

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

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

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03 WILLIAM J. FRANCCART, P.E.
04 Pittsburgh Safety and Health
05 Technology Center
06 Ventilation Division
07 P.O. Box 18233
08 Cochrans Mill Road
09 Pittsburgh, PA 15236
10
11 ANTHONY WEBB
12 U.S. Department of Labor
13 Mine Safety and Health Administration
14 Coal Mine Safety and Health
15 District 6
16 100 Fae Ramsey Lane
17 Pikeville, KY 41501
18
19 WILLIAM TUCKER
20 Assistant Inspector at Large
21 West Virginia Office of
22 Miners' Health, Safety and Training
23 142 Industrial Drive
24 Oak Hill, WV 25901
25

3

01 A P P E A R A N C E S (continued)
02
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04 U.S. Department of Labor

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20 Mine Safety & Health Administration
21 Whitesburg Field Office
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23 Whitesburg, KY 41858
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01 A P P E A R A N C E S (continued)

02

03 ALSO PRESENT:

04 RONALD W. STAHLHUT

05 DERRICK TJERNLUND

06 MICHAEL FINNIE

07 DENNIS A. BEITER
08 C.A. PHILLIPS
09 EUGENE WHITE
10 STEVE COX
11 JOHN CAMPBELL
12 BETH SPENCE
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01 I N D E X

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03 INTRODUCTION 7 - 18

04 WITNESS: JOSHUA WILLIAM FLOYD NOE

05 QUESTIONS

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

02 -----

03 MR. WEBB:

04 My name is Anthony
05 Webb, and I represent the Mine
06 Safety and Health
07 Administration, which is an
08 agency of the U.S. Department
09 of Labor. I'm assigned to the
10 District Six office in
11 Pikeville, Kentucky. I'm a
12 member of MSHA's accident
13 investigation team that's
14 charged with investigating the

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

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

8

01 Also here today are
02 other members of both MSHA and
03 the State investigation teams.
04 MSHA's team includes various
05 subject matter experts from
06 around the country, and
07 members of the Solicitor's
08 Office. At this time I'd like
09 to ask each of the members of
10 MSHA's team to identify
11 themselves for the record. We
12 can begin with Keith.

13 ATTORNEY BELL:

14 Good morning, my name
15 is Keith Bell. I'm an
16 attorney for MSHA out of

17 Arlington, Virginia.
18 MR. BURKE:
19 My name is Tony Burke.
20 I'm with MSHA from Whitesburg,
21 Kentucky.
22 MR. STAHLHUT:
23 Ronald Stahlhut, MSHA,
24 Vincennes, Indiana.
25 MR. FRANCCART:

01 Bill Francart,
02 Pittsburgh, Pennsylvania.
03 MR. TJERNLUND:
04 Derrick Tjernlund, tech
05 support, Triadelphia.
06 MR. FINNIE:
07 Mike Finnie, MSHA,
08 Madisonville, Kentucky.
09 MR. BEITER:
10 Denny Beiter,
11 Triadelphia, West Virginia.
12 MR. MURRAY:
13 Kenny Murray,
14 Pikeville, Kentucky.
15 MR. WEBB:
16 Thank you. Also here
17 today, representing the State
18 of West Virginia is Mr. Bill
19 Tucker. Mr. Tucker will also

20 be asking questions. At this
21 time I'd like to ask Mr.
22 Tucker to make an opening
23 statement and identify the
24 members of the State's team.

25 MR. TUCKER:

10

01 The West Virginia
02 Office of Miners' Health,
03 Safety and Training is
04 conducting this interview
05 session jointly with MSHA.
06 We're in agreement with the
07 procedures outlined by Mr.
08 Webb.

09 However, let me make it
10 clear that the Director
11 reserves the right, if
12 necessary, to call or subpoena
13 witnesses or require the
14 production of any record,
15 document, photograph or other
16 relevant materials necessary
17 to conduct this investigation.

18 My name is Bill Tucker.
19 I'm with the Office of Miners'
20 Health, Safety and Training
21 and I work out of the Oak Hill

22 office.

23 MR. PHILLIPS:

24 My name is C.A.

25 Phillips. I'm the Deputy

11

01 Director of the Office of
02 Miners' Health, Safety and
03 Training in Charleston, West
04 Virginia.

05 MR. WHITE:

06 Eugene White, district
07 inspector out of Region Three,
08 Danville.

09 MR. COX:

10 Steve Cox, out of
11 Region Three.

12 MR. CAMPBELL:

13 John Campbell, district
14 inspector, Region Three,
15 Danville.

16 MS. SPENCE:

17 Beth Spence, with the
18 Governor's Office.

19 MR. WEBB:

20 Thank you. This
21 investigation is being
22 conducted by MSHA, and the
23 State of West Virginia, to
24 gather information to

25 determine the cause of the

12

01 accident and to help prevent

02 similar accidents from

03 happening in the future.

04 These interviews are an

05 important part of the

06 investigation.

07 After the investigation

08 is completed, MSHA will issue

09 a written report, detailing

10 the nature and causes of the

11 accident. MSHA accident

12 reports are made available to

13 the public in the hope that

14 greater awareness about the

15 causes of accidents can reduce

16 their occurrence in the

17 future.

18 Information obtained

19 through witness interviews is

20 frequently included in those

21 reports, and your statement

22 may also be used in other

23 enforcement proceedings.

24 I want to thank you in

25 advance for your appearance

13

01 here. We appreciate your
02 assistance in the
03 investigation. And it's the
04 willingness of miners and mine
05 operators to work with us
06 that's critical in our success
07 in making the nation's mines
08 safer.

09 This interview with
10 Joshua Noe is being conducted
11 under Section 103(a) of the
12 Federal Mine Safety and Health
13 Act of 1977, as part of an
14 accident investigation by the
15 Mine Safety and Health
16 Administration into the
17 conditions, events and
18 circumstances surrounding the
19 fatalities that occurred at
20 the Aracoma Alma Mine Number
21 One located at Route 17 North,
22 Bandmill Hollow Road,
23 Stollings, West Virginia,
24 25646.

25 This interview is being

14

01 conducted at the West Virginia
02 Department of Environmental
03 Protection in Logan, West

04 Virginia 25601 on March the
05 7th, 2006. The current time
06 is 10:08 Eastern Standard
07 Time.

08 Mr. Noe, this interview
09 will begin by asking you a
10 series of questions. Feel
11 free at any time to clarify
12 any statements that you make
13 in response to the questions.
14 After we've finished asking
15 the questions, you will also
16 have an opportunity to make a
17 statement of your own and
18 provide us with any other
19 information that you believe
20 may be important.

21 You are permitted to
22 have a representative with you
23 during this interview and you
24 may consult with your
25 representative at any time.

15

01 You can designate any person
02 to be your representative.

03 Following the questions
04 by MSHA and the State, this
05 representative would be given

06 the opportunity to ask
07 questions for the purposes of
08 clarification on areas already
09 discussed.

10 Your statement is
11 completely voluntary. You may
12 refuse to answer any question
13 and you can end your interview
14 at any time.

15 If you do not
16 understand a question, please
17 tell me so that I can rephrase
18 the question. If you need a
19 break at any time for any
20 reason, just let us know.

21 You may request the
22 opportunity to make a
23 confidential statement which
24 we will withhold from the
25 public, to the extent allowed

16

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

09 statement?

10 MR. NOE:

11 No.

12 MR. WEBB:

13 A court reporter will
14 record your interview and will
15 later produce a written
16 transcript of the interview.
17 I'd like to ask that you state
18 all of your answers verbally
19 and rather loudly so that the
20 court reporter can accurately
21 record your response, because
22 she can't record items like
23 nodding your head or shaking
24 your head.

25 MR. NOE:

17

01 Yes.

02 MR. WEBB:

03 Neither the transcript
04 of this interview nor the
05 content of the interview will
06 be released to the public or
07 the media until MSHA's final
08 accident investigation report
09 is issued, or until required
10 by court order, or until a

11 public hearing takes place.

12 If any part of your
13 statement is based on
14 information that you learned
15 from someone else, please let
16 us know. Please answer each
17 question as fully as you can,
18 including any information that
19 you learn from someone else.
20 We may not ask the right
21 question to learn all of the
22 information that you have, so
23 don't feel limited by the
24 precise question that's asked.
25 If you have information about

18

01 the subject area of a
02 question, please provide us
03 with that information.

04 Do you have any
05 questions about the manner of
06 the interview?

07 MR. NOE:

08 No.

09 MR. WEBB:

10 Okay. At this time I'd
11 like to ask the court reporter
12 to administer the oath.

13 -----

14 JOSHUA WILLIAM FLOYD NOE, HAVING
15 FIRST BEEN DULY SWORN, TESTIFIED AS
16 FOLLOWS:

17 -----

18 BY MR. WEBB:

19 Q. Mr. Noe, may I call you Josh?

20 A. Yeah.

21 Q. Okay. Thank you. Please
22 state your full name, your address
23 and your telephone number, and then
24 spell your last name for the record.

25 A. It's Joshua William Floyd Noe.

19

01 [REDACTED]

[REDACTED]

07 Q. Thank you. Are you appearing
08 voluntarily at this interview?

09 A. Yes.

10 Q. Has anyone made any promises
11 to you for giving your statement or
12 offered you any rewards in exchange
13 for a statement?

14 A. No.

15 Q. Has anyone threatened you or

16 warned you not to provide a
17 statement?

18 A. No.

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.

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

25 A. No.

20

01 Q. Were you interviewed by the
02 company before today?

03 A. No.

04 Q. Did you attend a meeting at a
05 local grade school concerning the
06 accident?

07 A. No.

08 Q. How long have you worked at
09 the Aracoma Mine?

10 A. This June will be two years,
11 this June.

12 Q. Have you always worked for
13 Aracoma?

14 A. Yes.

15 Q. You didn't work for ---?

16 A. I was a contractor at first,
17 but I worked at Aracoma. And then I
18 got hired on at the company.

19 Q. About how long did you work
20 for the contractor?

21 A. I want to say about seven
22 months.

23 Q. Is that part of that two years
24 that ---?

25 A. Yes.

21

01 Q. What's your current job title?

02 A. Roof bolter.

03 Q. How long have you had that
04 job?

05 A. I want to say about three to
06 four months now.

07 Q. Was that your job title on
08 January the 19th of 2006?

09 A. Yes.

10 Q. Are you a member of
11 management?

12 A. No.

13 Q. Are you an hourly employee?

14 A. Yes.

15 Q. Have you held any other types
16 of jobs at this mine?

17 A. When I first was hired on as a
18 contractor, I was on the move crew.

19 And then I went company while I was
20 on the move crew, and then they put

21 me on production as a scoop operator.

22 Then I went to the roof bolter.

23 Q. How many total years of mining
24 experience do you have?

25 A. Just what I have at Aracoma.

22

01 Q. So this is the first mine
02 you've worked at?

03 A. Yes.

04 Q. Did you ever work on the belts
05 or the belt drives?

06 A. Just while I was on the move
07 crew, when I first started there.

08 Q. Did you ever work around the
09 mother belt drive?

10 A. Not on that particular panel.
11 What panel was it? I want to say
12 Seven headgate, and I made a ---
13 helped make a splice in a belt,
14 through that one.

15 Q. Who is your immediate
16 supervisor?

17 A. Paul Scott.

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

20 A. Yes.

21 Q. Let's go back to January the
22 19th of 2006. What shift were you
23 scheduled to work that day?

24 A. Dayshift.

25 Q. And when was that shift

23

01 scheduled to start?

02 A. 7:00 a.m.

03 Q. When did it end?

04 A. It's scheduled to end at 4:00

05 p.m.

06 Q. It sounds like maybe it

07 doesn't always end at 4:00.

08 A. No.

09 Q. What would be the usual time

10 you would get outside?

11 A. It's usually, I'd say around

12 5:00 or 5:30 when we get outside.

13 Q. On the 19th, about what time

14 did you arrive at the mine?

15 A. Anywhere between 6:30 to 6:45.

16 Q. Who was your supervisor on

17 that day?

18 A. Paul Scott.

19 Q. And he's your normal

20 supervisor?

21 A. Yes.

22 Q. What was your work assignment

23 for that day?

24 A. Roof bolter. I talked to

25 Terry Shadd that morning, to tell him

01 I was willing to stay back to double
02 back to haul supplies up to the
03 section, after my shift was over.

04 Q. So did you bolt roof that day?

05 A. Yes.

06 Q. Where was that?

07 A. Up on Two section.

08 Q. How do you normally receive
09 your work assignments for the day?

10 A. We really don't. Everybody
11 knowS their job. And when we get up
12 there, we just go to our piece of
13 equipment and ---.

14 Q. So you don't have like a
15 meeting every morning and somebody
16 says, Josh, you go do this and ---?

17 A. No. I actually go to a roof
18 bolter and I help the scoop man, you
19 know.

20 Q. So you figure if somebody's
21 got something for you to do, they'll
22 come and get you?

23 A. Yeah.

24 Q. Did you normally work on Two
25 section?

01 A. Yes.

02 Q. When was the last time you

03 were up on Two section prior to the
04 19th?

05 A. Not including the 19th?

06 Q. Uh-huh (yes). Not including
07 the 19th.

08 A. The 18th.

09 Q. So you worked the day before?

10 A. Yeah.

11 Q. And you bolted roof that day?

12 A. Yes.

13 Q. What I'd like for you to do is
14 just take your time, and just tell me
15 from the beginning of your shift on
16 the 19th, describe for me, in as much
17 detail as you can, what you did from
18 the time that you got to the mine,
19 what time you got there, what time
20 you went inside, what you did, right
21 up through the time of the fire.

22 And just take your time and tell us
23 as much as you can about that day.

24 A. I got there around 6:30, 6:45.
25 I changed my clothes and got my

01 mining belt and hard hat on. And I
02 went upstairs and told Terry Shadd
03 that I was willing to stay back to
04 haul supplies up to the section.

05 I went back downstairs and was
06 sitting with the crew to --- just
07 waiting on the start time for
08 everybody to go down to the box cut.
09 And I really ain't for sure what time
10 we actually went down, but it's
11 usually around seven o'clock.

12 And we went downstairs, got
13 onto the mantrip, went up to the
14 section. And everybody went to their
15 pieces of equipment and I pinned top
16 for the whole shift. And afterwards,
17 on the way out, once we got outside,
18 I went and got a tractor and went to
19 the supply yard. And Terry Shadd was
20 up there loading the flatcar down
21 with the supplies. And after I got
22 all the supplies bound down with the
23 straps and chain ratchets, I hooked
24 the tractor up to it and went down to
25 the box cut.

27

01 I got out of the tractor and
02 did my pre-op test, sprayed my
03 radiator out and went and asked for
04 the road from the dispatcher. The
05 dispatcher told me that I may want to
06 hold off, that they had a fire at the
07 mother drive.

08 And I asked the dispatcher,
09 well, how bad is it? The dispatcher
10 said that they used two fire
11 extinguishers on it so far and
12 couldn't get it to go out.

13 I sit around the box cut maybe
14 like five minutes and everything.
15 And I asked the dispatcher, you know,
16 have you heard anything else? And he
17 said, no, they were looking for fire
18 extinguishers right now.

19 And I went into the warehouse,
20 down in the box cut and got three ---
21 I don't know the sizes of them, but
22 they're the large fire extinguishers.
23 I got three of those and put them on
24 a tractor and I told the dispatcher
25 to give me the road, I was going to

28

01 the mother drive. I was going to
02 take the fire extinguishers up there.

03 He gave me the road. And
04 right before I got to the mouth of
05 Three section, I got behind --- I
06 can't remember the names of who they
07 was, but another mantrip that was
08 trammimg an MRS to Three section,
09 moving the cables out of the road.

10 And at that time, there was
11 another mantrip that came up behind
12 me with --- it was Dusty Dotson, Bob
13 Massey, Rod Morrison. I don't know
14 his name, but we call him Big Ed. He
15 was the longwall boss. I think his
16 name's Eddie, Terry Shadd. I'm
17 pretty sure that was it that was on
18 that manbus that got behind me. Rod
19 Morrison and Big Ed or Eddie went
20 ahead and got on the manbus that was
21 in front of me and took off on it.
22 And Dusty helped the other two miners
23 to move the cables out of the
24 roadway.

25 I started on up to the Number

29

01 One Fourway. Dusty said, first break
02 I come to, pull into, and let him on
03 by. There was no open break, so I
04 got to the mouth of Three section. I
05 opened the double set of doors and
06 pulled my tractor through the double
07 set of doors enough so he could get
08 by. I backed the tractor back out to
09 the mouth of Three section, closed
10 the doors and proceeded on up to the
11 Number One Fourway.

12 I hollered out to the

13 dispatcher on the mine phone to tell
14 him I was at Number One Fourway. He
15 said, stay there, Pepè was right
16 behind me on a Brookville. I turned
17 my tractor around and pulled it into
18 the break so that Pepè could get by
19 on the mantrip.

20 I went ahead and got the fire
21 extinguishers off the tractor and had
22 them setting there beside the
23 roadway. And when Pepè came up, I
24 put the fire extinguishers on his
25 mantrip. And Pepè asked me, how bad

30

01 is it, if I've been up there. I told
02 Pepè, I said, I ain't been up there
03 yet and I don't know how bad it is.

04 And I asked him, I said, do
05 you need me to go up there with you?
06 And he sit there for like two or
07 three seconds and said, no, you stay
08 down here. And I told him, I said I
09 had four bags of bulk dust on my
10 tractor. And he had --- I don't know
11 his last name. He was a beltman.
12 First name's Brandon. We always
13 called him Chuck E. Cheese. And he
14 told Brandon to get off the trip and

15 stay there at the Fourway with me.
16 Pepè told me just to stay by
17 the phone in case he needed the bulk
18 dust, he'll holler at me to be ready
19 to come up there as fast as I could
20 with the dust. I sat there listening
21 on the phone. And Gary Goff and
22 Eddie was on the outside up in the
23 mine office. And they was just
24 talking back and forth, wanting to
25 know how bad it was. And Gary

31

01 mentioned if everybody --- if they
02 knocked the power yet. And they sent
03 Billy, Billy Ray Hall, to knock the
04 power on everything.

05 And Billy Ray was knocking the
06 power. He walked by me shortly after
07 they told Gary that he was on his way
08 to knock all the power. And that's
09 when they came across and said that
10 the coal crews was out, that they was
11 missing two. And that's when Gary
12 Goff ---. I ain't for sure it was
13 Garry Goff or it was Eddie Lester
14 told them to bring them on outside,
15 to bring everybody outside.

16 And I sat there for a couple
17 minutes and I hollered at Gary and

18 told Gary that Pepè told me to stay
19 up in Number One Fourway with that
20 bulk dust in case he needed it. And
21 Gary told me to just come on out with
22 the coal crews, that he wanted
23 everybody out.

24 I went ahead and dropped my
25 flatcar at the Number One Fourway and

32

01 told Gary that I was leaving my
02 flatcar there with the bulk dust,
03 and I would be right behind the coal
04 crews. I sit there until after the
05 coal crews went by, because their
06 mantrips a lot --- you know, a lot
07 faster. The tractor's really slow. I
08 sat there until they went by, then I
09 proceeded out behind them on the
10 tractor.

11 Q. Going back to the beginning of
12 the shift, were there any problems or
13 anything that you knew of that caused
14 you to volunteer to stay back and
15 haul supplies?

16 A. The diesel equipment that we
17 have, there really ain't a lot of
18 employees that are certified, that
19 could run a diesel. I'm diesel

20 certified. I can run it. And
21 there's only one other supply man
22 that we have for the section to haul
23 supplies. And they're so slow that
24 you can make just one trip of
25 supplies in a shift. And I just

33

01 usually stay back one day a week,
02 sometimes two days a week, just to
03 haul supplies up to the section.

04 Q. Do you remember what time it
05 was when the dispatcher told you that
06 there was a fire?

07 A. Not the precise time, but I
08 --- well, I told you I got the fire
09 extinguishers and asked for the road,
10 it was around six o'clock.

11 Q. And who was the dispatcher
12 that you talked to?

13 A. His first name is Mike. Don't
14 know his last name. He's a red hat
15 of dispatchers.

16 Q. Would that have been Mike
17 Brown?

18 A. That could be his last name.
19 I really ain't for sure about his
20 last name.

21 Q. But you know it was Mike?

22 A. Yeah.

23 Q. Did anybody tell you to get
24 fire extinguishers to take with you
25 or did you do that on your own?

34

01 A. I did that on my own.

02 Q. Do you remember what time it
03 was when you got to the Number One
04 Fourway?

05 A. I sure don't. The tractor's
06 pretty slow. And it usually takes
07 about 45 minutes to an hour from the
08 outside to get to the mother drive.

09 Q. So about how long do you think
10 it would take you, normally, to get
11 from outside to the Number One
12 Fourway?

13 A. I'd say anywhere from 25 to 30
14 minutes.

15 Q. When you were sitting there at
16 the Number One Fourway, you said you
17 were listening in on the phone?

18 A. Yes.

19 Q. Can you kind of describe to me
20 what conversations you might have
21 overheard on the phone?

22 A. I know they was trying --- I
23 can't remember who was saying it. I
24 know they was trying to cut their air

25 off to the fire. They was doing some

35

01 ventilation work, hanging curtains to
02 get the least amount of air off the
03 fire as they could.

04 And I know one --- two guys
05 went down to --- we called it the
06 mouth of old Three section. It's
07 behind the longwall. They went down
08 there. There's a set of doors down
09 there. They went down through there.
10 I don't know if they opened those
11 doors or not. I know they opened a
12 set of doors and they said there was
13 smoke behind the doors when they
14 opened it.

15 Q. Do you remember who that was
16 that may have --- that went to the
17 old Three section doors?

18 A. I want to say it was Rod
19 Morrison and Big Ed or Eddie. I
20 ain't for sure what his real name is.

21 Q. While listening to the phone,
22 did you hear Mr. Campbell talking to
23 anyone?

24 A. I can't recall.

25 Q. Do you remember where Billy

36

01 Ray Hall was going to knock the

02 power?

03 A. When I saw him last, he
04 stopped at the Number One Fourway.
05 And then he was going down to Five
06 head. That's the mouth of Three
07 section.

08 Q. Okay. So going back a little
09 bit. So you were outside the mine
10 when you first learned that there
11 might be a fire?

12 A. Yeah.

13 Q. When you heard these --- you
14 say you thought it was --- was that
15 Rod Morrison ---

16 A. Yeah.

17 Q. --- and Big Ed talking about
18 the old Three section ventilation
19 change. can you kind of describe
20 what you heard and what you know
21 about that, in a little bit of detail
22 for me?

23 A. Somebody got on the phone.
24 And said that Rod and Big Ed went to
25 the mouth of old Three section behind

37

01 the longwall. And they was going ---
02 I'm pretty sure they said that they
03 was going to open the doors down

04 there to cut some of the air off.
05 And I remember Rod got on the phone
06 --- he came back to the phone and he
07 either told Eddie or Gary, both of
08 them was on the phone up the mine
09 office, that he opened one of the
10 doors down there and it was filled
11 with smoke. When he opened the
12 doors, there was nothing but smoke on
13 the other side.

14 Q. Do you remember about what
15 time that might have been when you
16 heard that?

17 A. I sure can't.

18 Q. Now, this old Three section,
19 when you say it's behind the
20 longwall, is that the area straight
21 across from where the current new
22 Three section is?

23 A. I really --- if I had a map or
24 something, I could ---.

25 Q. Yeah, we can ---.

38

01 A. I can show you where the ---
02 the old Three section.

03 Q. Did Mike Brown tell you how
04 long before he spoke to you that he
05 had talked to somebody about getting
06 fire extinguishers to the longwall

07 drive?

08 A. Brown --- not Brown, I'm

09 sorry. Mike just said that they put

10 two --- used two fire extinguishers

11 and they were looking for some more

12 to use. And I set around for about

13 five, ten minutes, maybe. At the

14 most, five, ten minutes. And that's

15 when I went into the warehouse and

16 got the three fire extinguishers on

17 my own and told him I was going to

18 take them up there to the mother

19 drive. 'Cause I had bulk dust also.

20 Q. Did Mike tell you who he spoke

21 to or who he found that out from?

22 A. Bryan Cabell.

23 Q. Bryan Cabell. Did he know

24 anything about an evacuation of the

25 Two section or ---?

39

01 A. He didn't tell me about no

02 evacuation of Two section.

03 MR. WEBB:

04 Okay. Now, back to

05 what we were talking about,

06 the old Three section. We've

07 got a partial map up here, if

08 you'd like to step up here and

09 take a look at it.

10 This map is identified
11 as Exhibit A. And here's the
12 North mains.

13 (Noe Exhibit A marked
14 for identification.)

15 A. Yeah.

16 MR. WEBB:

17 Here's the North mains'
18 belt. Here's the northeast
19 mains' belt. Here's where the
20 longwall was on January 19th,
21 2006.

22 A. Old Three section is this
23 right here, where we're talking about
24 old Three section.

25 BY MR. WEBB:

40

01 Q. So that would be what the map
02 designated as Four Right?

03 A. Yeah.

04 Q. Do you know where those doors
05 were?

06 A. Let's see. I'd say right
07 here.

08 Q. So we're talking about a set
09 of doors to either side of spad 2532
10 in Four Right? Okay. Thank you.

11 And so were they going to open both

12 of those doors or do you know?

13 A. I don't know if they was going
14 to open both sets of doors or just
15 one door.

16 Q. When you heard about Morrison
17 and Big Eddie making that air change,
18 was that before or after you went
19 underground?

20 A. It was after I went
21 underground.

22 Q. So was that when you were
23 located at the Number One Fourway ---

24 A. Yeah.

25 Q. --- that you heard about that?

41

01 Did you hear anything else over the
02 telephone, or talk to anyone later to
03 give you an idea if they left one of
04 those doors open or if they left both
05 doors open or both doors closed?

06 A. I didn't hear anything, if
07 they left them open or if they closed
08 them back. I just know they went to
09 open them and Rod said that when he
10 opened that one set, there was smoke
11 behind it.

12 Q. So Mr. Morrison said that
13 there was smoke ---

14 A. Yeah.
15 Q. --- behind that door?
16 A. I'm pretty sure that it was
17 Rod Morrison that also told Eddie
18 that he may need to make some phone
19 calls, that it's pretty bad and we
20 need some help. And that's when I
21 ain't for sure if it was actually
22 Eddie. He told Eddie. I don't know
23 if Eddie had somebody, Gary or
24 somebody to make the phone calls, you
25 know, to the responsible people

42

01 or ---.
02 Q. I don't want to give you too
03 much exercise, but if I could, let me
04 get you to come back to the map and
05 we'll mark those doors. Why don't
06 you take this red marker and mark
07 those doors in Four Right that you
08 were talking about previously. And
09 just circle the doors.

10 And then if you would, just
11 draw a little line over here and
12 identify that as the doors that
13 Morrison and Big Eddie went to.

14 A. I'll write Big Ed.

15 Q. That's fine. If that's how
16 you know him, that's fine.

17 And if you don't care, while
18 I'm thinking about it, just would you
19 sign and date the map for me?

20 A. What's today's date?

21 Q. Today is the 7th. Thank you.

22 Josh, while you were sitting
23 there at the phone, did you hear any
24 conversations about who was fighting
25 the fire or how it was being fought?

43

01 A. Not specifically who was
02 fighting it or how it was being
03 fought. I know they was wanting to
04 go looking --- getting ready to go
05 look for the two that was missing.

06 Q. And do you remember who said
07 that?

08 A. I really ain't for sure. They
09 had somebody relaying back and forth
10 to the phone. I really ain't for
11 sure who ---.

12 Q. Did you talk on the mine phone
13 with anybody?

14 A. Just Gary Goff. They wanted
15 everybody --- the coal crews to come
16 outside. That's when I told --- I
17 got on the mine phone and told Gary
18 Goff that Pepè wanted me to stay

19 there with the bulk dust, in case he
20 needed it. I had a tractor. And
21 Gary told me, just come on outside.
22 They want everybody outside.

23 Q. Do you remember about what
24 time that might have been?

25 A. I really ain't for sure about

44

01 what time that was. It was right
02 before the coal crews came out.

03 Q. Do you remember if you heard
04 any conversations at all that
05 involved Fred Horton?

06 A. I'm not sure. Not right off.
07 I know he was up there because he was
08 already underground before the start
09 of second shift.

10 Q. How do you know he was already
11 underground?

12 A. Let's see. I can't remember.
13 I passed him. I can't remember
14 exactly where, but I remember passing
15 him on the way outside or after we
16 got outside.

17 Q. Was that as you were coming
18 off the end of your shift?

19 A. Yeah, at the end of the shift.

20 Q. Do you know who was in charge
21 of fighting the fire at that time?

22 A. No, I don't.
23 Q. Do you know who may have told
24 Morrison or Big Eddie to open those
25 doors?

45

01 A. No, I don't.
02 Q. Do you have any idea who might
03 have decided to do that?

04 A. By the time I got up to the
05 --- you know, unless it was done
06 before I got to the mine phone and
07 everything, I was getting a little
08 bit behind the first group of men
09 that went in, after I got out of
10 their way.

11 Q. I know you said that tractor
12 was pretty slow.

13 A. Yeah.

14 Q. When and who told you to
15 evacuate the mine?

16 A. Gary Goff, after they said,
17 bring the crews outside, bring
18 everybody outside. Gary Goff --- I
19 asked Gary Goff, you know, about the
20 dust and the tractor, that Pepè's
21 wanting me to stay there. Gary Goff
22 told me just to come on outside.

23 Q. Did you come on outside on

24 that tractor?

25 A. Yeah. Yes, I did. I dropped

46

01 the flatcar, unhooked from the
02 flatcar. There was one of the breaks
03 there at the Number One Fourway. I
04 unhooked it, I told Gary that I was
05 going to leave my trailer there, that
06 I had four bags of bulk dust on it,
07 and I was going to bring the tractor
08 on outside behind the coal crews.

09 Q. And then you brought the
10 tractor on outside?

11 A. Yeah.

12 Q. Do you remember about what
13 time you got outside?

14 A. Not right off hand. I'm not
15 sure right off hand what time I got
16 out.

17 Q. While you were listening to
18 the phone, did you ever hear the
19 dispatcher tell anyone about the
20 carbon monoxide system, the CO
21 alarms?

22 A. No.

23 Q. And you were at the Number One
24 Fourway when you got the order to
25 evacuate the mine?

47

01 A. Yes.

02 Q. Were you called and told to
03 evacuate or did you overhear a
04 conversation between other people?

05 A. Overhear on the mine phone
06 that they was wanting the coal crews
07 brought out.

08 Q. So who was the person that was
09 responsible for ordering everybody to
10 evacuate?

11 A. I really ain't for sure if it
12 was Gary Goff or Eddie Lester.

13 Q. When did you first learn that
14 Mr. Bragg and Mr. Hatfield were
15 missing?

16 A. When they --- I don't know who
17 it was on the mine phone. They came
18 across the phone, said the Two
19 section's out, but we're missing two.

20 Q. So at that time you didn't
21 know which two?

22 A. I knew at the time.

23 Q. Oh, you did know?

24 A. Yeah.

25 Q. The person that was talking on
01 the phone, did they identify that,
02 we've got two people missing, and who

03 they were?

04 A. Yeah.

05 Q. Do you have any idea what may
06 have caused that fire?

07 A. Just from what I hear, this is
08 I guess you can say hearsay, that it
09 was a roller, a belt roller. The
10 roller --- the only thing I can get
11 out of it was like a hold-down
12 roller, that the bearing on each side
13 went bad on it.

14 Q. During the time that you've
15 worked at Aracoma, have you
16 participated in an evacuation drill?

17 A. As far as like walking
18 escapeways or ---?

19 Q. That's right.

20 A. From where we're at on the
21 hill, we done a great amount of
22 walking off the hill. And as far as
23 the main intakes, off Two section,
24 where we're at now, no, I haven't.

25 Q. While you were at the Number

49

01 One Fourway, did you smell anything
02 unusual or see any haze or anything
03 unusual?

04 A. No.

05 Q. What about when you left Two

06 section, at the end of your shift,
07 did you take the normal travelway
08 out?
09 A. Yeah, our travelway out is ---
10 at the mother drive, there's two sets
11 of doors, airlock doors, two on each
12 side that set on each side of the
13 mother drive. And we traveled
14 underneath the mother drive belt.
15 And when we was going out, you know,
16 a far as seeing or smelling anything,
17 I didn't see any smoke or smell
18 anything.

19 Bryan Cabell was ---. There's
20 a phone right there in the same entry
21 as the mother drive belt. And he was
22 sitting there talking on the phone
23 when we went by the mother drive.

24 Q. So I know that as you come out
25 from Two section to get over to North

50

01 mains, there's an area where you come
02 through a couple of airlock doors.
03 And then there's one area where you
04 travel --- you travel underneath the
05 longwall mother belt.

06 A. Yes.

07 Q. So when you were in that area,

08 did you smell anything ---

09 A. No.

10 Q. --- or see a haze or anything

11 unusual?

12 A. No.

13 Q. When you were on your way out,
14 were those airlock doors, were they
15 open or closed?

16 A. They was closed. There's
17 usually two guys that gets off the
18 manbus to open and shut the man doors
19 as the mantrip comes through.

20 Q. When you guys went through
21 there, did somebody close the doors
22 behind you, ---

23 A. Yeah.

24 Q. --- or were they left open?

25 A. The way we usually do it is

51

01 two guys will get off. One of them
02 opens the set of doors and keep on
03 walking, walking in front of the
04 mantrip. And as the mantrip comes
05 through, the second guy will close
06 the doors. And he'll follow behind
07 the mantrip, closing the doors as the
08 guy in front of the mantrip opens the
09 doors.

10 Q. Was there a beltman there?

11 A. Bryan Cabell was at the same
12 entry as the mother drive. He was on
13 the phone when we went by.

14 Q. Do you remember what time you
15 went through those doors on your way
16 out?

17 A. I sure don't, not the specific
18 time.

19 Q. Do you remember what time you
20 left the section?

21 A. After the second shift crew
22 got up there, we rock dusted, and the
23 section was dusted out. And they was
24 talking about changing our work
25 schedule and wanted us to talk it

52

01 over, both crews get together and
02 talk it over and everything, if both
03 of us would agree to it or what we
04 wanted. And we set there a couple
05 minutes talking about it. And you
06 know, we never did ---. I don't
07 remember if we ever came to a
08 conclusion about that, but you know,
09 after we talked about that then we
10 got on the manbus and went on out.

11 Q. Were there usually two guys
12 that would get off the mantrip and

13 open those doors or ---?
14 A. Yeah. Usually two guys, or
15 one guy will, you know, get off. But
16 now on Four crew, if it's just say
17 one other person, that one guy will
18 open and close the doors as we went
19 through.

20 Q. Have you ever come through
21 there and maybe a beltman or somebody
22 would be there and they'd opened the
23 doors for you?

24 A. There's been times, especially
25 on a tractor, where I'd haul a

53

01 tractor up through there. The
02 beltman will be standing there with
03 the set of doors and that's right
04 there at the mother drive belt. When
05 I come through that one set, if he's
06 there, he'll usually open the doors.
07 On my way through he'll sometimes
08 tell me, don't worry about it, he'll
09 get them, and I'd proceed on through
10 to the next set of doors.

11 Q. So on the 19th, as you all
12 were leaving the section, who opened
13 those doors for you?

14 A. I really --- I sit in the back
15 of the manbus. And the way those

16 manbuses are made, there's a set of
17 seats in the back and a set of seats
18 on the side. And then it's the
19 center section, the engine
20 compartment and the operator. And
21 it's usually one guy or two guys, one
22 guy on each side of the seats in the
23 middle will get off, because it's
24 easier for them to get in and out
25 than it is for the guys in the back.

54

01 Q. As you came out that evening
02 of the 19th, you came through the
03 double doors and went underneath the
04 mother belt, was the mother belt
05 running at that time?

06 A. I want to say it was.

07 Q. You said you came by there and
08 Bryan Cabell was on the phone. Do
09 you have any idea who he might have
10 been talking with? Did you overhear
11 any of the conversation?

12 A. No. It's so loud. That
13 manbus is loud and the belt --- you
14 know, the drive is not even a half
15 break away from our roadway.

16 MR. WEBB:

17 Bill?

18 BY MR. TUCKER:

19 Q. I'm probably going to be
20 bouncing back and forth here a little
21 bit, so bear with me, if you would,
22 Josh. How much training did you
23 receive on diesel equipment?

24 A. It's eight hours. It's an
25 eight-hour class that you have to go

55

01 through. And I went through the
02 eight-hour class.

03 Q. Who taught that?

04 A. Dave Brown, who was the safety
05 director at the time that we had it.
06 And Randy --- I can't think of his
07 last name. I really ain't for sure
08 what he does. I know he works out of
09 the mine service office a lot.

10 Q. Have you received any special
11 training on like fighting diesel
12 fires involving diesel fuel?

13 A. Just through the class.

14 Q. That was part of that class?

15 A. Yeah.

16 Q. Have you ever participated in
17 a fire drill?

18 A. No.

19 Q. You mentioned you ran a roof
20 bolter on Two section?

21 A. Yes.

22 Q. Do you have a copy of the roof
23 control plan on the section?

24 A. Yes.

25 Q. Has your foreman ever reviewed

56

01 the plan with you?

02 A. Yes.

03 Q. How often does he do that?

04 A. I really ain't for sure how
05 often he does that. Just every now
06 and then he'll tell the roof bolters
07 to stop by the power box. And then
08 he'll go over like the torque of the
09 bolts and the roof distance between
10 the bolts. And, you know, pretty
11 much read a little section out of the
12 roof control plan ---

13 Q. Right.

14 A. --- to us.

15 Q. Would you consider that say to
16 be more of a weekly thing or a daily
17 thing or ---?

18 A. Maybe every other week.

19 Q. Okay. When you arrive on the
20 section, are there usually
21 third-shift employees there?

22 A. Yes.

23 Q. Do you ever go up to run coal
24 and maybe there hasn't been anybody
25 there on the previous shift?

57

01 A. Yes.

02 Q. If that occurs, then, do you
03 go --- does anything change? I mean,
04 would you --- say if you go up on a
05 section and there's nobody there,
06 would you go straight to the bolter,
07 or would anything else ---?

08 A. We just --- me and the guy I
09 pin with, we would just go straight
10 to the bolter. And if we don't have
11 a place down, we'd just go ahead and
12 pretty much help the scoop man out
13 with his daily task.

14 Q. How do you find out if you had
15 a place down?

16 A. Usually through Paul Scott.
17 He'll come and tell us, which ---
18 usually, like on hoot owl, like when
19 we come up there in the morning, we
20 won't usually have a place down. But
21 like on evening shift, if we're
22 running late getting inside, like,
23 you know, a safety meeting or a
24 manbus breaks down or something like
25 that, and another coal crew comes on

01 out and we pass them, you know,
02 they'll usually review with us
03 and ---.

04 Q. Which bolter do you operate?

05 A. Right side.

06 Q. Right side. What was the last
07 place you bolted on the 19th?

08 A. I cannot remember the exact
09 place that we bolted.

10 Q. Okay. Do you recall what
11 time ---?

12 A. I'm sorry, it was Number Four
13 entry, because we use a walk-through
14 bolter right now because we're
15 cutting out for the new mother drive
16 and we have to use a walk-through
17 bolter because it's 12 feet high.

18 And we was bolting in that place
19 there when they started to dust, to
20 dust the section. And we backed the
21 bolter out and went on around out of
22 that break. And we told --- the
23 other crew, the crew that followed us
24 was Elvis and Bragg. They followed
25 us, or we followed them. And we told

01 them that, you know, we got a place

02 down right now that's dusted out.

03 And, you know, we just set there and

04 started talking about the schedule

05 change, or possible schedule change.

06 Q. All right. So that was the

07 face of Number Four you were bolting?

08 A. Yes, the face.

09 Q. You just started, you didn't

10 complete it?

11 A. We just didn't start it, we

12 had been bolting in it. We cable

13 bolted it and six-foot bolted it at

14 the same time. I don't know how far

15 we was in that place, as far as ---

16 we was bolting in there for a while.

17 Q. Okay. What time was it when

18 you first become aware of the fire?

19 A. I ain't for sure about what

20 time I first learned about the fire.

21 I headed underground around six

22 o'clock, when I headed underground

23 with the fire extinguishers. And

24 they wasn't --- Mike told me about

25 the fire. I set there talking to him

60

01 five, ten minutes, you know, asking

02 him if he's heard anything else. And

03 he said he couldn't get ahold of

04 anybody else right now. And that's

05 when I told him to write me down for
06 three fire extinguishers on the
07 supply list. I was going to take
08 them up there. And I told him to
09 give me the road to Number One
10 Fourway.

11 Q. How much time --- you may have
12 already answered this, but how much
13 time do you think passed from the
14 time that Mike first mentioned to you
15 that they had a problem 'til you
16 entered --- 'til you started
17 underground?

18 A. I want to say at the most
19 probably 15, 20 minutes, 20 minutes
20 being the most that elapsed.

21 Q. Okay. And during that
22 time you went and got fire
23 extinguishers ---

24 A. Yeah.

25 Q. --- and then came back to

61

01 check with Mike, if he had heard
02 anything?

03 A. Yeah. When he said he ain't
04 heard nothing from them, ain't heard
05 nothing from nobody, that's when I
06 went ahead and went to the warehouse

07 and got the three --- the large fire
08 extinguishers.

09 Q. Right.

10 A. Put them on the tractor and
11 told him I was going up to the mother
12 drive, to give me the roads to Number
13 One Fourway.

14 Q. Okay. And you mentioned that
15 tractor was pretty slow, ---

16 A. Yes.

17 Q. --- and that Dusty had caught
18 up with you at the Threeway?

19 A. No, it was between the
20 Threeway and the mouth of --- Three
21 section mouth, the new Three section.
22 It's in between there. I can't tell
23 you exactly what break it was, but
24 you know, I got behind the other
25 manbus that was moving the MRS cables

62

01 out of the road.

02 Q. You said the manbus, did they
03 have the MRS unit out in the entry
04 moving it or ---?

05 A. No, they trammed it up to the
06 Three section. And the cable that
07 was attached to it that was going
08 towards the power box, that was
09 bringing the cable up to the MRS.

10 They was what we call racking the
11 cable up.

12 Q. So they had already moved it
13 and now they was picking their cable
14 up from where they had traveled?

15 A. Yeah.

16 Q. So they traveled up the
17 travelway?

18 A. Yeah. They was traveling up
19 through the travelway.

20 Q. Okay. How long would you
21 think it would take you to get ---
22 after you left outside, to get up to
23 where they were moving that cable out
24 of your way?

25 A. I'd say probably 10, 15

63

01 minutes, maybe.

02 Q. Then how long were you there
03 before Dusty came in behind you?

04 A. It wasn't very long at all.

05 Actually, when I got there, Dusty was
06 right behind me. I know Dusty was
07 --- when they got behind me, I can't
08 remember who was driving the manbus,
09 but when they got the cable out of
10 the roadway, I know Dusty was
11 driving, and he told me to get in the

12 first available break I could get
13 into, so he could get on by.

14 Q. When you left to go
15 underground, did the dispatcher say
16 anything to you about if Two section
17 had been called yet?

18 A. No, he didn't mention nothing
19 about it.

20 Q. As far as you know they were
21 still on the section?

22 A. Yes.

23 Q. Did you hear any conversations
24 over the phone where somebody would
25 have been hollering trying to get

64

01 ahold of Two section to tell them
02 what was going on?

03 A. I didn't hear nobody trying to
04 get ahold of Two section which ---
05 but out in the box cut, the phone
06 ain't really that loud and I was out
07 in the shop itself at the time, when
08 I was talking to Mike. And the only
09 time I was back in the warehouse is
10 when I went after the three fire
11 extinguishers. And I just went after
12 them and came right back out.

13 Q. Had Mike said anything about
14 maybe shutting the belts off or

15 anything to you before you went
16 underground?

17 A. No, he didn't mention nothing
18 about it to me.

19 Q. Okay. Do you know who was
20 moving the MRS units?

21 A. I want to say it was Brandon
22 Lusk (phonetic) and an electrician, I
23 just know him as Bryson (phonetic).

24 Q. Do you haul supplies in pretty
25 often, since you're a qualified

65

01 diesel operator?

02 A. I stay back maybe one or two
03 nights a week hauling supplies.

04 Q. When you go back in to take
05 those supplies, do you ever come upon
06 the double doors and they'd be open,
07 both sets?

08 A. No, not both sets would be
09 open, unless, you know a set of doors
10 --- one set's damaged, you know, got
11 hit by a tractor or something like
12 that, or, you know, there's a lot of
13 people travel through there.

14 Q. Right.

15 A. You know, if one set's damaged
16 or something like that, or they're

17 closed as best they will close, it's
18 been like that before.

19 Q. Have you traveled in then and
20 maybe found one set open and one set
21 closed?

22 A. No.

23 Q. You mentioned you were at the
24 Number One Fourway and you'd listened
25 on the phone. Did you actually hear

66

01 them evacuating the mine, as far as -
02 --? When you say evacuating the
03 mine, are you talking about --- is
04 this after the crew had already got
05 down to the intake or ---?

06 A. Yeah. On the outby side of
07 the mother drive belt.

08 Q. Okay. Do you have any idea
09 how long you were at the Fourway
10 before you started hearing them ---

11 A. No.

12 Q. --- ordering the evacuation?
13 When you were there at the Fourway,
14 you mentioned that Pepè had dropped
15 of Brandon for him to ride out with
16 you. Did you all have any
17 conversations about other fires in
18 that area, ---

19 A. No.

20 Q. --- or other fires at the
21 mines ---

22 A. No, we didn't ---.

23 Q. --- previous to that?

24 A. I really didn't talk none to
25 Brandon. I was just, you know,

67

01 listening on the phone, you know,
02 walking --- you know, I walked up to
03 the tractor to shut it off and turn
04 my lights off, so it wouldn't run my
05 battery down and came right back to
06 the phone and was listening in on it.

07 Brandon wasn't really talking
08 to me none, you know. When the
09 manbus --- the coal crews came out, I
10 told Brandon to get on the mantrip
11 and ride it out, go out with them.

12 Q. I think you probably already
13 answered this, but I'll ask you
14 again. When you were going in to
15 take fire extinguishers to the mother
16 drive, what entry was you in when you
17 got behind the MRSs being moved?

18 A. Is the six-foot belt marked on
19 the mains on that map?

20 Q. If you find it there, if you
21 can just mark it.

22 A. Number Two, we traveled Number
23 Two. And right here's the Number One
24 Fourway.

25 Q. So they would have been moving

68

01 the MRS unit out of the Number Two
02 entry?

03 A. Just on out through here
04 before you get to the Three section,
05 because that's the tramway. And they
06 was in Number Two entry.

07 Q. They was in Number Two entry?

08 A. Yes.

09 Q. Okay. We'll just mark that as
10 travelway. Also mark where you
11 indicated that your tractor was
12 parked.

13 A. All right.

14 Q. Could you show me --- I hate
15 to bring you right back up after
16 you're just getting comfortable, but
17 where the phone was at that you was
18 listening on, if you could mark the
19 phone on there.

20 Q. Thank you. Have you ever
21 traveled a different route from
22 outside to the mother drive area?

23 A. The only other different route
24 that I've ever traveled was the main

25 intake from the Threeway to the

69

01 Number One Fourway, the main intake

02 from those two points in the mine.

03 Q. Okay. You've mentioned that

04 Billy Ray Hall came by you to knock

05 the power?

06 A. Yeah.

07 Q. Do you have any idea what time

08 that he actually knocked the power?

09 A. I really have no idea what

10 time he actually knocked the power.

11 I don't know how the power on the KBA

12 boxes run up through there ---

13 Q. Right.

14 A. --- or where he has to go or

15 anything like that for that.

16 Q. You didn't hear him maybe get

17 back on the phone and call somebody

18 and say, I've got the power knocked?

19 A. He got on the phone and said

20 that he was heading to Five Head.

21 And at that time he went --- you

22 know, a couple minutes. Really, I

23 don't know an estimated about amount

24 of time that he came by me and

25 stopped there where the phone was at,

70

01 because there was a power center
02 there on the other side of the phone.

03 And he went over there and he
04 went on down the travelway to --- was
05 heading down towards Five Head.

06 Q. Do you know what he did at
07 that power center?

08 A. No, don't know.

09 Q. Do you have any idea what time
10 that was, when he passed you there?

11 A. I don't know what time he
12 passed me.

13 Q. Okay. Do you wear a watch?

14 A. No. It keeps getting ripped
15 off.

16 Q. Okay. What time did you leave
17 the mine on the 19th?

18 A. I actually didn't leave until
19 the 20th, about 2:00 a.m. on the
20 20th.

21 Q. Did you run the mantrip in,
22 maybe? What did you do after you got
23 back outside, ---

24 A. Once I got outside, ---

25 Q. --- to bring the tractor out?

71

01 What did you do?

02 A. --- I stayed down into the box
03 cut area. And I was just --- the

04 mine rescue teams, when they first
05 arrived, I was helping them. They
06 wasn't but three of us down in the
07 box cut. It was myself, Tim Dingess
08 and Chad Neal was down in the box cut
09 area. And we was --- and George
10 Kline (phonetic). He was the IT
11 operator. That would be four of us.

12 And we was just getting
13 everything that the rescue teams was
14 needing and everything. We went
15 ahead and pre-op'd the mantrips for
16 them. And, you know, they told us
17 that we wasn't allowed to go
18 underground or --- I can't remember
19 her name, she was maybe MSHA. She
20 came there and issued a (k) order and
21 everything and they said we wasn't
22 allowed back underground. And that
23 only the rescue teams would be
24 allowed back underground.

25 And I went ahead and

72

01 task-trained one, I can't remember
02 his name, how to start and operate
03 the mantrips and everything, so that
04 he could get the rescue teams up to
05 the mother drive belt.

06 Q. Was he a mine rescue ---
07 A. Yeah, he was a mine ---.
08 Q. --- member?
09 A. Yes.
10 Q. You don't remember who that
11 was?
12 A. No.
13 Q. Do you know of any problems
14 that you have with the diesel trips
15 at the mine?
16 A. Just overheating, where we
17 have such a --- the grade of our hill
18 is so steep, ---
19 Q. Right.
20 A. --- they just overheat with
21 such a load on them to travel up and
22 down.
23 Q. Do you remember what places
24 you bolted on the dayshift on the
25 19th?

73

01 A. Just the last place that I
02 bolted. You know, we usually, me and
03 my guy I pin with, we stay in Three
04 and Four entries. And you know,
05 Three Right is the places --- the
06 only entries and breaks that we bolt
07 in.
08 Q. Did your foreman operate any

09 equipment on that day?

10 A. I can't remember if he did.

11 Q. Okay. You don't remember

12 maybe what places you cut?

13 A. No. As far as the cut

14 sequence, I can't remember what we

15 went through that day on our side. I

16 just remember the last place that we

17 bolted was Number Four entry.

18 Q. Okay. You know Chris Adkins

19 and Dwayne Francisco?

20 A. Yeah.

21 Q. Were you already outside when

22 they went in on the 19th?

23 A. When we got outside, I was one

24 --- I'd say probably the last one

25 outside, because where I was on the

74

01 track, I let everybody else go on

02 ahead of me. The coal crews was

03 outside in the warehouse, the shop

04 area. And by the time I got my

05 tractor parked, they done went up on

06 the elevator.

07 And we was down there for a

08 while. And the elevator come down

09 and Chris Adkins and Dwayne and I

10 believe it was Gary Goff went ---.

11 Billy Ray came out with the coal
12 crews. When they picked him up, I
13 don't know --- they was ahead of me
14 and he was outside. And they was
15 wanting to know if there was a five-
16 man available that they could take.
17 And Billy Ray said, I believe this
18 one here is ready.

19 They got on it and then I
20 can't remember who got the doors up
21 by the drift mouth, but they went on
22 underground then. And then shortly
23 after that, that's when the --- I
24 think her name's Vicky. I don't know
25 if she's state or federal. She came

75

01 down saying that she issued a (k)
02 order. And I think Frank Foster was
03 with her when she came down.

04 MR. TUCKER:

05 Okay. That's all I
06 have for now. Thank you.

07 BY MR. WEBB:

08 Q. Josh, I've got a few more
09 questions for you. I think you said
10 that you didn't leave the mine
11 property until about 2:00 a.m. on the
12 20th?

13 A. Yes.

14 Q. During that time, did you hear
15 any conversations about anything that
16 management people had done, or the
17 rescue teams had done to stoppings or
18 waterlines while you were in the box
19 cut or tramping people in and out of
20 the ---?

21 A. No. As far as what the rescue
22 teams done to the stoppings and the
23 waterlines, they --- I helped with
24 trying to find the fittings for the
25 hose. I don't know what it's called.

76

01 It's like a T-shaped fitting-type
02 things. We was trying to find the
03 fittings that would connect up to our
04 fire hose.

05 Q. Going back to when you were
06 working up on Two section, about how
07 long had the roadway to Two section
08 been routed like it was on the 19th?
09 Had that changed or ---?

10 A. It's been like that for some
11 time now. For a good little bit now
12 it's been the same way as it's been
13 right now.

14 Q. Do you remember if there were
15 ever any other equipment doors

16 located inby the two sets on the
17 longwall belt drive area?
18 A. If there was any other ---?
19 Q. Any other doors, equipment
20 doors.
21 A. For Ten headgate, they put a
22 set of doors up for it, when we
23 punched through on Ten headgate.
24 When we come back up out of there, we
25 put a set of doors up there.

77

01 Q. And one question just to
02 clarify for me. Is the Fourway where
03 you leave the belt air course and go
04 into the intake ---
05 A. Yes.
06 Q. --- on the normal roadway?
07 A. Yes.
08 Q. Did Adkins or Goff and
09 Francisco enter the mine after the
10 (k) order was issued?
11 A. No. They came down and was
12 wanting to know if there was a
13 five-man available. And Billy Ray
14 said, I believe this one here's
15 ready. And they got on that manbus
16 with Billy Ray. And I'm pretty sure
17 Billy Ray may have been driving. I
18 ain't for sure And went underground.

19

20 And shortly, not very long
21 after that, that's when the inspector
22 came down and said she was issuing a
23 (k) order. And Frank Foster was with
24 her when she came down.

25 Q. Okay. When you went back in

78

01 the mine and got to the Number One
02 Fourway, was the six-foot belt in
03 that area, was it still running when
04 you got there?

05 A. No, it was off.

06 Q. Back to normal business up on
07 Two section in northeast mains. Do
08 you know who puts up the green and
09 yellow reflectors that are used to
10 mark the escapeways?

11 A. I don't know, you know, who
12 puts them up.

13 Q. Could that have been your
14 boss?

15 A. He may do it, you know. I
16 really ain't for sure who puts them
17 up.

18 Q. Do you know if there's green
19 reflectors between the doors on the
20 roadway at the longwall belt?

21 A. I can't recall seeing any.
22 But I can't say that there's some
23 there and some --- that they're there
24 or not there. I just can't recall
25 seeing any --- remember seeing any.

79

01 Q. Do you remember if when the
02 MSHA inspector and Frank Foster came
03 down and she was telling you all
04 about the 103(k) order, did Frank
05 Foster go in the mine after that?

06 A. No.

07 Q. Are you comfortable that if
08 you were back up on Two section that
09 you could get out of the mine safely
10 in the event of a fire or an
11 emergency?

12 A. With this scenario that we
13 just ---?

14 Q. Just in any scenario. If you
15 were on Two section today ---?

16 A. For the distance we traveled,
17 the rescuers, no.

18 Q. Are you familiar with the
19 construction project involved with
20 extending that 72-inch belt up on
21 northeast mains?

22 A. Am I involved with it or ---?

23 Q. Are you familiar with it?

24 A. No. We traveled --- our
25 travelway is, once we go through the

01 double doors, we'd go on down just a
02 couple breaks. And we have to cut
03 back uphill to go through the
04 six-foot belt that they're putting
05 in. They just got the structure in
06 and they would have let two setups
07 out, so we can travel through it and
08 get back into our intake.

09 Q. About how long had you been
10 traveling that way?

11 A. It's where the roadway was so
12 bas with the diesel equipment and
13 everything and our scoops and stuff,
14 at first when the first set of double
15 doors, we used to go left-handed back
16 up the hill. But that roadway got
17 just, you know, too bad, too muddy.
18 And we kept on going on down to
19 travel other roadways. And we
20 finally just went down and found a
21 good roadway and we're just traveling
22 it.

23 Q. When you're traveling to and
24 from the Two section, could you look
25 out to the side of the mantrip ---?

01 I don't know where you sat on the
02 mantrip, but could you look out to
03 the sides and see that 72-inch
04 structure as you went in or out of
05 the mine?

06 A. At certain places, you can see
07 it, as you're traveling.

08 Q. Did you think that might have
09 been unusual that you can see that?

10 A. At that time, no, while they
11 was putting it in, you know, it
12 wasn't running or nothing like that.
13 I know they was putting it in, you
14 know.

15 Q. Knowing what you know now, do
16 you think that's unusual now?

17 A. Yeah.

18 Q. If you needed to evacuate from
19 Two section, how would you describe
20 how you would travel out the primary
21 escapeway?

22 A. The way that I know to travel
23 out the escapeway?

24 Q. And what you would consider
25 the primary escapeway.

01 A. Well, I know that when we go
02 underneath through the double doors

03 the mother drive's not the intake,
04 it's not our proper escapeway. And
05 we'd go on past it to the overcast.
06 And we'd cross over the overcast
07 that's outby the mother drive belt.
08 And then we'd get back on that same
09 line that we always travel and go on
10 down.

11 Q. Do you think the primary
12 escapeway goes through those airlock
13 doors?

14 A. No.

15 Q. Did you work on the Two
16 section on December the 23rd of 2005?

17 A. Yeah. I've always worked on
18 Two section.

19 Q. Do you know if a fire occurred
20 on that day anywhere?

21 A. Not to my knowledge.

22 Q. What about December the 29th?

23 A. Not to my knowledge, if there
24 was --- if there was a fire.

25 Q. Do you recall any time since

83

01 you've been working there, previous
02 to January 19th, that the dispatcher
03 or someone else may have called
04 inside and had people evacuate the

05 mine?

06 A. The only time I know of is
07 when the fans go off, when we've lost
08 power to the fans.

09 Q. Prior to the 19th, did you
10 know your primary escapeway route as
11 clearly as you do now?

12 A. Yeah.

13 Q. Going back to the 19th, when
14 you went to Mike and told him to sign
15 out three fire extinguishers, who
16 went and got the fire extinguishers?

17 A. I did.

18 Q. You went and got them?

19 A. Yes.

20 Q. Where did you have to get
21 them?

22 A. The warehouse is --- there's a
23 doorway you go through right off from
24 the shop. And you can go left-handed
25 just a couple steps to the

84

01 dispatcher's office or you can go
02 right-handed and it's just an open
03 warehouse. And they're back there,
04 located on a shelf in the warehouse.

05 Q. During that time when you were
06 out there, prior to going back in
07 with the fire extinguishers, did you

08 see Mike outside of the dispatchers'
09 office any?

10 A. When I first came down, he was
11 --- it's like a door that's cut in
12 half, and the bottom part was closed
13 and you can leave the top part open.
14 He came out to there, when I came
15 down on the tractor. And after I
16 sprayed my radiator out and
17 everything, I walked over towards the
18 doors there, he was back over there.
19 And I told him I, you know, needed
20 the road. And he said, well, you
21 might want to hold off, there's a
22 fire at the mother drive.

23 Q. Do you know, from working up
24 on Two section, if belt air was used
25 to ventilate the faces?

85

01 A. Air from the belt?

02 Q. Yes.

03 A. No, not that I know of. At
04 the end of the shifts, like on, you
05 know, like on second shifts and just
06 for the scoop man, you know, he helps
07 with the ventilation. And we help
08 him and we always run the current
09 from our intake. We never used air

10 from the belt.

11 Q. Since you work on Two section,
12 can you think of any reason why the
13 smoke from a fire at the mother belt
14 drive would come up on Two section?

15 A. Not unless those double doors
16 down at the mother drive that we
17 travel --- it slipped through there,
18 because our intake, they hit the
19 double doors and it forces the air
20 over the overcast up to us.

21 Q. Where the roadway off of Two
22 section goes through the break in the
23 72-inch belt structure, where that
24 gap was left there, ---

25 A. Yeah.

86

01 Q. --- do you remember if there
02 was a waterline there, along the
03 structure at the gap?

04 A. They got it hanging from the
05 top, so we go underneath the
06 waterline. I ain't for sure what
07 size it is. And it's ---.

08 Q. Do you remember what color it
09 is?

10 A. It's blue.

11 Q. Do you have an opinion of how
12 this accident might have been

13 avoided?

14 A. The way I think it could have
15 been avoided?

16 Q. Uh-huh (yes).

17 A. If an overcast at the far
18 travelway, go underneath of it and
19 instead of leaving it open, because
20 the reason they --- they got a pinch
21 roller, where we traveled from, from
22 the storage unit, there was a pinch
23 roller. And when we first got the
24 tractor, they was afraid the tractors
25 wouldn't pull that belt up from that

87

01 hill and where it's on the other side
02 of the, I guess, it'd be the longwall
03 inby the belthead. They was afraid
04 they wouldn't pull up the hill, so
05 they put a pinch roller there, so
06 they can get a flatcar in there to
07 dump the belt onto the flatcar. And
08 they couldn't build an overcast
09 because of it.

10 Q. Do you think the Aracoma
11 Mine's a safe mine to work?

12 A. In some aspects it is and ---
13 you know, as far as --- some aspects
14 it is, some aspects it's not. Like

15 the belts ---.

16 Q. Well, which way would you
17 think maybe it wasn't?

18 A. Definitely in the air, just a
19 lack of air.

20 MR. WEBB:

21 Bill?

22 MR. TUCKER:

23 I don't have anything.

24 Thank you.

25 BY MR. WEBB:

88

01 Q. Is there anything else you'd
02 like to tell us about the accident or
03 any other things that you can think
04 of that maybe I haven't asked?

05 A. No. That's about all I know I
06 done that day.

07 MR. WEBB:

08 Okay. Josh, on behalf
09 of MSHA, I want to thank you
10 for appearing here today and
11 answering our questions, and
12 sharing the information that
13 you have with us. Your
14 cooperation is very important
15 to us as we work to determine
16 the cause of the accident.

17 If you wish, you can go

18 back over any answer that
19 you've given during this
20 interview, and you can make a
21 closing statement covering any
22 additional points that you
23 believe should be raised.

24 A. I don't wish to do so.

25 MR. WEBB:

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01 Okay. I'd like to ask
02 that you not discuss your
03 interview today with any
04 person who may have already
05 been interviewed, or people
06 that we might ask to give a
07 statement in the future, to
08 help us ensure that we get
09 everyone's independent memory
10 of the events surrounding the
11 accident.

12 After questioning other
13 witnesses and obtaining
14 additional information, we may
15 be asking you back for some
16 further questions.

17 If at some later point
18 you have additional
19 information regarding the

20 accident that you'd like to
21 provide to us, I'd like to ask
22 that you would either contact
23 Kenny Murray. That's the
24 accident team leader, or
25 myself.

90

01 And I also want to tell
02 you that the Mine Act provides
03 certain protection for
04 individuals who participate in
05 accident investigations. So
06 if at any time you believe
07 that you've been treated
08 unfairly because of your
09 cooperation, please
10 immediately contact Mr. Murray
11 or myself at one of those
12 numbers.

13 A. Okay.

14 MR. WEBB:

15 And I believe Mr.
16 Tucker has the same
17 information.

18 MR. TUCKER:

19 Right. State law also
20 gives you protection against
21 discrimination for reporting
22 safety violations or things of

23 that nature. If you ever need
24 to contact us, here's one of
25 my cards.

91

01 A. Yes, sir.

02 MR. TUCKER:

03 And here's C.A.
04 Phillips' card. He's our
05 Deputy Director out of your
06 Charleston office. Thanks for
07 coming in.

08 MR. WEBB:

09 Once again, Josh, thank
10 you very much.

11 A. No problem.

12

13 * * * * *

14 EXAMINATION CONCLUDED AT 11:32 A.M.

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