mantrip was, you  
03 went over two --- down two more  
04 breaks and then you made a left and  
05 went down and down the roadway.

06 Q. Okay.

07 A. That was the only road going  
08 from this entry down here to this  
09 entry up here.

10 Q. In between the inby set of  
11 double doors, did you notice a  
12 stopping in that crosscut?

13 A. The inby set of double doors?

14 Q. Yeah, in the travelway. Was  
15 there ever a stopping?

16 A. Yes, there was.

17 Q. Do you have any idea why they  
18 took it out or ---?

19 A. No, sir, I don't.

20 Q. When they took it out, did you  
21 discuss it with anybody?

22 A. No, sir, I didn't.

23 Q. Would you have ever went over  
24 --- I know you ride your ride  
25 primarily in the travelway.

93

01 A. Uh-huh (yes).

02 Q. Would you ever have reason to  
03 go over to the tailpiece of the  
04 Number Seven Belt?

05 A. No. The only way I'd go to a  
06 belt, would be if I smelled something  
07 hot, then I would go to it. That  
08 would be the only time I'd go to a  
09 belt.

10 Q. Do you recall when you first  
11 noticed the stopping out between the  
12 doors?

13 A. No, I do not.

14 MR. TUCKER:

15 That's all I have for  
16 now. Thank you.

17 BY MR. WEBB:

18 Q. Okay. And you may hear this  
19 quite often from us. Just a few more  
20 questions. That's something you may  
21 hear. When you examine the Number  
22 One main seal, that really puts you  
23 in that same area with the Number Two  
24 Section belt?

25 A. Yes.

94

01 Q. Can you tell the air direction  
02 on the Number Two ---

03 A. Yes.

04 Q. --- on that belt?

05 A. Uh-huh (yes).

06 Q. The last time you were up

07 there, do you remember --- prior to

08 the fire, do you remember when that

09 was?

10 A. I think it was the week

11 before. I think.

12 Q. Do you remember which way the

13 air was going ---?

14 A. Yes, the air was going toward

15 the section.

16 Q. The air was going toward the

17 section?

18 A. Yes, sir.

19 Q. As an airway examiner, if you

20 observe a ventilation control that's

21 being --- that has been taken out,

22 would you consider that to be a

23 hazard?

24 A. It was taken out, I would

25 think it was a change.

95

01 Q. Just the fact that it was

02 taken out, would you consider that

03 worth reporting to anyone?

04 A. No, sir, I would just think it

05 was a change.

06 Q. Now, if you had seen the

07 stopping that had partially fallen  
08 out or crushed by a roof fall ---  
09 A. Yes, you would ---  
10 Q. --- you would consider that?  
11 A. It's an immediate. Yes. Yes.  
12 Q. How do you conduct your  
13 examinations, are you --- do you ride  
14 anything or are you on foot?  
15 A. Just this one part, ride this  
16 main intake from the Threeway. I can  
17 ride it all the way up to this.  
18 Q. Okay. So when you're  
19 examining the main intake on north  
20 mains, ---  
21 A. Yes.  
22 Q. --- and the main intake on  
23 northeast mains ---  
24 A. Northeast mains.  
25 Q. --- you can ride that part?

96

01 A. All except the overcast, have  
02 to come down and go on the overcast.  
03 That's it.  
04 Q. And you get off of the piece  
05 of equipment to go over there to the  
06 overcast?  
07 A. Yeah, you look up on the  
08 overcast, yes.

09 Q. And why do you do that?

10 A. Make sure there ain't no holes  
11 in it.

12 Q. Okay. Do you take an air  
13 reading in that location?

14 A. No, sir, not right there.

15 Q. Okay. Do you feel like that  
16 you can conduct an adequate weekly  
17 examination of those areas where you  
18 ride ---

19 A. Yeah.

20 Q. --- while you're on that piece  
21 of equipment?

22 A. Yes.

23 Q. And you make --- the remainder  
24 of your examinations, are they made  
25 on foot?

97

01 A. On foot.

02 Q. All right. Prior to the 19th,  
03 do you remember when was the last  
04 time you walked the northeast mains?

05 A. Up here?

06 Q. Yeah, up in northeast mains.

07 A. I'm thinking it was on the  
08 17th.

09 Q. Did you travel the primary  
10 escapeway on that day?

11 A. I went through it and down



12 this one that was marked, yes, sir, I  
13 did.

14 Q. Did you examine the alternate  
15 escapeway off of that section?

16 A. No, sir.

17 Q. You did not?

18 A. No.

19 MR. WEBB:

20 Bill?

21 BY MR. TUCKER:

22 Q. Could you hear roof working  
23 when you're riding on a diesel ride?

24 A. No, sir. You can see it  
25 flaking.

98

01 Q. Okay. And I may have already  
02 asked you this, John. The stopping  
03 that we talked about, did you report  
04 that stopping out to anyone?

05 A. No. I didn't know it.

06 Q. I mean the one in between the  
07 doors that you had noticed out?

08 A. Oh, no. No, sir. No, sir.

09 Q. Okay.

10 MR. TUCKER:

11 That's all I have.

12 BY MR. WEBB:

13 Q. I have one more. And I may be

14 repeating myself, but in northeast  
15 mains during your examinations, when  
16 was the last time that you traveled  
17 the alternate escapeway?

18 A. I think the last time I was in  
19 the alternate escapeway, it seems  
20 like I come up here with --- me and  
21 Jeff when they checked that CO right  
22 there. Let's see, where was it at?  
23 Right here.

24 Q. Checked a CO sensor?

25 A. On the tailpiece, yes.

99

01 Q. Okay.

02 A. Unless I'm wrong, this belt  
03 tailpiece. Right here at Number Two  
04 Belt head.

05 Q. Okay. Have you ever  
06 participated in what you might call a  
07 six-week escapeway drill, the one  
08 that you're required to have?

09 A. Yes, I've done that on the  
10 belt, the last one I done.

11 Q. Okay. And can you tell me  
12 which area you would have traveled on  
13 that drill?

14 A. Which area?

15 Q. Yes.

16 A. If you had a fire at Number

17 Six Belt head, you just come over  
18 into your primary escapeway.

19 Q. Okay. And then ---?

20 A. Follow your escapeway out.

21 Q. And that's the one you  
22 participated in?

23 A. Yes.

24 MR. WEBB:

25 All right. John, on

100

01 behalf of MSHA --- oh, I'm  
02 sorry. I need to give Mr.  
03 Heath an opportunity to ask  
04 any clarifying questions.

05 ATTORNEY HEATH:

06 Yeah. Just two  
07 actually.

08 BY ATTORNEY HEATH:

09 Q. John, the first map they had  
10 you draw is marked as Exhibit A.

11 A. Yes.

12 Q. You drew that today without  
13 actually looking at Exhibit C; right?

14 A. Yes. Yes.

15 Q. And it's been about 60 days  
16 since you did that type, since before  
17 the trial --- the fire?

18 A. Before the 19th, yes.

19 Q. Okay. And as far as any  
20 differences in your travel route,  
21 would map C be the map you prepared  
22 while you were actually doing that  
23 route?

24 A. I don't understand. I'm  
25 sorry.

101

01 Q. I'll rephrase that, that's not  
02 a good phrasing. You actually  
03 prepared map C about a week before  
04 the fire?

05 A. Yes, sir.

06 Q. Yes?

07 A. Yes.

08 Q. Okay. And so when you  
09 actually drew this map up, you were  
10 doing the exam on these routes in  
11 other words?

12 A. Yes.

13 Q. Okay.

14 A. This was in the process of  
15 them making this the intake for the  
16 setup coming down this entry right  
17 here. And that's another one that  
18 I've added and this seal. When  
19 Minnes wanted us to build a stopping  
20 and direct more air into this seal  
21 and they laid it out right here in

22 this return. So that's two more that  
23 I picked up.

24 Q. All right. But as far as the  
25 route that you're traveling, say, the

102

01 week of the 19th of January, is this  
02 map going to be the more accurate of  
03 all the areas that you walked and  
04 rode?

05 A. Yes.

06 Q. Okay.

07 ATTORNEY HEATH:

08 That's all I have.

09 MR. WEBB:

10 Based on your  
11 responses, I do have a couple  
12 extra questions.

13 A. Okay.

14 BY MR. WEBB:

15 Q. Can you point out for me where  
16 --- well, first of all, who is  
17 Minnes?

18 A. He's an MSHA inspector, Minnes  
19 Justice.

20 Q. Minnes Justice?

21 A. Yes, sir.

22 Q. Can you point out where he  
23 wanted a stopping built?

24 A. He wanted a half stopping  
25 built coming off the belt line right

103

01 here.

02 ATTORNEY HEATH:

03 Did you say a half  
04 stopping?

05 A. Yes.

06 BY MR. WEBB:

07 Q. So he wanted a half stopping  
08 built ---?

09 A. Yes. And he wanted it to come  
10 out two foot.

11 Q. At the ---?

12 A. We only had curtain right here  
13 turning it up into the seal right  
14 here.

15 Q. In the belt entry?

16 A. Off this belt entry, yes.

17 Q. At the intersection of  
18 northeast mains and ---

19 A. That's Nine Tailgate.

20 Q. --- Nine Tailgate? And the  
21 purpose for that stopping?

22 A. Is to direct more air up into  
23 here and then he wanted us to put a  
24 stopping line through here and  
25 regulate it out in to the return. So

104

01 it would have to be made weekly  
02 instead of daily. They was making it  
03 daily. That was the purpose of it.

04 Q. And one last question. Based  
05 on your experience as a mine foreman  
06 and as an airway examiner, do you  
07 have an opinion on what could have  
08 caused the fire?

09 A. An opinion? No, sir. I would  
10 be afraid to say. I really would.

11 ATTORNEY HEATH:

12 Nothing further.

13 MR. WEBB:

14 Okay. John, on behalf  
15 of MSHA, I want to thank you  
16 for appearing here today and  
17 answering our questions.

18 A. Okay.

19 MR. WEBB:

20 And I want to thank you  
21 for sharing your information  
22 with us about the mine. Your  
23 cooperation is appreciated and  
24 it's very important to us as  
25 we work towards to trying to

105

01 determine the cause of the  
02 accident. If you wish, you can

03 go back over any answer that  
04 you've given during the  
05 interview. You can also make  
06 a closing statement if you  
07 would like to covering any  
08 additional points that you  
09 believe should be raised.

10 A. No, sir.

11 MR. WEBB:

12 Okay. We'd like to ask  
13 that you not discuss your  
14 interview today with anybody  
15 that has already been  
16 interviewed or anybody who may  
17 be interviewed in the future.

18 We want to ensure that we get  
19 everybody's independent memory  
20 of the events surrounding the  
21 accident. After questioning  
22 other witnesses and obtaining  
23 additional information, we may  
24 ask you back for some further  
25 questions. If at some later

106

01 point, you have additional  
02 information regarding the  
03 accident that you think would  
04 be important to us, I'd like  
05 to ask that you contact either



06 Kenneth Murray. He's the  
07 District manager in MSHA's  
08 District Six in Pikeville,  
09 Kentucky and he is the  
10 accident team leader. Or you  
11 can contact me. I am also out  
12 of District Six and we have  
13 some business cards with our  
14 phone numbers on them.

15 And in addition the  
16 Mine Act provides certain  
17 protection for individuals who  
18 participate in accident  
19 investigations. So if at any  
20 time, you believe that you  
21 have been treated unfairly  
22 because of your cooperation in  
23 the investigation, please  
24 immediately contact either Mr.  
25 Murray or myself. And I think

107

01 Mr. Tucker has a closing  
02 statement as well.

03 MR. TUCKER:

04 Yes, sir. On behalf of  
05 the State, I'd also like to  
06 thank you for coming in today,  
07 John. And to mention to you

08 that the State law also  
09 provides protection against  
10 being discriminated against  
11 for reporting safety  
12 violations or things of that  
13 nature. Here's my card if you  
14 need to contact me. And this  
15 is C.A. Phillips' card. He's  
16 our Deputy Director out of our  
17 Charleston office.

18 A. Okay.

19 MR. WEBB:

20 Once again, John, we  
21 ---.

22 ATTORNEY HEATH:

23 He would like a copy of  
24 his transcript. He realizes  
25 that's going to be at the end

108

01 of the process.

02 MR. WEBB:

03 I think so. I think  
04 that opportunity is mentioned  
05 in his letter there.

06 ATTORNEY HEATH:

07 All right.

08 MR. WEBB:

09 John ---.

10 A. Oh, I do get a copy of it?

11 MR. WEBB:

12 Yes.

13 A. Okay.

14 MR. WEBB:

15 John, we really

16 appreciate it. Thank you

17 \* \* \* \* \*

18 EXAMINATION CONCLUDED AT 4:30 P.M.

19 \* \* \* \* \*

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