

01 EXAMINATION UNDER OATH
02 OF
03 JONAH F. ROSE
04
05
06 Taken pursuant to Notice by Autumn D.
07 Furby-Pritt, a Court Reporter and
08 Notary Public in and for the State of
09 West Virginia, at Department of
10 Environmental Protection, 1101 George
11 Kostas Drive, Logan, West Virginia,
12 on Thursday, February 24, 2006, at
13 8:33 a.m.

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

02

03 ALSO PRESENT:

04 STEVE COX

05 DENNIS A. BEITER

06 RONALD W. STAHLHUT

07 CHARLES W. POGUE
08 C.A. PHILLIPS
09 EUGENE WHITE
10 BETH SPENCE
11 DERRICK TJERNLUND
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01 I N D E X

02

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

02 -----

03 MR. FRANCCART:

04 Good morning, Jonah.

05 My name is Bill Francart. I
06 represent the Mine Safety and
07 Health Administration, which
08 is an Agency of the U.S.
09 Department of Labor. I'm a
10 member of MSHA's accident
11 investigation team that's
12 charged with investigating the
13 accident that occurred at the
14 Aracoma Coal Company,

15 Incorporated, Aracoma Alma
16 Mine Number One, on January
17 19th, 2006.

18 This is a joint
19 investigation that MSHA is
20 conducting with the State of
21 West Virginia. I'll be asking
22 the questions for MSHA. And
23 we have representatives from
24 the State I'll introduce here
25 in a moment. They'll ask the

8

01 questions for the State. With
02 me here today are other
03 members of MSHA's team and the
04 state's team. And at this
05 time, I'd like the MSHA
06 representatives to introduce
07 themselves. And we'll start
08 right here with Mr. Murray.

09 MR. MURRAY:

10 I'm Kenny Murray from
11 Pikeville, Kentucky.

12 MR. BEITER:

13 Denny Beiter, I work
14 for tech support and MSHA
15 Ventilation Division.

16 MR. TJERNLUND:

17 Derrick Tjernlund, Tech
18 Support, Triadelphia.

19 MR. POGUE:

20 Charlie Pogue, MSHA,
21 Hunker, Pennsylvania.

22 MR. STAHLHUT:

23 Ronald Stahlhut, MSHA
24 of Vincennes, Indiana.

25 MR. WEBB:

9

01 Anthony Webb,
02 Pikeville, Kentucky.

03 ATTORNEY BARISH:

04 I'm Dan Barish of the
05 Solicitor's Office for MSHA in
06 Arlington, Virginia.

07 MR. FRANCCART:

08 As you can see, we have
09 people from all over the
10 country. I'm from Pittsburgh,
11 Pennsylvania. I'm with Tech
12 Support, MSHA Tech Support.
13 And also here today are
14 representatives from the State
15 of West Virginia. This is Mr.
16 Bill Tucker. And he'll be
17 asking the questions for the
18 State. And he has an opening
19 statement for you also.

20 MR. TUCKER:
21 Okay. Joe, I need to
22 read a statement to you. The
23 West Virginia Office of
24 Miners' Health, Safety &
25 Training is conducting this

10

01 interview session jointly with
02 MSHA. And we are in agreement
03 with the procedures outlined
04 by Mr. Francart. However, let
05 me make it clear that the
06 Director reserves the right,
07 if necessary, to call or
08 subpoena witnesses or require
09 the production of any record,
10 document, photograph or other
11 relevant materials necessary
12 to conduct this investigation.

13 Again, my name is Bill
14 Tucker, I'm the Assistant
15 Inspector at Large out the Oak
16 Hill Region, and that's Region
17 Four.

18 MR. PHILLIPS:
19 How are you doing?

20 MR. ROSE:
21 Good. How are you?

22 MR. PHILLIPS:
23 I'm C.A. Phillips. I'm
24 Deputy Director out of
25 Charleston, West Virginia,

11

01 Miners' Health, Safety &
02 Training.

03 Mr. WHITE:
04 I'm Eugene White,
05 District Inspector out of
06 Region Three.

07 MR. COX:
08 Steve Cox, Region
09 Three.

10 MS. SPENCE:
11 Beth Spence with the
12 Governor's Office.

13 MR. FRANCCART:
14 This investigation is
15 being conducted by MSHA and
16 the State of West Virginia to
17 gather information to
18 determine the cause of the
19 accident and to help prevent
20 this accident from happening
21 in the future. The interviews
22 that we conduct are a very
23 important part of the
24 investigation. After the

25 investigation is completed,

12

01 MSHA will issue a written
02 report detailing the nature
03 and the cause of the accident.

04 And the accident reports are
05 made available to the public
06 in the hope that the greater
07 awareness about the causes of
08 this accident will reduce the
09 occurrence of such accidents
10 in the future. Any
11 information obtained through
12 the witness interviews is
13 frequently used in the
14 accident reports and your
15 statement may be used in other
16 enforcement actions.

17 I would like to thank
18 you in advance for your
19 appearance here. It's very
20 important that you are here to
21 share your knowledge with us.
22 We appreciate your assistance
23 in the investigation. The
24 willingness of miners and the
25 mine companies is essential,

13

01 really, to the mission that we
02 have to complete in making the
03 nation's mines safer.

04 This interview with
05 Jonah Rose is being conducted
06 under Section 103(a) of the
07 Federal Mine Safety & Health
08 Act of 1977 as part of an
09 investigation by the Mine
10 Safety & Health Administration
11 into the conditions, events
12 and circumstances surrounding
13 the fatalities that occurred
14 at the Aracoma Alma Mine
15 Number One located at Route 17
16 North, Bandmill Hollow Road,
17 Stollings, West Virginia,
18 25646.

19 This interview is being
20 conducted at the State of West
21 Virginia Department of
22 Environmental Protection
23 Division of Mining and
24 Reclamation at 1101 George
25 Kostas Drive, Logan, West

14

01 Virginia, 25601. And today's
02 date is February 24th, 2006.
03 The current time is

04 approximately 8:37.
05 Can I call you Joe?
06 Jonah?
07 MR. ROSE:
08 Joe.
09 MR. FRANCCART:
10 Joe?
11 MR. ROSE:
12 Joe.
13 MR. FRANCCART:
14 Joe, the interview will
15 begin by asking you a series
16 of questions. Feel free at
17 any time to clarify any
18 statements that you make in
19 response to any questions that
20 I ask. After we've finished
21 asking questions, you'll also
22 have an opportunity to clarify
23 any of the answers you have
24 given us or add additional
25 information you think we may

15

01 have missed.
02 You are permitted to
03 have a representative here
04 with you during this
05 interview, and you may consult

06 at any time with that
07 representative. You can
08 designate any person to be
09 your representative.
10 Following questions by MSHA
11 and the state, your
12 representative would be given
13 an opportunity to ask
14 questions for the purposes of
15 clarification of any of the
16 questions and areas we have
17 already discussed.

18 Your statement is
19 completely voluntary. You may
20 refuse to answer any question
21 and you can end your interview
22 at any time if you wish. If
23 you need a break at any time,
24 let us know and we'll take a
25 break. If you don't

16

01 understand a question or you
02 need clarification, let me
03 know and I'll clarify that or
04 change the wording so you can
05 more clearly understand what
06 I'm trying to ask.

07 You may request the
08 opportunity to make a

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

21 MR. ROSE:

22 No.

23 MR. FRANCCART:

24 Okay. A court reporter
25 will record your interview and

17

01 will later produce a written
02 transcript of the interview.
03 We ask that you state all your
04 answers clearly because the
05 court reporter cannot record
06 gestures such as nodding your
07 head or shaking your head no.
08 We need a clear verbal
09 response to those questions.

10 Neither the transcript

11 of this interview nor the
12 content of this interview will
13 be released to the public or
14 the media until MSHA's final
15 accident investigation report
16 is issued or until required by
17 court order or until a public
18 hearing takes place.

19 If any part of your
20 statement is based not on your
21 own firsthand knowledge but on
22 information that you have
23 learned from someone else,
24 please let us know. Please
25 answer each question as fully

18

01 as you can, including any
02 information that you learned
03 from someone else. We may not
04 ask all the right questions to
05 learn what you know, so if you
06 know something that we don't
07 ask, please let us know so
08 that we can fully understand
09 what happened the day of the
10 accident. Do you have any
11 questions about the manner in
12 which this interview will be
13 conducted?

14 MR. ROSE:

15 No.

16 MR. FRANCCART:

17 We'll ask the court

18 reporter to administer the

19 oath.

20 -----

21 JONAH F. ROSE, HAVING FIRST BEEN DULY

22 SWORN, TESTIFIED AS FOLLOWS:

23 -----

24 BY MR. FRANCCART:

25 Q. Could you please state your

19

01 full name, address and telephone

02 number for the record?

03 [REDACTED]

[REDACTED]

11 Q. Could you spell your last name

12 for the record, please?

13 A. R-O-S-E.

14 Q. Thank you. Are you appearing

15 voluntarily at this interview?

16 A. Yes.

17 Q. Has anyone made any promises
18 to you for giving a statement or
19 offered you any rewards in exchange
20 for making your statement?

21 A. No.

22 Q. Has anyone threatened you or
23 warned you not to provide this
24 statement today?

25 A. No.

20

01 Q. Have you discussed this
02 accident with any persons already
03 interviewed by MSHA or the State?

04 A. No.

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

08 A. Yes, I do.

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

11 A. No.

12 Q. Are you aware that you can
13 designate any person to be your
14 representative?

15 A. Yeah.

16 Q. Have you been told by anyone
17 that you need to have any particular
18 representative for this interview?

19 A. No.

20 Q. Have you been asked to sign
21 any documents to have any
22 representative represent you?

23 A. Yeah.

24 Q. And who was that?

25 A. Was it Mark Heath yesterday?

21

01 Q. He asked you to sign a
02 document?

03 A. Yeah, it was a paper basically
04 stating that he would be a
05 representative here. I didn't
06 understand that whole representative
07 thing. I didn't know that I didn't
08 have to have one or, you know, I
09 could come by myself or what have
10 you.

11 Q. What exactly did he tell you
12 as part of the representation?

13 A. Well, the way that I
14 understood it, was I needed a --- I
15 needed a representative here, but I
16 later learned that I didn't, so ---.

17 Q. Did he say that you needed a
18 representative or that he needed to
19 be your representative?

20 A. It was something similar to

21 that. That's the way that I took it.

22 Q. Which was it, that he had to

23 be ---?

24 A. That I'm --- yeah, that I

25 needed a representative here.

22

01 Q. Okay. And did he indicate to

02 you that he needed to be that

03 representative?

04 A. In a sense, yeah.

05 Q. Okay. Did he give you a copy

06 of that paper that you signed?

07 A. Yeah, I left it at the house.

08 Q. Okay. Is it possible we could

09 get a copy of that?

10 A. Yeah.

11 Q. We don't need it right away.

12 We would like to see that. How did

13 you first come to meet Mr. Heath?

14 A. Pepé Lester called me at the

15 house, told me to come to the mine

16 office. That there was lawyers there

17 wanting to talk --- speak with me.

18 Q. Okay. Do you know if there

19 were other people coming to speak

20 with the lawyers, too, or was it

21 just ---?

22 A. I believe there was.

23 Q. Okay. So you met with both

24 Mr. Hardy and Mr. Heath?

25 A. Yeah.

23

01 Q. Did they ask you any

02 questions?

03 A. They asked me basically what

04 had happened in the mine that night.

05 Q. Did they ask you for any

06 documents you may have, any notes?

07 A. No.

08 Q. Do you have any notes or

09 documents that you've made concerning

10 the accident?

11 A. No.

12 Q. Just to clarify, what did Mr.

13 Heath actually say to you about his

14 representation?

15 A. Basically that he was a lawyer

16 for Aracoma. They were representing

17 the company in this matter. That I

18 was going to have to come to an

19 interview and it would be something

20 that I do need like a legal

21 representative here. That's what he

22 said.

23 Q. Did he also tell you that

24 because he represented Aracoma Coal

25 that there could be a conflict of

01 interest between you and the company
02 at some point?

03 A. Yeah.

04 Q. He mentioned that? Did you
05 have any conversations with Dave
06 Hardy this morning?

07 A. In the parking lot, I did.

08 Q. Could you tell us what
09 transpired in that conversation?

10 A. He clarified that really ---
11 that I do not need legal
12 representation in here, but it would
13 be better if I did. And that just
14 didn't work out.

15 Q. So they're telling you that
16 they are acting as a legal
17 representative for you?

18 A. In a sense, yeah, that's what
19 he stated.

20 Q. So did Mr. Hardy or Mr. Heath
21 tell you what was going to happen
22 here in this interview today?

23 A. They basically just said that
24 there was going to be people from the
25 federal, state, MSHA, in here sitting

01 behind me and who would be sitting in
02 front of me at the table and stuff

03 like that.

04 Q. Did they tell you any of the
05 questions that may be asked today?

06 A. No.

07 Q. When you met with Mr. Heath
08 and Mr. Hardy, were there any
09 representatives of the State of West
10 Virginia or MSHA present?

11 A. No.

12 Q. Any other company
13 representatives?

14 A. No.

15 Q. Did you attend a meeting at a
16 local grade school concerning the
17 accident at some point after the
18 accident?

19 A. No.

20 Q. Are you aware that there was a
21 meeting that took place?

22 A. No.

23 Q. Nobody contacted you about any
24 meeting?

25 A. No.

26

01 Q. Joe, how long have you worked
02 at Alma Number One?

03 A. I believe I was there two and
04 a half months, three months.

05 Q. That was at the time of the
06 fire, ---
07 A. Yeah.
08 Q. --- three months? And who was
09 your employer at that time?
10 A. Apollo Mining.
11 Q. And they are a contractor?
12 A. A contractor, yeah.
13 Q. Okay. And what was your job
14 classification at that time?
15 A. I was a roof bolter.
16 Q. That was your job
17 classification on the 19th?
18 A. No. On the 19th, we were
19 doing outby.
20 Q. Are you still employed by
21 Apollo?
22 A. No. I was tired of the
23 company --- well, I was hired on
24 Aracoma Company yesterday.
25 Q. Oh, yesterday?

27

01 A. Yeah.
02 Q. Congratulations.
03 A. Thank you.
04 Q. Is that a promotion for you?
05 A. It's been promised to me for
06 probably a year and a half, two
07 years.

08 Q. Wow.

09 A. Working for Massey in general.

10 Q. Okay. That's a common

11 practice for them to hire off the

12 contractor's ---?

13 A. Yeah, they hire. The base is

14 usually 90 days, but I worked almost

15 --- I worked almost 10 months at

16 Aracoma before on the other side,

17 which would have been the Hernshaw

18 Mine. I ended up getting laid off

19 over there when they had their

20 cutbacks. So I went to Independence

21 Coal, which is another Massey mine,

22 worked there for eight or nine

23 months. Then transferred to Alma.

24 Q. Okay. What other jobs have

25 you held at the mine besides roof

28

01 bolter?

02 A. I've drove buggy, scoop,

03 trained on the miner, outby work,

04 build stoppings, props, timbers,

05 ventilation.

06 Q. Done it all?

07 A. I've done it all.

08 Q. You're talking about

09 ventilation. What kind of

10 ventilation work did you do? Did you
11 take air readings at all?

12 A. No. Most of mine was at the
13 section when I'd run scoop or
14 something, it'd be rock dusting and
15 setting ventilation up, hanging
16 curtains.

17 Q. So it was all --- in the case
18 there, you did ---

19 A. Yeah.

20 Q. --- the ventilation work?

21 A. Or on outby, we built the
22 stoppings, which basically seals it
23 off.

24 Q. Okay. How many years total
25 experience do you have in mining?

29

01 A. Two years.

02 Q. Joe, we're going to go back to
03 January 19th now, kick your memory a
04 little bit. What shift were you
05 scheduled to work that day?

06 A. Evening.

07 Q. That's what time does it
08 start?

09 A. 4:00 to 1:00.

10 Q. 4:00 to 1:00. What time did
11 you get to the mine that day, do you
12 remember?

13 A. About 3:00 --- well, about 20
14 after 3:00.

15 Q. And who was your supervisor
16 the day of the accident?

17 A. Pat Callaway.

18 Q. Pat Callaway? Is he your
19 normal supervisor?

20 A. Yeah.

21 Q. And what was your assignment
22 for that day?

23 A. We were going to set props and
24 timbers up toward Two Section.

25 Q. Is that in northeast mains or

30

01 is that in One panels?

02 A. That's in the mains.

03 Q. You were in northeast mains?

04 A. Yeah.

05 Q. And how did you receive your
06 work assignment that day?

07 A. When we got on the elevator to
08 go down, he basically --- Pat got us
09 orders down there from --- I believe
10 it was one of the mine foremen, what
11 we were going to be doing --- or what
12 needed done rather.

13 Q. Had you worked in that area
14 before?

15 A. Yeah.

16 Q. Same type of work?

17 A. Yeah. We were setting timbers
18 a little bit further up the day
19 before, but it was on the return
20 side, up past Two Section. We were
21 setting timbers and that up there and
22 stoppings the day before.

23 Q. Also doing crib work or ---?

24 A. Yes.

25 Q. Cribs also. What was the last

31

01 shift you worked in that area prior
02 to the 19th?

03 A. It was the day before.

04 Q. The day before. Could you
05 just run us through your shift from
06 the time you went underground to the
07 time of the accident, starting when
08 you went in box cut?

09 A. Well, we went in the box cut,
10 went to the Three way, made a left,
11 was going basically up towards Two
12 Section, stopped and talked to Bryson
13 (phonetic) and Brandon, because
14 Brandon was supposed to be on our
15 crew that day, but he ended up having
16 to help one of the electricians run
17 MRSs in. We took off from there,

18 came upon --- well, we came up to the
19 four doors where the belt was ---
20 well, where the belt goes over at the
21 mother drive, and Bryan Cabell was
22 there on the mine phone. And there
23 was --- there was a pretty good bit
24 of smoke, black smoke, coming up and
25 around going --- well, going into the

32

01 section, actually. And we stopped
02 and basically helped from there.

03 Q. So you were on your way in to
04 your work location?

05 A. Yes.

06 Q. Hadn't been there yet?

07 A. No, we hadn't even been there
08 yet.

09 Q. What time did you go into the
10 box --- into the drift at the box
11 cut?

12 A. It was probably 20 'til 5:00.
13 I'd say right around in there.

14 Q. Do you have any idea what time
15 you arrived up there at the doors?

16 A. No. It was probably about
17 5:00. I'd say 5:00, 15 after 5:00,
18 somewhere around in there, because we
19 had stopped to talk to Bryson and

20 them on the way up.

21 Q. When you got there, you said

22 the smoke was what color?

23 A. Black.

24 Q. Black?

25 A. Yes.

33

01 Q. Was it very thick smoke?

02 A. It was, in a sense. It was

03 basically running along the belt, but

04 when we come up, all four doors was

05 open, the ventilation doors. And

06 Bryan was standing there. You know,

07 I don't know if Bryan had opened the

08 doors or what, but it was letting

09 smoke coming from the mother drive

10 shoot right up into the section.

11 Well, going towards the section

12 rather, through the entry.

13 Q. So when you drove in, you

14 parked your vehicle?

15 A. Yeah.

16 Q. Nobody had to open the doors

17 for you? You just drove right in ---

18 A. Yeah.

19 Q. --- the mother belt drive

20 area?

21 A. Yeah.

22 Q. And you could see ahead of you

23 that the other two doors were open?

24 A. Yeah.

25 Q. As far as the smoke, was it

34

01 seemingly layered at all or was it

02 high in the entry or was it

03 throughout the entire opening?

04 A. No, it was --- it was

05 basically running the bottom of the

06 belt or the belt overhung like this

07 and it was running the bottom. So it

08 wasn't extreme at that given time.

09 We took a fire extinguisher off of

10 the man --- well, the manride and Pat

11 took off running for --- to look for

12 a fire hose. And I grabbed another

13 fire extinguisher and followed Bryan

14 down to the mother drive. And on the

15 one side of the mother drive, the

16 flame coming up under the roller was

17 probably three feet on the one side

18 and touching the top on the other, on

19 the off side.

20 Q. Did you actually see what was

21 burning?

22 A. It was the belt.

23 Q. It was the belt?

24 A. The belt roller.

25 Q. So the drive roller or just

35

01 the ---?

02 A. I think it was the takeup

03 roller or similar to a takeup roller.

04 I believe that's what --- that's what

05 it was because it was burning plumb

06 through the roller.

07 Q. So a roller that may have

08 lagging on it?

09 A. The bearing was bad.

10 Q. The bearing was bad?

11 A. That's what it looked like to

12 me.

13 Q. You said the smoke was going

14 up toward the section. Which section

15 was it going toward?

16 A. Two Section.

17 Q. And how would you have known

18 it was going to Two Section?

19 A. That's the only section past

20 the doors with the stoppings and what

21 have you that's built up through

22 there, and the doors being opened.

23 The doors is what stops and

24 circulates ventilation around, bring

25 fresh air in. With them being open,

36

01 it was pouring the smoke right in.

02 Q. There was no chance that that
03 air could be vented to the return
04 before it got to the section?
05 A. It could have.
06 Q. Do you know if that was the
07 case or not?
08 A. I don't know.
09 Q. Before you got to the drive,
10 did you see anything in the travelway
11 as far as smoke or dust?
12 A. No.
13 Q. As you traveled toward the
14 drive, did you smell anything?
15 A. Yeah, you could smell it.
16 Q. Before you got to the drive?
17 A. Yeah, before you got there.
18 Q. When you first arrived at the
19 drive area, was the belt running at
20 all or was it turned off?
21 A. It was --- it was off.
22 Q. It was off?
23 A. It had just got shut off
24 actually, I believe the way to say
25 it.

01 Q. How do you know that?
02 A. Because the belt was still
03 moving.

04 Q. It was still moving? Was the
05 smoke also moving toward the head
06 drive in the longwall belt?
07 A. No, it was coming the other
08 way. It was coming back towards us.
09 Q. So it was coming toward the
10 face of the longwall?
11 A. Yes.
12 Q. From the 72-inch belt?
13 A. Yeah. It'd be --- because the
14 mother drive was down on the right
15 and it was pulling back up towards
16 us. That's the easiest way I can
17 explain.
18 Q. Okay. I'm going to have you
19 come up to our map on the wall here
20 and do some marking.
21 A. Yeah.
22 Q. What color do you like?
23 A. It don't matter.
24 Q. I'm going to give you a blue
25 pen. If you don't mind, show us how
38
01 you drove in to the section that day.
02 A. I've never been there.
03 Q. These are your doors right
04 here, so ---.
05 A. Yeah, we would come in right
06 at the mouth. So we'd be coming ---

07 I believe we were coming this way;

08 right?

09 Q. This is your north mains here?

10 A. Yes.

11 Q. Your northeast mains. Your

12 box cut's down here?

13 A. Yes.

14 Q. It's not on this map.

15 A. I believe we come up and we

16 just come in this way.

17 Q. Okay. You can start anywhere

18 you like up here coming into the

19 doors.

20 A. The doors are right here. And

21 I guess this would be going toward

22 the Two Section; right?

23 Q. Two Section is up at the

24 right-hand ---.

25 A. Well, we came in. When we

39

01 come up here, all these doors were

02 open all the way through here. The

03 fire was down right in here.

04 Q. Okay. Could you put an X

05 where the fire was?

06 A. There's one here. It would

07 have been about right here. Right in

08 this area.

09 Q. Could you put a mark to the
10 side that says the fire location?

11 MR. FRANCCART:

12 Joe's marked the spad
13 3272 location of the fire and
14 it's marked on Exhibit A Rose.

15 (Rose Exhibit A marked
16 for identification.)

17 BY MR. FRANCCART:

18 Q. Could you also show, Joe,
19 where you parked your mantrip up here
20 in the travelway?

21 A. Came out under the belt, so I
22 would say right here.

23 Q. Could you just mark the side?

24 A. Trip?

25 Q. Trip, that's fine. And that

40

01 is parked against the inby set of
02 double doors. Which you say were
03 open, Joe?

04 A. Yeah.

05 Q. Do you have any idea who
06 opened those doors?

07 A. That I don't know. Like I
08 said, I don't know if Bryan opened
09 them when we went up there or they
10 were already open. I can't say for
11 sure.

12 Q. Now, did you get an
13 opportunity to actually walk toward
14 the fire then from this location?

15 A. Yes.

16 Q. And how close to the fire did
17 you get?

18 A. Six feet.

19 Q. So six feet of the fire?

20 A. Tried to extinguish the fire.

21 Q. How did you do that?

22 A. With a fire extinguisher.

23 Q. You actually used a fire
24 extinguisher yourself?

25 A. I used three of them.

41

01 Q. You used three. Did anybody
02 else use any extinguishers?

03 A. Bryan.

04 Q. Do you know how many he used?

05 A. I know two that he used, but I
06 don't know any more than that.

07 Q. Could you also, for us, mark
08 the airflow directions on the
09 longwall belt that you observed?

10 A. When we come up, the smoke was
11 coming this way and it was coming
12 right around this way where this door
13 was open. And Pat Callaway shut this

14 door right here because his mantrip
15 was just right there. And he shut
16 that door and it was still pulling
17 --- it was still pulling smoke. When
18 that door got shut, it was just ---
19 Pat got them doors shut and the smoke
20 started coming up this way, up the
21 belt. It came up here and there's an
22 overcast up here. It'd be right
23 here. The overcast would be right in
24 here somewhere. There'd be an
25 overcast in here. There's two

42

01 mandooors. Two mandooors under the
02 overcast. One went this way and one
03 would come back toward the belt. We
04 had to run --- Bryan and I were ---
05 Bryan took off before I did. I was
06 using my fire extinguisher down here
07 at the mother drive. He took off. I
08 had to go back up here to this
09 overcast to the mandoor on the left,
10 run down two breaks to a power
11 station that was sitting over in here
12 and get fire extinguishers from there
13 and run all the way back down here
14 through the mandoor back down around
15 to the fire.

16 Q. Before these two doors were

17 closed by Mr. Callaway, do you know
18 what the air direction was in this
19 break between spad 3240 and 326 --- I
20 can't make that last number out. Can
21 you?

22 A. No. 3260-something.

23 Q. Well, it's between the
24 travelway and the 72-inch belt. Do
25 you know what the air direction was

43

01 in here?

02 A. Before the doors got closed?

03 Q. Yes.

04 A. It was pulling it this way.

05 Q. That was off the longwall?

06 A. Yes.

07 Q. What about off the 72-inch
08 belt, was it coming inby or was it
09 still traveling outby?

10 A. It would have been outby, I
11 believe.

12 Q. Toward the 72-inch belt?

13 A. Yeah.

14 Q. Could you just mark that on
15 there for us, please?

16 A. What do you want me to write?

17 Q. Just draw an arrow.

18 MR. FRANCAERT:

19 And mark that as the
20 air direction.
21 A. This one also.
22 BY MR. FRANCAERT:
23 Q. Now, after the doors were
24 closed, the travelway doors, did this
25 air direction change, do you know?

44

01 A. Yeah, started pushing it up,
02 pushing it up from back there.
03 Q. So your air on the 72-inch
04 belt then was going outby toward
05 north mains?
06 A. Yeah. Well, the smoke ran.
07 Q. The smoke?
08 A. Yeah. See, Bryan took off.
09 Bryan took off to turn water on
10 somewhere. I know that he went to
11 where the overcast was and through
12 the mandoor and went out toward the
13 power center.
14 Q. Bryan, that's Bryan Cabell?
15 A. Yeah. And Pat took off
16 looking for a fire hose.
17 Q. You can go have a seat now,
18 back to the questions. When you
19 first arrived at the double doors,
20 was Bryan on the phone with anybody?
21 A. He was on the phone, I don't

22 know who he was on the phone with.

23 Q. But he was talking to someone?

24 A. Yeah. Because after --- like

25 I said, when he took off to turn on

45

01 the water valve somewhere, which

02 there was a water valve there ---

03 there was a water valve there that

04 didn't work.

05 Q. As far as the water valve, do

06 you mean a fire tap or a ---?

07 A. Yeah.

08 Q. Okay.

09 A. And then I ran to the power

10 center and retrieved two more fire

11 extinguishers and by the time I got

12 back to the mother drive where the

13 fire was, basically the electricity

14 from the lights and all that was off

15 and I would say there was probably

16 15-foot of belt and that on fire.

17 And I yelled on the mine phone. I

18 believe the foreman, dispatcher and

19 everybody heard me that we couldn't

20 get the fire out.

21 Q. Did they know it before that

22 point that there was a fire?

23 A. Yeah.

24 Q. And how did they know about
25 that fire?

46

01 A. I believe it was from Bryan,
02 because they said that we already
03 knew, that they were on their way up.

04 Q. So you made the call that the
05 fire was out of control then to those
06 same people?

07 A. Yes.

08 Q. Okay. Do you know who exactly
09 you told that the fire was out of
10 control, you couldn't put it out?

11 A. I believe it was Fred Horton,
12 one of the mine foremen. He was
13 supposed to have already been on his
14 way up and I believe he --- I believe
15 --- now I do not know, but I believe
16 he had talked to Bryan when we first,
17 you know, came upon the scene. But
18 basically when I started yelling,
19 they said that they were on their way
20 and, you know, what have you.

21 Q. Which phone did you call from?

22 A. There was a mine phone right
23 there, right next to the belt on this
24 side.

25 Q. That was the mother belt?

47

01 A. Yeah.

02 Q. At that point, what were the
03 conditions of the smoke in that
04 entry? What kind of visibility did
05 you have?

06 A. The visibility was bad. It
07 was bad in that area. The belt ---
08 the belt and that was burning so fast
09 and such a heavy smoke, you --- it
10 was getting completely out of hand.

11 Q. Do you know at that point, had
12 anybody been evacuated from the mine
13 or told to evacuate?

14 A. I don't know. I believe they
15 were calling an evacuation because
16 you could hear them yelling.

17 Q. Do you know who called for
18 that evacuation?

19 A. No, I don't.

20 Q. Did Bryan tell you that he
21 talked to anybody about evacuation at
22 all?

23 A. I had asked Pat about the men
24 on Two Section, and he said that they
25 had already been notified.

48

01 Q. Do you know who notified Two
02 Section?

03 A. No.

04 Q. Are you familiar with the

05 location of that fire as far as what

06 particular piece of equipment was

07 involved in the fire?

08 A. As far as what caught fire?

09 Q. Yeah.

10 A. Yeah.

11 Q. Can you tell us what that

12 equipment was?

13 A. I believe it was a roller.

14 Q. A roller?

15 A. Yeah.

16 Q. Was it within part of the

17 takeup or was it in the stacker or

18 ---?

19 A. No. It was part of the

20 takeup.

21 Q. Part of the takeup?

22 A. Yeah.

23 Q. Do you know if the flames were

24 outby the dolly or inby the dolly at

25 that point?

49

01 A. I believe they were both. On

02 the offside, the offside of the

03 mother drive, when we first --- when

04 I --- that first fire extinguisher I

05 took down there, the offside of the

06 mother drive had flames, I'd say, six
07 to seven feet high.

08 Q. By the offside, do you mean
09 the tight side of the belt?

10 A. Yeah, on the other side. And
11 then on this side, they were give or
12 take three, three and a half feet,
13 but it was probably six to seven foot
14 of belt beyond that that was on fire.
15 It was all underneath. How the belt
16 comes around the rollers like this
17 and up and over, like that, all that
18 was on fire.

19 Q. Was there anything else
20 burning besides belt? Could you tell
21 or was it ---?

22 A. The offside rib was on fire.

23 Q. The rib itself was on fire?

24 A. Yeah.

25 Q. Did you hear any calls for

50

01 evacuation yourself?

02 A. No.

03 Q. Do you have any idea when
04 those evacuation calls were made?

05 A. We lost the mine phone in
06 that, up there also. We had no
07 communication past there.

08 Q. That mine phone, do you know
09 where the line ran through the
10 entries? Was it something that would
11 have burned up?

12 A. Yeah, the line did burn. I
13 mean, for that particular mine phone.

14 Q. Do you have any idea what time
15 that Mr. Callaway told you that the
16 Two Section had been evacuated or
17 told to evacuate?

18 A. No.

19 Q. You said that the water valve
20 didn't have any water in it, the fire
21 tap?

22 A. Yes, sir.

23 Q. Did you notice when you came
24 up on the drive area, were there any
25 dust suppression sprays working at

51

01 the drive?

02 A. No.

03 Q. You didn't see any water
04 spraying at all?

05 A. No.

06 Q. In your previous trips through
07 there, had you noticed any water
08 sprays at any other time working?

09 A. No.

10 Q. Previous shifts?

11 A. No.

12 Q. Is that unusual?

13 A. That's very unusual when you
14 have a fire valve and nothing comes
15 out.

16 Q. As far as the dust suppression
17 sprays, is that unusual for those not
18 to be working?

19 A. I've seen another occasion
20 where they didn't work, yeah.

21 Q. Where was that fire valve for
22 the fire tap that didn't work?

23 A. Give or take it was about one
24 break --- well, not even that,
25 probably 20 feet from the belt.

52

01 Q. Can we ask you to come up to
02 the map one more time? We'll give
03 you a red marker this time. Could
04 you sketch on there for us, Joe,
05 which rib was on fire and
06 approximately how far in that ---?

07 A. It'd been on the offside here.
08 It's right here.

09 Q. Okay. And the fire tap that
10 didn't work, could you also mark that
11 for us?

12 A. It was about right here.

13 Q. I'm going to mark that as fire

14 tap. This is the rib on fire.

15 A. And there was supposed to be,

16 from my understanding another fire

17 valve down in here, but you couldn't

18 get past this area here to get down

19 here.

20 Q. So you were on the outby side

21 of the fire at that point?

22 A. Yeah.

23 Q. Do you know if anybody tried

24 to get on the other side to fight the

25 fire?

53

01 A. Not a clue.

02 Q. Just so we have it on record,

03 could you sign and date this map,

04 anywhere on the top here so we know

05 that this is your map?

06 WITNESS COMPLIES

07 BY MR. FRANCAERT:

08 Q. I'm going to have you come

09 back and sit down. We have a diagram

10 here also we're going to ask you to

11 take a look at, Joe. It's a

12 schematic of the drive area. Are you

13 familiar with any of this diagram,

14 does it look familiar to you?

15 A. Yeah.

16 Q. Is it similar to what was at
17 the mother drive area ---

18 A. Yeah.

19 Q. --- the day of the fire?

20 A. Yeah.

21 Q. Is it possible you could mark
22 on this diagram where the flames
23 were?

24 A. They were at this end, like
25 right in here, all down through here

54

01 actually, coming up --- coming up on
02 that side. It was on this side, too,
03 this whole side right here. On fire
04 was roller down under the belt like
05 that. And then over in here, it was
06 just coming up.

07 MR. FRANCCART:

08 This is Exhibit B Rose
09 that Joe has marked the
10 location of the flames on in a
11 blue marker.

12 (Rose Exhibit B marked
13 for identification.)

14 BY MR. FRANCCART:

15 Q. Now, how far from this fire
16 location was the fire tap? Could you
17 say how many feet it would be?

18 A. There was supposed to be one
19 going down this way. I'd say it was
20 probably 20 feet from there, but I
21 could not get to that fire valve,
22 none of us could actually because of
23 the way the fire was moving up at
24 this end. It would have probably
25 been 75, 80 feet from the mother

55

01 drive tail.

02 Q. You said that somebody was
03 looking for fire hose?

04 A. Yeah, Pat Callaway.

05 Q. Was there not adequate hose at
06 the location where you were or ---?

07 A. No.

08 Q. Were there hoses where they
09 were supposed to be stored?

10 A. There were supposed to be fire
11 hose there, yeah.

12 Q. And it wasn't there?

13 A. Uh-uh (no).

14 Q. Do you know if at any time
15 there was any fire hose that was
16 connected to the fire taps?

17 A. I don't believe so.

18 Q. About how long was it from the
19 time you arrived at the fire location
20 before it became out of control?

21 A. Ten, 20 minutes.

22 Q. So you got there and the fire
23 had burned for 20 minutes before it
24 was something you couldn't control?

25 A. I would say --- well, as far

56

01 as saying it that way, I would say
02 no, probably 10 to 12 minutes, right
03 around in there.

04 Q. And how long after you got
05 there was the evacuation order given
06 to the Two Section?

07 A. That I do not know. That was
08 with --- you had the mine foreman
09 doing that, to my knowledge. That's
10 all I can say. I know that the
11 second --- my second trip down to the
12 mother drive with more fire
13 extinguishers, I yelled on the mine
14 phone that we needed help up there,
15 that we couldn't get the fire out.
16 And I believe it was Mr. Horton ---
17 it was Mr. Horton that come back
18 across and said, we know, we're on
19 our way.

20 Q. The fire tap that didn't work,
21 did you try to turn that on or ---?

22 A. Yes, I did.

23 Q. You did. Do you have any idea
24 why Pat Callaway closed the equipment
25 doors?

57

01 A. To stop the smoke and that
02 from going up in there.

03 Q. Did you or Pat ask any
04 questions about why those doors were
05 open?

06 A. I didn't. I don't know if Pat
07 did or not.

08 Q. Was it unusual to have those
09 doors open when you come through
10 there?

11 A. Yes, it is.

12 Q. Were they normally closed when
13 you come into that area?

14 A. Most generally, yeah.

15 Q. Had it been open on other
16 occasions?

17 A. I've seen it before, yeah.

18 Q. They've left both sets open?

19 A. Yeah.

20 Q. Is that typically a shift
21 change to make it easier to run in
22 and out, do you think?

23 A. Well, usually if there's a man
24 riding behind another one, the front
25 one will leave them open for the back

01 one to come in, but usually the back
02 one closes. But in this case, you
03 know, I don't know.

04 Q. Do you know if somebody had
05 just ridden through there and they
06 left them open for you or ---?

07 A. No, because Two Section was
08 the only one that come through there.
09 It may have been --- well, it may
10 have been a supply, you know, supply
11 man coming through on a tractor. I
12 don't know.

13 Q. Would they know that you were
14 behind them?

15 A. That I don't know.

16 Q. Did you ever talk to anybody
17 in Two Section on the phone?

18 A. No. But I did hear --- I
19 believe it was Mike Plumley on there
20 when I started yelling. So somebody
21 --- I believe it was the dispatcher
22 that was on the phone with him.

23 Q. So at that point, Plumley was
24 still on the section?

25 A. Yeah.

01 Q. And how long --- do you have

02 any idea if he knew of the fire
03 before that time?
04 A. I believe he did. I can't say
05 for sure. But I believe he did,
06 because when I started yelling on the
07 phone that we needed help, that we
08 couldn't get the fire out, I cut
09 right in on Mike and, I believe it
10 was the dispatcher. I don't know if
11 they were telling them to evacuate or
12 exactly what was going on.

13 Q. Did you hear any of the
14 conversation between Mr. Plumley and
15 the dispatcher?

16 A. No.

17 Q. Sorry. We've got a lot of
18 questions to sort through here. As
19 far as the fire tap, when you tried
20 to turn it on, was it that the tap
21 didn't have water available to it or
22 that the valve was somehow damaged?

23 A. No. The valve itself opened,
24 but nothing come out.

25 Q. So there was no water in the

60

01 line?

02 A. Yeah.

03 Q. But you could actually turn
04 the valve and turn it on?

05 A. Yeah.

06 Q. It functioned properly? Do
07 you have any idea if the dust
08 suppression sprays work off the same
09 supply line as the fire line?

10 A. No. They're usually --- the
11 fire suppression kits usually set up
12 on itself. What I mean by that, it
13 just runs around and it has canisters
14 on it, and when those suppression
15 pieces are melted or busted, it sets
16 off.

17 Q. So they don't have a water
18 suppression, it's a powder, dry
19 powder?

20 A. Dry powder.

21 Q. On that drive?

22 A. That's the one that I seen.

23 Q. The water sprays for dust
24 suppression at the drive, are you
25 familiar with those systems at all?

61

01 A. I've seen the dust
02 suppression. I haven't seen the
03 water.

04 Q. So you don't know how those
05 systems are designed or how they
06 function?

07 A. What the water suppression?
08 It's basically the same. If the
09 suppression piece gets hot enough or
10 busted, it kicks everything on.
11 Q. That's for fire suppression?
12 A. Yeah.
13 Q. Do you have any knowledge of a
14 respirable dust and float dust water
15 sprays that are used to control those
16 types of dust?
17 A. In a sense, yeah. I've seen
18 the float dust --- well, the dust
19 suppression kits and the water
20 suppression kits, most of the dust
21 suppression kits I've seen has been
22 on electrical, battery chargers and
23 whatnot. I didn't see no suppression
24 kit on the mother drive.
25 Q. Okay. Do you know who the

62

01 dispatcher was that shift?
02 A. Mike --- I don't know what his
03 last name is.
04 Q. When you parked your trip, did
05 you ever try to move it out of the
06 area after you parked?
07 A. Yes, he did.
08 Q. He tried to move it out?
09 A. Yeah, he did.

10 Q. That was Pat?
11 A. Yeah.
12 Q. And ---?
13 A. It wouldn't start.
14 Q. It wouldn't start?
15 A. Yep.
16 Q. Were there any problems with
17 it that day prior to that time?
18 A. Yes.
19 Q. There were?
20 A. Yes.
21 Q. What kind of problems did you
22 have?
23 A. We couldn't get it started
24 outside before we went in. That's
25 what took us so long.

63

01 Q. How did you eventually get it
02 to start?
03 A. He kept fiddling with the
04 button.
05 Q. Is that common?
06 A. With certain mantrips, yeah.
07 Q. Have you ever had to put a
08 fire out in the mine before?
09 A. Yes.
10 Q. Did you use fire extinguishers
11 to do that or ---?

12 A. Used rock dust.
13 Q. Rock dust?
14 A. Yeah.
15 Q. Any water hoses before?
16 A. No. No. It was a roller ---
17 well, basically a roller that had
18 ignited, but it was out within a
19 matter of seconds.
20 Q. This was at Aracoma?
21 A. No, not at Aracoma.
22 Q. Another mine?
23 A. Yeah.
24 Q. Do you know of any other fires
25 at this mine in the last year?

64

01 A. I can't say personally, but I
02 have heard.
03 Q. You have heard of other fires.
04 Any in particular that stick out in
05 your mind?
06 A. No, not right offhand. I just
07 --- I've heard that there was a
08 couple of them.
09 Q. Do you know of any others at
10 this drive?
11 A. I believe that's what it was.
12 Q. Oh, really. Do you have any
13 idea when it happened?
14 A. No. That's just hearsay,

15 that's what somebody else was saying.

16 Q. Do you know who you heard that
17 from? Was it a general rumor that
18 everybody knows about or was it ---?

19 A. Some people in the section
20 talking about it one time.

21 Q. Which section was that?

22 A. We was working on Three
23 Section.

24 Q. And they knew about the fire
25 at the longwall?

65

01 A. This was earlier, maybe a
02 couple weeks earlier to this
03 incident.

04 Q. But it was something that was
05 general knowledge at the mine?

06 A. Yeah.

07 Q. Did you work at the mine on
08 December 29th, do you remember?

09 A. December 29th, no.

10 Q. How about December 23rd?

11 A. No, that was before Christmas.
12 No.

13 Q. Do you know if there were any
14 CO sensors in the area of the drive
15 that are used to detect fires?

16 A. Three, I believe. There was

17 two or three of them.

18 Q. Have you been trained on how
19 that system works?

20 A. Yeah.

21 Q. You understand it pretty well?

22 A. Yeah.

23 Q. Do you know what happens when
24 those sensors detect CO? What's
25 supposed to happen?

66

01 A. It's supposed to shut the belt
02 off and the mother drive. It's
03 supposed to signal outside to the
04 computer and let the dispatcher know.

05 Q. Do you know what the
06 dispatcher's supposed to do at that
07 point then?

08 A. Shut everything down and call
09 somebody. The dispatcher did say
10 that the CO monitors went off, but he
11 didn't tell me that until we come
12 out.

13 Q. You heard that after you came
14 out?

15 A. Yeah.

16 Q. Okay. Before you heard about
17 the evacuation of the sections, did
18 anybody indicate to you that they
19 thought the fire could be put out?

20 A. No.

21 Q. Did anybody indicate that
22 possibly the sections didn't have to
23 be evacuated because the fire wasn't
24 that big?

25 A. No.

67

01 Q. Do you know who is responsible
02 for ordering the evacuation of the
03 mine in an emergency?

04 A. It's the mine foreman, I
05 believe.

06 Q. The mine foreman. And he is
07 on your shift, too?

08 A. Yeah. We have evening ---
09 well, you have a dayshift mine
10 foreman, an evening shift mine
11 foreman. Fred Horton was one, the
12 evening shift mine foreman.

13 Q. So Fred Horton would be the
14 person responsible to evacuate people
15 out of the mine?

16 A. Yeah, and he came up to this
17 location.

18 Q. Okay. Do you know where he
19 was when he learned of the fire?

20 A. Not right offhand, I don't. I
21 think he was down maybe towards Three

22 Section. I'm not sure.
23 Q. Have you participated in
24 evacuation drills at the mine for
25 fire escape?

68

01 A. No.

02 Q. Not since you started there?
03 Have you worked on any sections?

04 A. Three Section and Two Section.

05 Q. You worked on both those
06 sections and you've never been
07 involved in a fire escape?

08 A. Uh-uh (no). I look at the map
09 before I go in.

10 Q. Which map do you look at?

11 A. There's one in the mine
12 office. And basically follow your
13 reflectors. Red takes you in, green
14 and amber brings you out.

15 Q. You've got green and amber.
16 How does that work for you? Which
17 one would you go first?

18 A. You try the primary, which ---
19 well, you try the green first. If
20 that wasn't the case, you follow the
21 amber. Take you two different ways.

22 Q. Do you know if there's any
23 maps on the section stored to show
24 what the escapeways are?

25 A. I don't know. I never seen

69

01 them.

02 Q. So you would follow the green
03 reflectors out. And if you had to
04 leave that airway because of smoke,
05 what would you look for?

06 A. Crosscut, go to the amber
07 section.

08 Q. If you were in an entry that
09 didn't have reflectors in it, but was
10 clear, would you travel that anyway?

11 A. I'd do what I had to.

12 Q. Do you had to do. Do you know
13 if there's any electrical problems
14 that had been reported on the mother
15 drive prior to the fire?

16 A. No.

17 Q. When you got outside and the
18 dispatcher told you about the CO
19 alarms, did he give you any
20 indication on when the mine was
21 evacuated as far as how long after he
22 got those alarms?

23 A. No. He didn't say nothing
24 like that.

25 Q. Did you talk with Mr. Cabell

70

01 at all?

02 A. A little bit.

03 Q. After the fire?

04 A. Yeah.

05 Q. Can you tell us what you

06 discussed?

07 A. Basically he apologized for

08 leaving me down there, because I was

09 actually --- I was asked to stay at

10 the doors. This was later --- well,

11 later after the mine foreman and that

12 come up there, I was asked to stay at

13 the doors, and I believe that's when

14 they called --- or they had already

15 called the evacuation, I don't know.

16 But Bryan apologized to me because

17 when the smoke --- when the smoke got

18 to the point it was coming around the

19 belt to the overcast and back through

20 the doors, it engulfed me down there.

21 It all --- it basically come right

22 around and hit me from behind. So I

23 couldn't see and what have you.

24 Q. Why did he apologize?

25 A. Basically forgot about me.

01 Q. Oh, that's not good.

02 A. No.

03 Q. Why were you at the doors?

04 What were you watching for?
05 A. Make sure --- the way that Mr.
06 Horton and Billy said to look for men
07 coming down through that entry, to
08 yell for them or help them or try to
09 get in there and help them or, you
10 know, whichever, but they didn't ---
11 the mantrip from Two Section, they
12 come --- they come out a different
13 way. They come out a mandoor
14 probably six --- about five breaks up
15 from where I was at.

16 Q. And how were you watching for
17 them when the doors were closed?

18 A. You can look through the top
19 of them.

20 Q. You could?

21 A. Yeah. You could only see
22 maybe a foot, but you hear, you know,
23 if they yelled or anything like that.
24 That was like the entryway, so ---.

25 Q. Okay.

72

01 A. All the smoke was where the
02 doors was at. It was coming up this
03 way and it was basically --- it was
04 so thick you couldn't see, you
05 couldn't see your hand in front of

06 your face, but there may have been a
07 chance that somebody did try to come
08 down the entry or, you know, what
09 have you, yell, anything.

10 Q. Did you have your self rescuer
11 with you at that time?

12 A. Yeah.

13 Q. Did you ever think about
14 putting it on?

15 A. I had to put it on.

16 Q. You did have to put it on?

17 When you left the area finally, what
18 did you do with your rescuer?

19 A. I kept my rescuer on until I
20 got outside.

21 Q. What did you do with it once
22 you got outside?

23 A. I let it lay, I believe, by
24 the water boxes, next to the boxes.

25 Q. Did you ever see any water

73

01 applied to the fire at all at any
02 point?

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

04 Q. When you went to get the fire
05 extinguishers at the power box, the
06 air in the 72-inch belt, could you
07 tell which direction it was moving?

08 A. It was circulating around. It

09 was coming up and actually coming
10 right across.

11 Q. Do you mean it was going outby
12 in the 72-inch belt and then moving
13 out of the entry?

14 A. Yeah.

15 Q. Could you show us on the map
16 exactly what you mean there, so it
17 will make it clear to everybody?

18 A. It was just going straight up
19 and going left.

20 Q. Came up here?

21 A. Yeah.

22 Q. And came outby this direction?

23 A. Yeah.

24 Q. Okay.

25 A. That's the way the smoke was

74

01 traveling and it was coming through
02 the mandoors right there and
03 basically coming right back down the
04 entry, like a big square.

05 Q. Could you come up to the map
06 and draw that for us? I just want to
07 make it clear for everybody to
08 understand. It's easier. A picture
09 is worth a thousand words.

10 A. These mandoors right here, I

11 was --- I would say I was like right
12 in here at this time and the smoke
13 was coming up this way down and it
14 kept going right here. It come to
15 that overcast where the mandoors are
16 and it was coming out these mandoors
17 right back down, it come right behind
18 me.

19 Q. So it just made a circle
20 around ---

21 A. Yeah.

22 Q. --- this set of three blocks?

23 A. It made a big circle and
24 basically got me stuck down in here
25 and the other men were --- they were

75

01 up in here somewhere, up and around.

02 Q. So you were stationed at the
03 most outby door ---

04 A. Yeah.

05 Q. --- on those set of four?

06 A. Yeah.

07 Q. Okay. I thought you were down
08 at this door, but that wouldn't have
09 been a good place.

10 A. No, I was on this side here.

11 Q. Okay. So you were stationed
12 at the most outby door on the airlock
13 doors just inby spad number 3238?

14 Thank you. When did you have to put
15 on your SCSR?

16 A. When basically I got engulfed
17 in the smoke standing by the door.
18 At the beginning, I mean, you could
19 take your shirt and pull it up and
20 put it over your face, you know. And
21 then it just basically all come in at
22 once, it was like somebody had lit
23 eight or nine tires in an enclosed
24 area all at once. I was just
25 engulfed. The fire was close --- it

76

01 was close probably right on the other
02 side of the doors, because you could
03 hear it cracking and popping. I
04 don't know whether it was the
05 structure falling or the top falling.
06 But it got bad, real bad.

07 Q. These doors in your overcast,
08 do you know, why they were left open?

09 A. No, I don't.

10 Q. Is that common to leave doors
11 open on overcasts?

12 A. Not --- that's not a common
13 practice, you know. I don't know
14 whether Bryan or one of them come
15 back out the doors when they went up

16 the other way or what have you, left
17 them open. I do not know. Most of
18 them have springs on them so when you
19 come out, they automatically close,
20 but these ones weren't.

21 Q. Did you travel through those
22 doors to get fire extinguishers ---

23 A. Yeah.

24 Q. --- on your trip up there?

25 Were they open when you went through

77

01 them?

02 A. No.

03 Q. You had to open those doors?

04 A. Yeah, you had to open them.

05 Q. Are those the same doors on
06 that overcast you're talked about?

07 A. Yeah.

08 Q. When did you first know that
09 there were two men missing from the
10 section?

11 A. I believe it was --- one of
12 the other men --- no, it was two of
13 the men from Two Section come down
14 and approached me at the door to see
15 if they had come back down the main
16 entry there. I said --- I had told
17 them no, and basically ended up
18 staying there regardless, you know,

19 to make sure if I could hear them
20 yelling or anything else. And the
21 two men actually went back up and I
22 believe tried to go back in the
23 mandoor that they come through, but
24 the smoke was too bad up there.

25 Q. So you were stationed at that

78

01 door to watch for men before you knew
02 anybody was off the section?

03 A. Yeah.

04 Q. Once you learned that there
05 were two missing miners, were you
06 given any special instructions at
07 that point?

08 A. I basically yelled through
09 there along with one of the other men
10 from Two Section, which he went back
11 --- he went back up to where the crew
12 was at, just basically stand there,
13 you know, and take it as long I
14 could.

15 Q. Did you know who the two
16 missing miners were at that point?

17 A. Not right offhand, no, I
18 didn't.

19 Q. The fire extinguishers you got
20 from the power center, that was along

21 the 72-inch belt?
22 A. Yeah.
23 Q. Just so we have the timeline,
24 although more fixed, when Pat
25 Callaway closed those inby doors, was

79

01 the smoke already heavy and black at
02 that point?

03 A. Yes. Yes, it was.

04 Q. Was that before or after he
05 went to look for a fire hose?

06 A. It was after.

07 Q. So he closed the doors after
08 he went to look for the fire hose?

09 A. Yeah.

10 Q. Okay. Do you know if there
11 are any green reflectors in the
12 travel

13 way between the airlock doors?

14 A. Yeah, I believe there was.

15 Q. Do you know if that's a
16 designated primary escapeway for
17 anybody?

18 A. I believe that's your main ---
19 basically your main entry going in so
20 it would be your main entry coming
21 out.

22 Q. Is the travelway most often a
23 primary escapeway?

24 A. Most generally.

25 Q. Do they train you to come out

80

01 the travelways first?

02 A. Yeah. Yeah, you always try to

03 come out the way you go in. So when

04 you go in, it's red, you come out,

05 it's green. That's, you know ---.

06 Q. Besides the open doors on that

07 overcast that you went through, did

08 you see any other stoppings with

09 holes in them along that area?

10 A. Not right offhand, no.

11 Q. Were you involved in the

12 installation of the new 72-inch belt

13 at all inby the mother drive ---

14 A. No.

15 Q. --- along northeast mains?

16 A. No. I had nothing to do with

17 the installation.

18 Q. Did you ever build any

19 stoppings in that area?

20 A. Up on the return side of Two

21 Section. That was the 48-inch belt,

22 though.

23 Q. They had nice stoppings up

24 there. You did a good job. Are you

25 familiar with the stopping locations

01 at all inby the mother drive on
02 northeast mains?
03 A. Yeah, some of them. They're
04 basically your main entry going in.
05 You look off to the right you can see
06 them all the way through.
07 Q. Could you see the new belt
08 structure that's being installed when
09 you drive down through the travelway?
10 A. Yeah.
11 Q. You could see the 72-inch
12 belt?
13 A. Yeah.
14 Q. Are there also stoppings in
15 some of those crosscuts?
16 A. Yeah, there's mostly stoppings
17 all the way --- well, all the way
18 down in the one crosscut. You go in
19 the entryway and you went under the
20 belt and through the doors and up
21 that way, you could see where they
22 put lattice plumb up by Two Section
23 where they were running new belt and
24 all that.
25 Q. Did you ever have occasion to

01 walk past the tail at the 72-inch
02 belt?

03 A. Yeah.

04 Q. I don't know if you can see
05 from where you're sitting but there's
06 a stopping marked right here past the
07 tail inby spad 3249 or 3240. There's
08 a stopping.

09 A. Yeah.

10 Q. Do you know if that stopping
11 was in place?

12 A. I couldn't tell you for sure.
13 I know that there was supposed to be
14 --- I don't know who it was, but
15 there was supposed to be other men
16 going up there to fix stoppings and
17 replaster them there, some of the
18 older stoppings and stuff that was
19 built.

20 Q. These stoppings between ---
21 well, let's see how we're going
22 describe this to you. Between the
23 primary intake and the area common
24 with the travelway, do you know if
25 this stopping line was intact the

83

01 whole way down through here?

02 A. Most of them.

03 Q. Do you know if they were all
04 installed?

05 A. That I don't know. I know
06 that I had seen a lot of them up
07 there.

08 Q. Would you have any reason to
09 work on those stoppings, repair them
10 at all or inspect them?

11 A. Some got knocked down.

12 Q. How did they get knocked down?

13 A. Usually with scoops, supply
14 units, top falling. Any time stuff
15 like that happened, they'd usually
16 get people up there to fix them.

17 Q. Does that happen very often?

18 A. On occasion.

19 Q. On occasion.

20 BRIEF INTERRUPTION

21 BY MR. FRANCAERT:

22 Q. Sorry, Joe, about that
23 interruption. A couple questions to
24 clarify some things, then we'll go
25 back up to another map we have. When

84

01 you came through the double doors on
02 the airlocks, you said there was some
03 green reflectors there. Do you have
04 any idea how many or how often they
05 were installed in that area?

06 A. Not right offhand I don't. I
07 think those were the newer reflectors

08 that were put up.
09 Q. Newer reflectors?
10 A. Yeah. When I first started
11 there, there wasn't reflectors going
12 through there.
13 Q. Do you have any idea when they
14 were put in?
15 A. No.
16 Q. Do you know whether reflectors
17 were run for primary before that
18 time?
19 A. The same place, I believe.
20 Q. There was just no reflectors?
21 A. There was just no reflectors
22 there.
23 Q. Okay. We're going to have you
24 come back up to the map if you don't
25 mind.

85

01 A. Okay.
02 Q. And we're going to go through
03 the ventilation of that area in a
04 little more detail ---
05 A. Okay.
06 Q. --- to clarify that. So if
07 you don't mind coming up with your
08 markers, we're going to mark on
09 Exhibit C Rose. And Joe, if you

10 could mark on here for us the air
11 directions on the 72-inch belt and
12 the longwall belt when you first
13 arrived at the fire?

14 (Rose Exhibit C marked
15 for identification.)

16 A. When I first --- when I first
17 arrived at the fire, air direction
18 --- well, the smoke direction was
19 coming up and it had been coming ---
20 I think coming from like right in
21 here where the fire was, like right
22 in here. And it was coming up this
23 direction. Everything was coming
24 this way to these doors.

25 MR. FRANCAERT:

86

01 For the record, that's
02 coming out of Number One entry
03 which is the mother belt
04 entry, up the longwall in a
05 north direction and outby to
06 the travelway and then toward
07 the Number Two Section through
08 the open doors until the doors
09 were closed.

10 BY MR. FRANCAERT:

11 Q. What about the air direction
12 at the 72-inch belt? Do you know

13 what that was doing at that time?

14 A. It was coming this way. It
15 was coming the other way.

16 Q. So that air was moving in an
17 outby direction toward the north
18 mains; is that right?

19 A. Yeah.

20 Q. This is before the double
21 doors were closed?

22 A. Yeah.

23 Q. You said that's the direction
24 of the smoke, do you think that there
25 was a difference between the

87

01 direction of the smoke and the
02 direction of the air into the
03 entries?

04 A. Well, yeah, it comes up --- it
05 would come up here, comes out where
06 all your stoppings are. Like right
07 here, the air comes in. That's the
08 way it bounces off the stoppings and
09 then it comes up, then it's over to
10 this entry.

11 Q. The smoke wasn't traveling
12 this way, you say?

13 A. No. No. It was coming out,
14 coming right through these double

15 doors. After those double doors were
16 closed off, it come up, it come
17 around. It was traveling that way.
18 All it did was travel that way.
19 Q. Do you know if there's any
20 stopping between the Number One entry
21 of the longwall and the northeast
22 mains at this location? I'll mark
23 that in green. There's a stopping
24 right there?
25 A. You wouldn't --- I don't know.

88

01 I don't think. I don't see how there
02 could be, because you had to have the
03 air coming in.
04 Q. Just to be clear now on the
05 72-inch belt, you marked the air
06 direction in an outby direction?
07 A. Yeah.
08 Q. Is that the smoke direction or
09 the air, because you didn't have any
10 smoke in there?
11 A. Yeah. The air would go the
12 same way.
13 Q. The same way, okay. Is that
14 the same for the mother belt drive
15 area?
16 A. Yeah.
17 Q. So the smoke is traveling in

18 the same direction as the air?
19 A. Yeah.
20 Q. Okay. We talked about before
21 on the other map some air movement in
22 a circular manner around the mouth of
23 the longwall section.
24 A. Yeah.
25 Q. Could you mark on that for us

89

01 in another color, maybe blue, how
02 that air was traveling?
03 A. Where it was coming through
04 the mandoor ---
05 Q. Yes.
06 A. --- is that what you're
07 talking about? Let's see, you have
08 an overcast, you've got the door to
09 up here in the overcast and probably
10 right here. It'd be right in here.
11 The overcast is actually this piece
12 right here, but your belt goes
13 further. At the bottom of that,
14 you've got doors and a little square
15 door on this side and a little square
16 door on that side and the rest is ---
17 basically it would be in below the
18 belt and you'll go through down. The
19 way the smoke was coming when it was

20 coming up this belt from this door
21 was left open or broke or whatever
22 happened there, it was actually
23 bringing the smoke back down and
24 around, back down like this through
25 these doors coming up around, coming

90

01 through them doors and coming down
02 and back.

03 Q. Can I see that blue pen just a
04 second? What you're saying then, you
05 have the fire here and the smoke
06 traveling this direction around the
07 corner, ---

08 A. Yes.

09 Q. --- through up this overcast
10 ---

11 A. Yeah.

12 Q. --- and back down to where you
13 were monitoring at an outby door?

14 A. Yes.

15 Q. And you were at this door?

16 A. Yeah.

17 Q. So you were monitoring here.

18 I'll mark that. Again that's inby
19 spad 3238, the first airlock door.

20 And we'll mark this blue line as the
21 smoke direction. Thank you.

22 A. Is that all you need on that?

23 Q. Well, we need to clarify one
24 thing, though. On the other map that
25 we used, and that's Exhibit A, you

91

01 marked this other overcast, it's a
02 little bit different location than
03 you marked on this map.

04 A. Yeah, like one break down.

05 Q. Okay. Is there a reason that
06 these are different?

07 A. No, it's just one --- one
08 break different.

09 Q. Okay. So this ---.

10 A. I was extending it out more so
11 you could see more from here.

12 Q. Okay. So this isn't the
13 actual location you meant to mark on
14 here?

15 A. No. It is. That's how it's
16 supposed to be marked right there.

17 Q. But this particular overcast,
18 is that the one that had the doors
19 open?

20 A. Yeah.

21 Q. On Exhibit A?

22 A. Yeah. I went one break down
23 to here on that one.

24 Q. Let's go back to Exhibit C.

25 Is this the overcast where you had

92

01 the doors open?

02 A. No. It should be right there.

03 Q. Okay. So that smoke direction

04 then you think would have come down

05 through this break?

06 A. Yeah. It would have come

07 right here and right through the

08 doors, come right down and around.

09 Q. So then this is probably not

10 where you meant to draw, you meant to

11 draw through here?

12 A. Yeah.

13 Q. Okay. We'll have to in green,

14 I'm going to change that ---.

15 A. Just do it one break this way.

16 Q. Okay. I'm going to mark a

17 green arrow in the one break inby

18 where we initially had the direction

19 of the smoke, correct that to make it

20 similar to Exhibit A. Okay. Could

21 you go ahead and sign this map for us

22 then, Joe?

23 A. Sure.

24 Q. Now, did you ever walk down

25 past the tail of the 72-inch belt?

93

01 A. Yes, I did. And the stopping

02 --- that stopping had to be repaired
03 at one time. I don't remember
04 exactly when it was, but I know that
05 it was repaired.

06 Q. Do you know the last time you
07 walked through that area?

08 A. Probably a week prior to that.

09 Q. And that stopping was in
10 place?

11 A. Yeah.

12 Q. Do you know where the belt
13 check was being installed down
14 through there?

15 A. It would be coming the same
16 way, I believe.

17 Q. Can you mark it on the map in
18 brown?

19 A. Yeah. I believe it was coming
20 the same way or up. It was one break
21 up this way.

22 Q. That's your travelway here?

23 A. Yeah. It would be right here
24 as you're coming through the section.
25 Right here.

94

01 Q. Just draw line down along
02 there where you know the structure's
03 in place.

04 A. I believe it's coming down
05 this way. I know it's up here,
06 because I've seen it up here, up
07 towards Two Section coming through,
08 but I believe that's where it's
09 coming through.

10 Q. So it's in the same entry?

11 A. Yeah, I think.

12 Q. If you don't mind, mark that,
13 the 72-inch structure. As far as the
14 stoppings that are installed marked
15 on this map, are these stoppings in
16 place, do you know?

17 A. As far as I know. You should
18 have a door here, right there.
19 There's a door there.

20 Q. So you know this stopping was
21 in?

22 A. Yeah.

23 Q. Do you know about these
24 stoppings down below here?

25 A. As far as I know, yeah.

01 Q. Okay.

02 A. I know when you get up towards
03 Two Section is where you had all the
04 --- well, below this side on the
05 return side. Most of these up here
06 we've had to replace, right there.

07 It would be --- almost all of those
08 have been replaced. I believe it was
09 coming from Two Section right here on
10 the map and in through here I think,
11 all of these. These got knocked down
12 and then we had a bad top fall, I
13 believe it was up in here and we had
14 to replace them ones and rebuild the
15 ones coming across in here.

16 Q. So for the record, you worked
17 on and repaired the stoppings in the
18 northeast mains outby the Number Two
19 Section and we'll call that between
20 spad 4211 --- and how far down would
21 you come?

22 A. I'd say going in there.

23 Q. 3607. Just so we know on
24 here, I'm going to mark that area in
25 green.

96

01 A. And then it would have been
02 plumb down there, too, down where the
03 seals are.

04 Q. You've been down in the seals,
05 too? So you can ---?

06 A. Yeah, we've done ventilation
07 down in here.

08 Q. The entire left side of

09 northeast mains, then, you built some
10 stoppings?

11 A. Yeah.

12 Q. So we'll mark that area in
13 green on Exhibit C where you worked
14 on stoppings; is that correct?

15 A. Yep. From the pad, Pat's done
16 ventilation down in here with a
17 curtain where the seal is.

18 Q. Have you worked on that
19 ventilation at all?

20 A. Just hanging curtain.

21 Q. So you hung the curtain to the
22 seal?

23 A. Yeah, we was hanging --- I was
24 helping Pat and Brandon down there
25 hang curtain and then I went back

97

01 around and started building the
02 stoppings up here.

03 Q. So you actually built
04 stoppings in addition to repairing
05 them?

06 A. Yeah.

07 Q. We'll mark this on that map,
08 too.

09 A. Yeah, a lot of the stoppings
10 and that down there that we built
11 were knocked down. And then you had

12 to put your other stopping that it
13 might be going to come across here.
14 There's quite a few of those that
15 weren't in there, so we had to put
16 those in.

17 Q. Do you know why those
18 stoppings were installed?

19 A. Ventilation.

20 Q. Those are the stoppings
21 between spads 3255 and 3538. I'm
22 going to mark those two in green
23 also.

24 A. These were ---.

25 Q. Do you know when those were

98

01 built?

02 A. Not that long ago.

03 Q. Do you know why?

04 A. I reckon they were going to
05 seal this all off to get more air
06 coming up to the section, you know.
07 That's the only thing that I could
08 figure.

09 Q. Did you work on these two
10 stoppings?

11 A. Yeah.

12 Q. And did anybody tell you why
13 you were putting them in?

14 A. Because they weren't there.
15 Q. That's all he told you?
16 A. Yeah, those two weren't there
17 and there was quite a few of them
18 that weren't here and we put them in.
19 These ones here, put those in.
20 Q. Do you want to circle those
21 two also? You built these, too?
22 A. Yeah, I'm pretty sure.
23 Q. Were any of the stoppings in
24 this area rebuilt?
25 A. You mean at the Two Section

99

01 main? Rebuilt all them, all the way
02 down. Me and Brandon, plus there was
03 another man that was on Pat
04 Callaway's crew.
05 Q. If you come back up here to
06 the fire area again, Joe, the fire
07 tap you tried to turn on, can you
08 mark that one this map also?
09 A. What color do you want?
10 Green?
11 Q. Let's use green. Just put a
12 mark next to it, fire tap.
13 A. Right here.
14 Q. Just write next to it, fire
15 tap, please. You say you had no
16 water at that fire tap?

17 A. No, there was no water coming
18 out.

19 Q. Did you try any other fire
20 taps in the area?

21 A. There was one down here but I
22 couldn't get to it through the fire,
23 through the fire and the smoke coming
24 in.

25 Q. There was no fire tap on the

100

01 outby side of the fire in the mother
02 drive area?

03 A. No. Just this one up here,
04 that I know of.

05 MR. FRANCCART:

06 Bill, do you have any
07 questions on the map while we
08 have him up here?

09 MR. TUCKER:

10 Just a clarification
11 question here.

12 BY MR. TUCKER:

13 Q. On this fire tap right here,
14 are you showing it as being on the
15 72-inch belt?

16 A. No, it was right below it. Up
17 right in here.

18 Q. So here's the ---?

19 A. Right here. It'd be ---.
20 Q. Here's the double doors ---
21 A. Yeah.
22 Q. --- that you ---?
23 A. It'd be right here. Like
24 right in this general area.
25 Q. But was that --- was that

101

01 waterline on the fire tap that you
02 tried to hook to, was it on the
03 mother drive waterline or was it on
04 the 72-inch belt?
05 A. No, it was on the 72-inch belt
06 coming the other way. That would
07 have been --- because the waterlines
08 were coming this way. It came all
09 the way up and around.
10 BY MR. FRANCCART:
11 Q. So you're saying the
12 waterlines came up the north mains?
13 A. Yeah, most the waterlines from
14 where the box cut is, you come at the
15 box cut, you can follow the
16 waterlines all the way around. I
17 mean, some of them go this way and
18 that way. They come up on this side,
19 this one in particular come around.
20 They come around the back like this
21 because I remember it coming down

22 like that.

23 Q. So it came down the 72-inch
24 belt and then there was a waterline
25 actually came into this crosscut?

102

01 A. Yeah, there's a waterline that
02 went down there and right through
03 here. It'd be right here. I believe
04 that's the way it came, right here.

05 Q. But the tap that you tried to
06 turn on was actually in that entry,
07 in the belt?

08 A. It was right here.

09 Q. In the crosscut?

10 A. Yeah.

11 Q. And that's crosscut between
12 spads 3238 and 3224?

13 A. Yeah.

14 BY MR. TUCKER:

15 Q. This is Bill Tucker again with
16 the State, just trying to help
17 clarify this in my mind. Here's the
18 discharge for the mother drive right
19 here.

20 A. Yeah.

21 Q. Was that fire tap in the same
22 entry as the discharge or was it in
23 another entry?

24 A. No, it's in another entry
25 right here.

103

01 Q. So at the break outby ---

02 A. Outby.

03 Q. --- the discharge?

04 A. Yep.

05 Q. Did you try to connect that
06 fire hose to that outlet?

07 A. There was no fire hose there.

08 Q. You just physically ---

09 A. Yeah.

10 Q. --- tried the outlet and there
11 was no water? Which would have been
12 on the 72-inch belt line. Did you go
13 through a mandoor?

14 A. No.

15 Q. That would be over there?

16 A. Yeah, it would.

17 MR. FRANCCART:

18 Okay. Thank you.

19 BY MR. FRANCCART:

20 Q. One last thing on the map
21 before we sit down. This belt
22 structure that was being extended
23 down in the northeast mains from the
24 present location, do you know how
25 close to the tail that had been

104

01 extended to?

02 A. No, I don't.

03 Q. Would this structure have been
04 installed if this stopping wasn't in
05 place?

06 A. Would it be installed? They
07 probably would have installed it when
08 they went to hook it all up, built
09 new stoppings somewhere.

10 Q. That's it for the map. Have a
11 seat, Joe.

12 MR. FRANCCART:

13 Thanks.

14 A. It's your turn now.

15 MR. TUCKER:

16 It is my turn, Joe.

17 BY MR. TUCKER:

18 Q. I ask for your patience before
19 we get started because I'm going to
20 be bouncing back around some issues
21 that you've already addressed, just
22 trying to clear up some things in my
23 mind; okay? Did I understand you to
24 say that you --- currently your job
25 title is a roof bolter?

105

01 A. Yeah. That was my job
02 classification, roof bolter and miner

03 man.

04 Q. What section do you usually

05 work on?

06 A. Well, they were shorthanded, I

07 usually bounce between Three Section

08 and Two Section.

09 Q. How much total underground

10 experience do you have?

11 A. Two years.

12 Q. Two years total underground?

13 A. Yeah.

14 Q. Okay. Do you know who owns

15 --- do you work for Apollo Mining, or

16 you did prior to yesterday?

17 A. Yeah. I worked for --- well,

18 it's Apollo/Universal is what it is,

19 Apollo slash Universal Coal.

20 Q. Do you know who owns that?

21 A. Derrick Radish (phonetic) ---

22 Eric Radish maybe. I know Massey's

23 quarter owner of it.

24 Q. Who from Apollo tells you

25 which mine to go to?

106

01 A. Usually Brad or Derrick.

02 Q. Has anybody from Apollo asked

03 you about the fire on the 19th?

04 A. No.

05 Q. Have they called to check on

06 you or anything?
07 A. No.
08 Q. You've mentioned you were at
09 another mine where a roller had
10 ignited ---
11 A. Yeah.
12 Q. --- and you had helped put it
13 out? Do you remember what mine that
14 was?
15 A. Arch Coal.
16 Q. Arch Coal?
17 A. Yeah.
18 Q. What mine?
19 A. It was Rum Creek. It was like
20 Rum Creek Number Two, I believe, over
21 at their mains.
22 Q. Do you remember how long ago
23 that was?
24 A. No. I was still a red hat, so
25 it's been a while.

107

01 Q. Okay. What Independence Coal
02 Company mine did you work at?
03 A. I've worked at Justice,
04 Spirit, White Oak, Buffalo,
05 Revolution.
06 Q. Kind of get around, don't you?
07 A. It's Massey. They ---.

08 Q. Is that through the contractor
09 where they'll just send you to
10 different mines at different times?

11 A. Well, when you work at like
12 Independence, because Independence
13 has got several different mines on
14 that hill, that's basically when
15 you're a contractor and you can do
16 what they need doing, that's where
17 they'll send you.

18 Q. Okay. Have you attended any
19 type of meeting prior to this
20 interview today concerning this
21 event?

22 A. Just the one where I was
23 called to Aracoma to sit in front of
24 the two lawyers.

25 Q. Okay. Now, we're going to go

108

01 back to the day of the fire. I'm
02 going to repeat some of these
03 questions. A time frame's real
04 important here and I'm trying to
05 establish some times and chain of
06 events. What time did you say that
07 you started inside?

08 A. It was probably 15, 15 'til
09 4:00, somewhere around there, 20 'til
10 4:00, I believe.

11 Q. What's your regular starting
12 time?
13 A. Or no --- after 4:00, rather.
14 It was after 4:00, I believe. No, it
15 was 15 'til 4:00, somewhere around in
16 there.

17 Q. What's your regular starting
18 time?

19 A. Four o'clock.

20 Q. Four o'clock?

21 A. Yeah, 4:00 to 1:00.

22 A. So you were going in early
23 that day or was you late going in?

24 Q. Oh, you mean going into the
25 box cut?

109

01 A. I thought you meant going down
02 in the elevator.

03 Q. No. Starting underground from
04 the box cut.

05 A. We probably went in at 15 or
06 20 after 4:00, I'd say.

07 Q. Did you ever look at your
08 watch?

09 A. I didn't.

10 Q. Do you wear a watch?

11 A. No, it was in my lunch bucket.

12 Q. So what time would you guess

13 that you arrived at the mother drive?

14 A. Probably 5:00, I'd say,
15 somewhere around there, because we
16 stopped, you know. I don't know
17 exactly how much time was burnt
18 between the time we stopped and
19 talked to Brandon and Bryson about
20 the MRSs and all that and got to the
21 doors.

22 Q. And where was that at?

23 A. Right next to the
24 intersection, like going up the Three
25 way.

110

01 Q. Okay. When you first came to
02 the area and you saw Bryan Cabell,
03 what was he doing?

04 A. Talking on the phone, on the
05 mine phone.

06 Q. Could you hear any of that
07 conversation?

08 A. No, sir.

09 Q. Did he say how long he had
10 been there?

11 A. No. No, he didn't.

12 Q. So Pat pulled the mantrip
13 right on through where the double
14 doors were open and parked it right
15 there at the belt; is that correct?

16 A. Yeah, he parked in front of
17 the belt to begin with and then
18 moved. He moved on further up
19 because of the big waterhole.

20 Q. Okay. That happened like he
21 parked and then ---?

22 A. Yeah, and just kept right on
23 doing it.

24 Q. Just sat there for a ---

25 A. Yeah.

111

01 Q. --- a few seconds, then pulled
02 on up?

03 A. Yeah.

04 Q. Okay. So when you first
05 arrived there at the mother drive,
06 and at that point, you said you saw
07 black smoke?

08 A. Yeah. There was black smoke.

09 Q. Okay. Did you look like left
10 and right? Did you look down toward
11 the head and up, up toward the
12 section?

13 A. You could basically --- when
14 you pulled up there with the doors
15 being open and that, and the way the
16 smoke was traveling, you could see
17 right where it was coming from. It

18 was coming from the right, which was
19 down where the mother drive was and
20 up.

21 Q. So at that point, with the
22 doors open, ---?

23 A. Yeah, it was just coming up
24 and shooting right out.

25 Q. Straight on up?

112

01 A. Yeah.

02 Q. Did you happen to glance up
03 toward the head?

04 A. Yeah.

05 Q. And you didn't --- didn't see
06 anything at that point, up toward the
07 head?

08 A. No, I didn't.

09 Q. How much time would you guess
10 would have elapsed by the time that
11 you got there from the time that you
12 sprayed your fire extinguishers, you
13 went and checked on the water, and
14 you did all that work until you got
15 back on the phone and hollered at the
16 dispatcher?

17 A. Twelve (12) minutes.

18 Q. So all that happened ---.

19 A. Fifteen (15), 12, 14 minutes,
20 somewhere around in there.

21 Q. All that happened pretty
22 quickly then?
23 A. Yeah, it went fast.
24 Q. So the fire --- from the time
25 that you saw the fire initially, if I

113

01 remember right, you said it was like
02 three foot on one side ---

03 A. Yes.

04 Q. --- and to the roof on the
05 other? So it spread ---?

06 A. Yeah, it just --- it went
07 fast. They say that the belt's fire
08 resistant but I don't see how, you
09 know. Of course you've got all the
10 grease in the rollers and everything
11 else down through there, all that
12 electrical stuff, you know.

13 Q. Right. So when Bryan took
14 Pat's fire extinguisher, when you all
15 got there off the mantrip, ---

16 A. Yeah.

17 Q. --- did Pat hand Bryan the
18 fire extinguisher?

19 A. Yeah, and then Pat took off
20 the other way.

21 Q. Immediately?

22 A. Yes.

23 Q. And what was the discussion
24 that that --- when they first
25 arrived, what did --- how did Bryan

114

01 fill you all in on what he had?

02 A. Bryan said we got a fire. Pat
03 said you need the fire extinguisher.
04 He said, yeah, grab me that one. And
05 then Pat told me to help him. And I
06 believe he said, there's a fire hose
07 down there. He said, no. He said,
08 well, I know where some's at. And
09 Pat took off up the other way.

10 Q. So when Pat first left, you
11 think that he was going to look for
12 ---

13 A. Fire ---.

14 Q. --- fire hose?

15 A. Yeah.

16 Q. Did Bryan mention anything at
17 that point about a water situation or
18 anything that he had done?

19 A. No, never did.

20 Q. So as far as you know when you
21 all first arrived, Bryan hadn't done
22 anything to the fire?

23 A. No, not to my knowledge he
24 didn't.

25 Q. Okay. So Bryan went and took

01 that fire extinguisher and was
02 spraying it on the fire?
03 A. Yeah. I grabbed the other
04 one, there was one hanging on the top
05 right there. It was hanging down by
06 one of the yellow cores, rope hanger.

07 Q. Okay.

08 A. I grabbed it and come around
09 and followed him.

10 Q. So was you both spraying at
11 the same time or --- how did that
12 work?

13 A. He was already down there by
14 the time I got that one and when I
15 come around --- when I made the turn
16 and come around, he was actually
17 coming back, so ---.

18 Q. So what happened?

19 A. He passed me and took a left
20 and went running out that way to get
21 more fire extinguishers.

22 Q. Okay. You didn't give him the
23 fire extinguisher you had?

24 A. No. No, I used ---.

25 Q. So he left and went and looked

01 for his own and you sprayed the one

02 that you had?

03 A. Yeah.

04 Q. How long was he gone?

05 A. A couple minutes. He was only
06 gone a couple minutes.

07 Q. Had you finished spraying your
08 extinguisher before he got back?

09 A. Yeah, he was --- yeah, he was
10 actually --- when I got done spraying
11 mine, I went to throw mine and he was
12 actually coming right back down. So
13 it wasn't a matter of minutes. And
14 then I took off. The only other ones
15 I knew was up by that power center.

16 We had to run like four or five
17 breaks down then through the overcast
18 mandoor and then two breaks down to a
19 power center.

20 Q. Okay. So when he came back,
21 was he carrying one or two fire
22 extinguishers?

23 A. One. He had one.

24 Q. And now he's spraying it and
25 you take off, going to try to find

117

01 --- get some more. Did you ever see
02 the fire go out? I mean, you're
03 spraying fire extinguishers on it.

04 What kind of results was you getting?

05 A. It would put maybe an eight or
06 ten-inch section piece out, like a
07 little square piece section. The
08 fire would evolve faster than you
09 could get it put out with a fire
10 extinguisher.

11 Q. So you don't feel like you was
12 gaining any ground ---

13 A. No.

14 Q. --- with the fire
15 extinguishers?

16 A. No.

17 Q. How big of an area at that
18 point, do you think was burning?
19 When you're initially spraying that
20 fire extinguisher, describe how big
21 the fire was as far as area wise and
22 any details you can give on that.

23 A. When I sprayed the fire
24 extinguisher, the whole backside of
25 the mother drive was on fire

118

01 probably, I'd say, a good eight to
02 ten foot of the belt was on fire on
03 the backside of it. You could only
04 get maybe six feet. I'd say six to
05 seven feet from the fire to spray it
06 because of the heat.

07 Q. Okay. And at that point, did
08 you physically --- I mean, you could
09 see the rib also ---

10 A. Yeah, you could see the rib.

11 Q. --- on the offside?

12 A. Yeah.

13 Q. And was it burning?

14 A. Yeah. Yeah.

15 Q. Could you get close enough ---

16 when you were spraying your fire

17 extinguisher, did any of it hit on

18 the rib or was it all directed right

19 at the belt?

20 A. No, it kind of --- the way

21 that I angled it, I was trying to go

22 up under the mother drive to get the

23 roller and shoot out that way. And

24 like I said, it would put a piece

25 out, but it would come back faster

119

01 than you could get it put out.

02 Q. But you never seen at any

03 point, the flame totally

04 extinguished?

05 A. No. No. No, I did not.

06 Q. Okay. Was the guarding up

07 when you was --- when you was

08 spraying your fire extinguisher?

09 A. Yeah.

10 Q. So you were spraying through
11 the guarding?

12 A. No. I was spraying directly
13 on the belt coming around. No, there
14 was a piece of the guard that wasn't
15 up.

16 Q. So you was standing spraying,
17 you didn't --- did you ever spray
18 --- try to spray in from the bottom
19 or ---?

20 A. No, kneeled down, that's what
21 I'm saying and sprayed under, like
22 across the belt to try to go up, out.

23 Q. Okay.

24 A. Like if you stand at the
25 corner --- you stand at the corner of

120

01 something and spray to try to
02 extinguish this area here instead of
03 standing on the side because you
04 couldn't get here because the heat
05 and that, so I had to stand at an
06 angle and shoot like that.

07 Q. Okay. So you wasn't --- you
08 wasn't inby the guarding, was you? I
09 mean, the fire is toward the end of
10 where the guarding would have been?

11 A. Yeah. Like if you --- when

12 you go down, you've got your rollers
13 right here, your first three rollers,
14 all that was on fire there, but it
15 was more to this side. Now, on the
16 backside, the whole thing was on
17 fire, on the offside to this side.
18 Am I making sense?

19 Q. Yeah. I'm just trying to get
20 in my mind --- I'm not as familiar
21 with it as what you are. So you all
22 --- when you first arrived and you go
23 down and you're going to put the
24 first fire extinguisher off that's
25 been discharged on the fire, the fire

121

01 was already burning --- or it had
02 already covered an eight --- how big
03 was the area lengthwise?

04 A. It's eight foot.

05 Q. Eight foot.

06 A. I think like the biggest --- I
07 think the biggest problem was even
08 when Bryan was there and we didn't
09 get there, I don't believe that he
10 seen me offside. I think he just
11 seen the smoke and that and didn't
12 know that the offside and that was
13 burning, because the way you looked
14 down that --- when you walk down, you

15 know, I believe he may have glanced
16 at it or what have you but I don't
17 believe he knew the offside was
18 burning that bad.

19 Q. And you think that's where the
20 main fire was at?

21 A. Yeah, because when I sprayed
22 --- when I sprayed the one fire
23 extinguisher on one of the rollers up
24 this way, the center piece was busted
25 in. It was --- the whole roller was

122

01 on fire on the inside of it.

02 Q. Okay.

03 A. The bearing was just hanging
04 there.

05 Q. So you mentioned earlier I
06 think, when you got there, you heard
07 the belt coasting to a stop?

08 A. Yeah.

09 Q. Did you actually see the belt
10 ---

11 A. Yeah.

12 Q. --- coasting? So the mother
13 drive belt was on when you got there
14 and it was coasting ---

15 A. Yeah.

16 Q. --- to a stop?

17 A. Yeah, it was ---.

18 Q. So it had just been ---?

19 A. Yeah.

20 Q. Did Bryan mention anything
21 about he had just turned it off
22 or ---?

23 A. No. He didn't say a whole lot
24 about it.

25 Q. Okay.

123

01 A. He was just on the phone, you
02 know, I couldn't hear what was being
03 said, so --- just a lot of yelling.

04 Q. Did you hear any conversations
05 between Pat and Bryan about the fire
06 at any time? I mean, from the time
07 you got there until the time you left
08 to go outside?

09 A. The only thing I heard was
10 about the fire hose. You know, that
11 was that.

12 Q. And was what that conversation
13 again?

14 A. Where Pat asked Bryan if there
15 was fire hose down there and he just
16 shook his head. Pat said I know
17 where some's at and he took off.

18 Q. Did you hear any conversation
19 about anyone trying to hook the fire

20 hose to an outlet?

21 A. No.

22 Q. Okay. Did Pat ever bring any

23 fire hose back?

24 A. Not to my knowledge, he

25 didn't.

124

01 Q. While you were going down

02 toward the fire area, did you happen

03 to see any red fire hose on the mine

04 floor?

05 A. When I was running down

06 through there, no.

07 Q. You didn't notice any fire

08 hose that was already maybe just

09 laying there?

10 A. No.

11 Q. Which you probably wasn't

12 particularly looking for it either.

13 A. I wasn't paying a whole lot of

14 attention to it.

15 Q. Do you have any idea of how

16 long Bryan was there before you and

17 Pat arrived?

18 A. No, I don't.

19 Q. Did he ever indicate in any

20 way that he had done anything to

21 fight the fire ---

22 A. No, not to me ---.

23 Q. --- before you all got ---

24 before you all got there?

25 A. No, not to me he didn't.

125

01 Q. When you first got there, the

02 temperature, when you pulled through

03 on the mantrip at the double doors,

04 how would you describe that?

05 A. It wasn't bad, and as far as

06 temperature wise, the smoke was

07 getting worse.

08 Q. How high up was the smoke at

09 that point? Or how low down had it

10 come?

11 A. At that particular point when

12 we pulled up there, it was probably

13 maybe two to three feet from the top,

14 which was that only --- I'm trying to

15 think of how high it was up there.

16 Maybe eight feet and it's probably

17 three feet from the top.

18 Q. So when you were walking up

19 there, he was --- I mean, your face,

20 was it pretty much clear? Was the

21 smoke still above you at that point?

22 A. Yeah, the smoke was above us.

23 But now the further you tried to get

24 down towards the mother drive, the

25 worse it got, because you were in an

126

01 open area where the doors were. When
02 you tried to run down to where the
03 mother drive was, you got in your ---
04 it wasn't as open.

05 Q. So when you discharged your
06 fire extinguisher and you went down,
07 went through the ---?

08 A. The smoke was in my face when
09 I went down and tried to put the ---
10 when I let the fire extinguisher off,
11 but it wasn't real thick, maybe a
12 foot from the top, two foot from the
13 top and it was real thick. But you
14 could see, you know, crouching down.

15 Q. So you put that fire
16 extinguisher off and then you said
17 you left and went and looked for
18 another one?

19 A. Yeah. And I passed Bryan on
20 the way right there. Bryan was
21 coming back with another one.

22 Q. With one. So when you left to
23 get one, did you, in fact, find one
24 and come back?

25 A. Yeah, I found two and come

127

01 back.

02 Q. Did you discharge those?

03 A. Yes, I did.

04 Q. So you put off a total of

05 three ---

06 A. Yeah.

07 Q. --- fire extinguishers? Do

08 you know how many Bryan put off?

09 A. Three maybe, four. I don't

10 know.

11 Q. And at no time did you ever

12 see the flames completely

13 extinguished?

14 A. No, I did not.

15 Q. In your opinion, how long do

16 you think that the fire had been

17 burning before you and Pat arrived?

18 A. I don't know. I can't answer,

19 I don't know. Maybe 15 minutes, I

20 don't know.

21 Q. When did you ask Pat about Two

22 Section crew?

23 A. Pat had come back --- I'm

24 trying to --- it may be 15 minutes,

25 something like --- I'm going to say

128

01 just an average of 15 minutes, Pat

02 come back and when I was yelling on

03 the mine phone and I asked Pat about

04 the Two Section and he said as far as
05 I know, I think that they've already
06 been called. And then, of course,
07 Fred Horton and them showed up, too.
08 He said that they had been called.

09 Q. So when Pat first got there,
10 he took off looking for fire hose?

11 A. Yeah.

12 Q. And he came back in about 15
13 minutes?

14 A. Yeah. That's a guesstimate.

15 Q. So why do you think that he
16 thought that Two Section had been
17 called at that point?

18 A. I don't know ---.

19 Q. Did you hear the guys say
20 anything to him?

21 A. I don't know if he got on
22 another mine phone further down or
23 Bryan had said something, I don't
24 know.

25 Q. Did you hear Bryan say

129

01 anything pertaining to the fact that
02 if he had called Two Section or not?

03 A. No, I didn't hear nothing.

04 Q. And you said your watch was in
05 your dinner bucket so you never took

06 it out?

07 A. No.

08 Q. Did you hear anybody else

09 mention time in any manner?

10 A. No.

11 Q. When you went down and went

12 through the overcast to get the fire

13 extinguishers, is that the belt

14 overcast?

15 A. Yeah.

16 Q. Did you see any smoke in that

17 belt entry when you went to get those

18 fire extinguishers?

19 A. No. No.

20 Q. So it was clear at that point?

21 A. But you had a bad --- how

22 would you say it? The bad rubber

23 burning smell all the way up through

24 there.

25 Q. Right. When you came back

130

01 through with the fire extinguishers,

02 do you remember if you shut the doors

03 or not?

04 A. Yes, I did.

05 Q. So somebody else had to go

06 back and open them after that point?

07 A. Yeah.

08 Q. And you mentioned that later

09 on that the smoke did, in fact, go
10 back up the 72-inch belt and come
11 through those doors?

12 A. Yep.

13 Q. That's how you got up there in
14 the smoke. I think I've --- I'm sure
15 I've already asked this, but did you
16 or Bryan, as far as you know, try
17 applying water to the fire at any
18 time?

19 A. Did we try applying water? I
20 tried to turn the valve on, it didn't
21 work.

22 Q. Okay. Did you ever notice
23 water running on the mine floor?

24 A. Later on, I did. This was
25 after I --- after all this and I had

131

01 got back with the men and we went
02 over and actually disassembled some
03 of the structure and hung curtain,
04 but we already had all four of the
05 mine foremen up there. They brought
06 them in from dayshift. The
07 superintendent and everybody was
08 already up in there. And we had
09 already met up with the longwall
10 crew.

11 Q. When you say you were taking
12 structure out, was that on the ---?
13 A. We just knocked structure
14 down. It was probably, I'd say,
15 seven breaks, six or seven breaks
16 down, I seen water running, like down
17 --- it would be on this --- on the
18 other side of the mother drive
19 further down.

20 Q. Would you care to show us on
21 the ---

22 A. Map?

23 Q. --- map?

24 A. This was further down. This
25 was later. We had the mother drive

132

01 here, when we got --- it would have
02 been back up in here. We got with
03 the other men and met the longwall
04 crew. We ended up down here.

05 Q. Here's the --- we're on
06 Exhibit C, Rose. Here's the
07 cut-through into the longwall
08 section.

09 A. Yeah.

10 Q. I believe here is where you
11 said the fire was at.

12 A. We met up with them right here
13 where the fire was at. We come down

14 around here I believe. We met up
15 with them probably right here.

16 ATTORNEY BARISH:

17 You might want to use a
18 different pen, I'm sorry. You
19 might want to use a different
20 color pen.

21 MR. TUCKER:

22 Okay. I have an orange
23 pen.

24 A. We broke structure for the
25 belt ---.

133

01 ATTORNEY BARISH:

02 Orange might not show
03 up on the copy. Let's see if
04 we can use a darker color.

05 MR. TUCKER:

06 You have this.

07 A. You're going to stick me with
08 purple?

09 ATTORNEY BARISH:

10 Sorry. Lavender.

11 A. This was later after we got
12 together, the two men, you know, we
13 found out were missing. We ended up
14 getting with the longwall crew which
15 come --- they had come walking up

16 this way. We broke the structure,
17 cut the belt at two different places
18 at crosscuts. And one was right
19 there, one was right here. And then
20 we hung curtains, they hung curtain
21 across here and here.

22 BY MR. TUCKER:

23 Q. So you've identified two
24 places that check curtains were hung
25 in the belt entry?

134

01 A. Yeah.

02 Q. That's around spad 3296, Four
03 crosscut on the longwall belt?

04 A. Yeah.

05 Q. And another one inby at Five
06 crosscut?

07 A. That's about right. But there
08 was water running down, but this is
09 --- estimated probably an hour after
10 all this happened.

11 Q. Where do you think that water
12 was coming from?

13 A. Maybe a busted waterline.
14 That's the only thing I could think
15 of.

16 Q. Thank you. So how long total
17 again would you guess that you
18 attempted to put the fire out before

19 you called on the mine phone saying
20 you needed help?

21 A. Twelve (12) minutes, ten
22 minutes, around in there.

23 Q. Is that the only time that you
24 talked on the mine phone?

25 A. That's the only time I could,

135

01 it went dead.

02 Q. Okay. And you hadn't talked
03 to anybody prior to that?

04 A. Uh-uh (no).

05 Q. Was your lunch bucket on that
06 diesel ride?

07 A. Yes, it was.

08 Q. Sorry about that.

09 A. Did you find it?

10 Q. No. When you were hanging
11 curtain on the longwall belt, did you
12 hear any discussion at all about
13 possibly fighting the fire from that
14 side?

15 A. Yeah. Yeah, I did hear --- I
16 heard a few men actually talking
17 about trying to go up that side and
18 they said that --- I don't know if it
19 was one of the mine foremen or one of
20 them that had already been up in

21 there, but they said that there was
22 no way. No way you could get up in
23 there to fight it. Now, I don't know
24 exactly what that meant, but ---.

25 Q. They were saying there's no

136

01 way you could get back to the
02 fire ---

03 A. Yeah.

04 Q. --- to fight it?

05 A. No. To get back up in there.

06 I don't know whether the top fell,
07 the structure fell or because of the
08 smoke, I don't know. The smoke was
09 so bad up in there, you wouldn't be
10 able to stand it for no longer than
11 two to three minutes.

12 Q. So when you hung the curtain
13 there on the belt ---

14 A. Yeah.

15 Q. --- you dropped the structure.

16 Did you do anything else to the belt?

17 A. We cut it. We cut the belt.

18 Q. Okay. Was there smoke at that
19 time?

20 A. Yeah.

21 Q. How thick was the smoke?

22 A. I could see from me to you.

23 It wasn't as thick and bad as it was

24 up towards the mother drive.

25 Q. So in feet-wise, how far would

137

01 you say the visibility was?

02 A. Eight feet --- six feet, eight

03 feet.

04 Q. So we're back at the mother

05 drive where you was discharging your

06 fire extinguishers and you'd put

07 three off. After you'd put your

08 third one off, what did you do?

09 A. I went back outby the doors

10 and I couldn't --- I couldn't get

11 down in there no further. When I

12 left the last --- the last two off,

13 the one I was --- fairly, I got into

14 the smoke bad that was coming from

15 there, it was making me gag real bad.

16 So I backed up probably two feet or

17 so, and let the other one off.

18 Q. When did you put your rescuer

19 on?

20 A. That's when I was standing up

21 next to the door waiting. I couldn't

22 --- I couldn't give you an exact

23 time.

24 Q. Was there anybody there with

25 you when you put your last fire

01 extinguisher off?

02 A. I believe Bryan was.

03 Q. What was he doing?

04 A. He was yelling at Pat about

05 something, but I don't know exactly

06 what the nature of that conversation

07 was either.

08 Q. Hear anything at all that was

09 said that you can recall?

10 A. Something about Pat going to

11 another phone. That's all I heard,

12 that's all I heard of it. And then

13 Bryan took off and Pat took off, too.

14 Q. Did they tell you where they

15 were going?

16 A. Not right offhand.

17 Q. So you was there by yourself

18 at that point?

19 A. I think they were going to try

20 to go around and see if they could

21 get on the other side, but I don't

22 believe they did or they could. But

23 yeah, I was there by myself. And

24 then maybe a minute and then Fred and

25 them, Billy and --- Billy and Fred

01 showed up. Billy's the chief

02 electrician.

03 Q. Billy ---?
04 A. I don't know what his last
05 name is.
06 Q. Okay.
07 A. They showed up and Pat and
08 Bryan had --- well, no, I believe it
09 was Pat that come back down and by
10 then it was bad.
11 Q. So who instructed you to wait
12 by the door?
13 A. Pat and Fred.
14 Q. Did they say anything to you
15 about putting your self-rescuer on or
16 was that your decision?
17 A. Pat said that if it got bad
18 down there, to start walking and what
19 have you. To put my self-rescuer on,
20 that was my own decision. That was
21 when I got engulfed in the smoke.
22 Q. So where were you at when you
23 donned your SCSR?
24 A. Maybe three feet from the
25 door, from the out door.

140

01 Q. Outby door?
02 A. Outby door.
03 Q. Did you have any trouble
04 putting it on?

05 A. Yes, I did.

06 Q. What kind of trouble did you
07 have?

08 A. See, when the top of it was
09 stuck. When you pull your strap off,
10 it's supposed to pop open. You
11 shouldn't have to beat it off the
12 side of a rib to get it open.

13 Q. Is that what you did?

14 A. That's what I did.

15 Q. After you got it open, did you
16 have any more problems?

17 A. No, no problem. By the time I
18 got it open, I couldn't see my hand
19 in front of my face.

20 Q. Could you hear anybody
21 hollering at you at that time?

22 A. No.

23 Q. Did you have any conversation
24 with anybody?

25 A. All you could hear was belt

01 cracking and structure falling or top
02 falling or ---.

03 Q. Nobody came back to check on
04 you?

05 A. No.

06 Q. Did you have any trouble
07 getting back to clear air?

08 A. It took me a minute. At that
09 given point, I couldn't even see the
10 reflectors or nothing. I just
11 basically got against the side of the
12 rib and walked, used my hands and
13 hand-by-hand all the way up the rib.

14 Q. How would you describe your
15 visibility at that point?

16 A. You couldn't see at all.

17 Q. How far did you travel like
18 that?

19 A. I'd say five breaks.

20 Q. Would that have put you out by
21 the doors that were left open?

22 A. Yeah. When I got past ---
23 well, four to five breaks. When I
24 got past the overcast and that, I was
25 into basically fresh air right there.

142

01 Q. Soon as you passed the
02 overcast?

03 A. Yeah, it was still hazy or
04 whatever you would like to call it,
05 but when we got past that, I was in
06 fresh air. I didn't take my rescuer
07 off, though.

08 Q. When did you take your
09 mouthpiece out?

10 A. When I got up to where the
11 other men and that were from Two
12 Section and my boss and section boss
13 and what have you. And then we all
14 sat there and my boss was taking a
15 headcount to see who was all there.
16 They had known that two men were
17 missing and give or take three to
18 four minutes after that, we seen all
19 the other lights which was the
20 longwall coming up that way.

21 Q. You mentioned that some men
22 off of Two Section came down to the
23 doors ---

24 A. Yeah.

25 Q. --- where you were at. Who

143

01 was that?

02 A. I believe it was Pat Kisner.
03 I believe was one of them and the
04 other one I can't remember.

05 Q. Was there --- how bad was the
06 smoke there at the door when they
07 came down?

08 A. On the inside of the doors, it
09 was bad, on the outside, it was ---
10 it wasn't bad, bad, but you could
11 see, you know, the smoke as far as
12 that.

13 Q. How long after they left
14 before you were engulfed in smoke?

15 A. Four minutes, tops.

16 Q. Did anyone else that was there
17 fighting the fire with you have an
18 SCSR?

19 A. Pat did. Pat always wears his
20 rescuer.

21 Q. What about Bryan?

22 A. Not that I seen.

23 Q. Did anybody don an SCSR, other
24 than yourself?

25 A. No. I believe all the ones on

144

01 Two Section used them.

02 Q. You mentioned that Fred Horton
03 came up there.

04 A. Yes.

05 Q. Did you see him around the
06 double doors or where did you first
07 see him?

08 A. Fred actually walked, he
09 walked and looked inside of the
10 double doors where the double doors
11 are to check the situation to how bad
12 the fire was.

13 Q. Who was with him?

14 A. Billy. I can't never remember

15 Billy's last name.

16 Q. Okay. That's when him and Pat
17 had instructed you to stay ---

18 A. Yeah.

19 Q. --- stay there and they left
20 and went somewhere else?

21 A. Yeah.

22 Q. You mentioned earlier in your
23 testimony that there was one other
24 occasion that you knew of that the
25 water didn't work.

145

01 A. That the water didn't work?

02 Q. Do you remember what that was?

03 A. That was, I believe, --- that
04 was down toward Three Section, if
05 it's the same one.

06 Q. And what did you mean by that,
07 when you said the water didn't work?

08 Was that on a fire valve or ---?

09 A. It was on the fire valve.

10 Q. And just describe to me what
11 happened there with that situation?

12 A. Well, the night --- well, the
13 night of the fire, when I tried to
14 hit the valve up there, nothing come
15 out. The valve was working properly,
16 you could see the egg on the end of
17 it open, but nothing come out.

18 Q. Right. And that other
19 situation where you mentioned that
20 the valve ---

21 A. That the valve ---.

22 Q. --- didn't work.

23 A. Yeah.

24 Q. Just describe that a little
25 bit, where it was at or about when

146

01 or ---?

02 A. That was down toward Three
03 Section. Blue was actually moving
04 MRSs in. Myself and the electrician
05 had run over to the waterline and
06 there was nothing in it.

07 Q. Was the section idle at that
08 time or was they running coal?

09 A. No, it was idle at that time,
10 but we were just running coal three
11 days earlier.

12 Q. Okay. So that was the section
13 waterline?

14 A. Yeah.

15 Q. Okay. Can you just tell us,
16 to the best of your remembrance, who
17 all you saw in the mother drive area
18 before you left to come outside?

19 A. At the actual fire?

20 Q. In the general area between
21 there and where the longwall crew
22 came out.

23 A. I seen Pat, Pat Callaway. I
24 seen Bryan, Fred Horton. I seen
25 Billy and it was after --- when Two

147

01 Section come around, Pat Kisner and I
02 can't believe --- I can't remember
03 who exactly walked with him, was
04 there. And then after I got engulfed
05 in the smoke and got back up to the
06 section, I seen Mike Plumley, I seen
07 Pat Kisner, seen Pat Callaway. I
08 seen some of the guys from the
09 longwall. Gary was one of them. I
10 can't remember his last name. Steve
11 Hensley. I seen Dingess, Billy
12 Mayhorn. That's all I remember.

13 Q. Did you see any other company
14 officials when you came outside?

15 A. Yeah, before we come outside,
16 I seen Dusty Dotson. I seen Fred. I
17 seen Pepé. That other guy, I can't
18 remember his name either. I seen
19 Chad. That's about it.

20 Q. The guy that was with Fred
21 Horton, could that have been Billy
22 Hall?

23 A. I think it is. Chief

24 electrician.

25 Q. When you worked on those

148

01 stoppings up on the northeast mains

02 area around the seal area, who was

03 your supervisor?

04 A. Pat Callaway.

05 Q. Do you remember how you got

06 supplies down in that area to do that

07 work?

08 A. It was with the scoop.

09 Q. Okay. And how was your travel

10 --- the scoop, the section scoop or

11 ---?

12 A. Yeah, it was the section

13 scoop. They brought a section scoop

14 down on the other side.

15 Q. Did you ever run that scoop?

16 A. Yeah.

17 Q. Would the Two Section be

18 working, the crew, the coal crew?

19 A. Yeah. Are you asking how you

20 get it down in there?

21 Q. Yeah. How did you get it down

22 there?

23 A. You've got to knock a stopping

24 down.

25 Q. Have to knock a stopping down?

149

01 A. Yep.

02 Q. So after you loaded up your
03 supplies and you go down to the ---
04 do you go down the return or where
05 would you go?

06 A. Yeah, you basically come down
07 the return and usually Pat would go
08 up to the section and bring the scoop
09 down to us with supplies and that on
10 it. There's one particular stopping
11 up there that you've got to come
12 through and it got knocked down.
13 Then we rebuilt it.

14 Q. And you have run the scoop and
15 have to come through that area?

16 A. Yeah.

17 Q. So after you knocked the
18 stopping down, then what would you
19 do?

20 A. Take your supplies down, drop
21 them off, then you got to come back
22 up and you got to build the stopping
23 back up.

24 Q. So you drop supplies off.
25 Would you hang a curtain while you

150

01 were going or just to drop them off

02 and come back or how would you do

03 that?

04 A. Generally they did, they put a
05 temporary check curtain or something
06 across there, a hang curtain. And
07 then you go down, drop your supplies
08 off, what have you and then usually
09 Pat would take the scoop back up to
10 the section.

11 Q. And who would rebuild the
12 stopping?

13 A. Me and Brandon.

14 Q. Okay. The stopping that you
15 talked about that you had to knock,
16 was there one or two places you did
17 that or was it the same place or how
18 did that work?

19 A. That was usually the same one,
20 the same one got knocked down all the
21 time.

22 Q. Was there ever another one?

23 A. There was --- I know hoot owl
24 crew come in one night and we had to
25 replace probably four or five of

151

01 them. I don't know why they
02 persisted on running through them,
03 but they did.

04 Q. Do you remember which ones
05 those were as far as being able to
06 identify them on a map?

07 A. Yeah. Yeah, it would be ---.

08 Q. Would you care to do that?
09 What color should we use? Use a
10 green one.

11 A. We come around from this angle
12 in Two Section. Let's see, we have
13 them going this way and ---. This
14 one here, usually got smashed. And
15 then the hoot owl crew come in one
16 night and ---.

17 ATTORNEY BARISH:

18 Joe, can you just speak
19 up a little bit? I'm having
20 trouble hearing you.

21 A. The hoot owl crew come in, I
22 believe it was these ones. Yeah, it
23 was back from --- back from the seal
24 area, all these had to be replaced
25 all the way to this end.

152

01 BY MR. TUCKER:

02 Q. Can you just circle those, the
03 ones that you had to ---?

04 A. First we put this one in, we
05 put that one in, had to put that one
06 in, put that one in and put that one

07 in and that one and that one and that
08 one. And then I believe we put one
09 in there, up in here. Then we put
10 them in there. Basically from there,
11 all the way to here, we did all the
12 stoppings.

13 Q. As far as the ones that were
14 damaged, where the hoot owl, you
15 said, decided to break through ---.

16 A. Yeah. Yeah, they come down in
17 the seal area here and all these up
18 in here, all these got destroyed, all
19 them had to be replaced.

20 MR. TUCKER:

21 He's identified those
22 with a blue dot on Exhibit C
23 from spad 35 ---

24 A. Forty-nine (49).

25 MR. TUCKER:

153

01 --- 49 up to One Break
02 inby 3588. And also the
03 stopping in the return that
04 was knocked with the scoop is
05 One crosscut inby 3632,
06 identified with blue ink.

07 BY MR. TUCKER:

08 Q. Do you know who the third

09 shift supervisor was on that project?

10 A. Not right offhand I don't.

11 Q. What kind of SCSR did you

12 have?

13 A. I'm not ---.

14 Q. Not sure what style?

15 A. Yeah.

16 Q. Okay. Do you wear it on your

17 belt?

18 A. Yeah. The big canister one.

19 Q. When's the last time you had

20 training on that?

21 A. They were supposed to go ---

22 well, about three days or four days,

23 I believe, prior to that incident and

24 since I was through a contractor, I

25 was not allowed to go.

154

01 Q. When's the last time that you

02 had training on it?

03 A. About a year ago.

04 Q. Who gave you that training?

05 A. I believe it was --- what's

06 his name? Bill Adair (phonetic), the

07 safety director over at Independence

08 Coal.

09 Q. What did that training consist

10 of with your SCSR?

11 A. Basically how to take it apart

12 and put it on, proper ways to put it
13 on.

14 Q. Did they have one there as a
15 training unit or did they just tell
16 you?

17 A. No. They had one there as a
18 training unit and he went through
19 basically step by step how to put it
20 on, how to take it off, you know,
21 open it and --- they explain all that
22 stuff to you but they don't tell you
23 how to do it when you're panicking.

24 Q. Right. It's a different
25 situation then, isn't it?

155

01 A. Yeah, from doing it in
02 daylight and dark and not being able
03 to see or know what you're doing and
04 panicking, there's a big difference.

05 Q. Right. Did you happen to put
06 your goggles on?

07 A. I tried.

08 Q. What happened?

09 A. They broke. They don't
10 explain to you how bad those things
11 burn either when you try to breathe
12 in, those SCSRs.

13 Q. How would you describe that?

14 A. It will burn from your mouth
15 all the way to your lungs and it's an
16 intense burn. It's not --- most
17 people would probably be tempted to
18 jerk it right back out of their
19 mouth.

20 Q. How much smoke do you think
21 you may be inhaled prior to putting
22 on your SCSR?

23 A. A good amount.

24 Q. Good amount. Have you worked
25 at the mine since the fire?

156

01 A. No. I was at stand-down.
02 They basically had me at a stand-down
03 time because we weren't allowed back
04 in the mine, what have you. And then
05 they were supposed to pay us for our
06 time off, too. I never got paid for
07 it, either. I had to go to work at
08 another mine.

09 Q. Do you know of any contractors
10 that you worked with through
11 Universal or Apollo that were on
12 stand-down that did get paid
13 possibly?

14 A. I don't --- I didn't even work
15 with any other contractors on my crew
16 --- or on my shift, rather.

17 Q. Okay. When you was attempting
18 to fight the fire, did you ever go
19 down toward the discharge drive area
20 for anything on the mother belt?

21 A. No.

22 Q. Have you ever worked with
23 Brandon Conley before?

24 A. Uh-uh (no).

25 Q. You mentioned a gentleman at

157

01 Independence, I think you said Bill
02 Adair?

03 A. Yeah.

04 Q. Are you sure it was Bill?
05 Could it possibly have been Bob
06 or ---?

07 A. Bob, that's it. Bob Adair.

08 Q. Is it Bob Adair?

09 A. Yeah.

10 Q. Okay. Which Independence Mine
11 was that again?

12 A. Justice.

13 Q. Justice. When you was working
14 on the ventilation up there where
15 those stoppings were knocked, could
16 you see the 48-inch belt running?

17 A. Yeah. Yeah.

18 Q. From the area that you were

19 building the stopping?

20 A. Yeah.

21 Q. When you would get done with
22 the fire extinguishers, what did you
23 do with them, the ones that you used
24 up?

25 A. I probably just throwed them

158

01 against the rib right there.

02 Q. Okay. Back up to building the
03 stoppings again. When you said you
04 could see the belt line, was it
05 actually running while you were
06 working on those stoppings?

07 A. Yeah. We did them on both
08 sides. I mean, as far as outby, the
09 outby side of the belt, you had
10 basically two sides that we did
11 stoppings on.

12 Q. Did you ever hear anybody call
13 the longwall section?

14 A. No. No, I didn't.

15 Q. Do you have any idea how they
16 found out they had a problem or ---?

17 A. Probably from the dispatcher.

18 MR. TUCKER:

19 I'm going to take a
20 break and turn it back over to
21 Mr. Francart. Thank you.

22 BY MR. FRANCCART:

23 Q. Joe, when you used your
24 self-rescuer, did you put the nose
25 clips on also?

159

01 A. No.

02 Q. So you didn't have the nose
03 clips on?

04 A. No, I panicked. I grabbed my
05 nose with my fingers and shoved the
06 thing in my mouth.

07 Q. Did you have any medical
08 treatment afterwards to evaluate you?

09 A. No.

10 Q. You didn't go to the hospital
11 for any reason or ---?

12 A. No.

13 Q. You said you built curtains in
14 the longwall after you broke the
15 belt.

16 A. Yeah.

17 Q. Did anybody tell you why you
18 were doing that?

19 A. No.

20 Q. Who made the decision to build
21 those curtains?

22 A. One of the mine foremen.

23 Q. Do you know which one?

24 A. I don't know what his name is.
25 Bob, I think maybe. I don't know. I

160

01 know Dusty was there, too, Dusty
02 Dotson.

03 Q. Okay. Do you know if anybody
04 talked about making any other
05 ventilation change anywhere in the
06 mine?

07 A. No. They --- while we were
08 doing that, they were already
09 ordering us to leave. Several of the
10 mine foremen, they said that it was
11 time for us to leave.

12 Q. When Mr. Callaway left to look
13 for fire hose, did he come back with
14 a fire hose?

15 A. Not to my knowledge, he
16 didn't.

17 Q. When he left to look for the
18 hose, do you know if he went down the
19 72-inch belt or did he go down the
20 intake?

21 A. No, he went down --- basically
22 down to where the overcast was, so
23 yeah, he run a piece of the 72-inch
24 belt. He went down to where the
25 overcast was and went through that

161

01 mandoor out towards that power
02 center.
03 Q. Do you have any idea who
04 opened the equipment doors, that's
05 the airlock, those two sets of double
06 doors on the travelway?
07 A. No, I don't.
08 Q. No idea who opened them? No
09 idea who shut off the mother belt?
10 A. No.
11 Q. And you say you saw flames
12 before the belt came to a complete
13 stop?
14 A. I seen the flames when I got
15 down there and the belt was already
16 stopped.
17 Q. It was already stopped?
18 A. Yeah.
19 Q. How long does it take for a
20 belt to completely stop after you
21 remove the power?
22 A. It varies. Some of them will
23 shut right down. Some of them coast
24 a couple minutes.
25 Q. It would depend on how much

162

01 coal is on the belt?
02 A. How much coal.

03 Q. The incline?

04 A. How much weight. How long it
05 takes.

06 Q. I need a little bit of
07 clarification on Exhibit B, if you
08 don't mind. Before I forget, the
09 fire valve was on the inby side
10 somewhere?

11 A. Yeah, it would have been on
12 further down.

13 Q. And the roller that you
14 mentioned that was on fire inside,
15 ---

16 A. Yeah.

17 Q. --- of the tight side of the
18 belt, you marked before there were
19 three rollers on fire?

20 A. All this was on fire from
21 offside.

22 Q. So it wasn't one particular
23 roller?

24 A. No, this one here was burning
25 through, because it was actually the

01 bearing was out of the socket and you
02 could see through the socket to that
03 one.

04 Q. Okay. Could you mark that one
05 for us, please?

06 A. This one.

07 Q. And could you just note on
08 there that you could see through
09 because the bearing was out? Do you
10 have any idea what diameter that hole
11 would be?

12 A. No.

13 Q. You talked to Mr. Cabell after
14 you got outside and you mentioned he
15 apologized to you. While you were
16 underground, do you remember any
17 specific conversations with him while
18 you were fighting the fire together?

19 A. No, he didn't say a whole lot
20 to me.

21 Q. Did he direct you to do
22 anything?

23 A. Just get as many extinguishers
24 and that as I could.

25 Q. Now, when the mother belt was

164

01 shut down, was the 72-inch belt still
02 running?

03 A. No.

04 Q. So it was also off?

05 A. Yeah, all if it shut down.

06 Once you shut one piece down, it's
07 all going to shut down. It's just a

08 matter of time.

09 Q. You worked for Apollo at the
10 time of the accident?

11 A. Yeah.

12 Q. But your supervisor was Mr.
13 Callaway?

14 A. Yeah.

15 Q. Do you have another supervisor
16 within Apollo and that organization
17 for ---?

18 A. Derrick Radish.

19 Q. How often do you speak with
20 him?

21 A. I don't speak to him.

22 Q. You don't speak to him?

23 A. No.

24 Q. Is that good or bad?

25 A. Take it for whatever it's

165

01 worth, I reckon.

02 Q. So he doesn't instruct you on
03 your work, you just ---?

04 A. No, he's just there basically.

05 They send you to --- they'll send you
06 to a mine and basically you get a
07 paycheck in the mail and that's as
08 far at it goes. You know, they have
09 really nothing to do with you. They
10 don't fire you or suspend you or

11 anything. Anything to do with that
12 mine, is from those, you know, people
13 there, how the seniority level, ---
14 however the seniority level goes at
15 the mine that you're at. Like if I
16 worked for Pat and Pat said, why
17 don't you just get your stuff and go
18 home, I just leave. He's got the
19 power to fire me or anything he
20 wanted to do.

21 Q. Do you know has that happened
22 in the past to anybody that worked
23 for Apollo?

24 A. I've seen a lot of people get
25 fired. Mostly red hats that won't do

166

01 their job, just lazy.

02 Q. Do those people go back to
03 Apollo to get sent to another mine
04 then?

05 A. Yes. On some occasions Apollo
06 will send them somewhere else,
07 depending on the situation. Most
08 generally, probably won't. See
09 Apollo --- Apollo and Universal is
10 the same contract names, but they
11 only contract for Massey. They don't
12 contract for any other mines around.

13 You have like Lightning Contracting
14 in Chapmanville, they'll do some of
15 the union mines. Belo down in
16 Delbarton, they'll do different
17 mines. But Apollo and Universal,
18 it's the same contractor and see,
19 they only do Massey mine. But then
20 again, Massey is like a quarter owner
21 of it or something. I don't know how
22 exactly it works.

23 Q. Does that seem odd to you?

24 A. A lot of things seem odd to
25 me.

167

01 Q. So there's no person at Apollo
02 that you report to after you're sent
03 to the mine?

04 A. Uh-uh (no). Nope. Just fill
05 out a paper and send it. That's all
06 they do.

07 Q. Do you have to send reports
08 back to Apollo at all, how many hours
09 you work or ---?

10 A. No. The boss does that. I
11 just walk in and sign my name,
12 however many hours I worked. Pretty
13 neat, huh?

14 Q. Let's go back underground a
15 little bit. The fire valve that you

16 opened to check for water and it
17 didn't come out, you said it egged
18 opened, you could see the ---?
19 A. Yeah, you could see plumb
20 through it.
21 Q. You're sure that the valve was
22 open enough that you would get water
23 out ---
24 A. Yeah.
25 Q. --- had it been full or

168

01 higher?
02 A. Opened it all the way.
03 Q. Okay. Do you have any idea
04 how the smoke got up in the Number
05 Two Section?
06 A. Maybe the airflow, them doors
07 being open, a seal being out.
08 There's a lot of different reasons it
09 could have got up there. The way
10 that some of the men --- when I
11 talked to outside, like Duane and
12 them, they told me that the smoke ---
13 they were getting smoke on the
14 section but it wasn't bad until they
15 started down. When they called ---
16 this was after we were outside, and
17 told me that --- they didn't say who

18 called for the evacuation, somebody
19 called, that's all they said. He
20 said and they got --- they got hit
21 with the same smoke that I did, just
22 that thick black, you can't see
23 nothing.

24 Q. Did they say they had smoke on
25 the section before they left?

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01 A. Yeah. Duane told me there was
02 smoke on the section before they
03 pulled out of it.

04 Q. Duane's last name is ---.

05 A. I don't know.

06 Q. Is it Vanover?

07 A. Yeah. That's him.

08 Q. Once you tested the fire valve
09 and there was no water out of it, did
10 you close it again or did you leave
11 it open?

12 A. No, I left it open. In case
13 if they turn the water on somewhere
14 else, it would come out.

15 Q. Did it have a handle on it,
16 that fire tap?

17 A. Yeah.

18 Q. What color was it?

19 A. Like a copper color. Whatever
20 you want to call copper, brown?

21 Q. Do you know if anybody ---
22 well, there were only two other
23 people there with you, Mr. Callaway
24 and Mr. Cabell. Did either one of
25 them go to look to see if there was a

170

01 valve turned off anywhere?

02 A. Bryan did, I believe. I
03 believe that's what he took off for.

04 Q. Do you know if he found the
05 valve turned off?

06 A. I don't know.

07 Q. Did Mr. Callaway look for a
08 valve at all?

09 A. I don't know.

10 Q. Did they tell you to look for
11 a fire valve turned off?

12 A. No.

13 Q. After listening to your
14 description of how you stood at the
15 door, do you feel fortunate that you
16 evacuated the mine alive?

17 A. Yeah.

18 Q. Do you think your training was
19 adequate as far as emergency
20 preparedness to survive in an
21 emergency or could it have done a
22 better job?

23 A. No, I think they could have
24 done a better job. Anybody put in
25 that position is going to do what

171

01 they got to do to try to get out.

02 Q. Going back to that fire valve
03 just for a second that you left open.
04 Do you know if water ever came out of
05 the valve?

06 A. No, it didn't.

07 Q. It didn't or you don't know?

08 A. No, it didn't.

09 Q. It didn't come out. So the
10 whole time you were there, you would
11 know?

12 A. Yeah, you would have heard it
13 kick on or anything.

14 Q. Okay.

15 A. Even if it would have kicked
16 on, it would have shot right towards
17 the belt, but it never did.

18 Q. You talked earlier about
19 escapeway maps and your review of the
20 escapeway maps. There's one on the
21 surface that you can look at?

22 A. Yeah, in the mine office.

23 Q. And what exactly is that map?

24 A. It's basically got all the
25 checker boards on it and they got

01 stuff wrote down on it, it tells you
02 --- where the box cut --- from the
03 box cut which way to go and what
04 reflectors to follow. If you would
05 get lost, where to go, what to look
06 for and stuff like that. It's a big
07 map on the wall of the mine office.

08 Q. So it's a map on the wall?

09 A. Yeah.

10 Q. Is that a place that miners
11 would normally congregate to review
12 that map?

13 A. Yeah. Yeah, they can.

14 Q. They can. Or do they
15 specifically go there for that
16 purpose or ---?

17 A. No, it's like a conference
18 room. It's in the conference room.

19 Q. Conference room, is that on
20 the second floor of the building?

21 A. Yeah.

22 Q. Are there any maps on the
23 first floor for indicating
24 escapeways?

25 A. Not that I know of.

01 Q. Where do the men usually

02 congregate before they go
03 underground?
04 A. At the table downstairs.
05 Q. Do you know of any map in that
06 room?
07 A. Yeah, right there on the
08 table.
09 Q. On the table?
10 A. It's underneath the glass,
11 like Plexiglas stuff.
12 Q. Does it have escapeways marked
13 on it also?
14 A. I believe. It's not as
15 detailed as the map upstairs.
16 Q. What would be the difference
17 between those two maps, do you know?
18 A. The one upstairs has got all
19 the foremen and that that write on
20 it, you know, new stoppings built or
21 this or that. The one that's on that
22 table is under basically glass and
23 mud and everything else anybody
24 throws on top of it.
25 Q. Food?

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01 A. Yeah.
02 Q. Do you know if anybody updates
03 that map?
04 A. I don't know.

05 Q. Do you think that map's
06 adequate in describing the escapeways
07 to the miners?

08 A. In a sense, yeah.

09 Q. The map's that updated by the
10 foreman, you say that's in the
11 conference room?

12 A. Yeah.

13 Q. On the wall?

14 A. Yeah.

15 Q. Is that the only map in that
16 room?

17 A. That I know of, yeah.

18 Q. We have a question here to
19 exactly locate that map on a wall.
20 Is there a particular wall you can
21 describe that as being on? Is it an
22 interior wall or an exterior wall of
23 the room?

24 A. Well, you walk through the
25 door, turn around and grab the door

175

01 and it's behind the door.

02 Q. Behind the door, okay.

03 Besides the open doors in the
04 overcast where you had the smoke
05 wrapping around you, did you see any
06 other holes in stoppings or in the

07 overcast that would allow
08 contamination?
09 A. I seen smoke coming through
10 two of the stoppings.
11 Q. Were there holes there or was
12 it just through the stoppings?
13 A. I believe there was a brick
14 missing out of the one.
15 Q. Besides your immediate
16 supervisor, that's Mr. Callaway, did
17 the dispatcher know exactly where you
18 were that day?
19 A. I believe so.
20 Q. How would he know that?
21 A. We have to stop at the
22 four-way and you have to clear the
23 road, make sure there's nobody coming
24 out. So yeah, he would have known
25 basically where we were heading. I

01 don't know if he would have known the
02 exact point we were at, but he would
03 have known where we were headed.
04 Q. Did he know what your work
05 assignment was for that day?
06 A. Yeah.
07 Q. How would he know that?
08 A. Pat usually told him.
09 Q. Did Pat learn of that location

10 though on his way down to the box
11 cut?

12 A. Yeah.

13 Q. So then how would the
14 dispatcher have known ---

15 A. When we were ---.

16 Q. --- he's in the box cut;
17 right?

18 A. Yeah. Yeah. The dispatcher's
19 down there, he hands the lights out
20 to you and everything else, so he's
21 right there.

22 Q. So then somebody would tell
23 him, say, if I'm Mr. Callaway, I
24 would say I'm going to ---

25 A. Yeah.

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01 Q. --- whatever location?

02 A. Yeah.

03 Q. If you did have water
04 available at that fire tap and fire
05 hose, do you think could have put
06 that fire out?

07 A. Yeah.

08 Q. Have you put fires of that
09 size out before?

10 A. No. Water would --- I believe
11 water would have put it out.

12 Q. Have you ever had to call a
13 dispatcher for any reason from
14 underground?

15 A. Yeah.

16 Q. Ever have trouble contacting
17 them?

18 A. One of them I did, yeah.
19 You'd sit there and yell at him for
20 five minutes or so and he still
21 wouldn't answer the phone.

22 Q. Did he say why he didn't
23 answer?

24 A. No. Usually we'd tell him
25 stop sleeping and answer the phone.

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01 Q. Do you know who that was that
02 time?

03 A. I can't think of what his name
04 was. He used to work there but he
05 got fired.

06 Q. Do you have any idea when that
07 occurred?

08 A. No, not offhand. Maybe a week
09 prior.

10 Q. Prior to him being fired?

11 A. Yeah.

12 Q. Do you know why he was fired?

13 A. I think over the same thing.

14 Q. Sleeping on the job?

15 A. Yeah, something like that.
16 Q. Have you ever heard from a
17 dispatcher that he tried to get ahold
18 of you and couldn't find you?
19 A. No. Usually somebody will
20 holler and tell you if they were
21 hollering for you, what have you.
22 Q. Being that the longwall crew
23 was closest to the fire location, do
24 you think they should have been
25 contacted to evacuate before the

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01 Number Two Section?
02 A. No.
03 Q. Why not?
04 A. Because Two Section was harder
05 to get out of. Longwall, the
06 longwall had too many escape routes
07 that they could have got out. I
08 could understand the fire was down
09 next to the longwall, but they had
10 more --- they had more options to get
11 out than Two Section.
12 Q. What other options did they
13 have, do you know?
14 A. As far as longwall, they could
15 have went out of --- from where the
16 longwall is, they could have went a

17 different way, could have went
18 straight up. They could have got out
19 of harm's way faster than Two
20 Section.

21 Q. Do you think they should have
22 been evacuated?

23 A. They should have been
24 evacuated when the fire was --- when
25 everybody knew that there was a fire

180

01 in there, they should have been
02 evacuated then.

03 Q. Were they, do you know?

04 A. Were they? No.

05 Q. Do you know how long that time
06 was between when the fire started and
07 they were evacuated?

08 A. No, I don't.

09 Q. Either the longwall or the
10 Number Two Section.

11 A. I don't know how long it was
12 in between. I know --- I can also
13 say though when we pulled up there
14 and the fire was going on if they
15 would have called for the evac right
16 then, they could have got everybody
17 out of there. But you know, I know
18 how things work in the coal mines and
19 basically you evac somebody like

20 that, you're shutting down a section.
21 No section run, no production. No
22 production, they ain't getting
23 nothing. And that's what it all
24 boils down to.
25 Q. So you believe the safety was

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01 compromised in this accident because
02 of production?
03 A. I think so. I mean, they have
04 --- I understand the mine foreman or
05 superintendent or anything like that,
06 they have to assess the situation to
07 see how bad it is before, you know,
08 they go making this call or making
09 that call. But I believe also that
10 --- I mean, we work for a living
11 underground, I believe that our
12 safety should be first, not this or
13 that. If there's a fire, we should
14 be evacuated. If there's a top fall,
15 which you deal with all the time,
16 depends on the top fall. If your
17 methane checks reads too high. You
18 know, they should take all that stuff
19 into consideration.

20 When we pulled up there, if
21 Bryan or one of them, if a mine

22 foreman would have called for an
23 evacuation right then, all of the men
24 would have got out safely, the
25 longwall, Two Section, everybody and

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01 nobody would have perished in that.

02 Q. Is it Bryan's responsibility
03 to make that call?

04 A. He could have called the
05 foreman and said, you know, anything.

06 Yeah, I believe it is his
07 responsibility because he was a
08 beltman.

09 Q. If he did call the foreman to
10 report that fire to him, and the
11 foreman order evacuation, would that
12 be adequate?

13 A. Yeah. Yes, it would have.

14 I'm just saying they lost two, two
15 very good men over there. I've
16 worked with both them men. You know,
17 one was a personal friend of mine and
18 I believe that in an incident like
19 that, they should --- you know, the
20 safety of the men should be first
21 priority, not sit there and want to
22 come and assess the situation. The
23 safety of the men.

24 Q. On behalf of all of the people

25 in the room, we're sorry for your

183

01 loss. I know this has got to be a
02 terrible tragedy for you personally.

03 Do you know who has the
04 authority to order an evacuation of
05 the mine?

06 A. The mine foreman.

07 Q. Is it a responsibility also of
08 his?

09 A. Yeah.

10 Q. When you were stationed at
11 that door to watch for people, do you
12 understand what exactly your
13 responsibilities were?

14 A. Yeah.

15 Q. And what were they?

16 A. If I could hear anybody
17 yelling, maybe if I seen anybody's
18 lights, anything --- anything like
19 that. You know, if I would have seen
20 a light and not heard anything, at
21 least try --- try to get in there to
22 do, you know, what I could do. You
23 know, we all wish we could have done
24 more, but that's all I could have
25 done.

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01 Q. Standing at that door, you had
02 your rescuer with you. Did you have
03 it on at that point?

04 A. Yeah. Yeah, after I got into
05 the smoke and that, I did have it on.

06 Q. Had the men tried to come out
07 through the smoke in that travelway,
08 would have you had your rescuer on at
09 that point?

10 A. Depending on the time of it.

11 Q. So ---?

12 A. I was in the smoke, but it
13 wasn't that bad. You know, I just
14 pulled my shirt and put it over my
15 face and then before you could turn
16 around and that, I mean, it was ---
17 you couldn't, your light was just
18 reflecting right back at you. You
19 couldn't see at all.

20 Q. Would you have gone into the
21 smoke to assist people in the mine?

22 A. If I would have seen them,
23 yes, I would have.

24 Q. You would have worn your
25 rescuer to do that?

185

01 A. Yeah. I would have done the
02 best I could, you know. That's all I
03 can say.

04 Q. Would you have asked for
05 assistance to do that?

06 A. If I had assistance.

07 Q. As far as the mine phones, do
08 you know if they worked the entire
09 time you were there in that area?

10 A. The one that was next to the
11 belt didn't. It cut off completely.

12 Q. Why did you decide to leave
13 the area?

14 A. I couldn't withstand it
15 anymore. The smoke --- the smoke
16 basically overwhelmed me. I
17 panicked, you know. It's a bad
18 situation. You could hear stuff
19 falling and cracking and popping. It
20 sounded like thunder coming through
21 there. The vibration and that of it.
22 Not being able to see your hand in
23 front of your face. I mean, it was
24 bad.

25 Q. Seemed like it was time to get

186

01 out?

02 A. Yeah.

03 Q. Which way did you go to leave
04 the area? You said you followed the
05 rib out?

06 A. Yeah. Basically back up
07 towards where the overcast was and
08 actually underneath where the belt
09 come across, it comes across through
10 the overcast just right up that a
11 way.

12 Q. Could you come up the map one
13 more time? Would you mark that up
14 here?

15 A. Yeah.

16 Q. We'll go to Exhibit A. Use
17 this red pen and mark your escape
18 from that area.

19 A. Where the doors are here, I
20 would have come back out this way.

21 Q. Just go ahead and draw a line
22 on there, please.

23 A. I come out this way. I come
24 up like from this overcast, then went
25 out. Yeah.

187

01 Q. Did you come back down into
02 the north mains from there?

03 A. Yeah.

04 Q. Could you go ahead and mark
05 that, too, please?

06 A. Right about right here, I come
07 in this way.

08 Q. You marked this going through

09 a stopping. Did you have a door
10 there or ---

11 A. No.

12 Q. --- did you come through an
13 opening up here or ---?

14 A. Up this way.

15 Q. Okay. So the line drawn
16 through the stopping between spad
17 2844 and --- you came out, one you
18 can't read here, that line here?

19 A. Yeah.

20 Q. Could you just X that out,
21 please?

22 A. Come up and around and come
23 down.

24 Q. Okay. And where did you get
25 out of the smoke?

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01 A. I was out of the smoke right
02 up here around this turn, right in
03 here.

04 Q. Okay. Could you just mark on
05 the side for us, please? Maybe if
06 you don't mind putting a couple
07 arrows on the line for us to show
08 that that was the escape route.

09 WITNESS COMPLIES

10 BY MR. FRANCAERT:

11 Q. Thank you. Have you ever been
12 confused by the reflectors they've
13 used to designate escapeways
14 underground at all?

15 A. No.

16 Q. Do you know anybody that has
17 been confused by that?

18 A. Yeah. Yes, I have.

19 Q. And who was that?

20 A. Some, actually, red hats that
21 I worked with one time didn't
22 understand completely what those
23 reflectors meant. Men that I worked
24 with at Aracoma thought that red was
25 --- always thought that red was your

189

01 way out, when that, in fact, was the
02 way to the mine or to the section
03 itself.

04 Q. That's probably not a good
05 thing. Were they trained, you think,
06 to recognize the difference or ---?

07 A. That I don't know. I can't
08 honestly say. Maybe he sat in the
09 back of the man --- you know, on the
10 manbus going in. If you're going in
11 and you're looking out the back,
12 yeah, that'd be right, but I don't
13 know.

14 Q. When you first started at
15 Aracoma, did you get trained on
16 evacuation procedures?

17 A. Fred Horton went over some of
18 the evacuation procedures with me.

19 Q. Went over the colors and ---?

20 A. Yeah, the colors, the
21 reflectors and what have you, what
22 you would do if you ended up in this
23 spot, you know.

24 Q. Did you know that there was an
25 incident that occurred on December

190

01 23rd at the head drive there, mother
02 belt?

03 A. I heard.

04 Q. Do you know any more than just
05 rumors and heard about it ---?

06 A. No. I just heard the hearsay
07 about --- that there was a fire up
08 there.

09 Q. When did you receive your last
10 annual refresher training?

11 A. Probably a year ago.

12 Q. Did you sign a paper that you
13 attended that training?

14 A. Yeah.

15 Q. Do you have any idea what the

16 subjects were that you covered?

17 A. It was basically --- it went
18 over a lot of different things. It
19 went over your rescuer, how to use
20 your rescuer, when do you use your
21 rescuer, machinery, if you, you know,
22 were equipment operator, escapeways,
23 intake, ventilation. It went over a
24 lot of different things.

25 Q. Do you think this is a safe

191

01 mine?

02 A. Yeah. Is now.

03 Q. Was it before the fire?

04 A. Every mine has its faults, I
05 guess.

06 Q. As far as the faults at this
07 mine, are there any you would like to
08 point out to us that maybe could be
09 corrected to prevent these fires in
10 the future, this type of an accident?

11 A. I think that the mother
12 drives, power stations and that, they
13 should have, you know, more fire
14 suppression up there. They should
15 have fire hose there. I've been ---
16 I've worked in a union mine and to go
17 in a non-union mine to a union mine,
18 it's like the difference between

19 night and day. They should have
20 anything --- anything to put out a
21 fire. They should have fire
22 extinguishers along with more fire
23 valves. I mean, there's different
24 things that they could do going
25 through there. There's one ---

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01 there's one mother drive at the union
02 mine that I was originally working
03 at, I bet you they had 500 foot of
04 fire hose there and it was all
05 wrapped, you could run --- just run a
06 reel and just go. They had the ---
07 what's it called? The dry powder,
08 that dry powder fire suppression kit
09 on the offside and had water spray
10 --- water suppression on the other
11 side. I mean, there's a lot of
12 different things. Better
13 communication down there, you know.
14 There's a lot of different things
15 that could be addressed. As to
16 whether or not it gets done or not
17 ---. I mean, we all have to make a
18 living, so ---.

19 Q. As far as the fire hose
20 storage at Alma, how are they stored?

21 A. Most generally, they are next
22 to a --- anywhere you find a power
23 center, you can usually find a fire
24 hose or one of the belt drives or
25 that, you can find fire hose there,

193

01 but in this particular case, there
02 wasn't none there.

03 Q. In those other areas, how is
04 it stored, is it just wrapped up and
05 laid on ---?

06 A. I've seen it wrapped up in a
07 big roll. I've seen it laying,
08 laying against a rib. I've seen ---
09 you know, it all depends.

10 Q. Is it easy to access if you
11 had to use it? Could you just unroll
12 it or is it strapped up ---?

13 A. No, you'd have to cut straps
14 on it or ties on it.

15 Q. Have you ever tried to connect
16 a fire hose in this mine to a tap?

17 A. No.

18 Q. How is the air directions in
19 the belts --- have you ever noticed
20 which way the air flows on the
21 48-inch belt?

22 A. It flows down, I believe.

23 Q. What do you mean down? Does

24 it go toward the section or away from
25 the section?

194

01 A. It would go toward the
02 section, I believe. Yeah, I believe
03 it would go toward the section.

04 Q. Did you have much of an
05 opportunity to get around the feeder
06 on the Number Two Section?

07 A. Not a whole lot. Some.

08 Q. Do you know if there's
09 curtains hung around the feeder?

10 A. There was curtain. I know
11 there was curtain hung up there. As
12 far as around the feeder, that I'm
13 not sure of. I do know --- I know on
14 the ones, it's one to three from the
15 left and some over from the right.
16 That's how I remember seeing it.

17 Q. Those are for the face
18 ventilation, ---

19 A. Yeah.

20 Q. --- those curtains? But you
21 don't know about curtains at the
22 feeder in --- just outby the feeder
23 separating the belt from the ---?

24 A. No, I don't. I didn't run the
25 buggy up there, I ran the bolter up

01 there.

02 Q. You had the bolter on Two

03 Section?

04 A. Yeah.

05 Q. Was that before they made the

06 turn?

07 A. Yeah.

08 Q. So you were in northeast mains

09 ---

10 A. Yeah.

11 Q. --- at that time?

12 MR. FRANCCART:

13 Bill?

14 MR. TUCKER:

15 Okay.

16 BY MR. TUCKER:

17 Q. I've got a few more. When you

18 tried the fire valve outlet and

19 realized there was no water there,

20 did you tell Bryan Cabell?

21 A. I told Pat.

22 Q. Was Pat back there at that

23 time that you'd ---?

24 A. Yeah, when Pat come back down

25 I told Pat that I couldn't get no

01 water on there.

02 Q. Did you and Bryan ever have

03 any discussion about water?

04 A. No.

05 Q. None at all? You don't

06 remember Bryan making any comments

07 about water?

08 A. Not right offhand. I know

09 that he was --- and I didn't know

10 this until after the fact though, so

11 I can't --- I don't know how you

12 would say this. But after the fact

13 that we got up there and got with Two

14 Section, the men at Two Section, they

15 said that Bryan wouldn't turn the

16 water valve on. And basically that's

17 why we wasn't getting no water down

18 there because he had to go somewhere

19 else and turn that valve on to get

20 water up there.

21 Q. Okay. Did Bryan have his mine

22 light on ---

23 A. Yeah?

24 Q. --- when you all were ---? Do

25 you remember how it was attached to

197

01 his body?

02 A. To a belt.

03 Q. To a belt, it was connected to

04 a belt?

05 A. I believe --- no ---.

06 Q. A mine belt?

07 A. No, I think it was in his back

08 pocket.

09 Q. Back pocket?

10 A. Yeah.

11 Q. Okay. Do you participate in

12 the safety meetings at the mine? As

13 a contractor, are you allowed to

14 participate in those?

15 A. If they have a meeting there

16 and I walk into it, yeah. If it's

17 somewhere else, as far as if it would

18 come here, you know, just saying for

19 instance, if it would come here or go

20 to another building or that, no, I

21 wouldn't be able to participate in

22 it.

23 Q. What shift are you going to be

24 working on?

25 A. First now, I guess.

198

01 Q. Dayshift?

02 A. Yeah.

03 Q. The map you were talking about

04 in the conference room, would you get

05 directions from --- or shown anything

06 from that map as far as to what

07 stoppings to be knocked or built or

08 would you get instructions using that
09 map?

10 A. You can see on some of the
11 general stoppings that had been
12 knocked, you can see where they sat
13 there and poked their pen at it
14 telling somebody about it.

15 Q. So you personally --- have you
16 ever received any instructions by
17 using that map?

18 A. No.

19 Q. Did Duane happen to say when
20 the smoke first came up on the
21 section? You mentioned Duane ---?

22 A. No. He didn't say exactly
23 when the smoke come onto the section.
24 He just told me that they were
25 getting smoke on the section. So I

199

01 don't know at approximately what time
02 it was, but I know that it would have
03 been by the time that I was yelling
04 on the mine phone, because I believe
05 it was Duane, Duane or Pat Kisner was
06 on the phone when they heard me yell
07 across there about the fire and
08 needing people up there.

09 When I said I couldn't get the

10 fire out or we needed help with the
11 fire, they heard that and they were
12 already getting smoke on the section.
13 Because I held both the buttons. I
14 didn't just hold one button and try
15 to talk into it. I held both the
16 buttons and yelled. So anybody
17 throughout the mine could have heard
18 what I said.

19 Q. You was paging?

20 A. Yeah.

21 Q. And how do you know that they
22 heard you say that?

23 A. I believe it was Duane or Pat,
24 one of them, told me they heard me
25 yell across there.

200

01 Q. That there was a fire out of
02 control?

03 A. Yeah.

04 Q. And at that point, you're
05 saying that Duane told you that he
06 already had smoke on the section ---

07 A. Yeah.

08 Q. --- when he heard you call and
09 tell him that?

10 A. Yep.

11 Q. Did he say how bad the smoke
12 was?

13 A. Not really. He told me that
14 there was --- all he really said was
15 there was smoke, like a hazy smoke up
16 there, and you could smell it. You
17 could smell it plain as day.

18 Q. He said you could smell the
19 smoke on the section before they
20 left?

21 A. Yeah.

22 Q. Did he specify that was before
23 they left?

24 A. No, he just told me it was up
25 there.

201

01 Q. On the section?

02 A. On the section.

03 Q. Have you ever heard any
04 discussions at all about people
05 turning the belts off as far as any
06 direction on at what point you would
07 shut a belt off? Have you ever heard
08 any conversations?

09 A. About shutting belts off?

10 Q. Right.

11 A. I've heard, yeah, you shut
12 belts off.

13 Q. It's okay at any time to shut
14 one off?

15 A. Oh, no, you'll get in big
16 trouble. They'll write you up for
17 that.
18 Q. They will?
19 A. Yeah. If there's an accident
20 or you have your landmines around
21 there, which I've stepped on them
22 plenty of times, if you step on a
23 landmine, it will shut the belt off.
24 And then, you know, basically you
25 just go to the spider box and reset

202

01 it and it will kick back on. But
02 like if you got your One belt, Two
03 belt, Three belt, Four belt, Five
04 belt, if you kick Two, it's going to
05 shut them all off.

06 Q. Right.

07 A. So ---.

08 Q. Do you know of anybody that's
09 ever been written up personally for
10 shutting the belt off?

11 A. Some of the other people that
12 used to work there.

13 Q. Do you have a name?

14 A. I don't know who they were,
15 because I --- we was working at Three
16 Section and I did something, did
17 something down there and went to jump

18 off and --- went to jump off the one
19 box or something, I don't know what I
20 did, but I knocked one of the mine,
21 the landmines off. And the one boy I
22 was working with said you better
23 watch, he said they'll fire you over
24 that. He said, I know people that's
25 been wrote up. So ---.

203

01 Q. Who told you that, who was
02 that?
03 A. Brandon.
04 Q. Brandon ---?
05 A. Lusk (phonetic).
06 Q. Lusk. Did those people that
07 was fired for that or ---
08 A. Written up.
09 Q. --- written up, did they work
10 for Apollo or do you know?
11 A. Yeah, I believe so.
12 Q. They were contractors?
13 A. I believe so.
14 Q. Has anybody ever instructed
15 you about shutting the belt off?
16 A. I've had to shut the belts off
17 before.
18 Q. I mean, has a company
19 representative ever given you

20 instructions on shutting belts off or
21 not shutting them off?

22 A. No, they've never sat down and
23 told me my dos and don'ts about it,
24 you know. I know if there is a bad
25 splice or what, you know, you go to

204

01 your boss or section boss or whatever
02 and tell them. Now, if the splice is
03 bad enough that it's going to break
04 coming out there, yeah, I'd pull a
05 cord or something to shut the belt
06 off.

07 Q. Okay.

08 A. But that's more --- you got
09 more explanation on that than, you
10 know, just step on a landmine, you
11 know, out of an accident or something
12 like that.

13 Q. You mentioned that if the
14 water had come back on, you left the
15 valve open, it would have shot toward
16 the belt ---

17 A. Yeah.

18 Q. --- and you would have known
19 that it was on?

20 A. Yeah.

21 Q. Which way was it pointing?

22 When you say toward the belt, are you

23 talking about the mother drive belt
24 or the six-foot belt?

25 A. It would have --- the way that

205

01 that big waterhole was right here and
02 you come over here and you go down
03 and you got your --- your mother
04 drive right here, it was aimed right
05 that way. So I mean, it would have
06 run down that hill or anything, but
07 you had, I think, two or three other
08 lines that come down through there.

09 Q. Did you ever hear Bryan make a
10 comment about the Two Section crew
11 while you were fighting the fire?

12 A. No.

13 Q. There was no discussion
14 between anybody ---?

15 A. He didn't --- like I said, he
16 didn't say a whole lot to me. He
17 talked more to --- him and Pat.

18 Q. And you didn't overhear any of
19 those conversations?

20 A. No.

21 Q. I know you've talked about
22 some things maybe that could have
23 been done different. Can you think
24 of anything else in your mind that

25 could be done to prevent a

206

01 reoccurrence?

02 A. Yeah, there's --- you know,
03 there's different things, yeah. Put
04 the fire suppression, like I said.
05 Different fire suppression kits,
06 having a water, you know --- people
07 ought to be up in there. Like most
08 places will have their own
09 ventilation crew, they'll have their
10 own outby crew, they'll have this and
11 that. I understand that they were
12 shorthanded at Aracoma and that, but
13 like I said, that comes to the whole
14 safety issue about the men working
15 there. You know, there ought to be
16 --- they ought to look at the men
17 working there, you know, for their
18 families and everything else to make
19 a living instead of looking at the
20 production or this or that that those
21 men can put out. You know, instead
22 of being shorthanded and putting them
23 all up on the section to do this or
24 put them at another section to do
25 this, bring the people in to check

207

01 them water lines, you know, to make

02 sure that the proper firefighting
03 equipment's up there. You know,
04 better communication in there. You
05 know, there's quite a few different
06 things that should be done, but you
07 know, it's whether it gets done or
08 not. I mean, you look at the higher
09 powers of like Massey and that, you
10 would think that all the practice and
11 preaching they do about safety first
12 should be about safety. You know,
13 they should take the time out to say
14 this or go check that or bring a crew
15 in, do ventilation, bring a crew in
16 to do stoppings. You know, but it's
17 not like that. It's just a number to
18 them is all we are. It's just a
19 number.

20 Q. We greatly appreciate your
21 comments, Joe.

22 MR. TUCKER:

23 That's all I have.

24 BY MR. FRANCAERT:

25 Q. A couple more questions for

208

01 you, Joe.

02 A. Have mercy.

03 Q. I promise you it won't be

04 long. You said that Aracoma is
05 shorthanded. Why are they
06 shorthanded?
07 A. They lost almost 13 people a
08 week before Christmas for a drug
09 test. There was --- I don't know
10 whether they quit or they got fired
11 or what have you. The first week of
12 January they had another drug test
13 and lost, I think, seven or eight
14 more people. That threw everything
15 completely in turmoil. Where they
16 had basically, you know, the sections
17 were running good and that until they
18 started losing people and then people
19 quitting and you know, it put ---
20 everybody was shorthanded. So they
21 took people from Two Section, put
22 them on Three Section and people from
23 Three Section that was on another
24 crew, they put them in Two Section.
25 Or you bounce, you go work at Two

209

01 Section one day, work at Three the
02 next. Work at outby the next day.
03 It just all depends.
04 Q. Did they ask you to double on?
05 A. No. We worked over in some
06 cases 13, 14, 15 hours. You know, it

07 depends.

08 Q. You have a unique perspective
09 because you've been able to work at a
10 number of different mines. How's the
11 safety at this mine compared to the
12 other ones that you've worked at?

13 A. The safety at Aracoma Mine, it
14 wasn't bad. Just like any other
15 mine, you go into it, they'll have
16 their bad spots, bad top, bad ribs,
17 you know, depending on where you go.
18 I have been in a worse mine than
19 that. This was a more gassier mine
20 than any mine I've been in. And that
21 come from a few of the bosses that
22 worked there, that that was basically
23 the second or third gaseous mine in
24 West Virginia.

25 Q. This mine at Aracoma?

210

01 A. Yeah. Had water problems.
02 When they slope in, they've done hit
03 water two or three times up there and
04 had to seal it off.

05 Q. Who told you this was a gassy
06 mine?

07 A. A couple of the bosses.

08 Q. Do you know who they were?

09 A. Not right offhand.

10 Q. How long do you think you had
11 your SCSR on where you actually used
12 it to protect yourself?

13 A. I'd say on and off probably 45
14 minutes.

15 Q. Do you know how long they're
16 good for?

17 A. An hour. Supposed to be,
18 depending on how much you huff in
19 them. A bigger man is going to use
20 more air.

21 Q. I'm sure.

22 A. They don't tell you that.

23 Q. They didn't tell you that?

24 A. No.

25 Q. Yesterday was your first day

211

01 working for Aracoma; is that right?

02 A. Yeah, but I went to my
03 orientation and that yesterday.

04 Q. When were you told that you
05 were going to be brought on as an
06 employee of the company?

07 A. Last week.

08 Q. So it was after the fire?

09 A. Yeah. I've already been
10 promised to be hired on company.

11 That's what a lot of people don't

12 understand. I worked at Independence
13 Coal, which is a part of Massey and
14 it's been my fortunate luck because
15 when I worked over there, I was
16 supposed to get hired on company.
17 The superintendent got fired and they
18 went through cutbacks and layoffs.
19 I've been --- I went to work at
20 Hernshaw, which is Aracoma, that's
21 the other mine on the other side of
22 the hill from Aracoma. You can run
23 from Hernshaw into the Alma Mine. I
24 worked over there for ten months,
25 maybe 11 months. The superintendent

212

01 over there ended up getting fired.
02 And they brought the president of
03 Aracoma in to run. Well, they did
04 their cutbacks and layoffs. So I
05 bailed out of there and went back to
06 Independence for a while. And then
07 they told me that they would send me
08 down to Alma, which is part of
09 Aracoma, because it's not far from my
10 house. So I just switched and went
11 back over there. And it's been an
12 ongoing thing, you know, to get hired
13 on the company. I was supposed to

14 have 90 days to be hired on the
15 company and there I've been over
16 there almost over a year, you know,
17 between Aracoma, Independence and
18 back to just now having it.

19 Q. Did you complain to anybody
20 during that time?

21 A. Oh, yeah. I aggravated the
22 life out of everybody. That's just
23 me though, I'm no personality person.
24 I'll tell you what I think.

25 Q. Well, that's good. We're glad

213

01 you do. As far as --- what does this
02 change mean to you personally as far
03 as your pay, benefits? What do you
04 gain by becoming an employee of
05 Aracoma rather than Apollo?

06 A. Well, for one thing, it was
07 brought to my attention that after
08 the fire, when I talked to, I believe
09 it was, Brad down at Apollo, that
10 they no longer covered us with
11 anything, no life insurance, no
12 nothing. And it was basically set in
13 motion then, like I told them, that
14 you know, after 90 days, they're a
15 contractor, they're supposed to
16 supply you with, you know, some sort

17 of insurance, you know, whether it be
18 medical, dental, vision, anything
19 like that. After the fire, they cut
20 it all off. You had nothing.

21 Q. That's what they told you?

22 A. Yeah. No life insurance, no
23 vision. The only thing they pay for
24 is prescriptions if you had to go to
25 the doctor. And to my understanding,

214

01 they had some sort of life insurance
02 and that on --- you know, on you
03 while you worked there. But it gives
04 you --- basically you get all your
05 insurance, your 90/10 insurance, you
06 get a better pay raise, you get paid
07 every two weeks, you get your paid
08 holidays, your paid vacation, your P
09 days. It's overall better, you know,
10 to work for a company rather, you
11 know, than to be through a
12 contractor. But the thing that I've
13 stressed to, like the HR man and the
14 CEO of Massey, is the night that we
15 come out, we come out into the mine
16 office, we weren't allowed to leave.
17 We weren't allowed no communication
18 outside of that mine. We weren't

19 allowed to contact our families. We
20 weren't allowed to do nothing. And
21 it was basically set forth right
22 there that we would probably have
23 stand-down time and on that
24 stand-down time, everyone would be
25 paid for their time off. It didn't

215

01 say company, it didn't say
02 contractor. They said everyone. And
03 the situation I was put in in that
04 mine and I got out, you know,
05 fortunate enough to get out and what
06 have you, but they --- nobody called,
07 nobody called to check on me, nobody
08 called to check on my family, no
09 nothing. Nobody supported me through
10 that at all. And then out of the
11 blue, you know, you get hired
12 company.

13 Q. Out of the blue, what does
14 that indicate to you?

15 A. Well, the human resource man
16 called and asked me if I still wanted
17 to work for them. And I told them
18 that I was working through another
19 contractor at another place on the
20 stand-down time. And wanted me to
21 come back to work. And I told him

22 that I wasn't coming back to work
23 through a contractor. I said I found
24 out all the other side to that story.
25 And I mean, it was just put on the

216

01 table if I was to come back to work,
02 I'd work through the company, I
03 wouldn't work through a contractor.
04 Take it or leave it, that's it. They
05 called 15 minutes later, had my
06 physical and everything set up. I
07 can run every piece of equipment
08 underground that there is, from a
09 scoop to a buggy to a pinner to a
10 miner.

11 Q. They were shorthanded by
12 several dozen ---

13 A. Yeah.

14 Q. --- people?

15 A. Yeah. But you know, if you
16 run them through a contractor, well,
17 you don't have to pay them. You can
18 --- you know, I can run a miner,
19 \$23-an-hour job, I can do it for \$16.
20 What would you pay?

21 Q. I understand.

22 MR. FRANCCART:

23 Bill?

24 MR. TUCKER:
25 I'll be real quick.

217

01 A. Hurry up.

02 BY MR. TUCKER:

03 Q. Who told you, you couldn't
04 call your family, et cetera, the
05 night of the event?

06 A. That was the human resource
07 man.

08 Q. Who is that?

09 A. Gary Duncan. One of the other
10 bossmen said that, too. There was to
11 be no --- they cut all communication
12 to that mine, which I met Joe Manchin
13 that night, too. He's the one that
14 actually calmed me down, because I
15 was being not so nice with one of the
16 people up there, you know, when they
17 told me. And you know, you figure
18 they called 9-1-1 by then, it's
19 already all over the scanners, on the
20 news and everything else. And then
21 you got my family and everything else
22 waiting down at the end of the road
23 wondering if I'm in the mine or out
24 of the mine. You don't know.

25 Q. Right. That was your concern,

218

01 just to be able to let them know you
02 were okay?

03 A. Yeah. To let --- you know, to
04 let all my family and that know.

05 Q. Who was the boss that ---?

06 A. I'm not sure what that
07 bossman's name was but it was
08 basically, you know, they --- it was
09 basically said right there, you know.

10 And I even went upstairs and was
11 going to use one of the phones up
12 there and they took all the receivers
13 off all the phones, except in one
14 office and that's when that state cop
15 was in there. I believe he was
16 calling the Governor's Office.

17 Q. Okay. Do you remember who did
18 the drug testing at the mine?

19 A. Lab One.

20 Q. Lab One.

21 A. All the safety people were
22 there from Aracoma. You had --- his
23 name's Randy Boggs (phonetic) was
24 there, Steve what's his name was
25 there. Gary Duncan was there, which

219

01 is the HR man. And then there was
02 somebody else there. They had Lab

03 One to do it.

04 Q. Do you have any opinion on who
05 should do drug testing around coal
06 mines throughout the state?

07 A. I think we should have one
08 about every other week.

09 Q. I'm saying do you have an
10 opinion on who should do those tests?

11 A. No, not really. I mean, I
12 believe that --- I believe, you know,
13 they should have a random drug test
14 with the equipment and stuff and us
15 being underground. Yeah, it needs to
16 be a safe work area.

17 Q. Right. And we agree. When
18 they do the drug testing, do they
19 test the contractors also?

20 A. Yeah. Yeah, anybody --- they
21 usually --- when you go to work that
22 day, you'll have two of the safety
23 guys standing out here by the door
24 and two at the other door and they
25 tell you right there before you walk

220

01 in, having drug tests today, if you
02 turn around and leave, well, then you
03 might as well not come back. So they
04 stand there and make sure, you know,
05 you don't leave or what have you.

06 And then before you go underground,
07 your shift goes underground or crew
08 goes under --- you know, what have
09 you, you have to turn that paper in.
10 You've got to show them the paper
11 right there at the door before you
12 can get on the elevator and go down
13 that you took the test.

14 MR. TUCKER:

15 Right. All right. Mr.
16 Rose, we greatly appreciate
17 your patience with us and you
18 coming here today and speaking
19 with us.

20 MR. FRANCAERT:

21 Joe, we're going to
22 wrap it up now.

23 A. Okay. Wrap it up.

24 MR. FRANCAERT:

25 On behalf of MSHA, I

221

01 thank you for your appearance
02 here today and answering all
03 our questions and sharing your
04 information about the mine and
05 the accident. Your
06 cooperation has been very
07 helpful and very important to

08 us as we work to determine the
09 cause of the accident. If you
10 wish, you can go back now over
11 anything you've discussed with
12 us or if there's anything
13 you'd like to add, you have
14 that opportunity now
15 A. No, I've done said all I need
16 to say already.

17 MR. FRANCCART:

18 If you don't mind for
19 the record, we've had you sign
20 both the other maps up here,
21 we do need you just to sign
22 Exhibit B.

23 A. Okay. How long is that
24 investigation going to go on up
25 there?

222

01 MR. FRANCCART:

02 Well, we don't know at
03 this point. We have a lot
04 more work to do and we really
05 don't know. The things we
06 learn take us in different
07 directions, so ---. We wish
08 we could tell you today but we
09 just don't know. Is there
10 anything else you would like

11 to add at this time?

12 We do ask that you
13 don't discuss this interview
14 today with anybody who may
15 have already been interviewed
16 or with anybody we may
17 interview in the future. So
18 we get an unbiased account
19 from them of what's happened.

20 After questioning other
21 witnesses and obtaining
22 additional information, we may
23 be asking you to come back.

24 If at some later point,
25 you have additional

223

01 information regarding the
02 accident that you would to
03 pass on to us, please contact
04 Mr. Murray, or his staff
05 assistant, Anthony Webb. And
06 here are some cards for you to
07 take with their contact
08 information. I think, Bill,
09 you have some, too.

10 MR. TUCKER:

11 Yes, sir. This is my
12 card and C.A. Phillips', he's

13 our Deputy Director, if you
14 need us for anything.

15 MR. FRANCCART:

16 One thing you need to
17 know, that the Mine Act does
18 provide certain protection for
19 all individuals who
20 participate in accident
21 investigations. If at any
22 time you believe that you've
23 been discriminated against or
24 treated unfairly because of
25 your appearance here today or

224

01 because of what you've done to
02 appear here today, please let
03 Mr. Murray know, and that will
04 be taken care of immediately.
05 Bill, do you have anything
06 else?

07 MR. TUCKER:

08 Just again, we
09 appreciate you coming and if
10 at any point you think of
11 something that maybe you
12 haven't told us today that
13 would help in our
14 investigation, we appreciate
15 if you would let us know. If

16 anything comes up at any time
17 we can help you with, you give
18 us a call.

19 MR. ROSE:

20 I sure will.

21 MR. FRANCAERT:

22 Thank you.

23 MR. ROSE:

24 Thank you.

25 EXAMINATION CONCLUDED AT 12:12 P.M.