

01 EXAMINATION UNDER OATH
02 OF
03 DENNIS C. PERRY
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 Wednesday, April 12, 2006, at 1:31
13 p.m.

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

02

03 WILLIAM TUCKER

04 Assistant Inspector at Large

05 West Virginia Office of Miners'

06 Health, Safety & Training

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08 Oak Hill, WV 25901

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10 KENNETH A. MURRAY

11 U.S. Department of Labor

12 Mine Safety and Health Administration

13 Coal Mine Safety and Health

14 District 6

15 100 Fae Ramsey Lane

16 Pikeville, KY 41501

17

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19 U.S. Department of Labor

20 Office of the Regional Solicitor

21 1100 Wilson Boulevard

22 Arlington, VA 22209-2296

23

24

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01 A P P E A R A N C E S (continued)

02

03 RONALD W. STAHLHUT

04 Mine Safety & Health Division

05 District Eight
06 Electrical Group Supervisor
07 2300 Willow Street
08 Suite 200
09 Vincennes, IN 47591-6112

10

11 ALSO PRESENT:

12 CHARLES POGUE

13 DENNIS BEITER

14 WILLIAM FRANCAERT

15 C.A. PHILLIPS

16 EUGENE WHITE

17 BETH SPENCE

18

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02

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

02 -----

03 MR. POGUE:

04 My name is Charles
05 Pogue. I represent the Mine
06 Safety and Health
07 Administration, which is an
08 agency of the United States
09 Department of Labor. I'm a
10 member of MSHA's accident
11 investigation team that is

12 charged with the --- with
13 investigating the accident
14 that occurred at the Aracoma
15 Coal Company, Inc., Aracoma
16 Alma Mine Number One on
17 January the 19th of 2006.
18 This is a joint investigation
19 that MSHA's conducting with
20 the State of West Virginia. I
21 will be asking the questions
22 for MSHA in today's interview.

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

7

01 team includes various
02 specialists and members of the
03 Solicitor's Office. At this
04 time, I would like to ask each
05 of the members of the MSHA
06 team to identify themselves
07 for the record.

08 MR. BELL:

09 Good afternoon, Mr.
10 Perry. My name is Keith Bell.
11 I'm from the Solicitor's
12 Office in Arlington, Virginia.

13 MR. STAHLHUT:

14 Ronald Stahlhut, MSHA,

15 Vincennes, Indiana.

16 MR. MURRAY:

17 Kenny Murray, MSHA,

18 Pikeville, Kentucky.

19 MR. FRANCCART:

20 Bill Francart,

21 Pittsburgh, Pennsylvania.

22 MR. BEITER:

23 Denny Beiter,

24 Triadelphia, West Virginia.

25 MR. POGUE:

8

01 Dennis, my name is

02 Charlie Pogue and I'm with

03 MSHA out of the Hunker,

04 Pennsylvania office.

05 Here with me today

06 representing the State of West

07 Virginia is Mr. Bill Tucker.

08 Mr. Tucker will be asking the

09 questions for the State. At

10 this time, I would ask that

11 Mr. Tucker introduce the

12 members of his team.

13 MR. TUCKER:

14 We appreciate you

15 coming in today. I also have

16 a statement I need to read for

17 the record. The West Virginia
18 Office of Miners' Health,
19 Safety and Training is
20 conducting this interview
21 session jointly with MSHA and
22 we're in agreement with the
23 procedures outlined by Mr.
24 Pogue. However, let me make
25 it clear that the Director

9

01 reserves the right, if
02 necessary, to call or subpoena
03 witnesses or require the
04 production of any record,
05 document, photograph or other
06 relevant materials necessary
07 to conduct this investigation.

08 Again, my name is Bill
09 Tucker with Miners' Health,
10 Safety and Training. I work
11 out of the Oak Hill office.

12 MR. PHILLIPS:

13 Good afternoon, Dennis.
14 My name is C.A. Phillips. I'm
15 the Deputy Director with the
16 office of Miners' Health,
17 Safety and Training in
18 Charleston, West Virginia.

19 MS. SPENCE:

20 I'm Beth Spence from
21 the Governor's office.

22 MR. POGUE:

23 Mr. White's out of the
24 room at this time. When he
25 comes in, he'll introduce

10

01 himself to you.

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

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

11

01 also be used in other
02 enforcement proceedings.

03 I would like to thank
04 you in advance for your
05 appearance here today. We
06 appreciate your assistance in
07 this investigation. The
08 willingness of miners and the
09 members of mine rescue teams
10 and mine operators to work
11 with us is critical in our
12 success in making the nation's
13 mines safer.

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

25 the Aracoma Alma Mine Number

12

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

05 This interview is being
06 conducted at the Department of
07 Environmental Protection in
08 Logan, West Virginia on April
09 the 12th at 1:30 p.m.

10 Mr. Perry, can I call
11 you Dennis?

12 MR. PERRY:

13 Yes.

14 MR. POGUE:

15 The interview will
16 begin by asking you a series
17 of questions. Feel free at
18 any time to clarify any
19 statement that you make in
20 response to the questions.
21 After we finished asking the
22 questions, you will have an
23 opportunity to make a
24 statement of your own and
25 provide us with any other

13

01 information that you believe
02 may be important.

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

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

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

17 Your statement is
18 completely voluntary. You may
19 refuse to answer any question
20 and you may end your interview
21 at any time. If you do not
22 understand a question, tell me
23 and I will rephrase the
24 question. If you need a break
25 for any reason, please let us

14

01 know.

02 You may request an
03 opportunity to make a

04 confidential statement which
05 we will withhold from the
06 public to the extent allowable
07 by law. Should you desire to
08 give this confidential
09 statement, you should advise
10 me before I begin your
11 interview so that I can
12 reschedule your interview in
13 order to properly consider
14 your request. Would you like
15 to have a confidential
16 statement?

17 MR. PERRY:

18 (Indicates no).

19 MR. POGUE:

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

15

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

04 If any part of your
05 statement is based not on your

06 own firsthand knowledge, but
07 on information that you've
08 learned from someone else,
09 please let us know.

10 Please answer each
11 question as fully as you can,
12 including any information that
13 you've learned from someone
14 else. We may not ask the
15 right questions to learn the
16 information you have, so do
17 not feel limited by the
18 precise question asked. If
19 you have information about a
20 subject area of a question,
21 please provide us with that
22 information.

23 Do you have any
24 questions on the manner in
25 which the interview will be

16

01 conducted?

02 MR. PERRY:

03 Not at this time, no.

04 MR. POGUE:

05 Okay. Would you please
06 swear in Mr. Perry?

07 -----

08 DENNIS C. PERRY, HAVING FIRST BEEN

09 DULY SWORN, TESTIFIED AS FOLLOWS:

10 -----

11 BY MR. POGUE:

12 Q. Please state your full name,
13 your mailing address, telephone
14 number and please spell your last
15 name for the record.

16 [REDACTED]

[REDACTED]

19 Q. Are you appearing voluntarily
20 for this interview?

21 A. Yes.

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

17

01 A. No.

02 Q. Has anyone threatened you or
03 warned you not to provide a
04 statement?

05 A. No.

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

09 A. Yes.

10 Q. Do you have a representative

11 with you today?

12 A. Yes.

13 MR. POGUE:

14 And your name is, for

15 the record?

16 MR. CANADA:

17 Michael Canada.

18 MR. POGUE:

19 Do you have a telephone

20 number, Michael?

21 MR. CANADA:

22 276-971-5899.

23 MR. POGUE:

24 Okay. Thank you.

25 BY MR. POGUE:

18

01 Q. Okay. We have a series of
02 questions now we'll get into and
03 we'll proceed on.

04 A. Okay.

05 Q. Who was your employer on
06 January the 19th of 2006?

07 A. Consolidation Coal Company.

08 Q. And which mine are you
09 assigned to?

10 A. Miles Branch Mine.

11 Q. What is your job title and
12 position at the mine?

13 A. Safety supervisor.

14 Q. How many years have you worked
15 for Consolidated Coal, approximately?

16 A. Thirteen (13) years.

17 Q. Could you briefly describe
18 some of your background experience
19 with being in the mining industry?

20 A. I started out in 1981. I
21 started working for Island Creek Coal
22 Company. I worked with them in
23 various duties. I started in safety
24 with them in 1985, and then worked in
25 safety there 'til 1993 when

19

01 Consolidation Coal purchased Island
02 Creek. And I continued to work in
03 safety with Consolidation Coal since
04 that time, from 1993 to present.

05 Q. On January 19th of 2006, were
06 you a member of the mine rescue team
07 for Consolidated Coal?

08 A. Yes.

09 Q. And what was the name of that
10 team?

11 A. VP Eight Mine Rescue Team.

12 Q. And what was your position on
13 the mine rescue team?

14 A. Captain.

15 Q. Have you ever participated in

16 any mine emergencies prior to January
17 the 19th of 2006?

18 A. Yes.

19 Q. Could you briefly describe
20 those incidents?

21 A. At Island Creek it was the VP
22 Five Mine fire explosion and recovery
23 twice, and VP Three Mine fire
24 recovery twice, VP Two Mine fire and
25 VP Eight Mine fire, 984 Mine fire in

20

01 Pennsylvania and the loveridge
02 recovery.

03 Q. Sounds like you've been pretty
04 busy.

05 A. Past two or three years have
06 been somewhat busy.

07 Q. When were you first notified
08 of the mine fire at Aracoma Mine
09 Number One?

10 A. Between 2:30 and 11:00 p.m.,
11 Thursday the ---.

12 Q. And who notified you of that
13 occurrence?

14 A. Command center, our command
15 center through Consolidation Coal.

16 Q. Okay. What day did you report
17 to Aracoma Mine?

18 A. It was around --- it seemed

19 like it was 3:00 a.m., Friday
20 morning, somewhere --- I'm not sure
21 of the exact time. It was 3:00, 4:00
22 a.m.

23 Q. Okay. When you arrived at the
24 mine, were you by yourself or with
25 the other team?

21

01 A. With a team.

02 Q. Okay. How many team members
03 did you bring?

04 A. I think I brought five off of
05 my team, and then the Buckhannon team
06 was there, but they would --- you
07 know, they arrived at the same time
08 we did.

09 Q. I see. What type of mine
10 rescue apparatuses do you have?

11 A. It's the Draeger BG-4.

12 Q. How about the communications?

13 A. We got sound power but we
14 didn't take those underground with
15 us.

16 Q. When you arrived at the mine,
17 who did you report to?

18 A. We got up with, I believe, it
19 was Ray Phillip, sir. Chief was his
20 title, fire inspector.

21 Q. Okay. That's fine. And he
22 works directly with Consol?
23 A. Yes.
24 Q. At any time, did you --- once
25 you arrived on mine property, did you

22

01 talk to anybody from Aracoma?

02 A. Not that I'm aware of, no.

03 Q. Okay. When were you given
04 your first briefing as to the
05 situation that was underground?

06 A. I guess the first official
07 briefing was prior to us going
08 underground to the --- I guess, the
09 duty station at the bottom of the box
10 cut.

11 Q. Okay. How many days were you
12 assigned to go underground at the
13 Aracoma Mine fire?

14 A. We went underground Friday and
15 Saturday.

16 Q. Okay. On those days prior to
17 going underground, were you given
18 briefings as to what your objectives
19 were that night?

20 A. Friday and then --- Saturday
21 we were given a briefing. Of course,
22 I think some things changed due to
23 what occurred, I guess, or what they

24 found Saturday.

25 Q. Okay. We can talk about those

23

01 maybe a little bit later when we go

02 to the wall maps.

03 At those briefings, were you

04 given mine maps?

05 A. Yes.

06 Q. Did they tell you about the

07 fire location?

08 A. Yes.

09 Q. Did they tell you about any

10 firefighting efforts that had been

11 accomplished at that point?

12 A. To a certain extent, yes.

13 Q. On these maps that you were

14 given, were the escapeways marked on

15 it?

16 A. Yes.

17 Q. Did anybody talk to you about

18 your routes of escape in the event of

19 an emergency underground?

20 A. Well, you know, they had the

21 whole mine map laid out, and prior to

22 going underground, we discussed it

23 ourselves as a team ---

24 Q. Okay.

25 A. --- to make sure.

01 Q. Did you understand how the
02 escapeways were marked underground?

03 A. Primarily, but we traveled
04 into the --- I guess, the haulage
05 way, I guess.

06 Q. The tram roads?

07 A. Tram road.

08 Q. Okay. Did you have any
09 problem with your mine maps once you
10 got underground as far as ventilation
11 controls being marked on a mine map
12 and go to that location and there
13 wouldn't be a control at that
14 station?

15 A. Well, the controls were there,
16 but the --- you know, as far as like
17 a door or the --- or a regulator
18 might not be at the exact location
19 that it showed on the map.

20 Q. Okay. Maybe when we go to the
21 wall map, that's another item we need
22 to talk and look at real close.

23 What about survey stations on
24 your mine map, did they appear to be
25 correct when you needed to reference

01 a survey station?

02 A. I can't recall, but I think

03 when we was setting up around that
04 fresh air base, that there might have
05 been a discrepancy. But I'd say it's
06 --- I can't exactly remember for
07 sure.

08 Q. Okay. Do you remember anybody
09 else like other team members on your
10 team discussing that, or other teams
11 discussing problems with mine maps?

12 A. Just amongst my team we
13 noticed, you know, ---

14 Q. Problems with the map?

15 A. --- a couple errors, yes.

16 Q. And those were primary
17 ventilation controls, survey
18 stations, doors not being in the
19 locations of maybe where they
20 were ---

21 A. Yes.

22 Q. --- indicated on the mine map?

23 Okay. Were you given a map each day
24 that you went in?

25 A. Yes.

26

01 Q. Okay.

02 A. I ---.

03 Q. Go ahead.

04 A. I wouldn't go in, not unless I

05 had a map.

06 Q. Okay. That's good. Let's go

07 ahead and go to the wall maps,

08 Dennis.

09 A. Okay.

10 Q. And since you were underground

11 two days, we'll use two different

12 colored markers to indicate those

13 days of travel and exactly what areas

14 you were into. And we'll start off

15 with the black marker first, and

16 we'll go to the mine maps.

17 A. Okay.

18 Q. The first day that you were

19 assigned to go underground, what area

20 of the mine were you assigned to go

21 to?

22 A. Nine tailgate.

23 Q. Okay. Let me just back up on

24 this map. This map right here just

25 indicates the Four Right area, north

27

01 main, northeast mains. Were you into

02 the north main area of the mine?

03 A. Traveling in, yes.

04 Q. As far as doing any

05 exploration work?

06 A. No.

07 Q. Okay. So pretty much, this

08 map right here will take care of our
09 exploration. We're going to call
10 this Exhibit A, Perry. And feel free
11 to make any kind of markings on here
12 that you want.

13 And the second map over here
14 that will be marked Exhibit B, Perry
15 is the map that they used to track
16 you guys underground as you did your
17 exploration work.

18 (Perry Exhibits A and B
19 marked for
20 identification.)

21 A. Right.

22 BY MR. POGUE:

23 Q. So we can refer to this map
24 and you can refer back to here.

25 A. Okay.

28

01 Q. If you would, with your
02 marker, go ahead and sign and date
03 this map with today's date.

04 A. Would that be the 12th?

05 Q. Yes, it is. Okay. And just
06 go ahead and sign this --- date this.

07 Okay. Dennis, we've been asked to
08 use a different color than the black
09 marker.

10 So on the first day, you were
11 given a briefing, you rode into the
12 mine. Where did you stage up, or
13 where was your fresh air base that
14 you were to report to?

15 A. Fresh air, down to here and
16 then on up to fresh air ---.

17 Q. And what day was this, now?

18 A. Friday.

19 Q. This would have been the 20th,
20 or no --- yeah.

21 A. Friday.

22 Q. And how about putting up here
23 just 1/20/06 and the time,
24 approximate time that you were
25 traveling.

29

01 WITNESS COMPLIES

02 BY MR. POGUE:

03 Q. Okay. All right. What was
04 your assignment on that particular
05 night that you can recall?

06 A. Okay. We were to come up here
07 and go through a stopping door. And
08 originally it was --- it looked like
09 three check curtains to force the air
10 through here. And you go up here and
11 open up this area to help to clear
12 some of the smoke out.

13 Q. Okay. Let's just back up a
14 little bit. When you came in that
15 night, did you walk up the 48-inch
16 belt?

17 A. Yes.

18 Q. Okay. With your green marker,
19 could you just draw a line parallel
20 to that ground line which indicates
21 the 48-inch belt and draw it to the
22 point where your fresh air base would
23 be? That's your route of travel.

24 WITNESS COMPLIES

25 BY MR. POGUE:

30

01 Q. Okay. Can you recall, if you
02 remember exactly, your route of
03 travel through here?

04 A. There was a stopping door. We
05 come through here first.

06 Q. Okay. Can you indicate, then,
07 that this stopping had a door with
08 your marker? Just go ahead and ---.

09 A. You mean this or that one?

10 Q. Okay. Before you do that,
11 let's go over here to this map once.

12 It's the same location; right? Do
13 you see how this map is marked here?

14 They have a door and right here

15 there's a couple of check curtains.

16 You can refer to that anytime you

17 want to.

18 A. Just mark travel?

19 Q. Yeah, just your --- what you

20 think your travel was down through

21 the area.

22 You're indicating on the mine

23 map, Exhibit A, that you traveled

24 over to the mantrip?

25 A. Yes.

31

01 Q. Okay. Was that your first

02 assignment?

03 A. Well, initially we was to hang

04 these check curtains. Once we got up

05 there, they wanted us to go up here

06 and make sure that there wasn't

07 anybody located in these cross --- or

08 in the entry here, in the crosscuts

09 or around the entry.

10 Q. Okay. And what was your next

11 move that you made through the

12 mantrip?

13 A. We come back down. I think we

14 started --- there was supposed to

15 have been a door here. We was going

16 to go here to the stop, and you went

17 through this door or opened it up.

18 We made it about halfway into here,
19 and they had a lot of gob material
20 and rock piled up. And it was not
21 safe for ---.

22 Q. Wasn't safe for traveling?

23 A. Right.

24 Q. So how far down in there did
25 you go?

32

01 A. I'd say it's at least a half a
02 break or so.

03 Q. Okay. Did you make it to this
04 overcast location, or did you see the
05 overcast?

06 A. No, we didn't see it.

07 Q. Too much debris?

08 A. And there was --- I mean, the
09 smoke's so thick that, I mean, we had
10 to follow the rear blind. And it was
11 a real slow process and there was a
12 lot of heat.

13 Q. Do you feel that you had one
14 or two feet of visibility, was it
15 that much?

16 A. It was real bad at the top,
17 and then, you know, if you had your
18 light down low, you could see where
19 you was walking. But you know, you'd

20 have to stop and watch where you

21 was ---.

22 Q. Were you guys on a lifeline at

23 this time?

24 A. Yes.

25 Q. Okay. So your travel was

33

01 blocked in the crosscut at survery

02 station 3227. You retreated back out

03 to what would have been the Number

04 Five entry?

05 A. Right.

06 Q. So where did you go from

07 there? What was your guidance at

08 that point?

09 A. Well, we was breaking up some

10 on our communications, so we come

11 back out to the fresh air base. And

12 like I say, it was extremely hot and

13 it cooled off for a little bit.

14 Q. And after you cooled off, what

15 was your instructions at that point?

16 A. Okay. I think we come back

17 in. We was to knock a stopping and

18 we knocked it. And I'm thinking it

19 was right here.

20 Q. Okay. Go ahead and make a

21 symbol for a stopping, and then in

22 the margin someplace, you can just

23 say partially removed. Do you
24 remember how big of an opening you
25 put in it?

34

01 A. We made a pretty good sized
02 opening. I'd say at least half of
03 it. And then like I say, there was a
04 lot of mud and water and debris
05 around it and around ---.

06 Q. On the other side of it,
07 or ---?

08 A. On both sides of it.

09 Q. Both sides of it?

10 A. And then like I say, the range
11 was climbing down.

12 Q. Could you put here ---
13 indicate partially removed? That's
14 what you did?

15 A. Yeah.

16 Q. That's fine. How about just
17 on an opening there? I think in our
18 command center notes, we do have ---
19 we refer to an area there, if you
20 recall?

21 A. I'd say 10 or 15 wide by four
22 foot, five foot.

23 Q. The command center notes
24 indicate about a 53 area there. Does

25 that sound about right? Something

35

01 you could walk through?

02 A. We took an air reading there.

03 Q. Did you knock the blocks out

04 from the --- all the way through the

05 mine floor?

06 A. Up 'til where there was

07 material piled up. I mean, like

08 debris on the mine floor.

09 Q. All right. But you could

10 actually walk through the stopping at

11 that point?

12 A. Yes.

13 Q. Okay. Go ahead and take us

14 from the stopping where you went at

15 that point?

16 A. They wanted us --- well, we

17 had to, like I say, took some air

18 readings, and then they wanted us to

19 come back out. We come back out and

20 took another brief break. And

21 then ---.

22 Q. Could you recall what kind of

23 an air reading, as far as you see,

24 that thing that you got there?

25 A. It was recorded on our map and

36

01 called outside, but I don't remember.

02 Q. Does that look familiar?
03 A. I would say, yes.
04 Q. Okay. Let's say that for the
05 record. Can you read that total that
06 you got there at the opening?
07 A. If I can find it, yeah.
08 15,963 cfm.
09 Q. Okay. And you took that in
10 the opening of the stopping just
11 north of survey station 3222, in the
12 opening that you guys put in the
13 stopping?
14 A. Yes.
15 Q. Okay.
16 A. I think Virgil Brown ---
17 Q. Okay.
18 A. --- he might have took the
19 reading.
20 Q. Okay. Go ahead and take us
21 from there, Dennis.
22 A. Okay. We come back in.
23 There's a belt line.
24 Q. Thirty-two (32)-inch belt
25 line?

37

01 A. Well, it was the structure.
02 Q. Okay.
03 A. The structure. We come back

04 in through here, down. And on our
05 map this regulator --- well, I don't
06 know if this is correct here, but it
07 was on further down.

08 Q. Okay. Let me say something
09 about this map. These controls that
10 are in here, they may or may not be
11 in here as indicated by the mine map.
12 So anything that you feel that is
13 like that regulator, it may show a
14 regulator, but that doesn't mean
15 there's a regulator in there.

16 A. Okay. Well, the regulator we
17 had on our map, it wasn't right here.
18 And we had to end up walking another
19 couple breaks.

20 Q. Okay. Let me --- when you
21 knocked a hole in the stopping, can
22 you recall which direction the air
23 flow was?

24 A. From here it was coming.

25 Q. We'll call that inby. Go

38

01 ahead. Could you run a line over to
02 here and just say air direction,
03 inby? And just with an arrow
04 indicate something in there.

05 WITNESS COMPLIES

06 BY MR. POGUE:

07 Q. Okay. Let's go back up to
08 this Number One entry, the Nine
09 tailgate. You say you went in a
10 north direction --- I'm sorry, a
11 south direction in the Number One
12 entry. And the map that we have in
13 front of us here, Exhibit A,
14 indicates that there was a regulator
15 here. What did you find when you got
16 there?

17 A. That's --- like I say, we
18 looked for the regulator on the map.

19 Q. Okay. Fine.

20 A. It wasn't there, but we could
21 hear something. I don't know if ---.

22 Q. Did it indicate any kind of a
23 vent control or anything on your map
24 that you can recall?

25 A. Not that I recall, but in that

39

01 area, the smoke was --- I mean, you
02 couldn't ---.

03 Q. Less than a foot maybe?

04 A. Less than a foot visibility.

05 Q. Okay. So at this location
06 that's indicated in the Number One
07 entry, north of survey station 3193,
08 the regulator was not there?

09 A. No.

10 Q. Could you circle that and just
11 indicate out here that it was
12 missing?

13 WITNESS COMPLIES

14 BY MR. POGUE:

15 Q. Okay. As you proceeded to go
16 down in a north direction in the
17 Number One entry, can you describe
18 what you saw then with what you
19 found?

20 A. As far as conditions, I mean,
21 it was straight down. And there was
22 a lot of ruts, and it was still
23 pretty smoky. It was real dense
24 smoke. And you could hear like a
25 check curtain flap. That's what it

40

01 sounded like. The air pressure ---
02 it's pretty good air velocity. And
03 we kept on going. I don't know. It
04 seemed like it might have been a
05 couple breaks ---

06 Q. All right.

07 A. --- 'til we found like airlock
08 doors.

09 Q. Okay. Airlock doors, would it
10 be like equipment sitting --- like
11 equipped doors? Were they made out

12 of wood, or were they metal?

13 A. They were metal.

14 Q. Was there was just one set of
15 two doors there?

16 A. Yes.

17 Q. Okay. Could you indicate the
18 approximate location of the ---?

19 A. We just come in and put the
20 doors ---.

21 Q. Can you recall what position
22 those two doors were in?

23 A. They were closed against
24 leakage.

25 Q. So both ends --- what

41

01 direction did they open?

02 A. Back out toward us. So in
03 order to get through, we had to open
04 like this.

05 Q. Can you indicate that? Just
06 draw a line over here or something
07 that looks like a door.

08 A. We'll call it the door. They
09 go back out the back way.

10 Q. What's going to happen is a
11 lot of this information you're giving
12 us, Dennis, we'll write a report as
13 part of the report from --- we'll

14 collect all the different information
15 for that purpose.

16 When you got there, though,
17 the doors were closed; is that
18 correct?

19 A. Yes, but they were --- you
20 could hear them flapping or ---.

21 Q. Would you care to just
22 indicate and put the doors closed?

23 WITNESS COMPLIES

24 BY MR. POGUE:

25 Q. Okay. You said earlier that

42

01 there was no regulator here at all.

02 A. We did not find anything.

03 Q. Okay. When you got to the
04 regulator, did you guys try to take
05 an air reading prior to going through
06 the doors?

07 A. No.

08 Q. Just the leakage?

09 A. Leakage.

10 Q. Did they have belt skirting on
11 the bottom of the door; can you
12 recall? Or did they have overlapping
13 belt flappers on the joints where the
14 two doors come together?

15 A. I don't recall.

16 Q. Did you see --- were you able

17 to see like --- you were talking
18 about leakage, the gaps around the
19 door? You know how sometimes those
20 doors will deteriorate? Or was it
21 just leakage that you would see on a
22 normal installation?

23 A. There was leakage there, but I
24 can't --- as far as me remembering at
25 this time to tell you ---.

43

01 Q. Okay. Was the leakage still
02 in an inby direction?

03 A. Yes.

04 Q. Could you just indicate that
05 here, too, the air movements going
06 inby?

07 WITNESS COMPLIES

08 BY MR. POGUE:

09 Q. Okay. So what were your
10 instructions once you got to the
11 regulator? What were you supposed to
12 do?

13 A. We opened the doors.

14 Q. What did the command center
15 tell you to do at that point? Did
16 they say, just open the doors? Or
17 did they tell you to partially open
18 the doors; can you recall?

19 A. Well, we was stretched out a
20 pretty good length here. Okay. And
21 then like from the line to here. We
22 had a walkie-talkie to here and a
23 walkie-talkie down here, so it was
24 breaking up.

25 Q. Sure. I understand.

44

01 A. But our last instructions,
02 from what we understood, was to open
03 the doors. And that's --- we opened
04 them completely, opened them all the
05 way up to the ribs.

06 Q. All right. Okay. And when
07 you did that, did you prop them open?

08 A. It seems like we did, but ---.

09 Q. Okay. Once the doors were
10 open, did anybody take an air reading
11 at that point?

12 A. I think Virgil took a velocity
13 reading. That's when he was getting
14 a little bit tired I guess.

15 Q. Did he call that reading out,
16 or was that reading called outside?

17 A. I know we relayed it back.
18 Now, whether it made it outside, I
19 don't know.

20 Q. We'll look over these notes
21 real briefly and see if there's any

22 indication here.

23 So what we're seeing, I guess,
24 is Virgil actually took an air
25 reading once the doors were open?

45

01 A. Yeah, he wasn't going to,
02 though. Like I say, he's was getting
03 pretty tired. He just got to ---.

04 Q. Okay. All right. Get some
05 questions here.

06 Did you notice any visible
07 change in the temperature of the air
08 going down this way?

09 A. Once we got down here, it was
10 a little bit cooler. Especially,
11 when we opened these doors. Because
12 we stood there a little bit just to
13 cool off somewhat.

14 Q. So the air got cooler whenever
15 you opened up the doors?

16 A. From that or just the
17 movement.

18 Q. Just the movement? And we're
19 talking about the Number One entry of
20 the Nine tailgate as far as the
21 change in the --- not necessarily the
22 change in temperature, but a change
23 in the velocity of air?

24 A. Right.

25 Q. How about up here in the

46

01 Number Four entry, which would have
02 been your belt entry, did you notice
03 any big change in the temperature of
04 the air as you were traveling?

05 A. As soon as you went through
06 those doors, you got hot.

07 Q. At any time, did you measure
08 any pressure drops around here at
09 this regulator?

10 A. No.

11 Q. How hard was it to open the
12 door? Was it pretty difficult
13 because of air pressure?

14 A. Well, it had pressure, but,
15 you know, I've been around doors like
16 that before. It had pretty good air
17 flow once we got the doors open.

18 Q. Well, let me ask you this,
19 then, when you opened the door ---
20 you know how you sometimes get
21 pressure on doors?

22 A. Uh-huh (yes).

23 Q. Was that kind of pressure on
24 those doors when you opened it up to
25 the point where you --- it's a little

47

01 bit of a struggle?

02 A. Yeah. You had to use muscle.

03 Q. Okay. I think you've already

04 answered this, but the two doors

05 where they came together, was there a

06 gap there with a belt overtop of

07 them, or can you remember if that

08 point was tight because of the belt

09 overlap?

10 A. I don't know if I recall the

11 belts, but I --- the doors fit

12 fairly ---

13 Q. Fairly tight?

14 A. --- tight.

15 Q. So you kind of had metal

16 against metal at that joint, and

17 you're thinking that you might have

18 had something overlapping the joint?

19 A. Possibly, yes.

20 Q. On the outby side of the door?

21 A. Right.

22 Q. Okay.

23 A. And then there was something.

24 I can't remember exactly what it was,

25 but there was something loose in

48

01 there because it was making a pretty

02 good racket. It weren't no ---

03 sounded like a check curtain.

04 Q. On the door itself, or was it
05 something maybe inby?

06 A. I don't know if it was inby or
07 to the right of the regulator. You
08 know what I mean? Because it was a
09 pretty good sized entry.

10 Q. Did they indicate that this
11 was a regulator to this set of doors,
12 or did they say equipment door?

13 A. The regulator's what I
14 was ---.

15 Q. Assuming that the regulator
16 wasn't up at the first location in
17 the Number One entry just north of
18 survey station 3193, but finding the
19 door at 3172, that would have
20 probably been the regulator that they
21 would have referred you to or talked
22 about?

23 A. Possibly.

24 Q. Okay. Once you got your air
25 reading and your air direction at

49

01 this point, did you continue on your
02 exploration of Number One entry?

03 A. No.

04 Q. Where did you go from there?

05 A. Came back down through here,

06 and we crossed and went over on the
07 other side of this belt to make sure
08 that there wasn't someone on that
09 side.

10 Q. Can you indicate with your
11 marker, the area that you traveled
12 outby? Was it different that what
13 you ---?

14 A. Same direction, but they had
15 the belt structure in here ---

16 Q. Yeah.

17 A. --- I just wanted to check it,
18 make sure there wasn't nothing on
19 this side of the structure.

20 Q. Okay. So you traveled the ---

21 A. Around the structure.

22 Q. --- left side of the belt
23 conveyor entry looking inby?

24 A. Right.

25 Q. And then where did you go from

50

01 that point, I guess?

02 A. We went out.

03 Q. Okay. Did you have any more
04 assignments that night, or did you
05 return to the surface at that point?

06 A. No, we had to wait for the
07 other team to come up there.

08 Q. Your backup team or
09 replacement team, I guess?
10 A. Replacement team, I guess.
11 Q. And then you left to go
12 outside?
13 A. Yes.
14 Q. And once you got outside, did
15 they debrief you in the command
16 center?
17 A. No.
18 Q. No debriefing whatsoever?
19 A. Not at the command center.
20 Q. What about --- did anybody
21 give you a debriefing or offer a
22 debriefing?
23 A. There was one individual who
24 come downstairs after we come out,
25 and he put a map up. And we showed
51
01 him where we'd been, the doors and
02 the regulator. I think we had like
03 some of the air readings wrote down.
04 Because we left --- I already met
05 with the briefing officer on my team.
06 Q. Okay.
07 A. And he recorded any
08 information that we called back to
09 him on it as far as locations and air
10 readings.

11 Q. Was there any map besides this
12 one, that only had escapeways and
13 stuff on it?

14 A. There's like one I ---.

15 Q. May I get a copy of it?

16 A. I can.

17 Q. All right. Let's get a
18 different colored marker now. And
19 we'll indicate up here 1/21. And you
20 can give us a ---.

21 Do you recall what time you
22 went in to the mine on the second day
23 again?

24 A. No.

25 MR. CANADA:

52

01 Could we take a break?

02 MR. POGUE:

03 Sure. That's fine.

04 SHORT BREAK TAKEN

05 BY MR. POGUE:

06 Q. When I was asking you earlier
07 about the difference in temperature
08 of the entries in the northeast
09 mains, did it seem like once you left
10 the belt entry and you were over in
11 the Number Five entry and you would
12 travel to Number Six, Seven, Eight

13 entries, did it seem like the lower
14 you went, the cooler the temperature
15 because of the different heights or
16 elevations of the entries through
17 that area? Did you notice any; can
18 you recall?

19 A. Not that I can recall.

20 Q. Okay. That's fine. Let's go
21 ahead and start with day two that you
22 went underground. Were you given a
23 briefing?

24 A. Yes.

25 Q. Okay. And a mine map was

53

01 given to you at the briefing. What
02 was your objection on the second day?

03 A. Go in the rear, as much of
04 that as possible.

05 MR. POGUE:

06 And Dennis was
07 indicating the northeast mains
08 in the Ten headgate area of
09 the mine.

10 BY MR. POGUE:

11 Q. Do you know the location in
12 the Ten headgate that you were
13 supposed to start your exploration?

14 A. There was another team up
15 there, and wherever they was at, we

16 were supposed to take over and go to
17 that location. Earlier it seemed
18 like it was in --- you know, meaning
19 you got underground. They had tied
20 up in here so far. We just had to
21 find out where they went.

22 Q. Okay. And did you travel up
23 the 48-inch belt to the Ten headgate?

24 A. They --- by the time --- on
25 the second day, by the time we got up

54

01 to this location here.

02 Q. And we're talking about that
03 being the head drive of the 72-inch
04 belt?.

05 A. I think we went up to set
06 airlock doors, or track doors, I
07 guess, of the things that were to be
08 in here. We went up to this point
09 right here.

10 MR. POGUE:

11 Okay. Dennis is
12 indicating on Exhibit B,
13 Perry, that on the second day
14 they went to a staking area at
15 survey station 3238, just
16 outby the equipment doors at
17 the mother drive of the

18 longwall area.

19 BY MR. POGUE:

20 Q. Okay. So you got there. What
21 was your assignment at that point?

22 A. We went over an overcast to
23 the location. Right here. We got
24 moved and that's when they told us
25 that they found them.

55

01 Q. Okay. Can we come back to
02 this map here, and can you mark ---
03 right here is the mother drive, the
04 tail area, and this is the air locks
05 that you indicated you traveled ---

06 A. Right.

07 Q. --- at survey station 3238 and
08 the Number Eight entry was your
09 staging area. So just draw a line.

10 A. I could swear they dropped us
11 off there.

12 Q. Do you have any idea what time
13 that was?

14 A. It was probably around 3:15,
15 just approximately.

16 Q. That's fine. Okay. And then
17 you indicated that you had traveled
18 in a north direction from survey
19 station 3238 over the overcast?

20 A. Yes.

21 Q. Could you indicate with your
22 marker the route of travel that you
23 took?

24 A. Okay.

25 Q. And what was your objective at

56

01 that point?

02 A. Well, that's when we took our
03 equipment across and they stopped and
04 they called me up to this point. And
05 that's when they said that they found
06 --- one of them was here and ---.

07 Q. What did you do at that point?

08 A. Just stand by for ---.

09 Q. And you did that?

10 A. Yes.

11 Q. Then what'd you do?

12 A. One of the guys from Massey
13 called me and the captain of the
14 other team and we went over to the
15 drive and he briefed us on, again,
16 that they found one individual up
17 here and the other one was in this
18 location.

19 Q. Do you remember who that
20 individual was? I think you said he
21 was a Massey employee?

22 A. Yeah.

23 Q. How about Johnny Robertson?
24 A. Sounds familiar. I'm not
25 saying for sure. But he's a safety

57

01 director.

02 Q. Frank Foster?

03 A. No. Well, that's hearsay, I
04 guess. Somebody was saying he was a
05 safety ---.

06 Q. Okay. That's fine. Well, at
07 this point right here then, what was
08 your route of travel and how did you
09 get to the mother drive as you
10 indicated?

11 WITNESS INDICATES

12 BY MR. POGUE:

13 Q. And what were you supposed to
14 do once you got to the mother drive?

15 A. He just explained to us that
16 when they got the --- I guess, the
17 material we were transporting that
18 out back to the doors and we were
19 primarily to wet this spray down
20 around the ground and scaling, the
21 materials that were used and stuff of
22 that nature.

23 Q. Did you participate in the
24 body recovery?

25 A. Not in that --- no, there was

01 nothing we could do from back to
02 here.
03 Q. Back to survey station 3249?
04 A. Right.
05 Q. All right. This is the head
06 roller of the drive?
07 A. Right.
08 Q. Okay.
09 A. And then me and the other
10 captain off the other teams went back
11 over here. And then they locked the
12 body bags up and then we come back
13 up.
14 Q. Okay. Did you come out with
15 the victims?
16 A. No.
17 Q. Okay. So you stayed in?
18 A. Yes.
19 Q. What did you do at that point?
20 A. The other team, I think, was
21 Laurel Mountain. We talked, you
22 know, we weren't going to do a whole
23 lot of rock work, start scaling them
24 ribs. And we packed him up, and he
25 primarily --- I think they traveled

01 in from this entry up through here.

02 And like we went up two or three
03 breaks. And that's one of the
04 hose --- spot hose.

05 Q. Okay. With nozzles on it?

06 A. Yeah.

07 Q. Okay. How about indicating
08 the --- indicate the location of
09 where you put the fire hoses through
10 the stopping.

11 A. Like there was one here.
12 Can't be for sure. Seemed like it
13 was a couple breaks up over here.
14 They had like a ---.

15 Q. Were those previously provided
16 fire hoses and you were just
17 repositioning?

18 A. Right.

19 Q. Do you recall what route of
20 travel the hose is meant to ---?

21 A. All your line come up through
22 here?

23 Q. Hard line?

24 A. Flex.

25 Q. Can you indicate ---?

60

01 A. I don't even exactly ---.

02 Q. That's okay. Just indicate
03 where the flex line ran and through
04 what stoppings that the flex line

05 went in the northeast mains.

06 A. Okay. There was a plastic
07 line back here that T'd off of it,
08 you know, line --- fire hose line.
09 There was like two different hoses.
10 Like I say, I'm not ---.

11 Q. Red, blue, if you recall?

12 A. Seemed like one of them was
13 red. I can't recall what the other
14 one ---.

15 Q. Okay. Just with your marker
16 here just go ahead and indicate two
17 line --- or a line and down here put
18 two water lines.

19 WITNESS COMPLIES

20 BY MR. POGUE:

21 Q. Did you have to knock any hole
22 through these stoppings through here?

23 A. No.

24 Q. They were already ---
25 previously been knocked?

61

01 A. Right.

02 Q. Did you travel back the hard
03 line to the 48-inch belt?

04 A. We went over --- I think they
05 had a phone set up in there.

06 Q. Okay.

07 A. And we tried to poke through

08 that.

09 Q. Is this the route of travel

10 you would have gone?

11 A. Yes.

12 Q. And the line that ran back to

13 the 48-inch belt entry was a hard

14 plastic line?

15 A. I can't remember exactly which

16 --- I know it come through this like

17 a --- there was a crosscut here.

18 Q. Okay.

19 A. But I didn't really pay that

20 much attention when I came out.

21 Q. In your travels, did you ever

22 travel in the Number Seven entry inby

23 the tailpiece of the 72-inch belt?

24 A. I did not, no.

25 Q. Would you know from a distance

62

01 whether this stopping was at this

02 location?

03 A. Well, that's where the fire

04 was, and I know the other team ---

05 there was four teams that traveled up

06 this way. No, I don't know if there

07 was a stopping there or if they ---.

08 Q. Okay. That's fine. These

09 equipment doors that you first ---

10 did you ever travel through these
11 doors?

12 A. No.

13 Q. Were they in the closed
14 position whenever you first found
15 them?

16 A. Yes.

17 Q. Did you travel any at all in
18 the mother belt entry?

19 A. I did not.

20 Q. Inby location 3249 and the
21 Number Seven entry, did you travel in
22 a south direction?

23 A. No.

24 Q. Did you travel inby to a
25 survey station 3266?

63

01 A. No.

02 Q. Do you recall any air
03 directions in this area of the drive?

04 A. I know air is coming up this
05 way.

06 Q. And that would have been in
07 what, the Number Six entry?

08 A. Yeah.

09 Q. Okay. Could you indicate air
10 direction just with your arrow?

11 WITNESS COMPLIES

12 BY MR. PROGUE:

13 Q. How about air direction that
14 is going to the 48-inch?

15 WITNESS COMPLIES

16 BY MR. POGUE:

17 Q. How about in the 72-inch belt,
18 could you follow the air direction
19 there?

20 A. No.

21 Q. Any kind of smoke coming back
22 on you when you're traveling inby,
23 or ---?

24 A. Traveling inby, no.

25 Q. Okay. Did you --- on that

64

01 second night, did you have to take
02 out any ventilation control, install
03 any ventilation control?

04 A. No.

05 Q. Okay. So you pretty much for
06 the remainder of the night then, was
07 just like a backup to the team that
08 was monitoring the barrier?

09 A. Right.

10 Q. And at some point in time, you
11 came outside then?

12 A. Yeah.

13 Q. So that pretty much completes
14 your two days of being underground at

15 the Aracoma Mine?

16 A. Yes.

17 Q. As you --- did you install any
18 kind of check curtains or anything in
19 this area?

20 A. We did not.

21 Q. And we're indicating in the
22 Nine tailgate area. Do you know of
23 those that did, or ---?

24 A. I'm --- no.

25 Q. Okay. Is there anything else

65

01 more that you'd like to show us on
02 the mine map here that would clarify
03 anything?

04 A. (Indicates no.)

05 Q. Was this your --- on the first
06 day you indicated fresh air base
07 number 11. Was that the furthest
08 point in the belt entry that you
09 traveled?

10 A. Yes.

11 MR. POGUE:

12 Okay. That's all I
13 have. Go ahead and have a
14 seat. Do you want to take a
15 break?

16 A. Yeah, I need something to

17 drink.

18 MR. POGUE:

19 All right.

20 SHORT BREAK TAKEN

21 MR. POGUE:

22 Bill, would you like to

23 ask Dennis any questions?

24 BY MR. TUCKER:

25 Q. Just the only thing I might

66

01 ask is --- you've given a pretty

02 detailed account of what you did

03 those two days --- would you have any

04 recommendations as far as mine rescue

05 from what you experienced? You know

06 all this and do you have any ideas on

07 what we could do maybe if a similar

08 event would ever arise that we might

09 be able to do a better job, or

10 anything that comes to mind?

11 A. Well, my gut feeling once I

12 went up to that mantrip and saw where

13 those guys --- and start seeing the

14 rescuers, my opinion and my

15 experience, I didn't think that those

16 guys went too far. I think it was

17 one of the areas that we probably

18 should have backed up a little bit.

19 And I made that statement prior to

20 going in Saturday, that we need to
21 tie back everywhere to make sure ---
22 due to the smoke. That's the
23 only ---.

24 Q. Okay.

25 MR. TUCKER:

67

01 I don't have anything
02 else. I'd say he's given a
03 pretty detailed account.

04 MR. POGUE:

05 Dennis, I have a
06 closing statement here I'll
07 read to you, and we'll go from
08 there.

09 On behalf of MSHA, I
10 thank you for appearing here
11 today and answering my
12 questions and sharing your
13 information about the mine.
14 Your cooperation is very
15 important to us as we work
16 towards determining the cause
17 of the accident.

18 If you wish, you may
19 now go back over any answers
20 that you've given during the
21 interview. And you may also

22 make a closing statement
23 covering any additional points
24 you believe should be raised.
25 Do you have any of that that

68

01 you'd like to cover at this
02 time?

03 A. I know you kept asking me
04 about the equipment doors. And like
05 I say, I know they was metal doors,
06 and there was something making a lot
07 of noise. But I, you know, can't say
08 what it was.

09 MR. POGUE:

10 Okay. All right.
11 Mike, do you have any
12 clarifying questions that you
13 would like to ---?

14 MR. CANADA:

15 No, sir.

16 MR. POGUE:

17 Okay. We ask that you
18 not discuss your interview
19 today with any persons who may
20 have already been interviewed
21 or who may be asked to give a
22 statement in the future. This
23 will ensure that we obtain
24 everyone's independent memory

25 of the events surrounding the

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01 accident.

02 After questioning other
03 witnesses and obtaining
04 additional information, we may
05 be asking you back for further
06 questioning. If at some later
07 point, you have additional
08 information regarding the
09 accident that you would like
10 to provide us with, please
11 contact Mr. Kenny Murray.
12 He's our accident
13 investigator, and also Mr.
14 Anthony Webb. And we do have
15 telephone numbers that we can
16 provide to you for that
17 additional information.

18 The Mine Act provides
19 certain protections for
20 individuals who participate in
21 the accident investigation.
22 If at any time you believe
23 that you've been treated
24 unfairly because of your
25 cooperation in this

70

01 investigation, please
02 immediately contact Mr. Murray
03 or Mr. Webb.

04 And thank you very much
05 for your information today,
06 Dennis. We sure do appreciate
07 you coming in. Mike, thank
08 you for coming in.

09 MR. TUCKER:

10 Also, on behalf of
11 Miners' Health, Safety and
12 Training, I too would like to
13 thank you for coming today,
14 and also thank you and your
15 team for the hard work you do
16 as pertaining to mine rescue.
17 A. Okay.

18 MR. TUCKER:

19 And here's a card if
20 you'd ever need to contact me
21 about anything. And this is
22 C.A. Phillip's card. He's our
23 Deputy Director out of our
24 Charleston office. Thank you.

25 EXAMINATION CONCLUDED AT 2:33 P.M.