

01 EXAMINATION UNDER OATH
02 OF
03 NICHOLAS C. BAISDEN
04
05
06 Taken pursuant to Notice by Autumn D.
07 Furby-Pritt, a Court Reporter and
08 Notary Public in and for the State of
09 West Virginia, at Department of
10 Environmental Protection, 1101 George
11 Kostas Drive, Logan, West Virginia,
12 on Tuesday, March 7, 2006, at 8:00
13 a.m.

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01 A P P E A R A N C E S (cont'd)
02 ALSO PRESENT:
03 RONALD W. STAHLHUT
04 C.A. PHILLIPS
05 EUGENE WHITE
06 BETH SPENCE

07 DENNIS BEITER
08 CHARLES POGUE
09 MIKE FINNIE
10 DERRICK TJERNLUND
11 STEVE COX
12 JOHN KINDER
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01 P R O C E E D I N G S

02 -----

03 MR. MURRAY:

04 Good morning, Nick.

05 Thanks for coming over today.

06 My name is Kenny Murray. I

07 represent the Mine Safety and

08 Health Administration, which

09 is an agency of the United

10 States Department of Labor.

11 I'm a member of MSHA's

12 accident investigation team

13 that is charged with

14 investigating the accident

15 that occurred at Aracoma Coal
16 Company, Incorporated, Aracoma
17 Alma Mine Number One, on
18 January 19th, 2006.

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

8

01 and members of the State of
02 West Virginia's team as well.
03 MSHA's team includes various
04 subject matter experts
05 throughout the United States,
06 along with members from the
07 Solicitor's office in
08 Arlington, Virginia. At this
09 time, I'd like for each of the
10 MSHA team members to identify
11 themselves to you.

12 MR. WEBB:

13 Anthony Webb, from
14 Pikeville, Kentucky.

15 MR. STAHLHUT:

16 Ron Stahlhut,

17 Vincennes, Indiana.
18 MR. POGUE:
19 Charlie Pogue, MSHA,
20 Hunker, Pennsylvania.
21 MR. FRANCCART:
22 Bill Francart,
23 Pittsburgh, Pennsylvania.
24 MR. TJERNLUND:
25 Derrick Tjernlund, Tech

9

01 Support, Triadelphia.
02 MR. FINNIE:
03 Mike Finnie,
04 Madisonville, Kentucky.
05 MR. BEITER:
06 Denny Beiter,
07 Triadelphia, West Virginia.
08 MR. BURKE:
09 Tony Burke, MSHA,
10 Whitesburg, Kentucky.
11 ATTORNEY BELL:
12 Good morning, Nick.
13 I'm Keith Bell. I'm an
14 attorney for MSHA, and I'm out
15 of Arlington, Virginia.
16 MR. MURRAY:
17 Nick, I'm from
18 Pikeville, Kentucky. Here
19 with me today, representing

20 the State of West Virginia, is
21 Mr. Bill Tucker. Bill will be
22 asking the questions for the
23 State. At this time, I'd ask
24 for Mr. Tucker to introduce
25 the members of the State's

10

01 team and provide you with an
02 introductory statement.

03 MR. TUCKER:

04 I have a brief
05 statement I need to read now.
06 The West Virginia Office of
07 Miners' Health, Safety &
08 Training is conducting this
09 interview session jointly with
10 MSHA, and we are in agreement
11 with the procedures outlined
12 by Mr. Murray. However, let
13 me make it clear that the
14 Director reserves the right,
15 if necessary, to call or
16 subpoena witnesses or require
17 the production of any record,
18 document, photograph or other
19 relevant materials necessary
20 to conduct this investigation.
21 Again, my name is Bill Tucker,

22 and I'm with Miners' Health,
23 Safety & Training and work out
24 of the Oak Hill office.

25 MR. PHILLIPS:

11

01 Good morning, Nick. My
02 name is C.A. Phillips. I'm
03 the Deputy Director with the
04 Office of Miners' Health,
05 Safety & Training in
06 Charleston, West Virginia.

07 MR. WHITE:

08 My name is Eugene
09 White. I'm the Region Three
10 District Inspector.

11 MR. COX:

12 Steve Cox, Region
13 Three.

14 MR. KINDER:

15 John Kinder, Region
16 Three.

17 MS. SPENCE:

18 Beth Spence, from the
19 Governor's office.

20 MR. MURRAY:

21 Nick, this
22 investigation is being
23 conducted by MSHA and the
24 State of West Virginia to

25 gather information to

12

01 determine the cause of the
02 accident and to help prevent
03 this from happening in the
04 future. These interviews are
05 an important part of the
06 investigation.

07 After the investigation
08 is completed, MSHA will issue
09 a written report detailing the
10 nature and causes of the
11 accident. MSHA accident
12 reports are made available to
13 the public in the hope that a
14 greater awareness about the
15 causes of accidents can reduce
16 their occurrence in the
17 future. Information obtained
18 through witness interviews is
19 frequently included in these
20 reports. Your statement may
21 also be used in other
22 enforcement proceedings.

23 Again, I would like to
24 thank you for coming over
25 today. We appreciate your

13

01 assistance in the
02 investigation. The
03 willingness of miners and mine
04 operators to work with us is
05 critical to our success in
06 making the nation's mines
07 safer.

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

24 This interview is being
25 conducted at the State of West

01 Virginia Department of
02 Environmental Protection,
03 Division of Mining and

04 Reclamation, at 1101 George
05 Kostas Drive, in Logan, West
06 Virginia, 25601, on March 7th,
07 2006, at approximately 8:05
08 a.m., Eastern Standard Time.

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

15

01 representative at any time.
02 You may designate any person
03 to be your representative.
04 Following the questions by
05 MSHA and the State, the

06 representative will be given
07 the opportunity to ask
08 questions for the purposes of
09 clarification on areas already
10 discussed.

11 Your statement is
12 completely voluntary. You may
13 refuse to answer any question
14 and you may end the interview
15 at any time. If you don't
16 understand a question, tell me
17 and I'll rephrase it. If you
18 need a break for any reason,
19 just let me know.

20 You may request the
21 opportunity to make a
22 confidential statement which
23 we will withhold from the
24 public to the extent allowed
25 by law. Should you desire to

16

01 give a confidential statement,
02 you should advise me before I
03 begin your interview so that I
04 can reschedule your interview
05 in order to properly consider
06 your request. Do you wish to
07 have a confidential interview?

08 MR. BAISDEN:

09 (Indicates no). No.

10 MR. MURRAY:

11 One of the things that
12 we'll ask is that you give
13 verbal responses so that the
14 court reporter can hear rather
15 than shaking your head.

16 MR. BAISDEN:

17 All right.

18 MR. MURRAY:

19 You don't desire a
20 confidential interview?

21 MR. BAISDEN:

22 No. So that means
23 anybody can --- well, I don't
24 care. Go ahead.

25 MR. MURRAY:

17

01 Is that no?

02 MR. BAISDEN:

03 Yeah.

04 MR. MURRAY:

05 Okay. We have a court
06 reporter today, and she'll
07 record your verbal responses
08 and later produce a written
09 transcript. So I ask that you
10 state your answers verbally so

11 she can record those. Neither
12 the transcript of this
13 interview nor the content of
14 this interview will be
15 released to the public or the
16 media until MSHA's final
17 accident investigation report
18 is issued or until required by
19 court order or until a public
20 hearing takes place.

21 If any part of your
22 statement is based not on your
23 own firsthand knowledge but on
24 information that you learned
25 from someone else, let me know

18

01 that. Please answer each
02 question as fully as you can,
03 including any information that
04 you learned from someone else.
05 We may not ask the right
06 questions to learn the
07 information that you have, so
08 don't feel limited to the
09 precise question that we ask.
10 If you have information about
11 the subject area of a
12 question, please provide us
13 with that information. Do you

14 have any questions about the
15 manner in which the interview
16 will take place?

17 MR. BAISDEN:

18 No.

19 MR. MURRAY:

20 Would the court
21 reporter please swear the
22 witness?

23 -----

24 NICHOLAS C. BAISDEN, HAVING FIRST
25 BEEN DULY SWORN, TESTIFIED AS

19

01 FOLLOWS:

02 -----

03 BY MR. MURRAY:

04 Q. Mr. Baisden, please state your
05 full name, address and telephone
06 number, and spell your last name for
07 the record.

08 A. [REDACTED]

[REDACTED]

14 A. Yeah.

15 Q. Okay. Is it okay if I call

16 you Nick?

17 A. Yeah.

18 Q. Okay. Nick, are you appearing
19 voluntarily here today?

20 A. Yeah.

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

25 A. No.

20

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

04 A. No.

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

08 A. Yes.

09 Q. Do you have a representative
10 with you today?

11 A. No.

12 Q. Did anyone contact you and
13 offer to be your representative?

14 A. No.

15 Q. Nick, how long have you worked
16 at the Aracoma Alma Mine Number One?

17 A. Since June 27th.

18 Q. Of which year?

19 A. '05.

20 Q. Okay. And are you an employee
21 of Aracoma or are you an employee of
22 a contractor?

23 A. Aracoma.

24 Q. Did you ever work for a
25 contractor before?

21

01 A. Yeah.

02 Q. And who was that?

03 A. Apollo.

04 Q. When did you work for Apollo?

05 A. From June to, I believe,
06 November.

07 Q. Is that something typical at
08 Aracoma?

09 A. Yeah.

10 Q. You would start out working
11 for a contractor and then later on
12 ---?

13 A. Red hats.

14 Q. So after you gained your
15 experienced miner certificate?

16 A. No. I got hired in before I
17 was a black hat.

18 Q. Once you became a black hat,
19 that's when they gave you the
20 position with the company?

21 A. No, before then.
22 Q. You were a red hat?
23 A. Yeah.
24 Q. What's your current job
25 classification?

22

01 A. Outby.
02 Q. And when you say outby, is
03 that outby construction?
04 A. Yeah.
05 Q. And whenever you referred to
06 your beginning of your employment
07 with the contractor, that, too, was
08 2005?
09 A. Yeah.
10 Q. Okay. What was your job
11 classification on January 19th, 2006,
12 the day of the accident?
13 A. Roof bolter.
14 Q. You were a roof bolter?
15 A. Yeah.
16 Q. And where were you working?
17 A. Ten headgate.
18 Q. And were you working as part
19 of a production crew or were you
20 working as part of an outby
21 construction crew?
22 A. Outby.
23 Q. How long have you been working

24 on a construction crew?

25 A. Ever since I've worked there.

23

01 Q. What about on the Ten headgate

02 area?

03 A. Maybe two months or so.

04 Q. Okay. What other jobs have

05 you held at the mine?

06 A. Just construction.

07 Q. Construction ---

08 A. Yeah.

09 Q. --- the entire time? Okay.

10 Have you worked at any other mines

11 before you came to Aracoma?

12 A. No.

13 Q. So your total mining

14 experience would be your total

15 employment with Aracoma?

16 A. Yeah.

17 Q. Okay. Did you work on the

18 project where they were installing

19 the 72-inch belt for the future

20 longwall?

21 A. Yeah.

22 Q. Did you work on the

23 construction project that installed

24 the 72-inch belt that the longwall

25 currently dumps on, the active Number

01 Seven belt?

02 A. No.

03 Q. Did you work on the
04 construction project that installed
05 the longwall belt that the current
06 longwall uses right now in their
07 production?

08 A. Yeah.

09 Q. At what point did you begin
10 work on that?

11 A. They was just putting
12 structure in down the hill.

13 Q. Was the drive installed yet?

14 A. I can't remember if it was or
15 not. I don't believe it was, though.

16 Q. Okay. At that point, was
17 there any structure advanced inby the
18 current tail for the Number Seven
19 belt?

20 A. What, when we was putting the
21 five-foot belt in?

22 Q. Yes, for the longwall.

23 A. Was there any inby the Seven
24 tail?

25 Q. Yes.

01 A. No.

02 Q. Okay. We'll get back to that,

03 but right now we'll talk about the
04 day of the accident, January 19th,
05 2006. What shift were you on that
06 day?

07 A. Dayshift.

08 Q. What time did dayshift start?

09 A. 7:00 --- no, 7:00. 7:00.

10 Q. What time did it end?

11 A. Supposed to end at 4:00, but I
12 can't really remember what time I got
13 outside.

14 Q. So normally around 7:00 to
15 4:00?

16 A. Supposed to.

17 Q. Do you remember what time you
18 arrived at the mine that day?

19 A. No.

20 Q. Was it before 7:00?

21 A. Yeah.

22 Q. Okay. Do you remember what
23 time you got out that day?

24 A. I remember it was close to
25 being on time. It was about the only

26

01 few times we got out on time.

02 Q. It was near 4:00?

03 A. It was somewhere around 4:00.

04 Q. Do you know why it was unusual

05 for you to be on time that particular
06 day as compared to other days?

07 A. No.

08 Q. Anything that would have sped
09 up your exit?

10 A. No.

11 Q. No? Okay. Who was your
12 supervisor that day?

13 A. Shiner. Chris Herndon.

14 Q. Chris Herndon?

15 A. Yeah.

16 Q. His nickname is Shiner?

17 A. Yeah.

18 Q. Is he your normal supervisor?

19 A. Yeah.

20 Q. Do you work for anybody else
21 in that construction area, other than

22 Mr. Herndon?

23 A. Don Haggie.

24 Q. Mr. Nagey?

25 A. Haggie.

27

01 Q. Or Haggie?

02 A. Yeah.

03 Q. Okay. Do you work a steady
04 shift?

05 A. Yeah.

06 Q. And that's the dayshift?

07 A. Yeah.

08 Q. What about Mr. Herndon and Mr.
09 Nagey --- or Haggie, I'm sorry?
10 A. They both straight day.
11 Q. Both of them are on dayshift?
12 A. Yeah.
13 Q. Does anybody work in that area
14 on shifts other than dayshift?
15 A. Not that I know of.
16 Q. So you guys --- your crew and
17 those foremen are the only ones
18 associated with that particular
19 construction project in the northeast
20 mains?
21 A. As far as I know.
22 Q. Do you know who Mr. Herndon's
23 supervisor is?
24 A. I guess Gary Goff. I'm not
25 for sure.

28

01 Q. Have you ever seen Gary Goff
02 up in that area discussing some
03 different activities with Mr.
04 Herndon?
05 A. Not that I know of.
06 Q. Have you ever seen anybody up
07 there giving Mr. Herndon advice or
08 overseeing what he's accomplished?
09 A. Not that I know of.

10 Q. What about Dusty Dotson, do
11 you know him?
12 A. Yeah.
13 Q. Have you ever seen Dusty
14 Dotson in that area?
15 A. Yeah.
16 Q. Do you think Dusty Dotson is
17 at a higher rank than Mr. Herndon?
18 A. Yeah.
19 Q. Do you know Dusty's position?
20 A. No.
21 Q. Does Dusty ever pay attention
22 to any particular phase of the
23 operation that you've --- or the
24 construction project that you guys
25 are working on?

01 A. I'm not for sure.
02 Q. Ever see Dusty in the area
03 where the 72-inch structure is
04 installed, taking a look to see if
05 it's straight or ---?
06 A. No.
07 Q. Do you ever see Dusty talking
08 to Mr. Herndon?
09 A. Yeah.
10 Q. In the area where you guys are
11 working?
12 A. I've seen him talking to him,

13 but I don't know what about.

14 Q. Yeah. But they've had
15 discussions up in the mine, in the
16 northeast mains area?

17 A. I've seen them talking up
18 there.

19 Q. Okay. What about Pepé Lester,
20 has he ever been up in that area to
21 see what's going on?

22 A. I don't know if he has or not.

23 Q. Do you know Pepé?

24 A. Yeah.

25 Q. Do you know what his position

30

01 is?

02 A. I think superintendent.

03 Q. Who would be at a higher rank,
04 Dusty or Pepé?

05 A. I guess Pepé would.

06 Q. Pepé would? Have you ever
07 seen Pepé underground?

08 A. Yeah.

09 Q. What about in the area where
10 you guys work, in the northeast
11 mains?

12 A. I can't remember if I seen him
13 up there or not.

14 Q. Where would you see him if you

15 think ---?

16 A. I've seen him on our belt
17 lines, on our other belt lines. I've
18 seen him there. I've seen him
19 walking out.

20 Q. What other belt lines are you
21 referring to?

22 A. I've seen him when he was on
23 Nine headgate. I've seen him on that
24 one. I've seen him just walking in
25 and out.

31

01 Q. Have you ever seen him on
02 Number Seven belt, where the longwall
03 dumps right now?

04 A. No.

05 Q. Okay. What about Gary Goff,
06 what rank does he have as far as the
07 rank between Dusty and Pepé? Would
08 he outrank Pepe or ---?

09 A. Yeah.

10 Q. So he would be Pepé's
11 immediate supervisor, you think?

12 A. I guess.

13 Q. Have you ever seen Gary
14 underground?

15 A. Yeah.

16 Q. Where at?

17 A. Nine headgate.

18 Q. Nine headgate?
19 A. Yeah.
20 Q. On the belt?
21 A. Yeah, when he first came over
22 there.
23 Q. In the area of the mother
24 drive possibly?
25 A. No, down where we should have

32

01 belted.
02 Q. At the takeup area?
03 A. No. It was way down there,
04 more towards the tailpiece of the
05 longwall.
06 Q. Closer to the face?
07 A. Yeah.
08 Q. Have you ever seen Gary up
09 around the Number Seven belt?
10 A. No.
11 Q. Have you ever seen Gary up
12 around your construction project?
13 A. No. I have seen him at the
14 head, the Nine head --- or Nine
15 headgate head.
16 Q. So that would be the area
17 where the mother drive dumps
18 onto ---?
19 A. Yeah.

20 Q. You've seen Gary there?

21 A. Yes.

22 Q. Do you know what he was doing
23 there?

24 A. He was making a splice.

25 Q. What was his role in making

33

01 the splice?

02 A. Just watching.

03 Q. He didn't offer to help?

04 A. No, I don't believe.

05 Q. Who was your boss then?

06 A. Don Haggie.

07 Q. Did he talk to Don Haggie at

08 all about anything going on?

09 A. I don't remember.

10 Q. What were you assigned to do

11 on the 19th, specifically? That was

12 the day of the accident that you

13 worked on dayshift.

14 A. Bolt.

15 Q. Roof bolt?

16 A. Yeah.

17 Q. And where at?

18 A. Down at Ten headgate.

19 Q. What kind of roof bolting were

20 you doing at Ten headgate?

21 A. What kind was I doing?

22 Q. Yes.

23 A. Putting the monkey faces up.

24 Q. What's a monkey face?

25 A. Hanging a belt.

34

01 Q. Okay. And why don't you ---

02 if you don't care, we have a map

03 behind us. If you'd come on up,

04 maybe we could be more specific. The

05 young lady would ask that you speak

06 up just a little bit so she can hear

07 you.

08 Just to give you an idea of

09 where we're at, this is obviously not

10 the entire mine, but this is the

11 northeast area, northeast mains area.

12 This would be the current longwall

13 belt. This would be the Number Seven

14 belt that the longwall dumps on.

15 This would be the Ten headgate, which

16 we're talking about. And this area

17 here would be Two section. Okay?

18 And then this would be the brown,

19 behind it would be the 48-inch belt,

20 and then this would be the little

21 belt that Two section dumps on and

22 then it dumps onto 48. On the 19th,

23 you said you were putting the monkey

24 faces up for the installation of the

25 Ten headgate belt through there.

35

01 Where were you bolting at roughly in
02 relationship to the belt drive?

03 A. I don't know which one we were
04 in. I don't know. It was one down
05 through here. I'm not for sure which
06 break it is. It was just somewhere
07 down through here.

08 Q. So if the drive would be
09 installed in this area, this entry
10 here would be an extension of the
11 72-inch belt. So the drive would be
12 into ---?

13 A. So it would be in this entry
14 right here.

15 Q. How far from inby the drive?

16 A. A pretty good ways down
17 through here.

18 Q. Do you think ten crosscuts,
19 roughly?

20 A. I would say we'd probably go a
21 little farther than that. I'm not
22 for sure.

23 Q. Do you just want to mark an X
24 just close to where you think ---
25 these are numbered One through ---

36

01 Number One would be the first

02 crosscut inby and then --- it doesn't
03 have to be exact.

04 A. A X?

05 Q. Yes. Just mark an X and then
06 just put work location.

07 WITNESS COMPLIES

08 BY MR. MURRAY:

09 Q. Now, I'll put the date. This
10 would be 1/19/06. Okay. Just a
11 minute. We'll talk just a few more
12 minutes while we got you standing
13 there. That way you won't have to go
14 back and forth. We talked about the
15 project of advancing the Number Seven
16 72-inch belt to the future longwall.
17 And you indicated whenever you were
18 in this area, you began working this
19 area, that that project hadn't
20 started yet, there wasn't any
21 structure extended from where the
22 current tailpiece is today. What
23 particular piece of the task did you
24 --- were you involved in in the
25 installation of that structure?

37

01 A. Of Nine or of this?

02 Q. The new structure for the
03 72-inch --- Number Seven 72-inch

04 belt?

05 A. I'm in from Seven until where

06 we're ---. I pretty much helped all

07 the way through there.

08 Q. You helped put all of the

09 structure in?

10 A. Yeah, pretty much here and

11 there. I might have missed a spot or

12 two, but ---.

13 Q. Could you put an X on the map

14 where you began involvement with that

15 right at the --- this is the tail

16 here?

17 A. That's the tail.

18 Q. So you began here?

19 A. Yeah, here.

20 Q. Do you know where it ends

21 today?

22 A. Well, let's see. It split ---

23 right there is where it splits, but

24 that's a stopping. Probably right up

25 to this stopping right here.

38

01 Q. If you want to put an X there.

02 WITNESS COMPLIES

03 BY MR. MURRAY:

04 Q. So how about putting a line

05 off to the side and put end of

06 72-inch structure?

07 WITNESS COMPLIES

08 BY MR. MURRAY:

09 Q. In here put beginning.

10 WITNESS COMPLIES

11 BY MR. MURRAY:

12 Q. Okay. And at some point in
13 time, did you have involvement in
14 installing that structure that's
15 currently ---

16 A. Yeah.

17 Q. --- positioned in that entry?

18 A. Yes.

19 Q. Okay. When you were in the
20 process --- let's go back to the
21 beginning, from the tail moving
22 toward --- inby toward the Two
23 section. Did you guys ever have a
24 ventilation control that was in your
25 way?

39

01 A. That one.

02 Q. The one at the tail?

03 A. The one at the tail.

04 Q. At the current tail?

05 A. Seven tail?

06 Q. Yes.

07 A. Yeah.

08 Q. And what can you tell me about

09 that ventilation control?

10 A. It's been knocked.

11 Q. Do you know when it was

12 knocked?

13 A. It's been a while. Been a

14 while back.

15 Q. If you could --- we'll use the

16 19th as a reference point. How far

17 before the 19th?

18 A. I'd say a few months, but I'm

19 not for sure what day.

20 Q. A few months?

21 A. Yeah.

22 Q. Okay. So I'm going to circle

23 this one and say removed a few months

24 prior to 1/19/06. Is that right?

25 A. Yeah.

40

01 Q. Okay. Do you know who knocked

02 it out?

03 A. I can't remember who knocked

04 it.

05 Q. Would it have been somebody on

06 your crew?

07 A. Yeah.

08 Q. Was it you?

09 A. No, it wasn't me.

10 Q. How did they remove it? Did

11 they use a sledgehammer or a scoop?

12 A. Probably a scoop.

13 Q. Do you know who was the
14 operating the scoop?

15 A. They have different people
16 operate it all the time.

17 Q. Who normally operates the
18 scoop?

19 A. Either Don or Darrick most of
20 the time.

21 Q. Don? Who's Don?

22 A. Haggie.

23 Q. Don Haggie, the boss?

24 A. Yeah. Him or Darrick.

25 Q. Or Darrick VanNatter?

41

01 A. Yes.

02 Q. Could it have been Don Haggie
03 that knocked it out?

04 A. See, I don't remember if Don
05 quit then or Shiner was the boss.
06 Because Don quit there for a while
07 and came back. I'm not for sure.

08 Q. Does Shiner normally operate
09 the scoop?

10 A. He's on it sometimes, but not
11 a lot.

12 Q. Do you think he could have
13 been the one that actually knocked it

14 out?

15 A. I don't remember.

16 Q. Were you present when it was
17 knocked out? Was it on your shift?

18 A. Oh, yeah, I'm sure it was on
19 my shift.

20 Q. You don't know who actually
21 said, we need to get that stopping
22 out of there?

23 A. No.

24 Q. Did they replace it with any
25 other kind of ventilation control?

42

01 A. There was a curtain hung up
02 there for a while.

03 Q. Do you know how long the
04 curtain stayed in place?

05 A. No.

06 Q. Do you know if the curtain was
07 removed at some point in time?

08 A. Yeah. It was gone at some
09 point, yeah.

10 Q. Do you think it was up on the
11 19th?

12 A. No.

13 Q. You don't think?

14 A. No.

15 Q. Were you in that area around
16 that point in time to see?

17 A. Was I there that day?

18 Q. At any point in time were you
19 there to see that it was gone?

20 A. Yeah. I've been through there
21 before and it was gone.

22 Q. So you know by being in the
23 area that it wasn't up?

24 A. Yeah.

25 Q. If we were to come down there

43

01 today, we would be able to stand in
02 the intersection of --- see where
03 it's marked 3266, and look in an
04 outby direction and see the belt
05 without having to look through any
06 kind of ventilation control?

07 A. Right.

08 Q. How far from the intersection
09 of 3266 is the new structure that's
10 extended inby start?

11 A. Where's it start at?

12 Q. Yes.

13 A. I can't remember. I believe
14 it's right at the edge of this break.
15 That's where it starts, I think.
16 It's split in the roadway. Maybe we
17 connected it right here. I don't
18 remember if we connected it.

19 Q. Okay. So it's either at the
20 line and rib that's 3266 or it
21 connected --- well, it won't be
22 connected because this belt is still
23 running.
24 A. Yeah. Well, I mean, there's
25 structure over in here.

44

01 Q. What about this crosscut if
02 you're looking in by standing at
03 intersection 3266, the crosscut to
04 the right? Can you remember some
05 belt boxes, power boxes, being in
06 that crosscut?

07 A. On what, this?

08 Q. Yes.

09 A. Yeah. There's --- yeah,
10 there's probably some there.

11 Q. Behind that power center we've
12 learned that there was a stopping at
13 one time, but it's since been removed
14 as well.

15 A. Yeah. The one right beside
16 the roadway?

17 Q. Yes. Do you know when that
18 was removed?

19 A. It's been a while. I don't
20 know when.

21 Q. How long would you think on

22 that one before --- using the 19th as
23 a starting point, the 19th of
24 January?

25 A. Probably a few months, I

45

01 reckon.

02 Q. A few months before that as
03 well?

04 A. Yeah.

05 Q. Do you think this stopping was
06 removed around the same point in time
07 that the stopping behind the tail was
08 removed?

09 A. I'd say.

10 Q. Do you know if they replaced
11 that stopping with any other
12 ventilation control?

13 A. No. It's just been open.

14 Q. It's been open?

15 A. Yes.

16 Q. Do you know why they removed
17 that stopping?

18 A. No.

19 Q. Do you know who removed the
20 stopping?

21 A. No.

22 Q. Would it have been somebody on
23 your crew?

24 A. No.

25 Q. No. Is your supervisor,

46

01 either Mr. Herndon or Mr. Haggie, are
02 they normally in the area all day
03 with you?

04 A. Pretty much. One of them is
05 usually around.

06 Q. Do they have any other
07 responsibilities, other than the area
08 in the northeast mines, any other
09 jobs going on in other parts of the
10 mine?

11 A. I don't know. I mean, I don't
12 know.

13 Q. But their focus is on the
14 activities ---

15 A. Yeah.

16 Q. --- that's going on in the
17 northeast mains?

18 A. Yeah.

19 Q. That's yes?

20 A. Yeah.

21 Q. If you were to walk the
22 structure from where --- in this case
23 here, you said it ends, in an outby
24 direction toward the tail of the
25 Number Seven belt, would you have to

47

01 walk through any ventilation
02 controls, any stoppings?
03 A. No.
04 Q. Was there ever a stopping in
05 your way as you were installing the
06 structure?
07 A. I don't remember. I mean, no,
08 I don't guess, because the bolter
09 went through there first, so you
10 know, ---.
11 Q. The bolter went through before
12 the structure was installed?
13 A. Yeah.
14 Q. To install the monkey faces
15 --- monkey plates?
16 A. Yeah.
17 Q. Do you know when that was?
18 A. No. Before we put the
19 structure in, I mean.
20 Q. You don't know how long the
21 structure has been put in?
22 A. No. We've been --- we've been
23 working on it for a while, a few
24 months, I reckon.
25 Q. Has anybody ever talked about

48

01 escapeways to you in this area?
02 A. No.

03 Q. Do you know the escapeway out
04 of Ten headgate?
05 A. Yeah. I mean, you'd go up ---
06 that's part of your roadway, though.
07 Now I know that there's belt line,
08 where I could go down Ten headgate
09 and out to old Three section.
10 Q. So you know other ways other
11 than the designated escapeways to get
12 out of the mine?
13 A. Yeah, if I had to get out.
14 Q. If you were --- let's just say
15 you were up there bolting and the
16 roof bolter caught on fire and you
17 had to escape, you couldn't put it
18 out, how would you get out of the
19 mine?
20 A. Well, if it was on fire, I'd
21 just go up above the fire because the
22 airflow is down this way.
23 Q. Okay. And then what route
24 would you take to get out?
25 A. I'd go up. Let's see.

49

01 Q. There's the belt line?
02 A. I believe it's this one.
03 Somewhere it would cross down back
04 down into this entrance somewhere. I
05 don't know. I can't do it on the

06 map. I can do it in the mine. I
07 don't know the roadways on the map,
08 how they're marked.

09 Q. When you come into the mine
10 --- let's just back up for a minute.
11 When you come in the mine at the
12 beginning of your shift, do you guys
13 walk or do you drive?

14 A. We ride now.

15 Q. When you ride from the north
16 --- you come in the north mains,
17 okay, and then as you make the turn
18 coming into the northeast, how do you
19 travel from the northeast mains where
20 it begins to the Ten headgate?

21 A. We go under one of these
22 overcasts. I'm not for sure which
23 one it is. And then we go under the
24 belt, so --- see, right here is the
25 belt. We go under it. This is an

50

01 air door, airlock.

02 Q. That's the double doors. So
03 you travel through those double
04 doors?

05 A. Yeah.

06 Q. Do you ever drive the mantrip?

07 A. No.

08 Q. Did you ever open those doors?
09 A. Yes.
10 Q. Are those doors hard to open?
11 A. No.
12 Q. When you open those doors,
13 which way does the air want to go?
14 A. I've never paid much
15 attention.
16 Q. Does it feel like it hits you
17 in the back or does it feel like it's
18 coming to your face?
19 A. I ain't paid no attention.
20 Q. Do you notice any difference
21 between when you open these doors
22 compared to when you open the doors
23 on the other side of the belt?
24 A. I don't know.
25 Q. Or is one set easier than the
01 other?
02 A. They're both easy. I mean, I
03 can't really remember.
04 Q. They're both about the same?
05 A. Yeah, I think so.
06 Q. Let's go back to the escapeway
07 now. If you had to leave the Ten
08 headgate area to come out on the
09 primary escapeway --- it doesn't have
10 to be exact, but kind of just from

11 where Ten headgate intersects
12 northeast mains ---.
13 A. Just over there, draw it over
14 to there?
15 Q. Yes. Just get me out to the
16 mains here. You know, coming out the
17 mains, where we'd go.

18 WITNESS COMPLIES

19 A. Come up there and say down
20 through here, past Nine, overpass.

21 BY MR. MURRAY:

22 Q. The ventilation controls that
23 you see may not be correct. I mean,
24 they may not all be in this map that
25 we were provided.

52

01 MR. MURRAY:
02 He's traveled from Ten
03 headgate. He started at
04 survey station 3640. He's
05 traveling outby. He's now at
06 the intersection of northeast
07 mains and Nine tailgate. And
08 he's turned south at survey
09 station --- it looks like ---

10 A. 3224.

11 MR. MURRAY:

12 --- 3224 toward survey

13 station 3222.

14 A. 3222.

15 MR. MURRAY:

16 He continues south one
17 more crosscut, and now he's
18 turning toward the outby going
19 through the double doors
20 underneath the longwall belt
21 drive, continues outby to
22 survey station 3192, turns
23 north to survey station 2236,
24 continues north one more
25 crosscut, then turns toward

53

01 north mains and ends up at

02 survey station ---

03 A. Want me to read that off?

04 MR. MURRAY:

05 Can you read it off?

06 A. It's 2855.

07 MR. MURRAY:

08 To survey station 2855,

09 and that gets him into the

10 north mains.

11 BY MR. MURRAY:

12 Q. And kind of mark that as your

13 primary escape route.

14 WITNESS COMPLIES

15 BY MR. MURRAY:

16 Q. And is that identified
17 underground by any particular means?
18 A. Yeah, them reflectors.
19 Q. What color reflectors?
20 A. Green if you're on the right
21 road, red if you're not.
22 Q. So as you're traveling out
23 your primary escapeway, you'd be able
24 --- if you were heading from the Ten
25 headgate toward north mains, what

01 color would I see?
02 A. You'd see green.
03 Q. You'd see green. Okay.
04 Coming into the mine from north mains
05 toward Ten headgate --?
06 A. You'd see red.
07 Q. Has anybody told you or had
08 any evacuation escapeway drills to
09 indicate that that's your primary
10 escapeway?
11 A. No.
12 Q. Have you ever looked at an
13 escapeway map?
14 A. I don't believe so.
15 Q. Have you ever seen one at the
16 mine, either underground or on the
17 surface?

18 A. I don't think I have.

19 Q. Up on the surface, at the

20 bathhouse area, in that one room

21 where there's a wooden table with a

22 Plexiglas cover on it, have you ever

23 seen a map inside there?

24 A. Yeah, there's a map in there.

25 Q. Does that have the escapeways

55

01 marked on it?

02 A. I ain't never paid much

03 attention to it.

04 Q. Has anybody ever reviewed that

05 map with you on a safety talk or

06 training session outside?

07 A. I think they'd have.

08 Q. Who does that?

09 A. I cannot remember who did

10 that, showed us that map and when.

11 Q. Would it have been one of your

12 immediate supervisors?

13 A. I don't remember who it was.

14 I mean, I'd say probably Gary or Pepé

15 or one of them. They're the one who

16 did the safety talks.

17 Q. Gary Goff or Pepé Lester? Can

18 you remember traveling underground

19 and actually seeing the reflectors

20 that we're talking about, those green

21 reflectors?

22 A. I've seen the green

23 reflectors.

24 Q. Do you know if they continue

25 the entire route to get you out to

56

01 this location?

02 A. I have no idea.

03 Q. What about through the doors?

04 A. I have no idea.

05 Q. Okay. The training that ---

06 or the conversation, safety meeting,

07 whatever we want to call it, that we

08 had outside, was that after the 19th

09 or was that before the accident,

10 before January 19th or has that been

11 since the accident?

12 A. Our safety talk?

13 Q. Yes, about Mr. Goff and Mr.

14 Lester?

15 A. That was after the accident.

16 Q. That was after the 19th?

17 A. Yeah.

18 Q. And do you remember what the

19 conversation was?

20 A. Well, it was something about

21 this map. I don't remember what it

22 was.

23 Q. About this escapeway map?

24 A. The map that's in the thing.

25 Q. Was the conversation to kind

57

01 of familiarize everyone with the

02 escapeways in the mine?

03 A. I don't remember.

04 Q. Was that something unusual to

05 have Mr. Goff or Mr. Lester standing

06 up in front of the group and talking

07 about something?

08 A. No.

09 Q. That's typical?

10 A. Yeah.

11 Q. Even before the 19th?

12 A. Yeah.

13 Q. Do you remember some of the

14 subjects that they talked about

15 before the 19th?

16 A. No.

17 Q. This roadway that you traveled

18 coming into the mine through these

19 double set of airlock doors where it

20 takes you under the mother drive, how

21 long has that been your route to the

22 construction area?

23 A. I'm not for sure, but I

24 believe it's the whole time we've

25 been working over here, we came

01 through there.

02 Q. You can't remember coming in

03 another way?

04 A. No.

05 Q. In a ride I guess it would be?

06 A. No.

07 Q. Is there anybody ever here in

08 this area as you travel through that

09 would open the doors for you so you

10 didn't have to get out of the

11 mantrip?

12 A. Sometimes the beltman will if

13 he's around the belt head.

14 Q. Do you know any beltman by

15 name that you've seen in that area?

16 A. Brandon something. I can't

17 remember his last name.

18 Q. Brandon?

19 A. Yeah.

20 Q. Would it be Conley?

21 A. Yeah, I believe that is his

22 last name.

23 Q. And was he assigned to that

24 area permanently?

25 A. I have no idea.

01 Q. When you came through that

02 area on the 19th, at the beginning of
03 the shift, did you smell anything or
04 see anything unusual?

05 A. No.

06 Q. How about at the end of the
07 shift, whenever you all were going
08 home, did you travel through this
09 area?

10 A. No.

11 Q. Did you smell or see anything
12 unusual?

13 A. Uh-uh (no).

14 Q. Did you see anybody in the
15 area when you were going home?

16 A. I can't remember if we did or
17 not, but I don't think I did.

18 Q. Do you remember who opened the
19 doors that day?

20 A. No.

21 Q. Do you remember if it was
22 somebody on your crew or was it
23 somebody that was just standing
24 there?

25 A. I have no idea.

60

01 Q. Okay. Do you know the
02 alternate escapeway?

03 A. That one.

04 Q. The 48-inch belt line?

05 A. Yeah.

06 Q. Do you know how it's

07 designated underground to distinguish

08 it between the primary escapeway?

09 A. Yellow reflectors.

10 Q. Yellow reflectors in the same

11 manner? If you're going the right

12 way, you see yellow. If you're

13 coming the wrong way, you see red?

14 A. I don't know if they're red on

15 that side or not. I remember seeing

16 yellow reflectors.

17 Q. You must have been going the

18 right way.

19 A. I guess.

20 Q. Have you heard anything about

21 the night of the accident, what

22 happened?

23 A. Caught on fire, the belt head.

24 That's it.

25 Q. Do you know how the two miners

01 were separated from the group?

02 A. I heard one just took off

03 running. They don't know what

04 happened to the other one.

05 Q. Do you know where they

06 encountered smoke?

07 A. Somewhere around the cribs, I
08 think.

09 Q. And in the cribs, is that in
10 the intake?

11 A. I don't know.

12 Q. They were on a mantrip, you
13 know that?

14 A. Yeah. As far as I know, they
15 were.

16 Q. Why do you think they
17 encountered so much smoke out there?

18 A. Well, I guess because it was
19 coming up the intake.

20 Q. What could have stopped that
21 smoke from coming up the intake?

22 A. I don't know. Maybe if them
23 doors had been open or something.

24 Q. Did you ever see those doors
25 open, left open?

62

01 A. What, that day?

02 Q. No, any day.

03 A. Yeah. I've seen them open
04 before, yeah.

05 Q. All four of them?

06 A. Yeah.

07 Q. What would be a reason why all
08 four doors would be open?

09 A. Too lazy to shut them back.

10 Q. Too lazy? Is that a common
11 thing or is that unusual to see that?

12 A. It's pretty common. You see
13 it more than once.

14 Q. Seen it more than once?

15 A. Uh-huh (yes).

16 Q. More than ten times?

17 A. Somewhere around there.

18 Q. These stoppings that we talked
19 about that were removed, do you think
20 they could have played a role in
21 allowing that smoke to travel up
22 there?

23 A. If they was on fire right
24 there, yeah.

25 Q. Anything else you want to tell

63

01 me about the map while we're here?

02 A. No.

03 Q. Okay. Well, go ahead, return.

04 Did you work in that area of the
05 northeast construction project the
06 day before the 19th, the 18th?

07 A. Yeah. I believe so. I'm
08 pretty sure.

09 Q. Would you have worked anywhere
10 else?

11 A. No.

12 Q. When you were working in this
13 area, it didn't have to be the 19th
14 but at any time, the area inby the
15 longwall, the current longwall, have
16 you ever smelled any smoke or rubber
17 burning in the course of your normal
18 duties?

19 A. Not that I can remember.

20 Q. Did you ever see any smoke?

21 A. No, not that I remember.

22 Q. Did you see any dust?

23 A. Dust? Like somebody rock
24 dusting or something?

25 Q. Yes.

64

01 A. Well, you mean like smoke or
02 dust?

03 Q. Well, it was smoke, but now
04 it's dust. Did you ever see any
05 dust?

06 A. I seen dust, yeah.

07 Q. What kind of dust did you see?

08 A. I've seen rock dust and I've
09 seen coal dust from it dumping on the
10 belt, the dust from it.

11 Q. So the coal dust that you've
12 seen, where do you think it was
13 coming from?

14 A. The coal.

15 Q. I mean, ---.
16 A. The longwall.
17 Q. From the longwall?
18 A. Yeah.
19 Q. Where it dumps onto Number
20 Seven?
21 A. Yeah.
22 Q. Where did you see this dust?
23 A. At the head, rock box.
24 Q. What do you call the rock box?
25 A. What the head dumps into to

65

01 --- on top of the six-foot belt.
02 Q. Did you ever see it travel
03 past the tailpiece, going up toward
04 Two section when you were working on
05 any of that belt structure project or
06 ---?
07 A. The dust?
08 Q. Yes.
09 A. Not that I can remember.
10 Q. What about the rock dust that
11 you talked about?
12 A. No. Well, yeah, it was going
13 up towards Two section.
14 Q. Up towards Two section?
15 A. Yeah.
16 Q. And where were they rock

17 dusting when you saw that?

18 A. I don't know where they was
19 rock dusting at, but I was on the
20 belt line.

21 Q. Which belt line were you on?

22 A. The one that we're putting in
23 now, the six-foot or 72-inch belt.

24 Q. So you were on the project,
25 which would be inby the active belt

66

01 line?

02 A. Right.

03 Q. And you saw rock dust coming
04 in that area?

05 A. Yeah.

06 Q. And where do you think they
07 were rock dusting for that to come up
08 there? Could it have been on the
09 belt?

10 A. I don't know what they was
11 rock dusting.

12 Q. Was it thick rock dust?

13 A. Pretty thick, yeah.

14 Q. How did you get them to stop?

15 A. I didn't. They just stopped.

16 Q. Was any of your supervisors
17 there to see that?

18 A. I don't think.

19 Q. So nobody had to walk back and

20 say, you guys are choking us, you
21 need to stop?

22 A. No.

23 Q. They stopped on their own?

24 A. Yeah.

25 Q. When the job was done?

67

01 A. I guess. I mean, I don't
02 know. I didn't even actually see
03 them rock dusting. I just knew it
04 was rock dust.

05 Q. Does that happen often?

06 A. No. That's the only time it's
07 ever happened.

08 Q. Whenever you were leaving the
09 mine on the 19th, were you riding
10 inside the mantrip? Were you driving
11 or ---?

12 A. I was riding.

13 Q. Where were you at? Do you
14 remember at what location?

15 A. I was probably in the back of
16 the bus. That's where I usually sit.

17 Q. Could you see outside from
18 that location?

19 A. Yeah, you can see.

20 Q. Whenever you came to the area
21 where you had to cross through

22 underneath the belt through those
23 double doors, did you see anything
24 that was unusual or see anything
25 that, now that you think back, that

68

01 may have been like a haze or fog or
02 dust or anything that would be
03 similar to that?

04 A. No, I don't believe.

05 Q. We talked about it before, but
06 did you smell anything?

07 A. No, not that I remember.

08 Q. Is there a unique smell in
09 that area that would be different
10 from when you're on the other side of
11 the doors?

12 A. That mud right there, the big
13 hole.

14 Q. How many guys on your crew,
15 typically?

16 A. Right now or ---?

17 Q. Well, before the 19th.

18 A. Before, I believe there was
19 six, six guys, plus two foremen.

20 Q. Okay. And if you can, could
21 you name those guys? We already
22 talked about the foremen. The
23 foremen would be?

24 A. Don and Shiner.

25 Q. So that would be Haggie

69

01 and ---

02 A. Chris Herndon.

03 Q. --- Herndon.

04 A. Bucky.

05 Q. Who is Bucky?

06 A. The guy I bolted with that
07 day. I can't remember his last name.

08 Q. Okay, Bucky. He's a roof
09 bolter partner with you?

10 A. Yeah.

11 Q. Is it a double-headed roof
12 bolter that you use?

13 A. Yeah.

14 Q. Okay.

15 A. And Darrick VanNatter, Eric
16 Lester, Anthony Perry and Mike Chafen
17 (phonetic)?

18 Q. Mike Chafen?

19 A. Yeah. And Greg Hensley. I
20 forgot that one.

21 Q. Greg?

22 A. Hensley.

23 Q. Hensley?

24 A. Yeah.

25 Q. You and Bucky are the roof

70

01 bolters. Can you attach a job
02 description that these other guys
03 normally would perform? Like one guy
04 may be like the designated scoop
05 operator. One guy may be the ---.

06 A. Cutter. We have a welder.

07 Q. Who's the welder?

08 A. Greg is usually on the welder.

09 Q. Greg Hensley?

10 A. Yeah.

11 Q. Who normally operates the
12 scoops?

13 A. Most of the time, Darrick.

14 Q. Anybody else?

15 A. That runs the scoop?

16 Q. Yes.

17 A. Everybody has been on it a
18 time or two, but mostly Darrick.

19 Q. You talked about Haggie
20 running the scoop sometimes. Is that
21 normal for the boss to jump in and
22 operate the equipment?

23 A. Yeah. Don don't care to
24 operate it.

25 Q. So it's common for Don to

71

01 operate the scoop?

02 A. Uh-huh (yes).

03 Q. Have you ever seen Don knock a

04 stopping out anywhere with the scoop?

05 A. Yeah, I seen him knock one

06 out.

07 Q. Where at?

08 A. I can't remember the location,

09 but I mean, I have seen him knock

10 them out.

11 Q. How does he do it?

12 A. With the bucket.

13 Q. Just describe how that would

14 look like if --- say that door is a

15 stopping. How would he tram over to

16 it?

17 A. Just get your bucket low to

18 the bottom and run into it and raise

19 your bucket up.

20 Q. And that kind of undercuts it?

21 A. Yeah.

22 Q. The top blocks would fall?

23 A. Yeah.

24 Q. Then when the blocks fall,

25 what do you do with the blocks?

72

01 A. Gob them out or build another

02 stopping with them.

03 Q. You're able to reuse some of

04 the blocks sometimes?

05 A. Yeah.

06 Q. When you say gob them out,
07 what do you mean by that?
08 A. Push them back into the break.
09 Q. Just to get rid of them?
10 A. Yeah.
11 Q. Do you know a supervisor by
12 the name of Jeff Perry?
13 A. Yeah.
14 Q. Have you ever seen him up in
15 this area?
16 A. I don't think I've seen him,
17 but I know he's been up there.
18 Q. In the area where you're
19 installing the new structure?
20 A. Yeah.
21 Q. And when he comes in the area,
22 what does he normally do when he's
23 there?
24 A. I have no idea.
25 Q. Does he talk to your foreman?

73

01 A. I would say, yeah, but I've
02 never seen him talk to him up there.
03 Q. Does he talk to any of you
04 guys?
05 A. I've never seen him up there
06 myself, but ---.
07 Q. Where have you ever seen Jeff
08 in the mine?

09 A. Rum Creek.

10 Q. All the way back?

11 A. Yeah.

12 Q. What was he doing at Rum

13 Creek?

14 A. Walking.

15 Q. Do you know what his position

16 is at the mine?

17 A. He's over the belts, I reckon.

18 Q. You talked about the mudhole

19 where you guys come through those

20 doors. What causes that mudhole to

21 be there?

22 A. Water from the longwall.

23 Q. From the belt?

24 A. Yeah.

25 Q. From the belt sprays or from

74

01 the face?

02 A. I think they put something on

03 the belt. I mean, I'm not sure what

04 it is, but you can see it running off

05 the head there. Like it's kind of a

06 little creek of water, I guess you

07 would say, coming down from the head

08 to that mudhole.

09 Q. Where it transfers onto the

10 Number Seven belt?

11 A. Right there at the head, but
12 --- I mean, I ain't really paid much
13 attention exactly where it come from,
14 but you can tell it's from up around
15 the head.

16 Q. Does it seem to be more water
17 coming down that area on some days
18 compared to others?

19 A. I don't know. I don't really
20 pay much attention to it.

21 Q. Do you know if anybody ever
22 made an adjustment into the water
23 system to reduce the amount of water
24 that's coming down there?

25 A. I don't know.

75

01 Q. Have you ever seen a mine
02 inspector in the mine, up in that
03 area where you were working?

04 A. I don't think.

05 Q. Do you know what kind of
06 uniforms that they would wear to kind
07 of ---?

08 A. I think they have like one
09 stripe on their sleeve and one strip
10 around their leg or something like
11 that.

12 Q. With blue coveralls?

13 A. Yeah.

14 Q. Have you ever seen one in that
15 area?

16 A. I don't think I have, but I
17 don't know.

18 Q. Do you know any mine
19 inspectors?

20 A. Now I do, but not before this,
21 I didn't.

22 Q. Who do you know now?

23 A. I know Eddie.

24 Q. Eddie?

25 A. Paynter.

76

01 Q. Eddie Paynter?

02 A. Yeah.

03 Q. Do you know if he works for
04 MSHA?

05 A. I don't know which one he
06 works for.

07 Q. Do you guys have your own
08 scoop for this construction project?

09 A. Yeah.

10 Q. Does the section crew ever
11 come down and try to borrow it?

12 A. No. I don't think they have
13 like on dayshift. They've got it on
14 second shift, but not on dayshift, I
15 don't believe.

16 Q. Where do you charge the scoop?

17 A. Right below the head there.

18 Q. And the head, you're talking

19 ---?

20 A. The Ten headgate head.

21 Q. Where do you get the power for
22 the charging station?

23 A. By the power center, a few
24 breaks up.

25 Q. A few breaks from the Ten

77

01 headgate area?

02 A. Yeah. It's about, I think,
03 two breaks from the head.

04 Q. Is that a different power
05 center than they used to power the
06 belt drive for the Number Two
07 section?

08 A. I don't know.

09 Q. Have you ever had to put the
10 scoop on charge?

11 A. Yeah.

12 Q. Is the charging station
13 ventilated?

14 A. It's got a curtain behind it.

15 Q. It's not against a permanent
16 stopping?

17 A. No. Unless there's one behind
18 the curtain.

19 Q. Have you ever smelled anything
20 from a battery that was --- any of
21 the fumes from the batteries as they
22 was being charged?

23 A. Have they been charged?

24 Q. No. Have you ever smelled
25 anything as the batteries were being

78

01 charged? Does it produce any type of
02 odor?

03 A. Sometimes.

04 Q. You'd smell it?

05 A. Yeah.

06 Q. Where would you be when you
07 smelled it?

08 A. Taking it off the charger when
09 you're tramming it.

10 Q. Did anybody ever instruct you
11 to remove a stopping with a scoop?

12 A. I don't think I knocked them
13 out with a scoop before, I don't
14 believe.

15 Q. What about with a sledgehammer
16 or anything?

17 A. I've knocked stoppings, yeah.

18 Q. Using a sledgehammer?

19 A. Using a hammer, whatever.

20 Q. In this area?

21 A. In that area?

22 Q. Yes.

23 A. I don't believe I knocked any
24 up there.

25 Q. Have you personally seen Mr.

79

01 Haggie use a scoop to knock a
02 stopping out?

03 A. Oh, yeah.

04 Q. So this isn't uncommon?

05 A. He don't do it every day,
06 just, I guess, whenever he needs to.

07 Q. When there's a stopping to
08 come out and Mr. Haggie gets on the
09 scoop, who do you think tells him
10 which stoppings to remove?

11 A. I guess Gary or Pepé or
12 somebody higher than him.

13 Q. What about Dusty?

14 A. I mean, I guess he could.
15 He's higher than Don, so ---.

16 Q. Could you ever remember a time
17 when Dusty or Pepé or anybody that
18 would be higher than Don, like you
19 say, was in the area and then shortly
20 after that, Don got on a scoop and
21 went over and knocked out a stopping?

22 A. No.

23 Q. So when do you think he would

24 get these instructions?

25 A. I guess in the morning, before

80

01 he'd go underground.

02 Q. Did you ever see Don pull out

03 a mine map and kind of look and study

04 the map a while?

05 A. No, I don't think.

06 Q. When you discovered that that

07 stopping at the tailpiece of Number

08 Seven belt was out, did that concern

09 you that that belt was no longer

10 isolated from the intake?

11 A. Nope.

12 Q. You didn't think that was

13 unusual?

14 A. No. I just started at the

15 mines not long before.

16 Q. How about now that you think

17 back and knowing what you know now,

18 do you think it was unusual?

19 A. I guess. But I mean, if this

20 wouldn't have happened, I wouldn't

21 know no different.

22 Q. But now that it did happen, do

23 you think that it's unusual or not to

24 have one of your main belts separated

25 from your primary escapeway?

01 A. To what?

02 Q. I said now that it did happen
03 and you're able to look back, do you
04 think it's unusual not to have your
05 primary escapeway separated from one
06 of your main line belts?

07 A. I guess.

08 Q. Do you think it's unsafe?

09 A. I guess it is, but ---.

10 Q. Do you know what a pre-shift
11 examination is?

12 A. What does it consist of or
13 what --- just like fire bossing?

14 Q. Yes. Do you know that there's
15 a requirement that the area where you
16 work has to be examined by a fire
17 boss before you get there?

18 A. Yeah.

19 Q. Do you know who conducts those
20 examinations for the area that you
21 work in?

22 A. I guess somebody on third
23 shift.

24 Q. Do you know who that would be?

25 A. No.

01 Q. Did you ever see any dates,
02 times and initials in the areas

03 either with chalk or paint or
04 something where you work?
05 A. I don't pay any attention.
06 They're all over the place up there.
07 I mean, I don't know who's doing it.
08 Q. Do you know why they're put
09 there?
10 A. Oh, yeah.
11 Q. Why would that be?
12 A. Fire bossed it.
13 Q. Did you ever see your ---
14 either one of your foremen conducting
15 examinations, putting their dates
16 with chalk or a spray can or
17 something in that area?
18 A. Oh, yeah.
19 Q. Is that a yes?
20 A. Yeah.
21 Q. Who would that be?
22 A. Don usually does it around Ten
23 headgate.
24 Q. Around Ten headgate?
25 A. Yeah.

83

01 Q. Do you know what time of the
02 day that normally happens?
03 A. No. I mean, I don't pay no
04 attention to it.

05 Q. Would it be toward the
06 beginning of the shift or toward the
07 end of the shift?

08 A. Usually around the beginning.

09 Q. Around the beginning?

10 A. Like after lunch, he usually
11 goes and does it.

12 Q. After lunch, he usually goes
13 and makes an examination?

14 A. Yeah.

15 Q. And during his examinations,
16 have you seen him in some way, either
17 with chalk or with a spray can, place
18 his dates and initials on possibly a
19 piece of belt or along a wall or
20 something?

21 A. Yeah, on the rib.

22 Q. On the rib?

23 A. Yeah.

24 Q. Do you guys ever build
25 stoppings in this area?

84

01 A. Yeah, we've built a few.

02 Q. Where did you build them?

03 A. Up around where our takeup
04 --- not takeup, but tailpiece is
05 going to sit for the six-foot.

06 Q. Have you personally been
07 involved ---

08 A. Yeah.

09 Q. --- with the construction of
10 any of those stoppings?

11 A. Yeah.

12 Q. Can you show me on a map any
13 stoppings that you've built or you
14 know your crew has built?

15 A. I mean, I don't know exactly
16 what entry, but I know around.

17 Q. Do you know the purpose of
18 those stoppings?

19 A. No.

20 Q. Who told you to build them?

21 A. I believe Shiner.

22 Q. He said, build --- like he'd
23 point and say, build it right here?

24 A. Yeah.

25 Q. Did he come around as you were

85

01 working on it to make sure you had it
02 in the right place?

03 A. Yeah.

04 Q. Did you ever build any
05 overcasts?

06 A. No, I never built overcasts.

07 Q. Is your crew responsible for
08 installing waterlines in this area,

09 too?

10 A. I did on the six-foot.
11 Q. On which six-foot?
12 A. The one we're installing now.
13 Q. Is it the one that they're
14 using right now?
15 A. No. Inby the Seven head.
16 Q. So part of your project
17 includes not only the structure, but
18 the waterlines as well?
19 A. Yeah, I guess.
20 Q. Are those waterlines currently
21 hooked up to any water supply?
22 A. I don't know if they are or
23 not.
24 Q. You've never seen any water
25 leaking or ---?

86

01 A. Yeah. Yeah, they are.
02 Q. They're actually connected to
03 it?
04 A. Yeah.
05 Q. Do you know where that water
06 supply comes from?
07 A. No. The waterline on Seven
08 tail.
09 Q. So it's an extension of that
10 waterline?
11 A. Yeah.
12 Q. Does it have fire taps

13 installed?

14 A. Yeah.

15 Q. How often do you normally
16 install the fire taps; do you know?

17 A. I have no idea.

18 Q. Does your crew install the
19 waterline that goes down toward the
20 longwall?

21 A. No. I don't guess. I don't
22 --- I didn't on the last one. We
23 ain't got that far on this one.

24 Q. Do you know who installed that
25 waterline?

87

01 A. On the longwall?

02 Q. The longwall, the current
03 longwall belt.

04 A. No.

05 Q. The waterline that you guys
06 have installed on that 72-inch
07 structure project, where does it shut
08 off at?

09 A. I guess at Seven tail to on up
10 the belt line there. I don't know
11 the exact location.

12 Q. But if it would be shut off at
13 Seven tail, would it have to be shut
14 off anywhere else?

15 A. No. If it's shut off at Seven
16 tail, you shouldn't have water.

17 Q. Before today, has anybody
18 interviewed you or asked you any
19 questions about your activities in
20 that area?

21 A. No.

22 Q. Has any of the company
23 attorneys took you off to the side
24 and talked to you about anything?

25 A. No.

88

01 Q. Has anybody talked to you
02 about the removal of these stoppings
03 that we're talking about today?

04 A. No.

05 Q. I'm the first one?

06 A. Yeah.

07 Q. Do you know what caused the
08 fire on the 19th?

09 A. No.

10 Q. Have you heard any rumors what
11 may have caused the fire?

12 A. No. It seems like nobody
13 knows what caused it.

14 Q. Do you know of any other fires
15 that have happened since your
16 employment?

17 A. Like bearings getting hot and

18 stuff, but I've never actually seen
19 fire.

20 Q. Do you know any locations
21 where bearings may have gotten hot?

22 A. I've heard somebody say about
23 it, but I mean, I don't know where.

24 Q. Recently?

25 A. No, not recently.

89

01 Q. Did you ever hear of a fire on
02 the mainline belts in the north
03 mains?

04 A. No.

05 MR. MURRAY:

06 That's it.

07 BY MR. TUCKER:

08 Q. Have you ever run a diesel
09 mantrip?

10 A. No.

11 Q. Have you had your annual
12 retraining recently?

13 A. Yeah.

14 Q. When was that?

15 A. On the Saturday before the
16 fire.

17 Q. You had some SCSR training at
18 your ---?

19 A. The rescuer?

20 Q. Yes.
21 A. Yeah.
22 Q. Do you feel pretty comfortable
23 if you have to put that on?
24 A. Yeah.
25 Q. What type of training do you

90

01 have with it?
02 A. We had to go in the bathroom
03 and shut the door and turn the light
04 off and put it on.

05 Q. Have you ever participated in
06 a fire drill?

07 A. No.

08 Q. Has anybody ever went over
09 with you your various types of
10 firefighting equipment and explained
11 to you how to use it or whatever?

12 A. Not that I can remember.

13 Q. Have you ever heard of a
14 Comprehensive Mine Safety Program?

15 A. No.

16 MR. TUCKER:

17 If I could enter this
18 as an exhibit.

19 (Nick Baisden Exhibit B

20 marked for

21 identification.)

22 BY MR. TUCKER:

23 Q. I'll have you look at this and
24 see if you've ever --- if you
25 recognize that document in any way.

91

01 WITNESS REVIEWS DOCUMENT

02 A. No.

03 BY MR. TUCKER:

04 Q. Okay. Thank you.

05 MR. TUCKER:

06 This will be Exhibit B,
07 the Comprehensive Mine Safety
08 Program.

09 BY MR. TUCKER:

10 Q. When you hired in, did you
11 receive any type of training relating
12 to the detection of methane or oxygen
13 deficiency, after you started working
14 at Aracoma?

15 A. Like them videos, stuff that
16 they show you?

17 Q. After you started working at
18 the mines, any type of training on
19 mine methane detection or oxygen
20 deficiency?

21 A. In that retraining thing, we
22 had to do that.

23 Q. During your annual retraining?

24 Okay. And you may have already

25 answered this, but have you had any

92

01 type of escape or drills or emergency

02 procedures ---

03 A. No.

04 Q. --- type training? Has

05 anybody ever went over with you the

06 location of your fire hoses or fire

07 extinguishers?

08 A. No, nobody's went over it with

09 me.

10 Q. Okay. Have you ever worked at

11 the mother drive once they've started

12 producing coal?

13 A. Yeah.

14 Q. Have you ever been assigned

15 there, say as a beltman?

16 A. No.

17 Q. What type work did you do

18 there?

19 A. Just anything to do with that

20 structure. The structure we took in

21 there, inby Seven head --- or tail?

22 Q. Right. I mean, as far as the

23 existing longwall belt.

24 A. No, I've never been a beltman.

25 Q. Have you ever went there to,

93

01 say, work on the dolly after it's

02 been put in service?

03 A. The day we made the splice on
04 it, we had to chain ratchet the dolly
05 back.

06 Q. And could you explain that
07 just a little bit?

08 A. I guess they slid down or
09 something. We just had to chain
10 ratchet them back up to I guess where
11 they was supposed to be.

12 Q. How did you secure them down?

13 A. I think with a chain around
14 one of the legs or whatever you call
15 them.

16 Q. How are they normally secured?

17 A. I have no idea. I guess
18 they're supposed to catch.

19 Q. Do you remember when that was?

20 A. Just whenever we made that
21 splice.

22 Q. Approximately how long before
23 the 19th?

24 A. I can't even --- I can't
25 remember.

94

01 Q. Do you have any idea if it was
02 a week or two weeks, a month or ---?

03 A. It's been over a month. I

04 know that.

05 Q. Was Jesse Jude working with
06 you on the 19th?

07 A. Yeah.

08 Q. Are you aware if he received a
09 call about problems at the mother
10 drive that day, ---

11 A. I don't reckon.

12 Q. --- if he was called away for
13 anything, or was he with you all day
14 or ---?

15 A. He went up before me and Bucky
16 did, but I don't guess he got a call
17 or anything.

18 Q. When you left on the 19th, do
19 you remember if the doors were closed
20 behind you?

21 A. I can't remember if they was
22 or not. I mean, I didn't shut them.

23 Q. Do you recall if anybody ---
24 now, you said you usually ride on the
25 back of the mantrip?

95

01 A. Yeah. I don't know if they
02 was shut or not. I wasn't paying any
03 attention to it.

04 Q. Do you have a mine phone at
05 your work area at Ten headgate?

06 A. Yeah.

07 Q. What time do you usually break
08 for lunch?

09 A. Around 11:00.

10 Q. Does everybody usually eat
11 together?

12 A. Yeah.

13 Q. At the Seven tail, you
14 mentioned about the stopping being
15 knocked. Was the longwall belt
16 completed? Was it operating? The
17 existing longwall belt right now, the
18 five-foot belt, was it operating
19 prior to knocking that stopping, or
20 did that happen after that belt was
21 put in service?

22 A. I think it was knocked after,
23 yeah.

24 Q. Do you know who Charles Kann
25 is?

96

01 A. That's the safety guy.

02 Q. Does he ever do any safety
03 training or safety meetings with you
04 or your crew or ---?

05 A. Yeah. He's down there when we
06 have safety talks.

07 Q. On your way in in the diesel
08 mantrip or, say, if a supply tractor

09 is coming up through there, the dust
10 that's created from the roadway from
11 that, do you notice which way it
12 travels?

13 A. I really haven't paid
14 attention to it.

15 Q. If it would go toward Two
16 section or back the other way?

17 A. I don't pay no attention.

18 Q. Okay. How do you like the
19 type of work that you do?

20 A. I like it.

21 Q. Well, the time you were a red
22 hat, do you feel like --- what type
23 of training did you get as a red hat?

24 A. What do you mean what type
25 of ---?

97

01 Q. As far as while you were
02 working, you know, the training you
03 received, whoever you was with or,
04 you know, supervisors coming and
05 pointing things out to you that maybe
06 to watch out for or things of that
07 nature.

08 A. I don't know. I guess cracks
09 in the roof or equipment and stuff.

10 Q. When did you start roof
11 bolting? How long have you been a

12 roof bolter?

13 A. Maybe two weeks straight like
14 before this, but I've been on and off
15 of it several times.

16 Q. Do you remember the first time
17 you ran the bolter or where it was
18 at?

19 A. No.

20 Q. If you're at your work area,
21 say at the bolter on Ten headgate,
22 and say you're walking back to eat
23 dinner or whatever or going back
24 toward the mouth of the section and
25 all of a sudden, you was encountered

98

01 with a wall of smoke, you know, the
02 smoke started getting thick, which
03 way would you escape out of the mine?

04 A. I'd go down Ten headgate and
05 across old Three section.

06 MR. TUCKER:

07 That's all I have for
08 now. Kenny?

09 BY MR. MURRAY:

10 Q. I just got a few more to try
11 to clarify some things here. Can you
12 ever remember receiving a call or
13 your crew receiving a call from the

14 dispatcher or someone to tell you you
15 need to evacuate?

16 A. That day?

17 Q. Any day.

18 A. No, not --- not as a group.

19 Maybe they'll call and say somebody
20 needs to go home, but not evacuate
21 for anything like a fire or anything.

22 Q. Did your crew or even your
23 boss ever get a call to where a
24 dispatcher said, how about going down
25 to a location on the belt and check

99

01 out to see why I'm receiving an alarm
02 outside on a CO monitoring system?

03 A. Not that I know of.

04 Q. You don't remember ever having
05 to come back as a crew and say, you
06 know, we need to go out by this

07 location until we find out what's

08 happened to a particular --- in

09 response to an alarm that the

10 dispatcher received on a CO

11 monitoring system?

12 A. No.

13 Q. Do you know what the CO

14 monitoring system is?

15 A. It goes around the belt lines

16 and boxes. But as far as that, I

17 don't know what they do.

18 Q. Do you know what happens if
19 one of those boxes experienced a rise
20 in carbon monoxide?

21 A. I guess it would alarm or
22 something.

23 Q. Do you know where that alarm
24 would be heard or seen?

25 A. I guess around the box.

100

01 Q. Do you know of a location
02 possibly outside that would receive
03 the alarm?

04 A. The dispatcher's office.

05 Q. But you've never heard of your
06 boss receiving a call from one of the
07 dispatchers and asking him to go
08 check that out and see why there may
09 have been an alarm?

10 A. Not that I know of.

11 Q. On this waterline that we
12 talked about that you all were
13 installing as you advanced that
14 72-inch belt structure, do you know
15 where it shut off at?

16 A. I guess Seven tail and there
17 was a few from Seven tail inby to Ten
18 headgate head. I mean, I don't know

19 exactly their locations.

20 Q. A few? What do you mean by a

21 few?

22 A. Shutoff valves.

23 Q. Do you know if they're open or

24 closed?

25 A. I'd say they're probably open,

101

01 I'd say. The main --- the one at the

02 main end is cut off.

03 Q. And where is that, at the main

04 end?

05 A. By Ten headgate.

06 Q. So the waterline actually

07 extends all the way up to Ten

08 headgate?

09 A. Yeah.

10 Q. The project that you're

11 working on around the drive area of

12 Ten headgate that's going to be the

13 future drive, ---

14 A. Yeah.

15 Q. --- do you need water for any

16 phase of that installation project?

17 A. For the cement to set our

18 pads.

19 Q. Has the pads been set?

20 A. Yeah.

21 Q. Where did you get the water

22 from?
23 A. The waterline.
24 Q. The waterline that we're
25 talking about that's been extended?

102

01 A. Yeah.
02 Q. How long ago were those pads
03 set?
04 A. Maybe a month before this or
05 so.
06 Q. And there was water to that
07 point in that waterline?
08 A. Yeah.
09 Q. What size waterline is that?
10 A. I believe it's a four-inch.
11 Q. Do you know what color it is?
12 A. Blue or yellow. We got, I
13 think, a few yellow pieces.
14 Q. But the blue and yellow,
15 they're both the same size?
16 A. Yeah.
17 Q. Is there a reason why one is
18 one color and one is intended to
19 be ---?
20 A. No.
21 Q. Is there any magic to that
22 scheme?
23 A. I think one is more high

24 pressure or something, but I'm really
25 not sure.

103

01 Q. Are they able to be mixed and
02 matched?

03 A. Yeah. You have to use --- I
04 think if you use a yellow and blue,
05 you have to use a yellow coupling on
06 it. Something to do with couplings,
07 I believe.

08 Q. Did you ever notice a lot of
09 leaks in the line at the joints or
10 anything?

11 A. Noticed one or two.

12 Q. Is this every day you see it?

13 A. If you're down there. I don't
14 go by there every day.

15 Q. Did you ever have to shut the
16 water off to repair a leak?

17 A. I can't remember if I have or
18 not.

19 Q. Did anybody ever run over the
20 line or hit the line to cause it to
21 break apart?

22 A. No.

23 Q. Okay. Do you think Aracoma is
24 a safe place to work?

25 A. Yeah.

104

01 Q. Has there ever been any
02 changes since the 19th?
03 A. Yeah.
04 Q. What kind?
05 A. There's been all kinds of
06 stoppings, repairing all our
07 stoppings, shoveling belt, just --- I
08 mean, it's --- I guess it would ---
09 our roadways and fixing them. I
10 don't know what else, you know,
11 changing all our rollers.
12 Q. Do you think that the work
13 that's being done now should have
14 been done before the 19th?
15 A. Yeah.
16 Q. Do you feel like you've been,
17 personally now, adequately trained to
18 do the job that you do? Do you think
19 you're adequately trained to be able
20 to escape from a smoke-filled entry?
21 A. I don't know. I'd say I could
22 if I had to.
23 Q. What if you were by yourself?
24 A. If I had to.
25 Q. How would you determine --- if

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01 you got separated from a group of
02 miners, how would you determine which

03 way you were going to come out of the
04 mine?

05 A. Just depending on where I was
06 at.

07 Q. What if you were up in the
08 northeast area?

09 A. Up towards the head or down
10 the hill.

11 Q. So you were at the
12 intersection of Ten headgate and
13 northeast, right at the end of the
14 72-inch structure?

15 A. Right at the end of ---?

16 Q. Yes, where you ---.

17 A. Up around Ten headgate?

18 Q. Yes, where you indicated with
19 an X where the structure ended. If
20 you were right there and the rest of
21 your group was down here and all of a
22 sudden, for some unknown reason, this
23 whole area filled with smoke and you
24 looked around and everybody went that
25 way and you were up there by

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01 yourself?

02 A. If everybody went that way, I
03 guess I'd just go that way, too.

04 Q. What if the smoke was coming
05 towards you?

06 A. Coming towards me?

07 Q. Yes.

08 A. I'd just try to go out my
09 regular roadway.

10 Q. In the green area that you've
11 indicated?

12 A. Yeah.

13 Q. You seem to have a lot of
14 experience and exposure in that area
15 in the northeast mains that we've
16 been talking about these last couple
17 of hours. Knowing what you know now,
18 knowing what we've just talked about,
19 what do you think could have been
20 done differently to prevent this
21 accident?

22 A. To have prevented the
23 accident?

24 Q. To prevent it. To prevent
25 this particular accident.

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01 A. The fire, just the way the
02 smoke was traveling.

03 Q. Let's talk about the fire
04 first.

05 A. I don't know if the fire could
06 have been prevented.

07 Q. Do you think that fire on the

08 belt is a natural occurrence?

09 A. I ain't got a lot of
10 experience in the mines, but I mean
11 it seems like nobody knows what
12 happened.

13 Q. Let's talk about the smoke.
14 What do you think could have been
15 done to prevent the smoke from
16 entering the primary escapeway?

17 A. I guess if the doors were shut
18 and all the stoppings was done the
19 way they was supposed to have been
20 done, yeah, the smoke would have went
21 the way it was supposed to have went.

22 Q. Did you ever hear anybody talk
23 about the unavailability of water
24 around the mother drive that night?

25 A. No.

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01 Q. Do you know if they used fire
02 extinguishers to try to put the fire
03 out? Anybody tell you that?

04 A. I've heard somebody say fire
05 extinguishers.

06 Q. Wonder why they wouldn't use
07 water?

08 A. I don't know. I thought there
09 was a water hose up there.

10 Q. If you had a choice and you

11 were in that same situation and you
12 had a water hose here and a fire
13 extinguisher here, which one would
14 you choose?

15 A. I guess that water hose. It
16 ain't going to run out on you.

17 BY MR. TUCKER:

18 Q. Have you ever traveled from
19 Ten headgate down to Three section?

20 A. No, not all the way completely
21 to Three section, but I've been ---
22 let me think. Maybe it's Nine
23 headgate. I've been all the way down
24 through the section in that.

25 Q. So you don't know if Ten

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01 headgate is marked in any way ---

02 A. Yeah, it's marked.

03 Q. --- out that way as far as
04 escaping?

05 A. Yeah, it's marked. It's on
06 some stoppings, mandoors, yeah, up
07 through.

08 Q. Explain what you --- you say
09 it's marked on the stoppings?

10 A. Yeah.

11 Q. As far as the travel route?

12 A. The way they get out, yeah.

13 Q. Does your crew have problems
14 getting transportation to your work
15 area?

16 A. We used to.

17 Q. You don't anymore?

18 A. No. We ain't walked in a
19 while.

20 Q. You mentioned they built a lot
21 of stoppings in the mine after the
22 accident. Have you worked on any or
23 ---?

24 A. Yeah, I worked on some of
25 them.

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01 Q. Do you know where those are?

02 A. In between Number One and
03 Number Two Fourway. I don't think
04 that map goes out far enough.

05 MR. TUCKER:

06 That's all I have.

07 BY MR. MURRAY:

08 Q. Is there anything you want to
09 tell us, Nick, that we haven't asked
10 you?

11 A. No.

12 Q. If you could, I need you to
13 sign and date the map.

14 A. Up here?

15 Q. Yes, where we talked about.

16 MR. MURRAY:

17 And for the record, the
18 map of the northeast mains
19 area will be identified as
20 Exhibit A, Baisden.

21 (Nick Baisden Exhibit A
22 marked for
23 identification.)

24 BY MR. MURRAY:

25 Q. And just anywhere, just sign

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01 it, and today is the 7th of March.

02 WITNESS COMPLIES

03 MR. MURRAY:

04 Nick, on behalf of
05 MSHA, I'd like to thank you
06 for coming over today and
07 talking to us. Your
08 cooperation is very important
09 as we seek to determine the
10 cause of the accident. If you
11 wish now, you may go back over
12 any answers that you gave me
13 and clarify anything or add to
14 or make a closing statement of
15 your own.

16 A. No.

17 MR. MURRAY:

18 You okay?

19 A. Yeah.

20 MR. MURRAY:

21 We ask that you not
22 discuss your interview today
23 with any person who may have
24 already been interviewed or
25 who may be interviewed in the

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01 future. This way we can
02 ensure that we obtain
03 everyone's independent memory
04 of the events surrounding the
05 accident.

06 After questioning other
07 witnesses and obtaining
08 additional information, we may
09 ask you to come back in to
10 clarify some other questions.

11 If at some point later you
12 remember additional
13 information that we talked
14 about today and you want to
15 share that information with
16 me, you can either call me or
17 my staff assistant, Anthony
18 Webb, who is the gentleman
19 sitting behind you, the guy
20 that called you on the

21 telephone. And there's our
22 information.

23 The Mine Act provides
24 certain protection for
25 individuals who participate in

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01 accident investigations. If
02 at any time you believe that
03 you've been treated unfairly
04 because of your cooperation in
05 this investigation, please
06 immediately contact either me
07 or Anthony Webb, and we'll
08 give you some help on that.
09 Again, Nick, I appreciate you
10 coming over.

11 MR. TUCKER:

12 State law does protect
13 you also, Nick, if you're
14 discriminated against in any
15 way for reporting a safety
16 violation. If you need to
17 contact us, there's my card.
18 And here's C.A. Phillips'
19 card. He's our Deputy
20 Director out of our Charleston
21 office. We appreciate you
22 coming in.

23

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EXAMINATION CONCLUDED AT 9:39 A.M.

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