

01 EXAMINATION UNDER OATH
02 OF
03 RODNEY KEITH MORRISON
04
05
06
07 Taken pursuant to Notice by Autumn D.
08 Furby-Pritt, a Court Reporter and
09 Notary Public in and for the State of
10 West Virginia, at Department of
11 Environmental Protection, 1101 George
12 Kostas Drive, Logan, West Virginia on
13 Tuesday, March 14, 2006, at 3:19 p.m.

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

02
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3

01 A P P E A R A N C E S (continued)
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04 Spilman, Thomas & Battle, PLLC

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08 Charleston, WV 25321-0273

09
10

11 ALSO PRESENT:

12 ANTHONY BURKE

13 ARLIE A. WEBB

14 RONALD W. STAHLHUT

15 MICHAEL FINNIE

16 DENNIS A. BEITER

17 E. EUGENE WHITE

18 STEVE COX

19 C.A. PHILLIPS

20 BETH SPENCE

21

22

23

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01 I N D E X

02

03 WITNESS: RODNEY Keith MORRISON

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

02 -----

03 MR. FRANCCART:

04 My name is Bill
05 Francart and I represent the
06 Mine Safety & 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 is charged with

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

23 Here with me today are
24 other members of MSHA's team
25 and the State's team. MSHA's

7

01 team includes various
02 specialists and members of the
03 Solicitor's office. At this
04 time, we'd like to ask each of
05 the members of MSHA's team to
06 identify themselves for the
07 record and for you. Denny?

08 MR. BEITER:

09 Hi. My name's Denny
10 Beiter. I work for MSHA in
11 tech support in the
12 Ventilation Division out of
13 Triadelphia, West Virginia.

14 MR. WEBB:

15 I'm Anthony Webb with
16 MSHA in Pikeville, Kentucky.

17 MR. STAHLHUT:

18 Ron Stahlhut, MSHA,
19 Vincennes, Indiana.

20 ATTORNEY BELL:

21 Keith Bell, Solicitor's
22 office, Arlington, Virginia.

23 MR. FINNIE:

24 Mike Finnie, MSHA,
25 Madisonville, Kentucky.

8

01 MR. BURKE:

02 I'm Tony Burke, MSHA,
03 Whitesburg, Kentucky.

04 MR. FRANCCART:

05 Thank you. Here also
06 today, representing the State
07 of West Virginia, is Mr. Bill
08 Tucker, to my left. Mr.
09 Tucker will be asking the
10 questions for the State. And
11 he has an opening statement
12 for you, also.

13 MR. TUCKER:

14 The West Virginia
15 Office of Miners' Health,
16 Safety & Training is

17 conducting this interview
18 session jointly with MSHA and
19 we are in agreement with the
20 procedures outlined by Mr.
21 Francart. However, let me
22 make it clear that the
23 Director reserves the right,
24 if necessary, to call or
25 subpoena witnesses or require

9

01 the production of any record,
02 document, photograph or other
03 relevant materials necessary
04 to conduct this investigation.

05 Okay. My name's Bill
06 Tucker and I work out of the
07 Oak Hill office for Miners'
08 Health, Safety and Training.

09 MR. PHILLIPS:

10 How are you doing, Rod?
11 My name is C.A. Phillips. I'm
12 the Deputy Director of Miners'
13 Health, Safety and Training in
14 Charleston, West Virginia.

15 MR. COX:

16 Steve Cox, Region Three
17 in Danville.

18 MR. WHITE:

19 Eugene White, district

20 inspector, Region Three,
21 Danville.

22 MS. SPENCE:

23 Beth Spence with the
24 Governor's office.

25 MR. FRANCCART:

10

01 Okay. Thanks, Bill.

02 MR. TUCKER:

03 Thank you.

04 MR. FRANCCART:

05 This investigation is
06 being conducted by MSHA and
07 the State of West Virginia to
08 gather information and to
09 determine the cause of the
10 accident and to help prevent
11 this from happening in the
12 future. These interviews are
13 an important part of that
14 investigation. After the
15 investigation is completed,
16 MSHA will issue a written
17 report detailing the nature
18 and causes of the accident.
19 MSHA accident reports are made
20 available to the public in the
21 hope that greater awareness

22 about the causes of the
23 accidents can reduce their
24 occurrence in the future.
25 Information obtained through

11

01 the witness interviews is
02 frequently included in these
03 reports. Your statement may
04 be also used in other
05 enforcement proceedings.

06 I thank you in advance
07 for your appearance here
08 today. We appreciate your
09 assistance in the
10 investigation. And the
11 willingness of miners and mine
12 operators is very important to
13 us to succeed in making our
14 nation's mines safer.

15 This interview with Rod
16 Morrison is being conducted
17 under Section 103(a) of the
18 Federal Mine Safety & Health
19 Act of 1977 as part of an
20 investigation by the Mine
21 Safety & Health Administration
22 into the conditions, events
23 and circumstances surrounding
24 the fatalities that occurred

25 at the Aracoma Alma Number One

12

01 Mine, located at Route 17
02 North, Bandmill Hollow Road,
03 Stollings, West Virginia
04 25646.

05 This interview is being
06 conducted at the State of West
07 Virginia Department of
08 Environmental Protection,
09 Division of Mining and
10 Reclamation in Logan, West
11 Virginia on March 14th, 2006.

12 The current time is 3:23 p.m.

13 Mr. Morrison, the
14 interview will begin by asking
15 you a series of questions.
16 Feel free at any time to
17 clarify any statements that
18 you make in response to the
19 questions. After we've
20 finished asking the questions,
21 you will have an opportunity
22 to make a statement of your
23 own and provide us with any
24 additional information you may
25 think is important to the

13

01 investigation.

02 You are permitted to
03 have a representative with you
04 during this interview and you
05 may consult with your
06 representative at any time.

07 You may designate any person
08 to be your representative.

09 Following the questions by
10 MSHA and the State, this
11 representative will be given
12 the opportunity to ask
13 questions for the purpose of
14 clarification on areas already
15 discussed.

16 Your statement is
17 completely voluntary. You may
18 refuse to answer any question
19 at any time, and you may end
20 your interview at any time.

21 If you do not understand a
22 question, please let me know,
23 and I'll try to clarify the
24 question or rephrase it for
25 you. If you need a break for

14

01 any reason, let us know and
02 we'll take a break.

03 You may request the

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

17 MR. MORRISON:

18 No, sir.

19 MR. FRANCAERT:

20 We have a court
21 reporter who will be recording
22 your interview and later will
23 be producing a written
24 transcript of the interview.
25 We ask that you state all your

15

01 answers verbally, because we
02 can't record your gestures
03 such as nodding your head yes
04 or no.

05 MR. MORRISON:

06 Yes, sir.

07 MR. FRANCCART:

08 Neither the transcript
09 nor the contents will be
10 released to the public until
11 the MSHA investigation is
12 completed and the accident
13 report is released, or as
14 required by court order or if
15 public hearings are held on
16 the accident.

17 If any part of your
18 statement is based not on your
19 own firsthand knowledge, but
20 information you've learned
21 from somebody else, please let
22 us know. And please answer
23 each question as fully as you
24 can, including any information
25 you've learned from someone

16

01 else. We may not ask all the
02 right questions to learn what
03 you know. So if you have any
04 information you feel we need
05 to know, please let us know.
06 you have any questions about
07 the manner in which the
08 interview will be conducted?

Do

09 MR. MORRISON:

10 No, sir.

11 MR. FRANCCART:

12 Now, I'll ask the court

13 reporter to administer the

14 oath.

15 -----

16 RODNEY KEITH MORRISON, HAVING FIRST

17 BEEN DULY SWORN, TESTIFIED AS

18 FOLLOWS:

19 -----

20 BY MR. FRANCCART:

21 Q. Could you please state your

22 full name, address and telephone

23 number for the record, please?

24 [REDACTED]

[REDACTED]

04 Q. And could you please spell

05 your last name for the record?

06 A. M-O-R-R-I-S-O-N.

07 Q. Thank you. Are you appearing

08 voluntarily at this interview?

09 A. Yes, sir.

10 Q. Has anyone made any promises

11 to you for giving this statement or
12 offered you any rewards in exchange
13 for making your statement today?

14 A. No, sir.

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

18 A. No, sir.

19 Q. Do you understand that you may
20 refuse to answer any question or
21 terminate this interview at any time?

22 A. Yes, sir.

23 Q. Do you have a representative
24 with you today?

25 A. Yes, sir. I've got Mr. Hardy.

18

01 Q. And his name is ---?

02 A. Dave Hardy.

03 Q. David Hardy. Thank you. Have
04 you been made aware that Mr. Hardy
05 also represents the company in this
06 matter, and there is a potential for
07 a conflict of interest to arise
08 between yourself and the company?

09 A. Yes, sir.

10 Q. And you want to proceed with
11 Mr. Hardy as your representative
12 despite the potential for that
13 conflict of interest?

14 A. Yes, sir.

15 Q. Okay. Thank you. Can I call
16 you Rod?

17 A. Yes, sir.

18 Q. Thank you. Rod, how long have
19 you worked at Aracoma Alma Mine
20 Number One?

21 A. I was there one year February
22 10th, make it a year.

23 Q. And what's your current job
24 title?

25 A. I'm assistant superintendent

19

01 longwall manager.

02 Q. And that was your position on
03 the 19th of 2006 in January?

04 A. Yes, sir.

05 Q. How long have you had that
06 position?

07 A. What time I've been at the
08 mine. From the time I started, yes,
09 sir.

10 Q. And you're considered a member
11 of mine management?

12 A. Yes, sir.

13 Q. And who do you supervise?

14 A. Primarily, my focus has been
15 directly with the longwall what time

16 I've been there. The longwall
17 coordinator, the assistant
18 coordinator answer directly to me.
19 Q. So how many employees do you
20 supervise, do you think?
21 A. Well, in all actuality, I can
22 go ahead and count my face crews.
23 But actually, I expect my coordinator
24 and my assistant coordinator to take
25 care of those crews. They answer to

20

01 me. I've got two people to worry
02 about and that's them. It's their
03 job to take care of the foreman, the
04 foreman's job to take care of the
05 crew.

06 Q. Okay. And who do you report
07 to at the mine?

08 A. I report to Pepé Lester and
09 Greg Goff.

10 Q. And which one of those would
11 be your direct supervisor?

12 A. Pepé Lester.

13 Q. And then Gary would be Pepé's
14 boss?

15 A. Yes, sir.

16 Q. And Gary, is he the top
17 manager at the mine?

18 A. He is general manager at the

19 mine, yes, sir.

20 Q. Is there anybody above him at
21 the mine?

22 A. We've got Eddie Lester as
23 senior vice president, Sid Young
24 being the president of Aracoma. But
25 right at that mine, yes, sir.

21

01 Q. And have you worked at other
02 mines?

03 A. Yes, sir.

04 Q. Which mines would they be?

05 A. I was previously at Mingo
06 Logan for Arch. I'd been there 12
07 and a half years. I've worked at
08 various small operations. I can name
09 some if you need them. I'd actually
10 worked for Massey back during the
11 strike in the '80s. I worked through
12 the strike from Massey. I was with
13 them about five years at that time.

14 Q. How many total years mining
15 experience do you have?

16 A. I've got right at 19 years.

17 Q. And the other mines you worked
18 in, they had longwalls also?

19 A. One. Mingo Logan.

20 Q. Mingo Logan?

21 A. Yes, sir.

22 Q. That's the only mine?

23 A. Yes, sir.

24 Q. Okay. If you can think back

25 to January 19th, what shift were you

22

01 scheduled to work that day?

02 A. I work dayshift.

03 Q. Dayshift. And the fire crew

04 on afternoon shift. So you, in a

05 sense, doubled out; I guess?

06 A. Yes, sir. I did a crew on the

07 evening shift.

08 Q. So when was your dayshift

09 scheduled to start and end?

10 A. Sir?

11 Q. When was your dayshift

12 scheduled to start and end?

13 A. 6:30, longwall actually worked

14 6:30 to 4:30.

15 Q. And was your supervisor at the

16 mine that day?

17 A. Yes, sir. Well, my supervisor

18 --- let me correct that. My

19 coordinator had been off having

20 gallbladder surgery. He was not

21 there. I had an assistant there. At

22 that particular time, I was actually

23 filling in for a face boss. So I had

24 neither one of them in their
25 capacity. And my coordinator had

23

01 been off.

02 Q. Now, when you say you're
03 longwall assistant superintendent, is
04 that your title?

05 A. I'm assistant superintendent
06 and longwall manager.

07 Q. So those are two concurrent
08 titles, or how does that work,
09 exactly?

10 A. Pretty much what time I've
11 been there, pretty much it is a
12 concurrent title, but it's been one
13 in the same. My primary focus from
14 the time I've been at that coal mine
15 has been longwall. That's pretty
16 much all I do at that mine.

17 Q. Okay. Are there other
18 assistant superintendents in the
19 mine?

20 A. No, sir.

21 Q. So you oversee the longwall
22 primarily, just you?

23 A. Yes, sir.

24 Q. Could you just run through
25 your day on the 19th, from when you

01 got to the mine, what you did that
02 day, up to the time that you learned
03 of the fire?
04 Q. I'd arrived at the mine
05 probably approximately 6:00 a.m.
06 Done my usual. Done my paperwork,
07 the whole nine yards, just kind of
08 getting the day started. David Duff
09 from Massey Coal Services showed up.
10 And we actually were running time
11 studies --- well, he was running time
12 studies on the longwall that
13 particular day. I had some walking I
14 needed to do, just to look about,
15 going to set up face, just kind of
16 getting around looking at things.
17 Dave asked if he could accompany me.
18 I spent all day on foot with him with
19 me. I'd actually been to Ten
20 headgate and up. And probably got
21 outside, I'm going to tell you, you
22 know, this cannot be an exact time.
23 I'm going to tell you approximately
24 four o'clock, 4:00 p.m., somewhere in
25 that neighborhood when I arrived

01 outside. You want leading up to me -
02 --

03 Q. Sure.

04 A. --- learning. Somewhere

05 around --- when I got out, I had a

06 few calls to make. Pretty well the

07 routine. Paperwork to wrap up.

08 Again, I cannot give you an exact

09 time, because I did not look at my

10 watch. I made no bones about it.

11 I'm going to tell you that at

12 approximately 6:00 p.m., somewhere in

13 that neighborhood, I was getting

14 ready to leave the building. I was

15 getting ready to get in the truck and

16 go home. I had my dinner bucket in

17 my hand. The longwall maintenance

18 chief, Bob Massey, seen me getting

19 ready to leave. And that time told

20 me, he said, Rod, he said, I just got

21 in on the tail end of a conversation.

22 He said, there may be a fire at the

23 mother drive. He said, I have no ---

24 he knew no more than that. And I

25 asked him immediately who he'd been

26

01 talking to. Or who he heard,

02 overheard. And he told me he had

03 overheard Mike Brown, the dispatcher,

04 talking to who he thought to be Bryan

05 Cabell.

06 Q. And that was on the pager
07 phone?

08 A. Yes, sir. That was on the
09 mine phone.

10 Q. Okay. So then what did you do
11 after you learned about the fire?

12 A. As quick as Bob had told me
13 what he had, I grabbed the phone and
14 got ahold of Mike immediately. And I
15 asked Mike, who was he talking to.
16 And if there were, in fact, a fire at
17 the mother drive area. He told me
18 that he had just got off the phone
19 with Bryan and that he thought that
20 they had been trying to extinguish a
21 fire at the mother drive area. And
22 that Bryan told him that he had used
23 --- and again, this --- I can't give
24 you this exact, but something to this
25 effect. He thought he had used two

27

01 extinguishers on a small fire. And
02 he was not sure if he'd extinguished
03 it or not, that Bryan instructed him
04 --- told him that he was trying to
05 hook water up in case he needed it
06 for the fire. That's what Mike told
07 me.

08 Q. What did Bob Massey tell you
09 that he thought they had at the
10 longwall as far as ---?

11 A. Bob got in on the tail end of
12 the conversation. Why he even had
13 the phone to his ear, you know, I
14 can't tell you. He tells me that he
15 was sure it was Mike and thought that
16 it may have been Bryan Cabell talking
17 to him. And he just got bits and
18 pieces of a possible fire in the
19 mother drive area.

20 Q. That's what he called it,
21 though, a possible fire?

22 A. Yes, sir.

23 Q. After you talked with Mr.
24 Brown on the phone, what did you do
25 then?

28

01 A. I then immediately asked him
02 where Fred Horton, he's the shift
03 mine foreman, was located. He told
04 me that he was not exactly sure where
05 he was. As quick as I got that
06 statement from him, I began calling
07 Fred myself on the mine phone. I'd
08 say in a matter of approximately 20
09 --- and again, I can tell you it was

10 less than half a minute, me probably
11 calling twice for Fred, Fred answered
12 the phone. And I asked Fred ---
13 never did ask Fred where he was at.
14 I have no idea where he was at when I
15 initially talked to him the first
16 time. But I asked him what he knew
17 about a fire at the mother drive
18 area. I said, have you talked to
19 Bryan? I said, what's going on? He
20 said, me --- he said, Billy Ray Hall
21 and his self, Billy Ray being the
22 chief electrician on the evening
23 shift, he said, we are on our way
24 right now. I told Fred at that
25 point, whenever he got there,

29

01 whenever he could find out some kind
02 of detail about what was going on, if
03 there were, in fact, a fire, call
04 back immediately. I said, let us
05 know something. And that's the
06 conversation I had with Fred as far
07 as he was going to the fire.

08 Q. Did Fred say he actually
09 talked to Bryan before he talked to
10 you?

11 A. No, sir. No, sir. He did
12 not. And I did not ask him. I did

13 ask him what he knew about it. And
14 he told me right then. He said, me
15 --- he said, Billy Ray and myself are
16 going that way right now.

17 Q. Any idea how long it was from
18 the time Bob told you about the fire
19 until you spoke with Fred?

20 A. I'm going to tell you probably
21 two and a half, three minutes.

22 Q. Pretty quick, then?

23 A. I mean, it was quick. You
24 know, I can't tell you nothing
25 precisely. I can be safe in saying

30

01 that's pretty approximate.

02 Q. Thank you. Let's go back to
03 Bob Massey's conversation that he
04 overheard. Did he hear Bryan Cabell
05 talking with Mr. Horton at that time,
06 is that your impression?

07 A. No, sir. He heard who he
08 thought was Bryan Cabell talking to
09 Mike Brown.

10 Q. Mike Brown? Okay.

11 A. Yes, sir. And he was not sure
12 at that point and may not be today.

13 The only person he felt sure about
14 was Mike Brown. He was not sure it

15 was Bryan he was talking to.

16 Q. Okay. Go ahead and continue

17 with what you did then after you

18 talked to Fred. He was going in to

19 investigate.

20 A. Right.

21 Q. Okay.

22 A. At that point, I left the

23 office immediately, went down and

24 went ahead and put my stuff on. Like

25 I said, I was going to the house.

31

01 Went directly to the dispatcher's

02 office in the box cut. Was

03 accompanied by Dusty Dotson, Bob

04 Massey, Terry Shadd and Ed Ellis, my

05 assistant coordinator who was filling

06 in on the face that day as the face

07 production boss on the longwall. And

08 we're talking, again, just a matter

09 of a few minutes. I mean, I never

10 even put coveralls or anything of

11 that nature on. I just grabbed my

12 hat and my light and my belt and was

13 standing beside of him in just a

14 matter of a few minutes. I asked him

15 at that point, while I'd been gone,

16 because I'd been away from the phone

17 getting dressed, if Fred hollered

18 back. He tells me again that he's
19 not heard anything from Fred. At
20 that point, I pick up the phone again
21 and call for Fred myself. Again, in
22 a matter of a short --- absolutely
23 can guarantee you less than a minute,
24 Fred responded to me. And I asked
25 him what was going on. He told me

32

01 that there were, in fact, a fire.
02 That Bryan told him he thought it had
03 originated in the storage unit,
04 something to that nature. I can't
05 --- word for word, I could be
06 straying there. But something to
07 that effect. And that it was hot
08 enough to where they were trying to
09 find a way to get to it to fight it.
10 At that point, the very next thing
11 --- see, I was going to ask Fred.
12 And it worked out good because he
13 done the right thing. He answered in
14 the same breath, told me in the same
15 breath that Bryan Cabell had told him
16 that he had personally notified the
17 longwall and Two Section. That was
18 going to be the question that I posed
19 to Fred. When he told me at that

20 point, in fact, that there was a
21 fire, was to make sure everybody'd
22 been notified. But he answered that
23 for me. That was the next thing out
24 of his mouth, when he told me they
25 was trying to find a way to get to

33

01 the fire to fight it. That Bryan
02 Cabell had told him, told Fred that
03 he, in fact, had already notified the
04 longwall and Two Section to evacuate
05 and what was going on.

06 Q. So you were in the box cut and
07 the dispatcher's office when that
08 order was given?

09 A. Yes, sir.

10 Q. And Fred is the one that told
11 you that the evacuation order had
12 been given already?

13 A. Yes, sir.

14 Q. And that Bryan had called both
15 the longwall and Two Section?

16 A. Yes, sir. That's what Fred
17 Horton told me.

18 Q. Okay. Did you go underground
19 at that point or was there anything
20 else you did on the surface before
21 that?

22 A. At that point, Dusty and the

23 rest of the guys I mentioned to you
24 were getting a diesel ride ready.
25 Had it ready, as a matter of fact,

34

01 sitting on it waiting on me.
02 Naturally, at that point, we were
03 going to go look regardless. But we
04 had, at that point, found out that
05 there, in fact, was a fire. We still
06 weren't sure of the magnitude, but
07 knew there was a fire. Also, knew
08 everybody had been notified. And at
09 that point, I instructed Mike Brown
10 to call Gary Goff, my manager, and
11 Pepé Lester, who had just left. I
12 mean, had just left the property.
13 And I was getting ready to go out
14 behind him. To page Pepé, page or
15 call Gary. And be sure and call
16 Dwayne Francisco. And I said, page
17 it out. I said, page out while we're
18 gone. And told him at that point if
19 anybody were to call, any of those
20 guys were to call, without a doubt,
21 they know they needed to be there and
22 what to do. And that we were on our
23 way underground to see if we could
24 assist.

25 Q. You instructed Mike to send

35

01 that page on the office system?

02 A. Yes, sir.

03 Q. Is that a pager you carry,
04 also?

05 A. Yes, sir, it is.

06 Q. Do you have it with you today?

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

08 Q. What kind of a message would
09 they give you?

10 A. I mean, it would come up word
11 for word, just like you'd wrote it on
12 a piece of paper or whatever, you
13 know, whatever he types. I'm sure
14 you're familiar with it. What I
15 wanted him to do is to be sure and
16 page that we, in fact, did have a
17 mine fire. And in the meantime, we'd
18 try and contact the appropriate
19 people that I named to him.

20 Q. Did you instruct Mike to send
21 any other pages out prior to that
22 point?

23 A. No, sir. No, sir. The only
24 thing that I told Mike to do
25 concerning the pager was after I'd

36

01 instructed him to contact Gary and

02 Pepé, which Gary actually ended up
03 calling. He had made it home and
04 actually called in there about
05 another matter. And I got to
06 personally talk to him before I left
07 for underground. I told him what was
08 going on. He immediately left coming
09 that way. But now, concerning the
10 pager, that's the only thing I told
11 him to do. I said, contact Pepé,
12 contact Gary, contact Dwayne and page
13 out on the pager, in fact, what is
14 going on and what we've got.

15 Q. Did you not instruct Mr. Brown
16 to send a page out regarding
17 production prior to that point?

18 A. No, sir.

19 Q. That the longwall was down for
20 any reason?

21 A. No, sir.

22 Q. Okay. We're ready to travel
23 in the mine. You're on the trip and
24 you're going in with this group.

25 A. Yes, sir.

37

01 Q. What did you do from that
02 point?

03 A. From that point, as we

04 proceeded inby, I told Dusty to let
05 me and Ed Ellis off at Two crosscut,
06 which would, in fact, take you
07 straight over to the Right Old Three
08 Section behind there. Naturally,
09 knowing everything on top of the hill
10 would be pulling down those tail
11 entries. Talking about a set of
12 airlock doors to help short-circuit
13 air off the top of the hill. And
14 that Ed and myself would see that
15 those doors were open. And that's
16 what we done. Me and Ed left the
17 vehicle, went to the airlock doors,
18 opened the doors and at that point,
19 went back to a mine phone that was
20 located on Four Right on the Nine
21 headgate end of it when you first
22 come into it there, in the travelway
23 down to Three.

24 MR. FRAN CART:

25 This is the point we

38

01 need to take a short break.
02 And it's a good place for us
03 to take a break. We'll go to
04 the map as soon as we come
05 back.

06 SHORT BREAK TAKEN

07 BY MR. FRANCCART:

08 Q. Rod?

09 A. Yes, sir.

10 Q. Before we send you up to the
11 map, I'm going to show you a --- I
12 don't know if you're familiar with
13 this or not. But this is a picture
14 of a paging log that we had taken the
15 day that the alpha reports were
16 downloaded for us at the mine. And
17 we're going to mark this as Exhibit
18 A-Morrison. And you've got to have
19 good eyes to read this. If you want
20 to borrow my reading glasses, you
21 can.

22 (Morrison Exhibit A
23 marked for
24 identification.)

25 A. No. I can see it. I can see

39

01 it.

02 WITNESS REVIEWS SAME

03 BY MR. FRANCCART:

04 Q. The message that has been sent
05 out to a number of people, Aracoma
06 longwall down on storage unit at
07 mother drive, was sent at 5:33 p.m.

08 A. Yes.

09 Q. And I think you got that
10 message, too, but it was on another
11 page. Do you remember receiving that
12 message?

13 A. No, sir. I wouldn't have been
14 looking at a message, because I was
15 right there. My pager had been in
16 the console of my truck.

17 Q. It's 5:30 p.m. Would that be
18 a typical time to send out a page for
19 production purposes?

20 A. Not unless you --- unless we
21 were down.

22 Q. So when the longwall goes
23 down, a page is sent out all the
24 time?

25 A. Yeah. If you're looking at

40

01 anything from say, approximately 30
02 minutes, it would be sent out, other
03 than your two-hour production report,
04 yes.

05 Q. Do you have any idea why Mike
06 Brown sent this? Is this a report
07 that he did on his own or did
08 somebody instruct him to do this?

09 A. Well, at 5:30, he could
10 actually have received a call from
11 somebody at the head. He could have

12 received a call.
13 Not that I know that he did. I do
14 not know. I do know that I did not
15 instruct him to do that. When I was
16 down there talking to Mike, actually,
17 at that particular time, and I cannot
18 give you a time. I cannot give you
19 an exact time. Just like I told you,
20 I cannot give you an exact time that
21 I actually realized or even heard
22 mention of a fire at the mother drive
23 head. I'm telling you that it was
24 somewhere in the neighborhood of six
25 o'clock, I'm supposing. And even at

41

01 that rate, that's at 5:30. He could
02 actually have got that from anybody
03 to page out. But it was not me.
04 That page that I'd instructed him to
05 send concerning the fire, as I told
06 you, it was along the 6:00-ish
07 neighborhood when I was in the
08 office. When I was down there, it
09 would have had to have been not long
10 after, but it would have had to have
11 been after six o'clock. That in no
12 way pertains to anything that I told
13 him to start with.

14 Q. So you're sure that you didn't
15 get into the box cut until after 6:00
16 p.m.?

17 A. Absolutely sure of that.

18 Q. Okay.

19 A. I can't give you an exact
20 time. But I know it was after 6:00.

21 Q. Okay. Thank you. We're going
22 to have you come up to the map and
23 let you pick your favorite color.

24 All right. We don't have the entire
25 mine on this map, of course, because

42

01 of the size restrictions. But we do
02 have the Threeway down here. If you
03 could mark for us your entrance how
04 you traveled into Four and Four
05 Right.

06 A. Just mark it on the map?

07 Q. Yes, please.

08 A. We traveled right here. Then
09 we come up Two track.

10 Q. So you've marked a line from
11 the Threeway into Four Right?

12 A. Right. We're actually in the
13 --- the main's right here. We got
14 off here at Ten crosscut as they ---
15 we pressed on toward the mother drive
16 head, me and Ed. Do you want me to

17 mark our travel route?

18 Q. Yes. If you could, that'd be
19 great.

20 A. We actually progressed on foot
21 into this Number Three entry. The
22 Old Three Section, turned right going
23 down the track.

24 Q. Okay. That's the double doors
25 at Nine tailgate, near the back end

43

01 of the wall?

02 A. Yes, sir.

03 Q. It shows on the map there are
04 four doors; is that correct?

05 A. Yes, sir.

06 Q. And which doors did you open?

07 A. Actually, we had these doors
08 right here. These ones right here is
09 all the same. These two doors.

10 Q. So the two interior doors on
11 that set of four?

12 A. These two here.

13 Q. So the two outside doors are
14 not installed in the mine?

15 A. No.

16 Q. Had they been installed at
17 some point and taken out, or were
18 they never installed?

19 A. They very well were installed.
20 I did not --- I did not, no. I've
21 never been there, and I didn't take
22 them out.
23 Q. Okay.
24 A. These two doors right here,
25 yes, sir.

44

01 Q. If you don't mind, I'm just
02 going to circle those two doors in
03 red so we're clear on these two doors
04 ---
05 A. Yes, sir.
06 Q. --- that you opened and mark
07 those the doors opened.
08 A. Yes, sir.
09 Q. And how far did you open those
10 doors?
11 A. Wide.
12 Q. Wide open?
13 A. Yes, sir.
14 Q. Are those equipment doors or
15 mandoors?
16 A. Those are equipment doors.
17 Airlock doors.
18 Q. Full-size, full-entry doors?
19 A. Yes, sir.
20 Q. And why did you open those
21 doors?

22 A. I opened those doors to
23 actually short-circuit everything
24 that I could. It actually was going
25 to be pulling off this tail. By the

45

01 time we had reached this point here,
02 smoke was already present.

03 Q. Could you mark that location
04 for us on there, please? Just put an
05 X.

06 A. This is approximate.

07 Q. And if you could just write
08 next to it, smoke encountered?

09 WITNESS COMPLIES

10 BY MR. FRANCAERT:

11 Q. Okay. And when you go to the
12 doors, this is a double set of single
13 doors, or are there two doors on each
14 door?

15 A. There's two doors on each
16 door. They are airlock doors.
17 Swing-open doors. A set here and
18 then a set there.

19 Q. And you opened both doors of
20 each set?

21 A. Yes, sir.

22 Q. And so they're both wide open?

23 A. Both wide open. Yes, sir.

24 Q. And why did you think that
25 that would work to sort of

46

01 short-circuit the air?

02 A. Yes, sir. And what I was
03 actually trying to do, in all
04 honesty, knew --- at that time, had
05 no idea for sure at that point, that
06 two men were even missing. But also
07 knew that, and did absolutely take
08 into consideration that if anybody
09 for any reason were to come off of
10 that tail. By the time that Ed Ellis
11 and myself had come right here,
12 they'd be there. But they were not
13 there by the time we got there.

14 There was not a doubt in my mind that
15 they were there somewhere. At that
16 point, had no idea that they were
17 even missing, but I did take that
18 into consideration before them doors
19 were ever open. Because naturally,
20 it's going to draw everything down in
21 the head and the more help we could
22 give it, the more it's going to suck
23 off those guys that they won't have
24 to be out there by themselves.

25 Q. And who made the decision to

47

01 open those two doors?

02 A. I did.

03 Q. That was your decision?

04 A. Yes, sir.

05 Q. Fred didn't talk to you about

06 that before you did it?

07 A. No, sir.

08 Q. How about Eddie Lester?

09 A. No, sir. I had all intentions

10 --- not at that point. I wouldn't

11 say --- if me and Eddie talked about

12 it, it was after the fact. That was

13 where I instructed Dusty to drop me

14 and Ed off with those intentions.

15 Q. So Dusty knew you were going

16 to go open those two doors?

17 A. Yes, sir.

18 Q. Did he tell you afterward if

19 that had any effect on the

20 ventilation up here once he got up to

21 the headgate?

22 A. No, sir. I never talked to

23 Dusty after that point, when he had

24 dropped us off. Do you want me ---

25 well, you ask the questions.

01 Q. Go ahead. Whatever you're

02 saying. Continue with that thought.

03 A. We opened the doors. At that
04 point, I contacted --- come back to
05 the phone, had a phone in this
06 location, approximately right here.
07 Q. If you'd mark that with grey,
08 please? And label the phone for me,
09 please.
10 A. Okay. I'll just put that
11 right here.
12 Q. Okay. Thank you. Go ahead.
13 I'm sorry.
14 A. I actually talked to Fred at
15 this point and here.
16 Q. And where was Fred at that
17 time?
18 A. At that time, I cannot tell
19 you exactly where he was at. I know
20 he had been somewhere around the
21 mother drive head. And at that time,
22 I talked to him. And my question
23 being to him had been, had it gotten
24 worse. And my question to him first
25 and foremost was did we account of
49
01 all the people, all the men? He was
02 standing there with everybody from
03 the longwall crew and standing there
04 with everybody from Number Two
05 Section except for two men. At that

06 time, I asked him who they were, and
07 he told me.

08 Q. So you opened the doors and
09 you came back out and talked on the
10 phone?

11 A. Right here at this one.

12 Q. Did you have smoke at the
13 phone location at that point?

14 A. No, sir. No, sir.

15 Q. Is that the same entry as the
16 location you marked before where the
17 smoke was encountered?

18 A. Yes, sir.

19 Q. And what direction is that
20 smoke going at that point that you
21 encountered smoke?

22 A. That smoke was going in this
23 direction.

24 Q. So it was going inby on Old
25 Number Three Section?

50

01 A. Yes, sir.

02 Q. And when you came in here, the
03 air was at your back then?

04 A. Yes, sir.

05 Q. When you came in Four Right?

06 A. Yes, it was.

07 Q. So would that be an intake

08 entry?

09 A. Yes, sir, it is.

10 Q. Okay. But then continue.

11 After you talked to Fred on the
12 phone, what did you do at that point?

13 A. After I talked to Fred on the
14 phone at that time, I asked him if
15 everybody had been accounted for. He
16 told me everybody had except for
17 those two men. At that point, Gary
18 Goff come on the phone. And I talked
19 to Gary to make sure that mine rescue
20 was on the way at the time which he
21 assured me that they was. Eddie
22 Lester --- at some point in that time
23 frame right there, I did have a
24 conversation, maybe two of them.
25 I don't know for sure what all was

51

01 even discussed, but it was all
02 pertaining to that sort of thing.

03 And I had already talked to Gary and
04 he assured me that they were --- he
05 was hoping they were en route, they
06 had been contacted. And everybody
07 was supposed to have been notified.

08 So at that point, Ed and
09 myself worked our way back. After
10 going back, we walked back to this

11 location again.

12 Q. Where you encountered the
13 smoke?

14 A. Yes.

15 Q. Okay.

16 A. Just looking. I'll double
17 check. Because all the way out,
18 there was a possibility of them
19 coming out of there. We had already
20 marked an escape route for them. It
21 was always a possibility for them to
22 get out of the mine, you know,
23 knowing they'll go where they can.
24 There was always a possibility for
25 them to get out of there. We went

52

01 back, went all the rides if they had
02 chosen that route. The wouldn't have
03 been standing there. They'd have
04 been out by the time we got there the
05 first time.

06 Q. Any idea what time it was when
07 you got to that point?

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

09 Q. Time goes so fast.

10 A. I honestly don't --- I do not
11 know.

12 Q. Okay. You went back in and

13 looked for them. At what point did
14 you decide to come back out, then?
15 A. We was probably --- now, like
16 I said, we didn't get up in here
17 venturing --- you know, go venturing
18 in, because we knew if we seen them,
19 especially to find out there were two
20 missing. And we would see them down
21 in this location because they would
22 have knowed where to go. If they
23 had, in fact, chosen this route off
24 the top of the hill coming that way.
25 Granted, when we didn't see them when

53

01 we got there, it wasn't encouraging
02 because it told me that more than
03 likely, they didn't come that way.
04 We went back anyway, right back along
05 this same route. Got venturing out
06 in the smoke because we knew we'd see
07 them right here. Right here's where
08 they was heading for if they'd have
09 come that way. I can't --- you know,
10 I'm just speculating when I say ---
11 you know, I can't tell you for sure
12 how long we waited. I know it wasn't
13 a very long time. We might have hung
14 around in that area, I'm going to
15 tell you, for another --- and that's

16 after me talking to him and making
17 sure everybody had been accounted for
18 but those two guys. And that the
19 teams were on their way and
20 everything had been covered, we might
21 have spent 15 minutes up there.
22 That's a maybe. That's not exact by
23 no means. Give or take. That's just
24 approximate. We might have spent 15,
25 possibly 20 minutes just hanging

54

01 around. You know, hoping possibly
02 that they could have walked down to
03 the section, but by all rights they
04 should have been.

05 Q. When you came up and opened
06 the double doors, could you describe
07 how thick the smoke was, what color
08 it was?

09 A. In all honesty, I mean, you
10 know, it was fairly thick. But as
11 far as giving you a color, I can't,
12 honestly. You know, it's fairly
13 thick. But I can't really give you a
14 color for it.

15 Q. Now, you spent 15 minutes
16 waiting. At the end of that 15
17 minutes, then, you came out?

18 A. Yes, sir. Approximately. I
19 want to be sure you all understand.

20 Those are approximate times.

21 Q. Sure. Sure.

22 A. And I've given you these times
23 I'm giving you. And I hope they're
24 right. I'm saying approximate.

25 Q. We understand.

55

01 A. We could be talking five, ten,
02 15 minutes. Maybe more. Maybe less.

03 Q. You lose all concept of time
04 when something like this is going on.

05 A. Sure. Yes, sir. We left and
06 actually worked our way back to ---
07 back up the way we came. And when we
08 got out here. Somebody had left the
09 five-man diesel ride. And we got on
10 it and worked our way to the top,
11 yes, sir.

12 Q. Okay. Could you show us where
13 you went up at the headgate area?

14 A. Okay. We actually --- when we
15 got up here to the top of the hill,
16 actually, right along in here at Six
17 head, we run in --- we had passed a
18 crew down here at the Fourway. It's
19 my understanding that Pepé was the
20 one who had seen the crews out.

21 Everybody was up there. They were
22 still there. And me and Ed run into
23 the van coming outside. And pretty
24 much took our own head count to make
25 sure that they were all there. And

56

01 there was some foremen on there, too.

02 As we got up there, I run into
03 Dave Runyon, the face boss. The
04 longwall face boss. He was actually
05 up there.

06 Q. Okay.

07 A. And Bob Massey, the longwall
08 manager. And they were right around
09 Six head. Told me that --- and
10 again, I'm kind of fuzzy right here.

11 I know Pepé, because while we were
12 in this area, Pepé, at that time, had
13 already arrived at the mine. He was
14 already on his way, en route to the
15 mother drive area.

16 Q. So Pepé came underground while
17 you were down at the --- along the
18 Nine tailgate?

19 A. Yes, sir. Yes, sir.

20 Q. Okay.

21 A. I run into them and they said
22 that they had been told them that he

23 had instructed the crews to leave
24 Nine. Got everybody out except for
25 --- there was a couple there with

57

01 them. And told them to stay right
02 there. Told them not to move, stay
03 right there. And at that point, I
04 waited there with them for a few
05 minutes. And nobody comes back. So
06 I worked my way towards the top of
07 the hill and ended up right around
08 the four-foot area up here to Seven
09 head looking for him or anybody
10 myself.

11 Q. So you actually entered the
12 four-foot belt?

13 A. Not at that particular time.
14 We were at that point, standing where
15 we could have seen them on the
16 longwall right here.

17 Q. So you were right in the
18 intake entry?

19 A. Yes, sir.

20 Q. Did you ever get into the
21 four-foot belt at all?

22 A. Yes, sir, I did.

23 Q. Did you happen to notice what
24 the airflow direction was in the
25 four-foot belt?

01 A. The direction was heading ---

02 the best I can remember, it was

03 heading toward the --- inby.

04 Q. In towards the section?

05 A. Yes, sir. It was going toward

06 the section. To the best I can

07 remember.

08 Q. Did you ever get into the

09 headgate area or around the fire?

10 A. No, sir, I didn't. At one

11 point, we went up to the --- actually

12 door. And at that point, it was hot

13 enough we had to leave them closed.

14 Q. That's the doors of the

15 travelway?

16 A. Yes, sir. In the travelway.

17 It was hot enough in that area that

18 it was really hard to breathe right

19 close to it.

20 Q. Did you see any smoke on the

21 outby side of the double doors?

22 A. I honestly can't remember if I

23 did or not. I can't ---.

24 Q. Okay. You can go ahead and

25 sit back down, Rod. Thank you. When

01 you opened the double doors, did you

02 get any feedback from anyone as to
03 what impact that had on the fire?

04 A. I did not open the double
05 doors, sir.

06 Q. The double doors back at the
07 back of Nine tailgate. The airlock
08 doors.

09 A. Oh, okay. No, sir. No, sir,
10 I did not.

11 Q. Nobody told you you helped us,
12 it hurt us, it reversed air or ---?

13 A. No, sir.

14 Q. You have no idea what
15 happened?

16 A. No, sir.

17 Q. We had heard from another
18 interview that it was possible that
19 you could reverse the flow of air on
20 the longwall face if an outby set of
21 doors had happened to have been
22 opened the right way. Do you know
23 anything about that?

24 A. No, sir, I don't. I do not.

25 Q. Do you think if that would

60

01 happen that you would find out about
02 it from someone?

03 A. I would hope so.

04 Q. I would, too, since you're in

05 charge of the longwall.

06 A. Absolutely. But I know

07 nothing of that. No, sir.

08 Q. Okay. So you don't know if

09 that ever happened at any time?

10 A. No, sir.

11 Q. Did you make any other air

12 changes underground the day of the

13 fire?

14 A. No, sir.

15 Q. Did you direct any other air

16 changes?

17 A. Absolutely not. The only

18 thing, like I said, that I was

19 personally involved in and will tell

20 you that I done was opening the

21 doors. And I know what it done,

22 regardless of what results was given.

23 I know that I drew air on the top of

24 the hill.

25 Q. So you didn't remove any

01 stoppings or overcasts or ---?

02 A. Absolutely not.

03 Q. Didn't adjust any regulators?

04 A. No, sir.

05 Q. Did you install any check

06 curtains at all?

07 A. I will not tell you that none
08 were installed. I can tell you that
09 I had no involvement in it or didn't
10 direct anybody personally to do that,
11 no, sir.

12 Q. Do you know about any fresh
13 air bases that the mine rescue teams
14 would have established underground?

15 A. Would have established?

16 Q. When they went in and did
17 their rescue work.

18 A. Yeah. I mean, what I'm
19 saying, I couldn't walk up there and
20 give you spot for spot. But yes, I
21 do know that there were fresh air
22 bases. Yes, sir.

23 Q. You know that they set up
24 check curtains to establish fresh air
25 bases? Are you familiar with mine

62

01 rescue work?

02 A. Not in a great deal. This was
03 the first for me, sir. This was the
04 first.

05 Q. Hopefully the last.

06 A. Hopefully the last.

07 Absolutely.

08 Q. Are you responsible for
09 assigning any miners to work in drive

10 areas, or were you mainly production

11 on the face?

12 A. It's mainly production right

13 on the longwall face, yes, sir.

14 Q. And do you typically work

15 dayshift?

16 A. Yes, sir.

17 Q. Do you ever work other shifts?

18 A. No, sir. I haven't what time

19 I've been with Aracoma, no, sir.

20 Q. Are you aware of any other

21 fires that have occurred at Alma?

22 A. No, sir, I'm not.

23 Q. Are you aware of --- well,

24 first, before I ask you, what would

25 you describe as a fire?

63

01 A. Describe as a fire?

02 Q. Would you describe a hot

03 roller as being a fire?

04 A. I guess it'd depend on how you

05 look at it. A fire, to me, would be

06 something that actually burns.

07 Q. You actually have flaming?

08 A. Yes, sir.

09 Q. Do you know a miner by the

10 last name of Conley?

11 A. Conley?

12 Q. Yes.

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

14 Q. So you're not aware of any
15 other belt fires that have occurred
16 at Alma?

17 A. No, sir. I am not.

18 Q. Are you aware of an event that
19 occurred on December 23rd?

20 A. And what would that be? I'm
21 not aware of any event that occurred
22 that day, no, sir.

23 Q. Brandon Conley had been
24 working the headgate on December 23rd
25 and discovered a hot spot near the

64

01 storage area for the longwall. You
02 never heard anything about that?

03 A. No, sir. I have not.

04 Q. You haven't heard about his
05 interview with National Public Radio
06 on --- about a week after the fire,
07 maybe two weeks?

08 A. No, sir. No, I have no
09 knowledge of it. I've not heard
10 anything.

11 Q. You're familiar with the CO
12 system at the mine?

13 A. Fairly. I'm not going to
14 profess to be an expert on it, no

15 sir. But yes, I am fairly familiar
16 with it. Yes, sir.

17 Q. Do you know if you have an
18 alarm unit installed at the headgate
19 area of the longwall?

20 A. Yes, sir.

21 Q. Do you know where it is?

22 A. It would be around the gate
23 box, yes, sir.

24 Q. Is it in plain sight of the
25 headgate operator?

65

01 A. Yes, sir.

02 Q. Do you have a sensor there,
03 also?

04 A. Yes, sir.

05 Q. Do you know if they've ever
06 received alert or alarm warnings at
07 the headgate as a result of any CO
08 sensors indicating CO?

09 A. I've not been told. No, sir.
10 No.

11 Q. You've never experienced one
12 up there yourself; right?

13 A. No, sir. I have not.

14 Q. Would it surprise you if the
15 alarm and the CO sensor were
16 installed in locations that could not

17 be easily seen?

18 A. Yes, it would surprise me.

19 Q. When's the last time you saw
20 the alarm unit on the headgate?

21 A. I cannot give you a --- I
22 cannot give you a date or a time.

23 No, sir. I can't.

24 Q. Does somebody do a daily check
25 or a weekly check of that alarm unit

66

01 to see that it works properly?

02 A. They should be --- there
03 should, without a doubt, be a weekly
04 check. And I'm sure they should be
05 looked at daily. Yes.

06 Q. If it would be installed in a
07 location that could not be easily
08 seen, would that be a problem that
09 would need to be corrected by
10 someone?

11 A. I'm sure it would. I'm not
12 aware that's the case, though, sir.

13 Q. But you don't know where it is
14 today?

15 A. I won't tell you for sure I
16 know where it --- I know it should be
17 located in the gate box area. It
18 should be visible. But I cannot ---
19 I won't tell you --- I cannot tell

20 you where it's at for sure.
21 Q. You couldn't describe that
22 location to us?
23 A. No, sir.
24 Q. Okay. There's a sign at the
25 bottom of the elevator in the box

67

01 cut, and it has S1 P2 M3 written on
02 it. Do you know what that stands
03 for?
04 A. Safety, one, production, two,
05 measurement, three.
06 Q. What's measurement, three,
07 mean?
08 A. The measurement three, and I
09 will tell you right up front, that I
10 am not schooled in S1. You may be
11 asking the wrong guy by asking me to
12 describe a lot of that to you. I
13 know it's due to a lot of management,
14 you know, management measurement.
15 The employee, I cannot get in detail
16 with you on S1, P2, nor M3. Because
17 I am not schooled on it. What short
18 amount of time I've been there, I
19 haven't become acquainted with it
20 that well.
21 Q. Okay. I heard what S1 and P2

22 stood for. But M3, I hadn't heard.

23 We see that upstairs ---

24 A. Right.

25 Q. --- in the mine office. S1,

68

01 P2, but I never saw M3, except for

02 that one location.

03 A. Yes, sir.

04 Q. Is that a philosophy at all

05 Massey mines, do you know?

06 A. It's my understanding, yes,

07 sir.

08 Q. Do you ever travel the belts

09 in the mine?

10 A. No, sir. Everything primary

11 that I am involved in and have been

12 what time I've been at Aracoma Coal,

13 my primary and direct focus has been

14 up on the longwall.

15 Q. Do you do any training of

16 employees?

17 A. Not personally, no, sir. I

18 work with --- which you know, give

19 advice to the coordinator and

20 assistant or, you know, direct him as

21 to how I want things done. Anything

22 of that nature would move on down

23 below me.

24 Q. You're aware the --- going

25 back to the CO system, once. Are you

69

01 familiar with the dispatcher's
02 responsibilities when it comes to
03 alarms on the CO system?

04 A. I will tell you that --- I
05 won't tell you that I know absolutely
06 everything that he should be doing as
07 far as documenting. I do know that
08 logs and the whole nine yards are
09 supposed to be kept, yes, sir.

10 Q. Did you ever have occasion to
11 go in and look at those logs and the
12 printouts?

13 A. No. No, sir. No, sir.

14 Q. Do you know if anybody does?

15 A. I'm sure it's done. But I
16 couldn't indicate for sure who is
17 doing it.

18 Q. On the longwall, do you use
19 belt air to ventilate the longwall
20 face?

21 A. Belt air will come to the
22 face, it'll be total intake. All
23 them entries should be heading toward
24 the face.

25 Q. So at the mouth of the

70

01 longwall section at the mother drive,
02 that air should be going toward the
03 face?

04 A. Absolutely, yes, sir.

05 Q. If it wouldn't be, would that
06 be a problem?

07 A. Yes, it would be.

08 Q. And why would that be a
09 problem?

10 A. Well, I mean, it's not so much
11 as it would be a problem as far as
12 the amount of air you'd be getting to
13 the longwall face. But it shouldn't
14 be backing up on the belt. We run a
15 four entry system. Everything from
16 One to Four, Four being our primary
17 intake. Everything should be going
18 towards it on the longwall face. Cut
19 and dried.

20 Q. If your belt air wasn't going
21 to the face, would you have enough
22 intake air to actually run
23 production?

24 A. Absolutely.

25 Q. So most air comes out of the

71

01 intake escapeway?

02 A. Oh, yes, sir. Yes, sir. We,
03 by all means, rely --- our primary

04 escapeway will get a sufficient
05 supply up there. We want everything
06 moving that way.

07 Q. Do you have any idea what
08 percentage of your face air comes off
09 the belt entries?

10 A. I couldn't give you that for
11 sure, no, sir.

12 Q. Have you ever measured that?

13 A. It would be a small
14 percentage.

15 Q. Less than 25 percent?

16 A. I will tell you it would
17 probably be in that range. But I
18 won't state that as being a fact.

19 Q. Do you know if anyone measures
20 the air quantities outby the last
21 open crosscut to comply with federal
22 regulations?

23 A. Oh, absolutely. The
24 coordinator does it. And I know all
25 my face foremen do it.

72

01 Q. You don't have to do that
02 yourself?

03 A. No, sir.

04 Q. Do they report those results
05 to you?

06 A. Absolutely. Well, most of
07 them are documented. I won't tell
08 you that --- I do hear a lot of it.
09 I won't tell you that everything they
10 do up there, but they report their
11 record to me. You know, I'll check
12 in on it. If there is any problem,
13 I'll be the first to hear about it.

14 Q. As far as compliance with a 50
15 percent maximum of contribution from
16 the belt entries for ventilating the
17 face, are you required as part of
18 your job to verify that that's taking
19 place?

20 A. Actually, that'd be something
21 I definitely want. But you know, I
22 would want to be in tune with --- not
23 directly responsible, no, sir.

24 Q. Whose responsibility would
25 that be, do you know?

73

01 A. I would take responsibility
02 for it. What I'm saying, as far as
03 the air measurements and the whole
04 nine yards, you know, my coordinators
05 do them with the foreman directly.
06 And most of that would be stuff that
07 he'd be looking at and the foreman
08 would be taking care of. But I would

09 take direct responsibility, yes.

10 Q. Do you know during the fire if
11 any smoke reached the longwall face?

12 A. I was not there to see it.

13 Without a doubt, I know it did, yes,
14 sir.

15 Q. Why do you know it got there?

16 A. I know it because I can go up
17 there now and actually see the tinge
18 of smoke on equipment. And smell ---
19 I mean, I know without a doubt that
20 it got to the longwall face, yes,
21 sir.

22 Q. On December 29th, did you work
23 that day, do you know?

24 A. I don't know for sure.

25 Q. Well, it's between the

74

01 holidays. A lot of people take
02 vacation, so ---.

03 A. I'm not sure of what day it's
04 even on.

05 Q. Are you aware of any fires
06 that occurred? I guess you wouldn't
07 be if you haven't heard of any fires
08 on that day.

09 A. No, sir.

10 Q. There was a fire on a belt in

11 the north mains that carried smoke up
12 toward the longwall section. And you
13 didn't hear anything about that?

14 A. No, sir.

15 Q. Do you think you should be
16 told about things like that that
17 happen?

18 A. If they were to happen,
19 absolutely.

20 Q. Does management have any
21 mechanism for giving that information
22 out to the foreman and coordinator,
23 such as yourself?

24 A. It would be --- when you say
25 mechanism, you know, to me, it'd be

75

01 just absolutely word if mouth of
02 somebody had a problem. And I know
03 they're to answer to you. They, you
04 know, should come to you with it, but
05 no sir, I've not heard of any such
06 incident.

07 Q. You haven't had any safety
08 meetings at the mine, safety talks in
09 the morning before the men go
10 underground to discuss any things
11 that have happened like that in the
12 past?

13 A. In all our safety talks. At

14 the end of every safety talk and any
15 time that they wished to interject
16 throughout the safety meeting.
17 Anything that they want to bring
18 forward or talk about concerning any
19 safety issues or anything else
20 pertaining to the mine.

21 Q. That would be the miners that
22 would be allowed to discuss that?

23 A. Yes, sir. Absolutely. That's
24 what they're for.

25 Q. So the responsibility for

76

01 educating the miners on past
02 accidents that have occurred would be
03 their responsibility to bring up at
04 these safety meetings?

05 A. Ask me that again.

06 Q. If you wanted to educate your
07 miners on other accidents that have
08 occurred and what have caused
09 them ---?

10 A. No. We actually get --- you
11 know, we'll get memos and stuff in
12 the safety department, going over
13 accidents. Not necessarily at our
14 mine, but other mines, just to ---
15 I'm sure other companies do a lot of

16 the same. Plus, like I said, we'll
17 have our detailed meetings. A lot of
18 that's written out. And weekly
19 safety meetings, it's company-wide.
20 Plus, we always interject and bring
21 it up and talk about other things
22 concerning us, or other things that
23 we know we need to touch on, whether
24 it's written down there in black and
25 white or not. Not actually on the

77

01 paper. But we'll go outside of that
02 and actually discuss things. And
03 anything that they wish to bring up
04 or talk about. You know, we'll
05 gladly discuss it with them. That's
06 what the meeting's for. That's why
07 we're there.

08 Q. Do you think you get more
09 memos on production or safety?

10 A. I would --- I can't give you a
11 count on it. I do know that safety
12 is a big deal to Massey. It's a big
13 deal with them. As it should be.

14 Q. Can you tell us who's in
15 charge of ventilation at the mine?

16 A. Ventilation at the mine would
17 fall --- usually as a mine foreman.

18 Q. Who is the mine foreman?

19 A. Dusty Dotson is a mine
20 foreman.
21 Q. Have you had any occurrences
22 where you needed more air in your
23 section and had to go to someone to
24 ask for adjustments in the
25 ventilation system?

78

01 A. The whole length of the panel
02 would have been on what time I've
03 been there. Just at the panel. We
04 have had good air. We've had good
05 air on the face.

06 Q. What kind of a quantity do you
07 run?

08 A. Well, we need 45,000 in the
09 last opening. Now, we're looking at
10 300 at 17 and 200 at 160 down the
11 face. And most all occasions, we ---
12 in most all occasions, we have
13 exceeded that.

14 Q. This recent blockage you had
15 at the tailgate, has that affected
16 your air flow at all?

17 A. If it has --- I can't really
18 say that it has. Because what ---
19 the way it has been a problem --- air
20 seems to be passing over everything.

21 We seem to be getting pretty good air
22 all the way 'til I was up there
23 yesterday. And absolutely. I mean,
24 it was cold on the face. I mean,
25 it's --- you know, and a blockage,

79

01 you know, come and went, we actually
02 got out of it. And it felt again as
03 it is now. But it don't seem to be
04 affecting air on the face, no, sir.

05 Q. So blockage is more a problem
06 with traveling through that area,
07 rather than irrigating through the
08 vent ---?

09 A. Absolutely. Yes, sir.

10 Q. When did you start at Alma?

11 A. I started Alma February the
12 10th of '05.

13 Q. So you started after the mine
14 started using belt air? They were
15 using belt air when you arrived at
16 the mine?

17 A. I'm not sure what they were
18 doing --- right as far as the mine,
19 sir, I can't tell you that.

20 Q. On the longwall, though, they
21 were using belt air when you started
22 working at Alma; is that right?

23 A. Yes, sir. Yes, sir.

24 Q. Where did you work prior to
25 Alma, just prior?

80

01 A. I worked at Mingo-Logan for
02 Arch.

03 Q. Did they use belt air at that
04 mine?

05 A. Yes, sir.

06 Q. So you were there when the new
07 regulations came into effect?

08 A. Yes, sir. Far as I know.

09 Yes, sir.

10 Q. Are you familiar with those
11 regulations?

12 A. I won't tell you I know
13 everything word for word, no, sir.

14 Q. Do you know if belt air is
15 used to ventilate either one of the
16 other two sections, Two or Three
17 Section?

18 A. No, sir. Not for sure. I
19 will tell you that what we've got on
20 our beltline is, and as I stated
21 earlier, our primary intake supplies
22 us the biggest part of our air. We
23 just have a --- we've got a movement.

24 Q. You need to speak up just a
25 little bit.

01 A. We've got a movement in the
02 other entries. We, by no means, rely
03 on our belt air to ventilate our
04 face.

05 Q. Why do you use the belt air in
06 that direction? Is there some
07 reason?

08 A. Everything hits the face
09 across the face, out the tail. All
10 four entries, same way, where it come
11 from. We run a three-gate system.
12 You had everything total coming to
13 the face. Same deal. And it was
14 three gate. It was the three gate
15 system. Three entry.

16 Q. Going back to the alpha
17 reports, those are primarily for
18 production?

19 A. Sir?

20 Q. The alpha reports, are the
21 paging system?

22 A. Primarily, yes, sir.

23 Q. Do you use it for anything
24 else?

25 A. No, sir.

01 Q. Do you report accidents in any
02 way on that?

03 A. I'm sure there have been. I
04 can't give you any examples. I mean,
05 they're used for whatever need be. I
06 mean, there's nothing that says
07 they're used for nothing but
08 production, no, sir.

09 Q. Do you know what happens when
10 those alpha reports are late, or not
11 supplied to the proper people at the
12 proper time?

13 A. No, sir.

14 Q. Can you tell us who's
15 responsible for maintenance of the
16 longwall belt and the headgate area?

17 A. I cannot tell you for sure who
18 does have that responsibility.

19 Q. Can you tell us who does
20 examinations on the longwall belt?

21 A. We'll have a fire boss to do
22 an examination on the longwall belt,
23 as all other belts.

24 Q. Do you know those peoples'
25 names?

83

01 A. I don't know everybody that's
02 actually doing the pre-shift or
03 conducting the examinations. I can't
04 give you no specific names. No, sir.

05 Q. That'd be the same for the
06 Number Seven belt also, then?

07 A. I'd imagine so, yes, sir.

08 MR. FRANCCART:

09 Bill, would you like to
10 take a shot here?

11 MR. TUCKER:

12 Okay. Thank you.

13 BY MR. TUCKER:

14 Q. You'd mentioned that when you
15 had your bucket and you was getting
16 ready to go out the bathhouse, it was
17 approximately six o'clock?

18 A. I'm assuming it was somewhere.
19 It had to be somewhere in that --- in
20 the neighborhood.

21 Q. Right. Do you have any idea
22 approximately what time that you went
23 underground?

24 A. I can't give you --- I'm going
25 to tell you that it was absolutely

84

01 --- I mean ---. I'm going to tell
02 you, from the time I heard about it,
03 the possibility of it, to actually
04 going underground, probably maybe 10,
05 12 minutes. I mean, it all happened
06 pretty quick. And like I said, I'm
07 fuzzy to the details as far as ---

08 that's about as detailed as I can be
09 with you. Really and truly.

10 Q. You mentioned that an original
11 conversation was overheard between
12 the dispatcher and Bryan Cabell.

13 That's where Bob Massey got his
14 information relayed to you.

15 A. That's who he thought.

16 Q. Right.

17 A. And like I said, he just got
18 in on the tail end of it. And he
19 felt that --- he was sure --- he was
20 pretty sure that Mike, the
21 dispatcher, Mike Brown, was one of
22 them. And he was assuming that Bryan
23 Cabell was the other.

24 Q. Did you ever hear a
25 conversation between Fred Horton and

85

01 Mike Brown, the dispatcher?

02 A. No, sir. I don't recall. No,
03 sir. I don't.

04 Q. Now, I know you mentioned this
05 some. But would you mind going over
06 again your instructions to Mike Brown
07 after you got to the box cut?

08 A. After I got to the box cut?

09 Q. Yes.

10 A. And following me talking to

11 Fred Horton; right?

12 Q. Yes.

13 A. Okay. I instructed him, at

14 that point, to call Gary Goff, call

15 and/or page Gary Goff, Pepé Lester,

16 Dwayne Francisco. And to page out

17 what we had. What was going on, as

18 we knew it, to page it out.

19 Q. Did you give specific

20 instructions on paging that out, what

21 to put on the page, or ---?

22 A. No, sir. I did not.

23 Q. Okay.

24 A. I did not.

25 Q. After you'd gotten to the

86

01 fire, did you ever hear any

02 discussion about applying water to

03 the fire?

04 A. No, sir.

05 Q. Do you have any idea why that

06 would be, that you'd have a fire, not

07 be discussing or looking at ways to

08 apply water?

09 A. And your question to me was,

10 did I give any directive or did I

11 hear ---?

12 Q. No. Did you hear of any

13 conversation?

14 A. No, sir. No, sir. No, sir, I
15 did not.

16 Q. Or give any direction?

17 A. No, sir. I did not.

18 Q. Right. I just wondered, you
19 know, in my mind that if you have a
20 fire, that you couldn't --- you know,
21 why you would not be discussing the
22 possibility of ways of getting ---
23 different ways of getting water to
24 the fire.

25 A. I heard no conversations of

87

01 that nature.

02 Q. Okay. Are you aware of any
03 water problems around the mother
04 drive area?

05 A. No, sir, I am not. There was
06 not any.

07 Q. Are you familiar with water
08 valves or the fire valves on the
09 monorail with --- as far as location
10 of fire valves?

11 A. They should be 300 foot, just
12 like everything else.

13 Q. But as far as direct
14 knowledge, knowing if they're there,

15 do you know that or ---?

16 A. I will tell you, without me

17 actually telling you I've laid my

18 eyes on every one of them, I'm sure

19 that they are there. Yes, sir.

20 Q. Okay. You'd mentioned you did

21 kind of like a walkabout on the 19th.

22 A. Yes, sir.

23 Q. On the day shift?

24 A. Yes, sir.

25 Q. Did you ever make it to the

88

01 longwall section?

02 A. No, sir. I did not.

03 Q. Okay. Were you made aware of

04 any problems with the belts on the

05 day shift on the 19th?

06 A. No, sir.

07 Q. Nobody ever contacted you

08 about the belts shutting off or ---?

09 A. No, sir. Absolutely not.

10 Q. Are you aware of any problems

11 with the ventilation on the longwall

12 section to where you got in a

13 violation from the state on low air

14 and ---?

15 A. I know --- I don't know of the

16 date. I do know that we'd had some

17 problem. I was not there. My wife

18 was having laproscopic surgery at
19 Cabell Huntington. And I was
20 actually with her the day that that
21 happened. But I do know of the
22 instance. But I was not even on the
23 property at that day.

24 Q. Was you made aware of what was
25 done to correct the problem? Have

89

01 any discussion on that?

02 A. It was my understanding that
03 somebody had left a set of airlock
04 doors open on top of the hill going
05 down into Ten tail. They were
06 assuming somebody during the midnight
07 that had been down maybe on the
08 timber and detail. I'm not exactly
09 sure what they were down there for
10 that night. I was also told that
11 once those doors were closed, we had
12 the proper amount of air.

13 Q. Did you work on the 18th, the
14 day before the mine fire?

15 A. I'm pretty sure I did. I'm
16 thinking I did.

17 Q. And you wasn't aware of any
18 air problems on that day?

19 A. No, sir.

20 Q. Do you know how long it would
21 take or would you estimate how long
22 it would take to walk from Two
23 Section to the Four Right doors that
24 you'd shown that you went through
25 those?

90

01 A. Actually walking down Nine
02 tail or --- yeah. And an estimate's
03 all it would be. But I'm telling
04 you, you could --- you could be off
05 there 30 minutes or less than that.
06 You could be off there less than
07 that. This is approximate.

08 Q. Right.

09 A. And it's going to depend on
10 the person. I'm sure I can get off
11 there quicker than that. But yeah,
12 you wouldn't be looking long at that.

13 Q. I'm not sure if you was
14 involved in this thought process or
15 not. But do you know why management
16 would have believed that the two men
17 were headed down Ten headgate
18 originally to escape out when the
19 return air from the smoke would be
20 going that way?

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

22 Q. Are you aware of other

23 problems at the mother drive that
24 caused delays on the longwall in the
25 past that would have been reported on

91

01 the alpha system, paging system?

02 A. I'm not exactly sure.

03 Q. Any problems, say, with the
04 dollies or on the --- anything down
05 around the head, any problems that
06 you may have had in the past that
07 would have triggered a call or a page
08 on the alpha system?

09 A. No, sir. None that I know of.

10 No, sir.

11 Q. Do you recall the first time
12 after 1/19 that you were on the
13 longwall face?

14 A. I can't tell you the date. I
15 cannot give you the date. I do know
16 that --- if I'm remembering right,
17 after the accident, the next time
18 that I would have been on the face
19 would have been with a federal
20 inspector actually pressurizing the
21 jacks. The best I can remember. But
22 it was the next time --- the next
23 time I was on the face.

24 Q. Okay. So you had mentioned

25 you'd seen evidence of smoke on

92

01 equipment?

02 A. Yes, sir.

03 Q. And that would have been

04 during that time?

05 A. Yes, sir. Yes, sir.

06 Q. Do you know what time you

07 started underground on the 19th?

08 A. I can't give you a time. I

09 mean, I really can't. You know, what

10 I give you, around the six o'clock

11 area as far as hearing the

12 possibility of it. And I do know ---

13 this might not say a whole lot. But

14 I do know that it wasn't a great deal

15 of time following me hearing the

16 possibility of it, and actually

17 starting underground. But I can't

18 give you a time.

19 Q. Right. I understand. I

20 probably didn't ask you this question

21 clear enough. I was referring to

22 that morning. Not your second time

23 back in. On the day shift on the

24 19th.

25 A. Oh. Oh, that was --- it would

93

01 have been approximately --- I'm

02 thinking somewhere around nine
03 o'clock. Somewhere around 9:00. In
04 that area, I'm pretty sure.

05 Q. And nobody called you about
06 any problems with the belt?

07 A. No, sir.

08 Q. Do you know if anybody ever
09 contacted the longwall crew on the
10 second shift on 1/19 about the fire?

11 A. All I know is as far as the
12 notifying is what information that I
13 got from Fred Horton. Somebody,
14 without a doubt, did get ahold of
15 him. That was the question I was
16 going to pose to him. That's the
17 question he went ahead and answered
18 before I even got to do that, that
19 Bryan Cabell, who had instructed him,
20 had told him that he had already
21 notified the longwall and Two
22 Section.

23 Q. Did he say that he had
24 notified them or he had them
25 notified?

94

01 A. I'll tell you that I
02 understood Fred to say --- it may not
03 be the facts. It may not be the

04 fact. I'll be the first to tell you
05 that. I thought that I understood
06 Fred to say that Bryan had notified
07 him. That may not --- he may have
08 had him notified. But I thought I
09 understood Fred to say that Bryan had
10 notified him.

11 Q. Okay. Do you have any idea
12 what time it was when Fred told you
13 that?

14 A. I can't give you a time. I
15 really can't give you a time.

16 Q. Okay.

17 A. I can't. I ---.

18 Q. When you'd went in on 1/19 on
19 the evening shift, did you notice
20 anybody moving shields at the mouth
21 of Three Section? Some MRSs?

22 A. They were moving MRSs. MRS.

23 Q. When you went --- go ahead.

24 A. One. But I did not see the
25 MRS until Ed Ellis and myself had

95

01 come off to get that five-man that I
02 said was in the break. And there
03 were actually two men out there with
04 him. I can't even recall their
05 names.

06 Q. Were they still working on it

07 at that time when you came back out
08 and saw it?

09 A. They were trying to get it out
10 of the roadway. It was in the
11 roadway in Number Two entry. I did
12 instruct them, at that point, them
13 being in fresh air, and virtually
14 headed out of the roadway, to get it
15 out of the roadway and exit the mine
16 and be sure to report to Gary Goff or
17 Eddie Lester, who were both outside,
18 to make sure they were accounted for,
19 and let them know that they was out
20 and they was there.

21 Q. So when you talked to them,
22 you instructed them to leave the
23 mine?

24 A. Leave the mine.

25 Q. Clear it and clear the ---?

96

01 A. Yes, sir. Yes, sir. Because
02 they ---.

03 Q. Bolt the roof support and
04 leave the mine?

05 A. Right. Because the roadway
06 was partially blocked by the --- and
07 the other crew hadn't come out yet.

08 Q. Was there anybody else there

09 with them or just two people, or how
10 many do you recall?

11 A. I recalled seeing two people,
12 the best I can remember.

13 Q. Okay.

14 A. I won't say that there wasn't
15 somebody else there. I'm saying that
16 that's what I recall seeing.

17 Q. Okay. Do you know why the air
18 had been going in the wrong direction
19 on the mother drive belt on the 19th?

20 A. I have no knowledge of it. I
21 have no knowledge of it doing it.

22 Q. If there is a lot of downtime
23 on the longwall belts, would you be
24 notified? Say if you weren't at the
25 mines, would you receive an alpha

97

01 page on that or how would that ---?

02 A. I would see it on a pager. If
03 you are getting all the accurate
04 information. You know, if it's
05 paged, I would more than likely see
06 it on a pager. I wouldn't be ---
07 over the Bell system, I would not be
08 called at home. If something were
09 down on the face, shear down or
10 something of that nature, I'd be
11 called at home, yes, sir.

12 Q. All right. But like the
13 longwall belt itself, that's not
14 something that ---

15 A. No, sir.

16 Q. --- necessarily you'd have to
17 answer to directly?

18 A. No, sir. I do not.

19 Q. Okay. Going back to the
20 mobile roof supports that they were
21 moving, how do you become aware that
22 they were moving those?

23 A. When the ---?

24 Q. Or the MRS.

25 A. When Ed Ellis and myself had

98

01 come off Four Right on Three Section.

02 Q. So you saw it?

03 A. Saw it.

04 Q. Okay. But did you see any
05 type of notification posted of an
06 equipment move or ---?

07 A. I cannot tell you that I did
08 or didn't see it. I can't tell you
09 that.

10 Q. Did you ever --- when you made
11 it down to where Fred Horton was at
12 with Two Section crew members and the
13 longwall crew members, did you hear

14 anybody on the longwall talk about
15 encountering smoke?
16 A. No, sir. Because when I ---
17 when I --- and I'm not --- that
18 wasn't an answer to your question
19 when I said no, sir. I did not see
20 those guys with Fred Horton or Bryan
21 Cabell or anybody of that nature.
22 Pepé had already put them on the
23 ride. I seen them in passing as me
24 and Ed were making our way to the
25 mother drive. I never talked to none

99

01 of those guys that night, some of
02 them for several days afterward.
03 Q. Did you hear any discussion or
04 anybody tell you that they had gotten
05 a large amount of smoke or ---?
06 A. No, sir.
07 Q. Okay.
08 A. No, sir.
09 Q. With the fire at the mother
10 drive, the belt on fire ---.
11 A. Yes, sir.
12 Q. Would you expect the longwall
13 to get most of the smoke off of that
14 fire?
15 A. I would expect them to get
16 smoke, yes, sir.

17 Q. Do you have any idea why that
18 they didn't receive the --- a lot of
19 smoke?

20 A. I can't say that they did not
21 receive a lot of smoke, because I was
22 not there with them. And I did not
23 have that conversation with any of
24 them. Like I said, most of those
25 guys, I didn't see for days or talk

100

01 to none of them.

02 Q. I think you've already
03 answered this question. But do you
04 have anything to do --- are you over
05 the maintenance of the mother drive
06 belts in any way?

07 A. No, sir.

08 Q. When you went up to Ten
09 headgate, you mentioned you and the
10 gentlemen that was going to do a time
11 study. What was his name again?

12 A. David Duff.

13 Q. David Duff. So by him
14 traveling with you, I'm assuming he
15 didn't do a time study ---

16 A. No, sir.

17 Q. --- that day or ---?

18 A. No, sir. He's actually

19 responsible for the crew that does
20 it. He was not with them. I'm
21 positive that's why ---. Let me
22 rephrase that. I'm pretty sure that
23 they were on the longwall face that
24 day. That's why I'm pretty certain
25 that he was even on the property that

101

01 day.

02 Q. Okay. So you think they did a
03 time study on the 19th, on the day
04 shift?

05 A. I'm thinking they did. Yes,
06 sir. I could be wrong about that.
07 But I'm thinking that's the reason
08 Dave was there.

09 Q. Okay. When you went up to Ten
10 headgate, did you travel past the
11 mother drive?

12 A. We traveled past the mother
13 drive at quit time. There was the
14 Three Section crew that was actually
15 down that day. Day shift crew that
16 was on Nine tail actually cribbing
17 the tail entry that day. As me and
18 Dave Duff come out of Ten headgate,
19 we'd walked the belt entry up. Come
20 across the top end and seen their
21 ride parked at approximately the Nine

22 tail location. And Dave actually
23 waited there. When I seen the ride,
24 I realized who it was. He asked,
25 whose ride's that. He was ready to

102

01 ride. You know, he'd walked enough
02 for the day.

03 Q. All right.

04 A. And I told him to wait right
05 there on the ride, and I said, I'll
06 go check on them. I said, they
07 should be coming out. And sure
08 enough, I hadn't walked a hundred
09 foot, you know, and it was time for
10 the crew and that to come. So we did
11 ride to the outside from that point
12 with that crew.

13 Q. So you walked up the ---?

14 A. Ten headgate side. We
15 actually come up the belt entry, Ten
16 headgate. It'd be Number Four entry
17 looking down the hill.

18 Q. Right. You came up through
19 north mains?

20 A. Yes.

21 Q. The belt that they're
22 installing?

23 A. Yes, sir.

24 Q. Okay. That they're currently
25 putting in. So did you walk up Seven

103

01 belt?

02 A. We were not in the belt entry.

03 We were in the lower travelway

04 entries. I was never on the belt

05 line at no time. Me nor Dave.

06 Q. Okay.

07 A. We were in the travelway

08 entries. We come up Ten headgate,

09 come across the lower end, and how we

10 were traveling through the ---

11 underneath the belt. That's the

12 mother drive area.

13 Q. Yes.

14 A. And we were sitting in a

15 vehicle. We were not on Seven belt.

16 And we were not outside the vehicle

17 any time we were around the mother

18 belt here. We just rode around.

19 Q. So you rode a vehicle through

20 up to Ten headgate? Or coming out?

21 Are you talking about coming out now?

22 A. Coming outside.

23 Q. Okay. Was anybody at the

24 mother drive area when you come

25 through?

104

01 A. I cannot tell you for sure. I
02 mean, honestly, I can't. We did ---
03 we swapped out with the evening shift
04 crew. I mean, as far as seeing
05 anybody around the head other than
06 Mike Plumley, the face boss who got
07 the doors, and we squished out on the
08 outby side of the doors to let that
09 crew by us, and we went on, Mike is
10 the only one that I recall even
11 seeing outside of that section crew
12 bus. And he got off to get the
13 airlock doors. I cannot recall. I'm
14 not saying that they wasn't there,
15 but I don't recall seeing anybody
16 else. But like I said, we were
17 sitting back in the ride and riding
18 out.

19 Q. Okay. So Mike's evening shift
20 crew was coming in when you were
21 coming out with the ---

22 A. Yes, sir. Yes, sir.

23 Q. --- crew that was setting the
24 supports?

25 A. Right.

105

01 Q. Did you ever receive a copy of
02 the time study that was done on the

03 19th?
04 A. I can't recall ever receiving
05 a copy. I know that --- of the
06 evening's, which we are --- we
07 naturally do receive copies. I can't
08 remember receiving a copy of that. I
09 know one of the previous day's before
10 that. And I'm not even sure where
11 the copies are at. We would always
12 get together. They always briefed me
13 and talked to me before a formal copy
14 was sent to me. But that particular
15 evening, no, sir. I can't remember
16 or recall, not to say that I didn't.
17 I can't recall receiving one.

18 Q. Okay. Do you know if one of
19 those time studies were done on the
20 18th, or was that a week-long thing?
21 Or do you recall?

22 A. I can't tell you for sure if
23 they were just spotty that week or if
24 it was a week-long. I don't know if
25 anybody was there on the 18th or not.

106

01 Q. Okay. And it basically shows
02 everything that's done during that
03 day, any downtime. It shows
04 everything; is that right?

05 A. Yes, sir. It should for the

06 most part. Yes, sir.

07 Q. Okay. Have you ever received
08 any training at the mine in
09 firefighting procedures?

10 A. Just routine firefighting
11 procedures.

12 Q. As far as instruction on what
13 you would use to fight a fire or any
14 demonstrations.

15 A. In our regular --- in our
16 safety meetings and what not, yes,
17 sir, we have been instructed as far
18 as fire extinguishing and things of
19 that nature, yes, sir.

20 Q. Instructed in what way?

21 A. I mean, not actually
22 demonstrating. But made aware of
23 what you're supposed to have where,
24 you know, your dry chemicals.
25 Naturally, you don't put water on

107

01 electricity and the whole nine yards
02 of that nature.

03 Q. Just safety topics about ---

04 A. Safety topics, yes, sir.

05 Q. --- fighting fire?

06 A. Yes, sir.

07 Q. You mentioned that --- was Ed

08 Ellis traveling with you?

09 A. Yes.

10 Q. Okay. Do you know why he quit
11 at Aracoma? Do you have knowledge of
12 that?

13 A. I have no idea for sure or the
14 nature --- I mean the reason why he
15 did. I don't know that.

16 MR. TUCKER:

17 Thank you.

18 BY MR. FRANCAERT:

19 Q. On that same subject, we were
20 told in an interview that the reason
21 he quit, he got into a disagreement
22 with you about something the day of
23 the fire. Did you argue with him
24 over something he did or didn't do?

25 A. He's supposed to have had an

108

01 argument with me the day of the fire?

02 Q. Yes.

03 A. I can't recall anything being
04 further from the truth. I know for a
05 fact --- I don't know every
06 conversation me and him had that day
07 to be detailed. But I do know for a
08 fact that we did not have an argument
09 the day of the fire.

10 Q. Did you disagree on anything

11 that you did? For example, opening
12 those doors, you agreed on doing
13 that?

14 A. Yes, sir. I never heard no
15 disagreement out of Ed at all. No,
16 sir.

17 Q. Those doors at the back end of
18 the gob that you opened up to
19 short-circuit the air ---

20 A. Yes, sir.

21 Q. --- do you know if those doors
22 were ever closed during the
23 firefighting activities?

24 A. During the firefighting
25 activities?

109

01 Q. Yes.

02 A. No, sir. I don't know that.

03 I don't know if they ever were.

04 Q. The time study that they did
05 on the 19th, are those --- is a time
06 study a common occurrence on the
07 longwall?

08 A. That was the first one, as far
09 as I know, that we had had what time
10 I was there. And as I said before,
11 I'm assuming that's why Duff was
12 there. I can't swear to you that

13 they was even there that day. I

14 cannot do that. I'm not sure.

15 Q. Who would have copies of those

16 time studies if they were done?

17 A. I would not know who kept

18 record of them. I don't.

19 Q. You wouldn't get a copy of it,

20 being in charge of the longwall?

21 A. I hadn't received a copy that

22 I can remember. As I told him, I

23 could not remember receiving a copy

24 of any nature.

25 Q. You never got one from a

110

01 previous time study because there

02 were no time studies conducted?

03 A. Not while I was there, no,

04 sir.

05 Q. On the day shift of the 19th,

06 do you know anything about a problem

07 with a breaker on any electrical

08 equipment in the headgate area?

09 A. No, sir. I do not.

10 Q. If that was on the alpha

11 report, would that have been paged to

12 you?

13 A. If anything is faxed out

14 should come across my pager, even

15 though, like I said, I wouldn't --- I

16 don't carry my pager on me
17 underground, and my pager would have
18 been in the console of my truck. But
19 I know --- no, I hadn't heard of no
20 kinds of problems like that.

21 Q. You don't recall getting a
22 page that day regarding a delay
23 because of a breaker?

24 A. No, sir. Like I say, I did
25 not have a pager on me. And a matter

111

01 of fact, part of the time, I wasn't
02 even around a mine phone as I was
03 walking there. I'd occasionally pass
04 one. I can also tell you that I
05 never called. I had a lot of ground
06 to cover, and that's pretty much what
07 I was focused on. And it was a
08 matter of getting that done. So I
09 put blinders on and I went that way
10 to try to make a day of it to get
11 what I needed done.

12 Q. This pager that you carry, you
13 didn't have it with you that day.
14 But when you would go back and,
15 eventually, you would get back to
16 your pager, does it store messages
17 for you?

18 A. Yes, sir. My pager, I keep my
19 pager in the console of my truck. I
20 have trouble with reception in my ---
21 in the house. For the most part,
22 during routine production --- routine
23 time --- I mean, barring anything
24 like this, when I go home, I do as
25 much calling on the phone just to

112

01 keep from running out to the truck
02 and you know, just to make sure
03 everything's all right and how things
04 are going. But anything that's paged
05 out, unless for some reason, as you
06 see the names on there, my name was
07 mistakenly not punched in, anything
08 that --- I should receive it on the
09 pager.

10 Q. Are you aware that you were in
11 a group to be paged?

12 A. Yes, sir. Yes, sir.

13 Q. And after the fire, if you had
14 gone back and looked at your pager
15 and seen a message that there was a
16 breaker problem the day of the fire,
17 would that have stuck in your mind?

18 A. I'm sure it would have. But I
19 ---.

20 Q. You don't recall that?

21 A. I don't recall. I do not
22 recall seeing anything like that on
23 the pager.

24 Q. Okay. Have you ever
25 participated in an escapeway drill or

113

01 a fire escape drill?

02 A. I've not actually participated
03 in it, no, sir.

04 Q. Are you required to?

05 A. Yes, sir.

06 Q. Why do you think you have
07 them?

08 A. I mean, when I walked --- I
09 have walked the escapeway myself.
10 I've not walked it with men.

11 Q. Okay. What are the escapeways
12 from the longwall?

13 A. The escapeways from the
14 longwall?

15 A. Yes.

16 Q. We've got our primary. And
17 it's just coming off of Number Four.

18 You cross over through the cut
19 through, down Number Four. You get
20 over both through Four ways, because
21 we do have a fog in that area.

22 They'll bring you all the way down

23 across these overcasts and out right
24 down here at the three way.

25 Q. What's your secondary

114

01 escapeway?

02 A. Secondary escapeway would be
03 up Number Two and all the way up to
04 the existing four-foot belt across
05 and down Two track, you got the same
06 deal. Four track's a straight shot
07 out. But when you get to Two track,
08 you have to go around the Four ways
09 because of the fog between One and
10 Two Four way. And it'll take you on
11 out the box cut.

12 Q. We need you to come up to the
13 map and sign it. But while you're up
14 here, would you mind marking the
15 secondary escapeway for us?

16 A. Yes, sir.

17 Q. Maybe use a different color
18 than green this time, if you don't
19 mind using purple, just so we can
20 distinguish them? Just sign it first
21 and put today's date, which is the
22 14th. This is the secondary
23 escapeway Rod's going to mark on the
24 map now.

25 WITNESS COMPLIES

01 MR. FRANCCART:

02 We're starting at the
03 face going in an outby
04 direction to Number Two entry
05 toward the headgate, the mouth
06 of Nine headgate.

07 A. This went in to the box cut
08 intake.

09 BY MR. FRANCCART:

10 Q. Would you just label that as
11 secondary escapeway?

12 WITNESS COMPLIES

13 BY MR. FRANCCART:

14 Q. We don't have any spad numbers
15 on here to describe this line that
16 you drew. But you come out Number
17 Two entry into the northeast mains,
18 you cross over the Number Seven belt
19 or under it?

20 A. You cross under the Number
21 Seven belt.

22 Q. Cross under that belt and then
23 there's a door here?

24 A. Yes, sir.

25 Q. Outby that crossing?

01 A. Yes, sir.

02 Q. And you come across the
03 intakes then ---
04 A. Yes, sir.
05 Q. --- toward Number Two Section
06 into the 48-inch belt.
07 A. The 48-inch belt here.
08 Q. You cross that belt and come
09 into the next entry?
10 A. Yes, sir.
11 Q. And then you travel outby in
12 the northeast mains to the north
13 mains, crossing Number Six belt?
14 A. Yes, sir.
15 Q. And then you take the next
16 entry out of the mine?
17 A. That'd be this Number Two.
18 Q. So how do you physically get
19 from the Number Seven belt to the
20 Number One belt and the 48-inch belt?
21 A. How do you physically get?
22 Q. Yes.
23 A. You cross under it. You cross
24 under.
25 BRIEF INTERRUPTION

117

01 A. When you're crossing
02 underneath the Number Seven right
03 here, you go here, you can actually
04 cross underneath this 48-inch belt

05 right here, go to this point, and
06 then you got the same deal right here
07 on your six-foot belt. You can
08 actually cross under the six-foot
09 belt right there. And that's your
10 secondary.

11 BY MR. FRANCCART:

12 Q. Okay. Now, you've just
13 described the line you just drew for
14 the secondary escapeway. Your
15 primary escapeway comes through the
16 Number Two cut-through?

17 A. Yes, sir.

18 Q. And how is that marked
19 underground?

20 A. It would be with green
21 reflectors.

22 Q. Green reflectors?

23 A. Yes, sir. For your primary.

24 Q. And what about your secondary?

25 How is it marked?

118

01 A. The same way.

02 Q. Amber reflectors?

03 A. Yes, sir.

04 Q. Any idea how often those
05 reflectors are installed?

06 A. How often they're installed?

07 Q. The frequency, the distance
08 between them.
09 A. Usually a break.
10 Q. Every break?
11 A. Yes.
12 Q. So you know that that's the
13 secondary escapeway because of the
14 reflectors, or do you have a map that
15 shows the same route?
16 A. I have a map that shows the
17 same route, yes, sir.
18 Q. And where's that map stored?
19 A. The map on the table, the
20 check-in, check-out, there's one
21 there.
22 Q. Do you have any stored
23 underground?
24 A. Yes, sir.
25 Q. Where do you keep those?

119

01 A. We keep our maps on the S1
02 site.
03 Q. And where is that located?
04 A. That'd be located in the
05 Number Three entry, just inby the ---
06 actually, it'd be in Number Two
07 entry, just inby the mule train.
08 Q. So the mule train's in Number
09 Two entry?

10 A. Number Three.

11 Q. Number Three?

12 A. Number Three, yes, sir.

13 Q. Okay. I think that's all I

14 have at the map. Thanks. You can

15 have a seat. Do you know if that

16 secondary escapeway is continuous to

17 the surface?

18 A. If it is continuous to the

19 surface?

20 Q. Yes.

21 A. One straight line is what you

22 mean, right?

23 Q. Continuous is there is no

24 breaks in the escapeway?

25 A. Go ahead and explain it. No

01 breaks in the escapeway.

02 Q. The escapeway has to be

03 continuous from the section to the

04 surface. Is it continuous?

05 A. And by you saying no breaks in

06 the escapeway, are you talking about

07 leaving the entry?

08 Q. No. Do you know what that

09 regulation is on what continuous

10 means?

11 A. Will you go ahead and give it

12 to me?

13 Q. No. I'm asking you.

14 A. I don't --- when you say

15 break, I'm just trying to understand

16 exact --- make sure what you're

17 asking.

18 Q. Do you understand what the

19 requirement is for an escapeway to be

20 continuous to the surface?

21 A. No crossing paths.

22 Q. Thank you. I have a memo I

23 wanted to show you. I don't know if

24 you've seen this memo. But it's from

25 Don Blankenship to all deep mine

121

01 superintendents. And it wasn't

02 written to you. I want to see if

03 you're aware of this memo being

04 issued.

05 A. I don't recall seeing that.

06 Q. You've never seen this?

07 A. No.

08 Q. Have you heard about this memo

09 at all?

10 A. No, sir. I have not.

11 Q. In the paper at all?

12 A. No, sir.

13 Q. What does this memo seem to

14 indicate to you?

15 A. Well, I wouldn't even want to
16 speculate on it, because like I said,
17 I've not even seen that memo. Have
18 no knowledge of that memo.

19 Q. If you were to receive a memo
20 or directions from your supervisor
21 such as this, what would that mean to
22 you?

23 A. I don't --- I'd rather not
24 even speculate on it. I have not
25 seen this memo. Have not seen it.

122

01 Q. The last sentence says, this
02 memo is necessary only because we
03 seem not to understand that the coal
04 pays the bills.

05 ATTORNEY HARDY:

06 May I just take a
07 minute to confer with Rod?

08 MR. FRANCAERT:

09 Sure.

10 REPRESENTATIVE AND WITNESS CONFER

11 MR. FRANCAERT:

12 Identify this memo as

13 Exhibit C-Morrison.

14 (Morrison Exhibit C

15 marked for

16 identification.)

17 BY MR. FRANCAERT:

18 Q. I understand you don't want to
19 discuss that now; is that right?

20 A. Because I know nothing of it.

21 Q. We're going to try to fill in
22 some gaps here. A lot of different
23 question areas to go over with you.

24 Do you know what record book is used
25 to record the air readings for the

123

01 longwall section?

02 A. The air readings for the
03 longwall section?

04 Q. Yes.

05 A. That'd be the longwall face
06 book.

07 Q. Is that what it's titled as,
08 the longwall face book?

09 A. Yes, sir.

10 Q. Is that something you review
11 periodically?

12 A. Periodically, yes, sir.

13 Q. Can you tell me how often you
14 would look at that book?

15 A. If nothing's mentioned to me
16 as far as having any discrepancies or
17 any problems with anything, I might
18 look at it once a week. Maybe.

19 Q. Are you aware of a ventilation

20 survey that was conducted by the
21 University of Kentucky at the Alma
22 Mine sometime in 2005?

23 A. I can recall them being there
24 doing it. I do recall them being
25 there.

124

01 Q. Do you have any idea why that
02 survey was conducted, or why the
03 company requested that survey?

04 A. No, sir. I have no
05 participation in it. And really, I
06 only do it just because of them being
07 there. I have no idea, no, sir.

08 Q. Were you introduced to any of
09 those people?

10 A. If I were, I honestly don't
11 remember. I honestly don't remember
12 if I was, no.

13 Q. Do you know who is responsible
14 for hanging reflectors in escapeways?

15 A. It would usually be a fire
16 boss walking the airways I would
17 suppose.

18 Q. Do you know who's in charge of
19 planning ventilation changes in the
20 mine?

21 A. Would normally be the mine

22 foreman.

23 Q. And when you arrived at the
24 Alma Mine to start your career at
25 that mine ---

125

01 A. Yes, sir.

02 Q. --- was the Number Nine
03 longwall producing at that point?

04 A. No, sir.

05 Q. So they were in the process of
06 finishing another panel?

07 A. Finishing up --- actually were
08 finishing up on Seven, Seven
09 headgate, and then moved to Eight.

10 Q. Okay. So this longwall panel
11 you've been involved in from the very
12 beginning of developing that panel?

13 A. Yes, sir. Yes, sir. Yes,
14 sir.

15 Q. And after the panel was
16 developed, what kind of air changes
17 had to be made to put that panel into
18 production?

19 A. Pretty much --- I mean, it was
20 pretty much ready. I mean, as far as
21 the panel itself to put in
22 production, everything was pretty
23 well good to go.

24 Q. You maintained the same air

25 flow quantities on setup as you do on

126

01 production?

02 A. At that time, intake air was
03 actually put --- I'm pretty sure they
04 had intake air put through Number One
05 Fourway.

06 Q. Was the air quantity the same
07 as used for production?

08 A. It was pretty daggone close.
09 I'm not saying that it was, you know,
10 at that level. I will not say that.
11 But there was air --- the air was
12 pretty much blasting up there, yes,
13 sir.

14 Q. Are you involved in longwall
15 setup?

16 A. I do check on it. It is part
17 of my job to see that it gets done.

18 Q. Equipment setup and recovery?

19 A. Yes, sir. Yes, sir. Yes,
20 sir.

21 Q. Do you know what the air
22 quantity requirement is for setup and
23 recovery?

24 A. Be looking at 12,000.

25 Q. 12,000? And that's at the

127

01 last opening? Or is that on the
02 intake to the face?

03 A. That'd be at the last opening.

04 Q. Last opening?

05 A. Yes, sir.

06 Q. Were there any regulators set
07 up at the back end of the longwall?

08 A. If there were, I didn't know
09 about it. I have no idea. I don't.

10 Q. Do you know if there's any air
11 readings required at regulators at
12 the back end at the bleeder system?

13 A. Well, I'm sure you have VPs
14 that are due, yes.

15 Q. Do you go over those readings
16 as part of your duties?

17 A. No, sir.

18 Q. You don't do that?

19 A. No, sir.

20 Q. Do you ever conduct
21 examinations such as pre-shift or on
22 shift examinations in the mine?

23 A. No, sir. Not personally, I
24 don't. No, sir.

25 Q. And do you ever conduct or

128

01 assist with weekly examinations?

02 A. No, sir.

03 Q. Are you responsible for

04 evaluating the effectiveness of the
05 bleeder system from the longwall?
06 A. Well, I mean, basically, and I
07 don't know if this is the answer to
08 your question or not. I'll make sure
09 we have --- I've got to know. I'll
10 make sure that we have the proper
11 amount of air on the face. That's
12 where most of my dealings are, is
13 right there on that production face.
14 Being my responsibility, no, sir,
15 it's not. But I'll make sure we have
16 enough air to operate. And I'll make
17 sure that we have clean air. And
18 that is my job, to make sure the men
19 have air on the face. That's ---
20 I've got people that work for me that
21 are directed to do that. But yes,
22 sir, that does mean something to me.
23 Q. Whose job is it to evaluate
24 the bleeder system?
25 A. To actually evaluate the

129

01 bleeder system?
02 Q. Yes.
03 A. I wouldn't know who to tell
04 you for sure. I wouldn't know that.
05 Q. When you went back to open the

06 doors at the back end of Nine
07 tailgate the day of the fire ---
08 A. Yes, sir.
09 Q. --- did you have a CO detector
10 with you at that time?
11 A. Yes, sir.
12 Q. And do you have any idea what
13 the CO levels were?
14 A. I personally did not have a CO
15 detector. Ed Ellis had the CO
16 detector on him.
17 Q. Okay.
18 A. And no, sir, I can't tell you
19 what --- I don't know for sure what
20 it was.
21 Q. Did you hear any alarms from
22 the instrument?
23 A. No, sir. Now, from the time
24 we went to the doors and come back,
25 actually, you know, to fresh air, no,

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01 sir. I can't recall hearing any
02 alarm.
03 Q. You were in smoke?
04 A. Yes, sir.
05 Q. And no CO alarm?
06 A. Did not hear any alarm, no,
07 sir.
08 Q. Do you have any idea what the

09 CO alarm levels are set at on
10 handheld instruments at Alma?
11 A. No, sir. I don't.
12 Q. Do you know if the factory
13 settings have changed?
14 A. That I'm not sure of. I can't
15 tell you that.
16 Q. Did you hear anything outside
17 about Bryan Cabell requesting a chain
18 ratchet ---
19 A. No, sir.
20 Q. --- prior to reporting the
21 fire being in flames?
22 A. No, sir.
23 Q. Mike Brown was the dispatcher
24 the day of the fire; is that correct?
25 A. Yes, sir.

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01 Q. Did he tell you anything about
02 being able to contact or not contact
03 either section to evacuate them?
04 A. No, sir. Mike said nothing of
05 that nature to me. No, sir, he
06 didn't.
07 Q. Do you know if anyone has the
08 responsibility for longwall belt
09 maintenance at the mine?
10 A. Belt maintenance?

11 Q. Yes.

12 A. Longwall belt maintenance.

13 I'm sure somebody does. For sure who

14 it is, I can't tell you that.

15 Q. Did the people that worked for

16 you know that?

17 A. That worked for me?

18 Q. Yes.

19 A. I'm not sure they would, no,

20 sir.

21 Q. We have a CO alarm unit on the

22 headgate. If that alarm goes off,

23 what's supposed to happen on the

24 longwall?

25 A. If that alarm goes off,

01 naturally, they'd be trying to get

02 ahold of somebody at head. I mean,

03 actually, smoke was the seen. And we

04 would evacuate the face.

05 Q. Do you know if that's ever

06 occurred in the past?

07 A. No, sir. Not as I know of, it

08 hasn't. No, sir.

09 Q. Do you know if that alarm's

10 ever activated because of CO from an

11 outby sensor?

12 A. I do not know that. No, sir.

13 I'm not aware of it, if it has. I'm

14 not aware of it.

15 Q. How would that be reported to
16 you? Do you know?

17 A. Reported to me?

18 Q. Yes. If there would be an
19 alarm on the longwall headgate.

20 A. If there would be an alarm on
21 the longwall headgate, I would get it
22 --- I personally would get it in the
23 form of verbal communication. It
24 wouldn't be somebody sending me a
25 piece of paper. It'd be somebody

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01 calling me and letting me know
02 something, if that were to happen.

03 Q. Would it surprise you to hear
04 that you've had those occur and you
05 haven't been told about them?

06 A. Yes, it certainly would.
07 Because I have no knowledge of it.

08 Q. On afternoon shift, at the
09 time of the accident, who was in
10 charge of the mine? Who was
11 ultimately the top of the food chain?

12 A. That, on the evening shift,
13 would be Fred Horton, the evening
14 shift mine foreman.

15 Q. Now, when you first set up

16 this longwall, you had two
17 cut-throughs.
18 A. Yes, sir.
19 Q. And you didn't take the
20 escapeway coming through the Number
21 Two cut-through?
22 A. Yes, sir.
23 Q. When the longwall face had not
24 advanced past the Number One
25 cut-through, had that been any

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01 different at that point?
02 A. When the longwall face had not
03 --- yes. It actually had come
04 through the first cut-through
05 initially and then was moved to the
06 second cut-through.
07 Q. Now, when that escapeway was
08 changed, were there any ventilation
09 changes required to change that
10 escapeway location?
11 A. That was --- it was already
12 set up to come through the first
13 cut-through when we fired it up. I
14 mean, that's the route that it was
15 coming to the face as it started up
16 here. Coming to the second
17 cut-through, it was a matter of
18 knocking a stopping and building a

19 stopping. I mean, that's it.
20 Q. Do you know who directed that
21 change?
22 A. No, sir. I am not for sure.
23 I am not.
24 Q. Your intake air, before you
25 pass --- before the face passed the

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01 Number One cut-through, did you take
02 intake air through the Number Two
03 cut-through also?
04 A. No, sir.
05 Q. So all your intake came
06 through Number One cut-through?
07 A. It come through Number One,
08 yes, sir. To the best of my
09 knowledge, that's what we had, yes,
10 sir.
11 Q. Do you know what the 1200 map
12 is, or what's commonly called the
13 1200 map?
14 A. Are you talking about the
15 general mine map?
16 Q. Yes.
17 A. Yes, sir.
18 Q. Do you know where it's
19 located, where it's kept?
20 A. Should be on the wall in the

21 office.

22 Q. Okay. Who updates the
23 longwall production locations?

24 A. It can be anybody from the
25 coordinator to the production

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01 foreman.

02 Q. Have you updated that map?

03 A. I have not personally updated
04 it, no, sir.

05 Q. But your people have updated
06 it for you for the mine?

07 A. Yes, sir.

08 Q. When you first talked to Pepé,
09 when was that?

10 A. When I ---?

11 Q. The day of the fire. I'm
12 sorry.

13 A. Underground after the fire
14 started. I first talked to Pepé ---
15 it would have been shortly before I
16 actually discovered him at the top of
17 the hill looking in the 48-inch belt
18 entry shortly before we exited the
19 mine, is when I actually ---.

20 Q. That's the first time you
21 talked to him underground?

22 A. Yes, sir.

23 Q. Did you talk to him on the

24 surface before you went underground?

25 A. Yes, I did. I mean, not after

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01 discovering anything about the fire.

02 He had come to me --- and this is

03 before I discovered, or had heard

04 anything about it. And mentioned to

05 me that --- I think his boy had a

06 ballgame. He was getting ready to

07 go. And I was getting ready to go

08 right behind him, when Bob Massey,

09 you know, told me what he had heard.

10 You know, Pepé had just left. He had

11 just left the property. But no.

12 Concerning the fire or anything of

13 that nature, I never seen him until

14 we were underground after it actually

15 happened, or that we knew it

16 happened.

17 Q. I think Bill already asked

18 this question. There was a state

19 inspector who issued a violation for

20 the longwall belt airflow going in

21 the wrong direction.

22 A. Yes, sir.

23 Q. It was a couple of days prior

24 to the 19th. Are you aware of that

25 violation?

01 A. A couple days prior to the
02 19th?

03 Q. Yes.

04 A. I'm not going to tell you that
05 I am for sure. Honestly, I'm not for
06 positive, no, sir.

07 Q. Do you think that that
08 violation should have been reported
09 to you?

10 A. Absolutely. If it did
11 actually occur. Who was he? Can you
12 tell me who was ---?

13 MR. TUCKER:

14 Richard Boggs.

15 A. Richard Boggs. Is there a
16 date on it?

17 MR. TUCKER:

18 18th.

19 A. Because I am not aware for
20 sure.

21 MR. TUCKER:

22 It was on January the
23 18th.

24 A. In all honesty. And that's
25 --- and I was asked, because I told

01 you I didn't work the 18th. I know
02 my wife's had some health problems.

03 I'm not going to swear to you I was
04 even there the 18th, being frank with
05 you. I could have been. I'm not
06 going to tell you for sure. I'd have
07 to go back and look and see if I was
08 even on the property the 18th.

09 BY MR. FRANCCART:

10 Q. Have you ever seen the mine
11 ventilation plan?

12 A. Mine ventilation plan. Mostly
13 pertaining to the longwall,
14 primarily. Which is, like I say, the
15 bulk of my focus. That's where most
16 of my time there is spent, on the
17 face.

18 Q. And do you know what that
19 longwall ventilation requirement is
20 as far as the belt air?

21 A. As the belt air?

22 Q. Yes. What direction it's
23 supposed to flow in the plan?

24 A. I do know that in the plan, it
25 was supposed to flow --- everything,

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01 all four of those entries, is
02 supposed to be going toward the face.

03

04 Q. Do you have any idea what

05 could cause the reversal in that
06 longwall belt airflow direction?
07 A. It could be a number of
08 things, but I couldn't speculate. I
09 mean, that's all I would be doing, is
10 speculating. I won't do that. I
11 don't know --- I can tell you I had
12 no idea of it going in the wrong
13 direction. That's why I'm sitting
14 here trying to think about the
15 violation you said was wrote. And
16 I'm not disputing your word. I may
17 know it. I may know of it. I can't
18 recall it. And I'm not sure if I was
19 there that day, in all honesty. I
20 can't speculate on that. It could be
21 a number of things. I haven't any
22 idea if it were, in fact, doing that,
23 why it was doing it. I don't know.
24 Q. You're probably a lot more
25 familiar with the ventilation at this

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01 mine than we are. And we certainly
02 can't speculate as well as you can.
03 So if you wouldn't mind, we would
04 like to hear some of your thoughts on
05 what could cause that.
06 A. In all honesty, I have no idea
07 what --- I have no idea what caused

08 it. I can't sit here --- anything I
09 do is total speculation. And I won't
10 do it. It's all it would be, is
11 speculation.

12 Q. We don't mind speculation,
13 but ---.

14 A. I understand that. But your
15 guess is as good as mine.

16 Q. No, we don't think it is.

17 A. That's what I would be doing,
18 is guessing.

19 Q. Okay.

20 A. And I won't do that.

21 Q. Okay. Fair enough.

22 ATTORNEY HARDY:

23 Bill, can we go off the
24 record for a second?

25 OFF RECORD DISCUSSION

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01 MR. FRANCAERT:

02 Bill, you can go ahead
03 and ask yours.

04 BY MR. TUCKER:

05 Q. The guys who were doing the
06 time studies, do you know who they
07 worked for?

08 A. If they were there that day
09 they were from Massey Coal Services.

10 And again, I --- I'm trying to think
11 of the reason Duff was there.

12 Q. Is that who he works for, the
13 guy you're calling Duff?

14 A. Yes, sir.

15 Q. He works for ---?

16 A. Massey Coal Services.

17 Q. Massey Coal Services.

18 A. Yes, sir.

19 Q. When you passed the crews on
20 their way out, was that before you
21 went into Four Right or after?

22 A. That was after.

23 Q. Okay.

24 A. That was after, yes. You're
25 talking about the crews that Pepé

143

01 sent out of the mine?

02 Q. Yes.

03 A. Yes, sir. That was after.

04 Q. Okay. Did you stay in the
05 mine after the crews were evacuated?

06 A. Yes, sir. I did.

07 Q. Would you mind telling us what
08 you did after that point?

09 A. I was on the four-foot belt
10 also, along with Pepé, I'm sure of,
11 Fred Horton that I can recall.

12 Actually, looking, actually just

13 making a --- just an effort to hear
14 something, hear somebody, see
15 something. You know, that's where
16 they should have been. Where the
17 rest of them went. That's where they
18 should have went.

19 Q. Okay.

20 A. And then we were --- I think
21 it was Billy Ray Hall, if I'm not
22 mistaken. I can't be sure of that.
23 Had finally been around a phone that
24 I think had to be around Seven head.
25 And at that time, he had received a

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01 call, and I'm not sure who from that,
02 you know, people had arrived. And
03 that they had ordered us from the
04 mine. As quick as we were told that.
05 We did get on a vehicle and exit the
06 mine.

07 Q. Did Billy contact you by mine
08 phone or ---?

09 A. No. He actually come to us.

10 Q. Oh, he came to you?

11 A. Yes.

12 Q. Okay. After he received the
13 call.

14 A. And remember this. I say

15 Billy Ray Hall because that's who I
16 see right now. I'm thinking that
17 that's who it was.

18 Q. Okay. Okay.

19 A. I'm thinking it was Billy Ray
20 Hall.

21 Q. That's fine. Are you aware of
22 anybody entering the mines from the
23 box cut with a tractor with rock dust
24 and fire extinguishers on it?

25 A. At what?

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01 Q. Ahead of --- maybe that went
02 in ahead of you?

03 A. Ahead. I'm not aware of ahead
04 of, before or after, anything of that
05 nature. I'm not.

06 MR. TUCKER:

07 Okay.

08 BY MR. FRANCAERT:

09 Q. One question and maybe a
10 couple follow-ups.

11 A. Sure.

12 Q. Or two questions. Did you
13 participate as part of the mine
14 rescue team at any time during the
15 fire recovery operations?

16 A. The only involvement that I
17 had was actually maybe hauling a ---

18 was hauling a rescue team to a
19 certain area. As far as me being a
20 participant, I'm not a mine rescue
21 member. And that was the extent of
22 my involvement, was actually taking
23 the team to a fresh air base and then
24 them going on, you know. No. I was
25 not involved in any rescue efforts in

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01 any way.

02 Q. Okay.

03 A. Other than taking them where
04 they needed to be --- or where they
05 told me they needed to be.

06 Q. So you accompanied them into
07 the mine, because they were from
08 another place?

09 A. Didn't know where they was
10 going.

11 Q. Didn't know where they were
12 going?

13 A. I hauled them in. That was
14 the extent of it.

15 Q. Your stopping line between the
16 primary escapeway and your three
17 common belt entries ---

18 A. Yes, sir.

19 Q. --- how far is that extended

20 toward the face?
21 A. It is extended --- right now,
22 it's probably, I'm going to tell you,
23 it's three breaks off. I think it's
24 three breaks away from the face
25 actually curtained overhead into the

147

01 blast hole. Two to three breaks, I
02 think's what it is.

03 Q. A stopping line, does it have
04 to be maintained intact to separate
05 that primary and secondary escapeway?

06 A. Yes, sir. It should be. Yes.

07 Q. Would it surprise you to find
08 out that the beltline for the
09 longwall section was not isolated
10 from the primary escapeway at Number
11 Two Section?

12 A. Repeat that for me again so I
13 can listen to you.

14 Q. Would it surprise you to learn
15 that the belt entry for the longwall
16 was not isolated from the primary
17 escapeway from Two Section?

18 A. Yes, it would.

19 Q. Could that possibly have
20 reversed the airflow from the belt
21 entry for the longwall?

22 A. It would surprise me if that

23 had been the case. I couldn't be
24 sure. I do know know.

25 Q. And why do you think that

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01 separation is required?

02 A. We know it has to be

03 separated. I have no idea of

04 anything of this nature. I mean, we

05 know it's got to be isolated. Other

06 than that, I --- here what you said,

07 yes, it would surprise me.

08 Q. Is it strictly to comply with

09 the law or is it a safety concern?

10 A. I'd say it should be one in

11 the same.

12 ATTORNEY FRANCCART:

13 Bill?

14 A. But I have --- again, I have

15 no knowledge of any of that.

16 BY MR. TUCKER:

17 Q. Did you happen to take any

18 fire extinguishers or anything of

19 that nature with you to the fire

20 area?

21 A. As we went in?

22 Q. Yes, sir.

23 A. I can't recall that we did.

24 I'm not going to tell you we didn't.

25 Q. Okay. That's all right.

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01 A. Because they were actually
02 loading the vehicle and the whole
03 nine yards while I was on the phone.
04 I don't know what they had on it.

05 MR. TUCKER:

06 Okay. Thank you.

07 BY MR. FRANCAERT:

08 Q. One last question. I know you
09 already told us that you weren't
10 involved as a mine rescue team
11 member.

12 A. Absolutely.

13 Q. Were you involved with any
14 ventilation changes made outby for
15 mine rescue teams as far as setting
16 up fresh air bases?

17 A. No, sir. My involvement was
18 solely --- the involvement that I had
19 was solely just getting them to where
20 they told me they needed to be
21 because they didn't know how to get
22 there. And I was the driver. And it
23 was the same for any of us that done
24 any of the driving. That was the
25 extent of it. And for myself, it

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01 was.

02 MR. FRANCCART:
03 Okay. Thank you. Rod,
04 on behalf of MSHA, I thank you
05 for appearing here today and
06 answering all our questions
07 and sharing the information
08 you have concerning the
09 accident. Your cooperation is
10 very important to us as we
11 work to determine the cause of
12 the accident. Right now,
13 we're going to give Mr. Hardy
14 an opportunity to ask any
15 clarifying questions.

16 ATTORNEY HARDY:
17 I don't have any.
18 Thank you.

19 MR. FRANCCART:
20 And if you have any
21 comments or final thoughts
22 that you'd like to share with
23 us?
24 A. That's pretty much it if you
25 all don't have anything else for me.

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01 MR. FRANCCART:
02 We have a closing
03 statement and then we'll let

04 you go.

05 A. Okay.

06 MR. FRANCCART:

07 We do ask that you not
08 discuss your interview here
09 today with anyone else that
10 may be interviewed or has
11 already interviewed so that we
12 can get an independent memory
13 from everybody who has been
14 involved with the accident.

15 A. Okay.

16 MR. FRANCCART:

17 After questioning other
18 witnesses and obtaining
19 additional information, we may
20 ask you back for further
21 questions. And at some later
22 point, if you do have
23 additional information for us
24 that you think may be
25 important to the

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01 investigation, we'd like to
02 give you a couple of cards
03 here to contact Mr. Ken
04 Murray, who's not here today.
05 But he's the chief
06 investigator for the

07 investigation. And Mr.
08 Anthony Webb, who you met
09 earlier. These are their
10 cards.

11 And the Mine Act does
12 provide certain protection for
13 individuals who participate in
14 accident investigations. If
15 at any time you believe that
16 you've been treated unfairly
17 because of your cooperation
18 here today, please contact Mr.
19 Murray or Mr. Webb. And Bill
20 has some closing comments for
21 you.

22 MR. TUCKER:

23 Just one thing. I
24 failed to give you the
25 opportunity, Rod, if you have

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01 any comments or any ideas of
02 what could be done to prevent
03 a reoccurrence of a similar
04 type accident?

05 A. I really couldn't make any
06 statement at this time.

07 MR. TUCKER:

08 Okay. Thank you.

09 Again, the State offers
10 protections against miners
11 being discriminated against
12 also. And if you think of
13 something that you think was
14 information that we could use
15 in this investigation, if you
16 need to contact us, here's my
17 card. Here's C.A. Phillips'
18 card. He's our Deputy
19 Director out of our Charleston
20 office. And we do appreciate
21 you coming in today.

22 A. Yes, sir. Thank you.

23 * * * * *

24 EXAMINATION CONCLUDED AT 5:47 P.M.

25 * * * * *