

01 EXAMINATION UNDER OATH
02 OF
03 JAMES LEE BURTON SHELTON, JR.
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, Department of
10 Environmental Protection, 1101 George
11 Kostas Drive, Logan, West Virginia,
12 on Tuesday, February 28, 2006, at
13 4:06 p.m.

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25 by the certifying agency.

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

02

03 DENNIS BEITER, ESQUIRE

04 Mine Safety and Health Administration

05 Supervisory Mining Engineer

06 Technical Support

07 Rural Route 1, Box 251

08 Industrial Park Road

09 Triadelphia, WV 26059

10

11 WILLIAM TUCKER

12 Assistant Inspector at Large

13 West Virginia Office of

14 Miners' Health, Safety and Training

15 142 Industrial Drive

16 Oak Hill, WV 25901

17

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01 A P P E A R A N C E S (cont.)

02

03 ALSO PRESENT:

04 Michael Finnie

05 Ronald W. Stahlhut
06 William J. Francart
07 Charles W. Pogue
08 Arlie A. Webb
09 Anthony L. Burke
10 C. A. Phillips
11 Eugene White
12 Beth Spence
13 Danny Cook
14 Dan Barish
15 Kenny Murray
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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. BEITER:

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

12 that is assigned the task of
13 investigating the accident
14 that occurred at the Aracoma
15 Coal Company, Incorporated,
16 Aracoma Alma Mine Number One
17 on January 19th, 2006.

18 This is a joint
19 investigation that MSHA is
20 conducting with the State of
21 West Virginia. In today's
22 interview, I'll be asking the
23 questions for MSHA.

24 With me here today are
25 other members of MSHA's team

7

01 and the state's team. MSHA's
02 team includes various
03 specialists and members of the
04 Solicitor's Office. I work
05 for a technical support group
06 of MSHA and I'm stationed out
07 of Triadelphia, West Virginia,
08 in the Ventilation Division.
09 And I'd ask the other members
10 of the MSHA team to introduce
11 themselves.

12 MR. BARISH:

13 Hello. My name is Dan
14 Barish, from the Solicitor's

15 Office, MSHA, in Arlington,
16 Virginia.

17 MR. WEBB:

18 And I'm Anthony Webb
19 with MSHA in Pikeville,
20 Kentucky.

21 MR. STAHLHUT:

22 Ronald Stahlhut, MSHA,
23 Vincennes, Indiana.

24 MR. POGUE:

25 Charley Pogue with

8

01 MSHA, Hunker, Pennsylvania.

02 MR. FINNIE:

03 Mike Finnie, MSHA,
04 Madisonville, Kentucky.

05 MR. MURRAY:

06 Kenny Murray, MSHA,
07 Pikeville, Kentucky.

08 MR. BURKE:

09 Tony Burke, MSHA,
10 Whitesburg, Kentucky.

11 MR. FRANCCART:

12 Bill Francart,
13 Pittsburgh, Pennsylvania.

14 MR. BEITER:

15 Here with us today
16 also, representing the State

17 of West Virginia is Mr. Bill
18 Tucker. Mr. Tucker will be
19 asking the questions for the
20 State. And at this time I ask
21 Mr. Tucker to introduce the
22 members of the state. And he
23 had a statement for you.

24 MR. TUCKER:

25 I need to read you a

9

01 brief statement.

02 MR. SHELTON:

03 Okay.

04 MR. TUCKER:

05 The West Virginia
06 Office of Miners' Health,
07 Safety and Training is
08 conducting this interview
09 session jointly with MSHA.
10 And we're in agreement with
11 the procedures outlined by Mr.
12 Beiter.

13 However, let me make it
14 clear that the director
15 reserves the right, if
16 necessary, to call or subpoena
17 witnesses or require the
18 production of any record,
19 document, photograph or other

20 relevant materials necessary
21 to conduct this investigation.
22 Again, my name is Bill Tucker.
23 I'm with Miners' Health,
24 Safety and Training. I work
25 out of the Oak Hill office.

10

01 MR. PHILLIPS:
02 I'm C.A. Phillips. I'm
03 the deputy director,
04 Charleston, West Virginia.

05 MR. WHITE:
06 Eugene White, district
07 inspector out of Region Three
08 in Danville.

09 MR. COOK:
10 Danny Cook, Danville
11 office.

12 MS. SPENCE:
13 Beth Spence, Governor's
14 Office.

15 MR. BEITER:
16 This investigation is
17 being conducted by MSHA and
18 the State of West Virginia, to
19 gather information to
20 determine the cause of the
21 accident and to help prevent

22 this from happening again.

23 These interviews are an

24 important part of this

25 investigation.

11

01 After the investigation

02 is completed, MSHA issues a

03 written report, detailing the

04 nature and causes of the

05 accident. The MSHA accident

06 reports are made available to

07 the public in the hope that

08 greater awareness about the

09 causes of accidents can reduce

10 their occurrence in the

11 future.

12 Information obtained

13 through interviews is

14 frequently included in these

15 reports. Your statement may

16 also be used in other

17 enforcement proceedings.

18 I'd like to thank you

19 in advance for your appearance

20 here today. We appreciate

21 your assistance in this

22 investigation. The

23 willingness of miners and mine

24 operators to work with us is

25 critical to the success in

12

01 making our mines safer.

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

18 This interview is being
19 conducted at the State of West
20 Virginia Department of
21 Environmental Protection,
22 Division of Mining and
23 Reclamation at 1101 George
24 Kostas Drive, Logan, West
25 Virginia 25601 on February

13

01 28th, 2006

02 Mr. Shelton, the
03 interview will begin by asking
04 you a series of questions.
05 Feel free at any time to
06 clarify any statements that
07 you make in response to those
08 questions. After we have
09 finished asking questions, you
10 will also have an opportunity
11 to make a statement of your
12 own and provide us with any
13 other additional information
14 that we may not have asked you
15 that you believe is important.

16 You are permitted to
17 have a representative with you
18 during this interview and you
19 may consult with your
20 representative at any time.

21 You may designate any person
22 to be your representative.

23 Following the questions
24 by MSHA and the state, this
25 representative will be given

14

01 the opportunity to ask
02 questions for purposes of
03 clarification of any of the

04 areas that were already
05 discussed. Your statement is
06 completely voluntary. You may
07 refuse to answer any question
08 and you may end your interview
09 at any time.

10 If you do not
11 understand a question, please
12 let me know and I'll try to
13 rephrase it, so we understand
14 what each other is talking
15 about. If you need a break
16 for any reason, just speak up
17 and we'll take a break.

18 You may request the
19 opportunity to make a
20 confidential statement which
21 we will withhold from the
22 public, to the extent allowed
23 by law. Should you desire to
24 give a confidential statement,
25 you should advise me before I

15

01 begin your interview, so that
02 I can reschedule your
03 interview to properly consider
04 your request. Do you want to
05 have a confidential interview?

06 MR. SHELTON:
07 I don't think there's
08 much that I'm going to be able
09 to tell you that you probably
10 haven't already heard anyway,
11 so I guess you don't need to
12 be confidential.

13 MR. BEITER:
14 The court reporter will
15 record your interview and will
16 later produce a written
17 transcript of that interview.
18 I ask that you state all of
19 your answers verbally because
20 the court reporter cannot
21 record gestures, like nodding
22 your head ---

23 MR. SHELTON:
24 Right.

25 MR. BEITER:

16

01 --- like you're used to
02 doing and shaking it no.

03 Neither the transcript
04 of this interview nor the
05 content of this interview will
06 be released to the public or
07 the media until MSHA's final
08 accident investigation report

09 is issued, or until required
10 by law or by court order, or
11 until a public hearing takes
12 place.

13 If any part of your
14 statement is based not on your
15 first-hand knowledge
16 information, but on
17 information that you learned
18 from someone else, just please
19 let us know that that's the
20 case.

21 MR. SHELTON:

22 Right.

23 MR. BEITER:

24 Please answer each
25 question as fully as you can,

17

01 including any information that
02 you learned from somebody
03 else. Just let us know that
04 that information is from
05 somebody else.

06 We may not ask the
07 right questions to learn the
08 information that you have, so
09 don't feel limited by the
10 precise wording of a question

11 in your response. If the
12 question doesn't really go far
13 enough or doesn't --- just
14 kind of side steps what you
15 really want to tell us, just
16 feel free to speak up and tell
17 us what you know.

18 Do you have any
19 questions about the manner in
20 which this interview will be
21 conducted?

22 MR. SHELTON:

23 No.

24 MR. BEITER:

25 Would you please swear

18

01 in Mr. Shelton?

02 -----
03 JAMES LEE BURTON SHELTON, JR., HAVING
04 FIRST BEEN DULY SWORN, TESTIFIED AS
05 FOLLOWS:

06 -----

07 BY MR. BEITER:

08 Q. Mr. Shelton, please state your
09 full name, address, telephone number,
10 including the area code and please
11 spell your last name for the record.

12 A. James Lee Burton Shelton, Jr.,

13 S-H-E-L-T-O-N. [REDACTED]



17 A. Yeah.

18 Q. Thank you. Mr. Shelton, may I
19 call you Jim?

20 A. Yes.

21 Q. Jim, are you appearing
22 voluntarily here today?

23 A. Yes.

24 Q. Has anyone made any promises
25 to you for giving this statement?

19

01 A. No.

02 Q. Has anybody offered you any
03 rewards in exchange for making this
04 statement?

05 A. No.

06 Q. Has anyone threatened you or
07 warned you not to provide this
08 statement?

09 A. No.

10 Q. Do you understand that you may
11 refuse to answer any question or
12 terminate this interview at any time?

13 A. Yes.

14 Q. Do you have a representative
15 with you?

16 A. Just my wife, boss.

17 Q. Can you please identify her by
18 name?

19 A. Jennifer Shelton.

20 Q. Thank you. Do you wish to
21 proceed with this interview?

22 A. Yes.

23 Q. How long have you worked at
24 Aracoma Mine Number One?

25 A. I started out there as a red

20

01 hat in July and I terminated my
02 employment, I think it was around the
03 13th --- the 12th or the 13th --- the
04 13th of January.

05 Q. Of this year, sir?

06 A. Yes.

07 Q. What was your job title when
08 you left?

09 A. I was the dispatcher.

10 Q. How long had you held that
11 position?

12 A. Five months.

13 Q. Did you rotate shifts?

14 A. Well, it wasn't on a
15 rotating-shift basis, but two of us
16 rotated in order for Kirby --- he
17 worked daylight all the time, so when
18 he would be off, we'd have to --- the

19 other two would rotate to cover his
20 shift.

21 Q. Which shift did you normally
22 work?

23 A. I normally worked the second
24 shift, the last two months while I
25 was in there.

21

01 Q. What were your shift times?
02 Do you recall?

03 A. I would go in at 2:00 and I
04 left at about 11:00.

05 Q. Were you a member of
06 management?

07 A. No.

08 Q. Were you a supervisor?

09 A. No.

10 Q. Were you employed by a
11 contractor at that time?

12 A. Yes.

13 Q. Can you identify that
14 contractor?

15 A. Apollo. I don't know what
16 they're called.

17 MRS. SHELTON:

18 Apollo Mining Services.

19 A. Yeah. Apollo Mining Services.

20 BY MR. BEITER:

21 Q. Who was your supervisor?
22 A. That was kind of unclear to
23 me, because Kirby's the one that
24 worked daylight. He did the
25 scheduling, work schedules and stuff.

22

01 And being on second shift, the second
02 shift foreman that was there with me
03 was Fred Horton. I don't know if
04 Pepe was my immediate --- the person
05 I went to or if it was one of the
06 others, but, you know, usually I'd go
07 to the foreman if I had problems.

08 Q. Is that Pepe Lester?

09 A. Yes.

10 Q. When you say you went to ---
11 if you had a problem, you went to one
12 of the foremen ---?

13 A. I had to go to Fred Horton.

14 Q. Fred Horton?

15 A. Yeah.

16 Q. And Fred Horton's position at
17 that time?

18 A. He was, like I said, the
19 second shift foreman.

20 Q. Second shift mine foreman.

21 A. Right.

22 Q. When you said Kirby, is that
23 Kirby Puett?

24 A. Yes.

25 Q. Was Kirby Puett with the

23

01 dayshift dispatcher?

02 A. Yes, he was.

03 Q. Was Kirby Puett your

04 supervisor?

05 A. That's what was unclear to me

06 because he's the one that made like

07 the work schedules and stuff up.

08 Q. Did you have a supervisor at

09 the contracting company that you were

10 employed by?

11 A. I can never remember his name.

12 Keith, I think, maybe.

13 Q. Did you have any contact with

14 him?

15 A. Not while I was working. I

16 just collected my pay and they sent

17 it to me in the mail, so ---. That

18 was --- when I first went to see him,

19 that's the only time that I had

20 contact with him, other than going

21 back to get my papers.

22 Q. Did you hold any other jobs at

23 this mine besides dispatcher?

24 A. Before I went to dispatcher, I

25 worked third shift, pretty much

01 outby. We'd do like belt splices and
02 stuff like that. So I had the motor
03 crew sometimes to take supplies to
04 the sections.

05 Q. And that was underground?

06 A. Yeah.

07 Q. What shift was that on?

08 A. That was third shift. And
09 then two weeks before they put me as
10 dispatcher, I think I worked second
11 shift. I helped a beltman on the
12 upper belts.

13 Q. What do you mean by upper
14 belts?

15 A. Belt Five, Six, up to the Two
16 section.

17 Q. Are you familiar with a mine
18 map of the mine?

19 A. I'm pretty familiar with it. I
20 walked most of the belts except for
21 the longwall move. When they moved
22 from the old place they were cutting
23 and they moved into the new place
24 that they were in, that was when they
25 pulled me from the mine and put me in

01 the dispatch office. So I don't ---
02 I know where they were putting the

03 belt in and stuff at the time.

04 Q. The belts that you worked on
05 up there, were they 48-inch belts?

06 A. Six foot and 48.

07 Q. The six foot and 48. The last
08 section of six foot ---

09 A. Right.

10 Q. --- into main north?

11 A. Right.

12 Q. Or the six foot that was a
13 72-inch belt for the longwall?

14 A. They hadn't installed that
15 yet to the new section. And like I
16 said, when we went up there, they
17 were in the old section. And I
18 think, if I'm not mistaken, it was
19 four foot coming out of there to dump
20 on to the six-foot belt.

21 Q. But the longwall headgate
22 that's now Nine headgate, ---

23 A. I didn't do that.

24 Q. --- that section was being
25 developed at that time?

01 A. It was being developed.

02 Q. And that was a 48-inch belt
03 that was being used to remove the
04 coal from that section?

05 A. As far as I know, that's what
06 it was.

07 Q. And that belt dumped on the
08 48-inch belt that's still in place
09 now in the Northeast Mains; is that
10 correct?

11 A. I'm not positive about that
12 one. The way I seen that they were
13 running it when I was in there is
14 that they were running it out from
15 the longwall --- or going to run it
16 out from the longwall and dump it
17 directly on --- I think it was Number
18 Five belt, the six-foot one, if I'm
19 not mistaken.

20 The four-foot was going to Two
21 section. That one's been there the
22 whole time I've been there, except
23 for what they've extended.

24 Q. The longwall development belt
25 never did dump on that 48-inch belt?

27

01 A. Not that I know of.

02 Q. Okay.

03 A. Where I seen they were putting
04 the new belts ---. Like I said, they
05 pulled me out before they got it all
06 in. But where I seen them hanging
07 the new structure and stuff for the

08 longwall, it looked as if they was
09 going to dump onto the six-foot,
10 probably pretty close to the tail
11 there.

12 Q. Okay. Who did you work for
13 when you were on midnight shift?

14 A. I worked for Bryan Cabell. He
15 was the mine foreman for third. He
16 was the beltman when he --- he was
17 off for a while for an injury. And
18 when he came back, they put him on
19 the belts. I think that's what his
20 position was when he came back,
21 because he was walking belts.

22 Q. Do you know what month that
23 was?

24 A. Of what?

25 Q. That you worked for Bryan

28

01 Cabell last year.

02 A. July and August, I think.

03 Q. When you were dispatcher, did
04 you receive any training?

05 A. They trained me for about two
06 weeks I think it was. There was a
07 week, I believe, if I'm not wrong on
08 it. What it was, the third shift
09 dispatcher was quitting and I guess

10 he'd given his notice. So they
11 pulled me out, had me doing the
12 dispatch. And I trained with Lucy
13 Witt (phonetic) on second shift for
14 about a week, I think it was. And I
15 kind of watched her. And then as the
16 --- I think it was the second week,
17 he quit and then I had went in to
18 dispatch on third shift.

19 Q. Who is Lucy Witt?

20 A. Lucy Witt used to --- she quit
21 there --- or didn't quit, I think
22 they transferred her, in November.
23 But anyway, it was in November, right
24 before Thanksgiving. She had
25 transferred or something and they

29

01 hired on Mike --- what is his last
02 name? Brown, to replace Lucy. And
03 from my understanding, they trained
04 him one day.

05 Q. When you said when you trained
06 with Lucy, what did she do to train
07 you?

08 A. She kind of just --- the first
09 day or so she kind of just told me to
10 watch her and get to know the tracks
11 and stuff, which I already knew the
12 tracks from being in there, but not

13 map-style tracks. And told me things
14 like, it's important like on the hill
15 back in there not to have one coming
16 down the hill and one coming up the
17 hill, you know, for a wreck to
18 happen, which is what worried me a
19 lot in the dispatcher's office.

20 Q. When you say track, you mean
21 the ---?

22 A. The rail that they rode
23 before, before they went to diesel.
24 She told me on the COs, she said any
25 time a CO goes off, record it in the

30

01 book. They had a little black book
02 to record it in. And to report it to
03 someone so they could check it out.

04 Q. Did she explain to you why?

05 A. I don't think so. I don't
06 think she explained why the COs ---.
07 I kind of figured it out on my own, I
08 believe. Because I kind of put two
09 and two together, CO, what that is,
10 and why would you have a monitor, so
11 it would have to be a fire detector
12 of some sort.

13 Q. Did she tell you who to
14 notify?

15 A. She said, just get ahold of
16 someone like the foreman or the
17 beltman or somebody that would maybe
18 be close to the area.

19 Q. Did you ever hear the term
20 responsible person?

21 A. Yes.

22 Q. Could you identify who that
23 responsible person was for you?

24 A. Oh, I thought you was asking
25 me a particular question there?

31

01 Q. No.

02 A. My mind was on the wrong
03 track.

04 Q. I'm sorry. Responsible person
05 as applied to person who's
06 responsible to take charge during
07 mine emergencies.

08 A. As far as I know, Fred Horton
09 was the one. I just took for granted
10 because he was the foreman, he was in
11 charge of everything.

12 Q. Okay. You didn't see it
13 posted anywhere, or did you see it
14 posted anywhere, identifying him as
15 the responsible person ---

16 A. To be honest, no, I don't
17 remember.

18 Q. --- for your shift? Have you
19 ever received SCSR training?

20 A. What would that be?

21 Q. Self-contained self rescuer.

22 A. Oh, yes. Yes.

23 Q. Prior to going underground?

24 A. Yes.

25 Q. Who provided you that

32

01 training?

02 A. When I went to Apollo, they
03 sent me to Logan Mine Service, I
04 think it is. And they explained that
05 there in the course that we went to
06 there.

07 Q. Did you feel comfortable in
08 your training, that you could use one
09 if you had to?

10 A. Yes. I used to be a
11 firefighter also.

12 Q. Are you familiar with
13 something called the Mine Emergency
14 Evacuation and Firefighting Program
15 of Instruction? It's a mouthful,
16 it's all one ---.

17 A. What would that entail?

18 Q. I have a copy of one. It says
19 program of instruction for

20 firefighting, evacuation. And it has
21 information in there about mine
22 office, the number of people that
23 work there, telephone numbers.
24 A. Okay. Now, I had a list. It
25 didn't look like that, but I had a

33

01 list of like if we have an emergency
02 of who to contact.

03 Q. Okay.

04 A. We've had a couple of
05 accidents like in the mine and
06 usually they call out and let me know
07 that they've had the accident and
08 then let me know like what happened
09 and stuff. My first thing that I
10 would do is call like 9-1-1 to get
11 the ambulance to come. And then I
12 would call one of the guys, whoever
13 was on duty for the mines. I guess
14 he inspected when he come out, you
15 know, what happened at the accident.

16 Then I'd call him and he'd come out.

17 And usually he'd take care of
18 everything, you know, as far as
19 details.

20 Q. Okay. This goes into some
21 more detail than that. It's like,
22 instructors shall be persons who are

23 knowledgeable of the following
24 subjects, location and use of
25 firefighting equipment, location of

34

01 all escapeways and facilities, mine
02 layout in general, ventilation,
03 communications, electrical
04 installations. And it goes into some
05 additional detail about the training
06 that's involved and fire drills,
07 escapeway drills, escape plans. Does
08 this look familiar?

09 A. No, it doesn't look familiar.

10 Q. Okay. You don't recall seeing
11 it just like hanging on the bulletin
12 board somewhere or anything like
13 that?

14 A. I don't recall seeing it.

15 Q. Okay. There's another part of
16 it then, too that shows ---. You can
17 see here it's titled Aracoma Coal
18 Firefighting Responsibilities,
19 Assigned Duties in Case of
20 Underground Fire. Did you ever see
21 anything like that?

22 A. No, I've never seen that.

23 Q. And like official in charge on
24 surface, nothing like that?

25 A. No.

35

01 Q. Then there's another part of
02 it that says, revised mine emergency
03 evacuation and firefighting plan.

04 And you can see this pertains to
05 several items that are identified in
06 regulations under 1502, the standard
07 of federal regulations. Does any of
08 that look familiar? You can see
09 here's where ---.

10 A. No, I don't remember seeing
11 any of that.

12 Q. Okay. You can see in here is
13 where it identifies the identity of
14 the title for the person who's the
15 responsible person. I guess that's
16 where I come up with this responsible
17 person.

18 A. Right.

19 Q. And you can see, it's supposed
20 to be posted on a mine bulletin
21 board. I guess that's why I asked
22 you if you had seen, you know, a sign
23 that said --- on the mine bulletin
24 board.

25 A. Now, if they had it upstairs

36

01 on the bulletin board, I didn't pay

02 too much attention to that bulletin
03 board.

04 Q. There's the one part in here
05 that talks about AMS sensors here,
06 too. Under item nine it says, you
07 know, about the AMS sensor
08 parameters, alert and alarm levels
09 and what was supposed to be done when
10 you have an alert and what you're
11 supposed to do if you have an alarm .
12 Did anybody, you know, go over that
13 with you?

14 A. I haven't seen any of that,
15 but --- other than like when Lucy
16 would tell me what to do like for
17 COs, as far as putting them in the
18 books. But we had a lot of trouble
19 with COs, with false readings.

20 And Elvis was one of the real
21 good ones on Two section if I had one
22 go off and I'd holler up on Two
23 section. I know it was a long walk
24 for them guys, you know, to go to
25 some of them COs, but, you know,

37

01 Elvis would usually go check the CO.
02 And he'd come back and he'd let me
03 know, you know, a few minutes later

04 that the CO was all right and he'd
05 reset it or whatever.
06 Q. That is Elvis?
07 A. Yes.
08 Q. Mr. Hatfield?
09 A. Yes. And, you know, ---
10 Q. Yes.
11 A. --- some of the guys, because
12 I guess the COs would go off and not
13 be a problem, something going on at
14 the time, you know they I guess had
15 grown used to that because of the way
16 it was. And I don't know, I took
17 safety into consideration for them
18 guys a lot and I'd worry about them.
19 But the COs were working better
20 toward the end, you know, when I
21 left. Jesse Jude worked on the COs
22 and was getting them to working
23 pretty good and we was having fewer
24 and fewer false alarms.
25 Q. Do you feel those false alarms

38

01 would --- kind of lost someone in the
02 sense of ---
03 A. Yeah.
04 Q. --- complacency about the
05 urgency of the alarm?
06 A. Yeah. I think that's the way

07 some of the guys would get. And I
08 think there was one time I had a talk
09 --- I can't remember who it was, but
10 on the section it was getting close
11 to quitting time and they said, well,
12 when we shut down, we'll check it on
13 the way going out. And I'm like,
14 boys, you got to check them things,
15 you know, that could be too late.

16 Q. Was that an alarm?

17 A. Yeah, one of the COs had went
18 off.

19 Q. For a ---?

20 A. I think it was Two section
21 main, too. But, you know, like I
22 said, they just took that it was
23 because they go off ---. And I don't
24 know the difference sitting out
25 there. All I see is an alarm going

39

01 off. And the reading may not be
02 doing just what's --- you know,
03 usually if the CO goes off, which you
04 all probably know that, it will
05 gradually climb.

06 Q. Yes.

07 A. And these things, when they go
08 off sometimes, it's just voom and

09 they're a hundred and something, you
10 know. And it's like you can kind of
11 know something's wrong but still, me
12 sitting there, I don't know, you
13 know. Maybe it was false and didn't
14 pick it up until it got up too high.
15 I didn't know, you know, from sitting
16 there, but a lot of false readings
17 caused a lot of people, probably, to
18 take it for granted that it was just
19 another false reading.

20 Q. Was it a supervisor that told
21 you just wait and check it on the way
22 out?

23 A. No. Usually when I got ahold
24 of Two section, the boss was usually,
25 I guess, close to the face or

40

01 something, away from the phone. And
02 it was usually one of the men, like
03 Elvis, when I talked to him. And
04 usually it was one of the men, if
05 they'd go check it or something. But
06 I'd try to warn them ahead of time,
07 at least then they could start
08 smelling something, they'd know I've
09 already called to let them know
10 something's happening. But anyway,
11 go ahead with your questions.

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MR. BEITER:

No, that's fine. Thank
you. I appreciate your input.
Just for the record here, the
document that we were looking
at earlier, that I identified
as having pages in there that
included a Program of
Instruction for Firefighting
and Evacuation, and the
Aracoma Coal Firefighting
Responsibility Assigned Duties
in Case of an Underground
Fire. And the Revised Mine

Emergency Evacuation And
Firefighting Plan, is
identified as Exhibit A,
Shelton.
(Shelton Exhibit A
marked for
identification.)
A. Like I said, they could have
had it upstairs on the board, but I
didn't pay too much attention to
stuff that was upstairs on the board.
I usually looked at the stuff that
was in the dispatcher's office.

14 BY MR. BEITER:

15 Q. But I thought I understood you
16 to say that nobody ever sat down with
17 you and went over this with you,
18 though.

19 A. Oh, no, not that I know of.

20 Q. Is that correct?

21 A. No, not that I know of.

22 Q. Okay. Do you think an
23 underground coal mine fire could be
24 an imminent danger?

25 A. Yes.

42

01 Q. Why?

02 A. Because there's not too many
03 ways to get out. And that's your
04 breathing supply, especially if it
05 gets into your intake and ---. I
06 mean fire was probably the most
07 dangerous thing you got down there.

08 Q. We talked about the loss of
09 communications with CO sensors.

10 A. Uh-huh (yes).

11 Q. Do you think that that could
12 become an imminent danger possibly?

13 A. What, to not have COs?

14 Q. Yes, lack of communication.

15 A. Oh, yes.

16 Q. Do you think multiple CO

17 sensors going off in sequence
18 indicating an alarm concentration of
19 carbon monoxide could be an imminent
20 danger?

21 A. That says that carbon
22 monoxide's along there, yeah, it
23 could be a danger.

24 Q. Do you think all those things
25 are hazards?

43

01 A. Pardon me?

02 Q. Do you believe all those are
03 hazards?

04 A. Yes.

05 Q. Did anybody ever explain to
06 you how the Pyott Boone fire
07 detection system works? The Pyott
08 Boone system is that CO monitoring
09 system, ---

10 A. Oh.

11 Q. --- the AMS system. Did
12 anybody ever explain to you how the
13 system works?

14 A. As far as --- I was told to
15 watch the monitors and if they
16 started, you know, going off, to just
17 like I told you before, to get ahold
18 of somebody to let them know so they

19 could check it.

20 Q. Did anybody explain to you

21 what each of those different

22 notifications meant?

23 A. No. No, you got one and then

24 you go up to five.

25 Q. I've got a couple photographs,

44

01 three photographs.

02 A. Yeah.

03 Q. Do they look familiar?

04 A. Yes, they do.

05 MR. BEITER:

06 The screens on the

07 computer. It looks familiar

08 to you, I see. I'm just going

09 to label these and then

10 hopefully we'll talk about

11 them in a little bit. And

12 maybe you'll recall what some

13 of these things meant.

14 (Shelton Exhibits B, C

15 and D marked for

16 identification.)

17 BY MR. BEITER:

18 Q. Do they look familiar?

19 A. Uh-huh (yes). Yeah.

20 Q. Let's start with this one

21 here. This is Exhibit C Shelton. It

22 also has a photograph --- digital
23 photograph identity number, which is
24 DSC00029, 00029. That's just
25 the picture number of the photograph

45

01 that was taken. And could you
02 explain to me what's depicted on
03 here?

04 A. Yeah, that's the Rum Creek
05 belts number --- six-foot belts, the
06 overlay in through Four. And then
07 your COs are on there, too.

08 Q. These little boxes?

09 A. And these are off. Somebody
10 turned those off.

11 Q. And what do you mean by turned
12 off?

13 A. They're turned off to not be
14 working.

15 Q. From the dispatcher's office
16 or from underground at the sensor
17 itself?

18 A. That I wouldn't know, but I do
19 know that they're off when they say
20 off.

21 Q. What's the difference ---.

22 Okay. Go ahead. I'm sorry.

23 A. Because usually --- the reason

24 I know that is Jesse Jude, when he
25 come in and was having a problem with

46

01 one that we know that was giving us
02 problems. Sometimes it keeps from
03 beep --- from beep, beep, beeping on.
04 He would say, oh, okay, I'm going to
05 go down there right now and check
06 that one. And he says, I'm going to
07 turn it off right now, that way, you
08 know, it won't aggravate you, but I'm
09 going to go down there and check it.
10 So that's how I know that.

11 Q. And when he turned it off, ---

12 A. Somehow, he ---.

13 Q. --- it showed off on your
14 screen like these do?

15 A. Right.

16 Q. Okay. And these would be like
17 sensor 43, 38, 37 ---

18 A. Right.

19 Q. --- 36.

20 A. And I can't tell you right now
21 exactly where these are, because I
22 couldn't memorize all of them. But I
23 had, in my drawer, the top drawer on
24 my right, I had a list that Jesse had
25 made me out. Now, Jesse did this,

47

01 which I don't know if he was supposed
02 to or not, but it helped me a lot.
03 It was just like if 1.36 was going
04 off, ---

05 Q. Yes.

06 A. I could get in this list, pull
07 it out on Rum Creek belts. I could
08 look on there. I could tell the guys
09 exactly what break this CO was
10 located in, so that they could go get
11 it.

12 Q. By break you mean what
13 crosscut, ---

14 A. Right.

15 Q. --- crosscut number, ---

16 A. Right.

17 Q. --- or some way to identify
18 that on the ground?

19 A. Some way that they know where
20 to go to.

21 Q. The CO dead, there's a couple
22 boxes here, sensor 1.33, sensor 1.35.

23 A. Uh-huh (yes).

24 Q. It says CO dead, ---

25 A. Oh, wait a minute, wait a

48

01 minute.

02 Q. --- what does that mean?

03 A. Dead's when they turned it
04 off. That's right. I'm sorry.

05 Q. Okay. CO dead is when a
06 sensor is turned off ---

07 A. I think.

08 Q. --- on the ground?

09 A. I think that's when it's
10 underground. I'm not positive. A
11 lot of this I learned just by time.
12 But when it's dead, I think it's off
13 underground.

14 Q. Okay.

15 A. And there's no communications
16 with the ---.

17 Q. With that sensor?

18 A. Right. And when it's like
19 that, I wouldn't know whether the CO
20 was in the atmosphere there in that
21 position or not.

22 Q. Yes. And a CO off then would
23 mean something other than that?

24 A. Yeah. I can't remember what
25 the CO off meant. I think that's

49

01 when Jesse would turn it off. I'm
02 not positive, but I think that's what
03 it was, when these here are on
04 they're working.

05 Q. And these here are the 1.89

06 and 1.40 that say CO zero underneath
07 it?

08 A. Right.

09 Q. They're a green color inside
10 the box?

11 A. Yeah. I like to see them like
12 that.

13 Q. Green is good, huh?

14 A. Green is good. Green is go.

15 Q. And the zero, do you know what
16 the zero ---?

17 A. There's no reading. That's
18 what would change, if you had smoke
19 in the air.

20 Q. Did they explain to you what
21 that means or what that number is?

22 A. Not exactly. No, no, they
23 didn't.

24 Q. Did they tell you that's what
25 the carbon monoxide concentration was

50

01 at parts per million?

02 A. Nobody told me it that way. I
03 kind of figured that out on my own.

04 But I know when it would get up ---

05 some of them, I don't know if they

06 was set that way or not, but some of

07 them would get up to maybe around

08 five maybe. And it would be like a
09 warning. It'd turn yellow.

10 Q. Yes.

11 A. And then I think it was above
12 that it would turn red and say fire.

13 Q. Yes.

14 A. And the reason I know that,
15 some of them were bad and they would
16 start doing that. And you'd have
17 somebody check them. They'd have to
18 reset. And how they reset them under
19 there, I don't know, you know, how
20 they'd reset the CO.

21 Q. Did you ever see one flashing
22 yellow or one turn red and the alarm
23 never go off?

24 A. What do you mean the alarm
25 never go off?

51

01 Q. I guess I didn't ask you. Is
02 there an audible and visual alarm
03 associated with the system, ---

04 A. There is.

05 Q. --- in the dispatcher's
06 office?

07 A. The visual would be what I see
08 the boxes doing.

09 Q. Yes.

10 A. The audible is a tone, a

11 beeping tone, ---

12 Q. Yes.

13 A. --- that would go off.

14 Q. Did you ever see a visual and

15 not an audible?

16 A. Yes.

17 Q. You have? Do you recall if it

18 was for the green boxes turning

19 yellow or green boxes turning red or

20 was it for ---? I guess that first

21 question. Was it for either turning

22 yellow or turning red?

23 A. I think when it turned yellow

24 and even red, the audio, ---

25 Q. Yes.

52

01 A. --- would be going off.

02 That's for both.

03 Q. Okay. Did you ever have a

04 time when the sensors activated,

05 visual, they change colors, ---

06 A. Right.

07 Q. --- from green to yellow or

08 from yellow to red ---

09 A. Right.

10 Q. --- and the audible didn't go

11 off?

12 A. When I first went to work in

13 the dispatcher's office, I don't
14 think they had the audible on because
15 I never did hear the audible. I
16 remember one morning that it was
17 about probably around in December
18 sometime that Jesse had turned on the
19 audible. And it liked to irritated
20 me to death because of the COs going
21 off then.

22 Q. That was this past December?

23 A. Yes.

24 Q. So prior to that, from the
25 time that you was a dispatcher, you

53

01 never heard any of the audibles go
02 off?

03 A. No.

04 Q. Do you know if it was because
05 it was just the volume turned down or
06 it was turned off or ---?

07 A. I don't know about that,
08 whether it was off, down or what it
09 was, because I really didn't --- I
10 probably could have got in there and
11 played with this thing, but I wasn't
12 about to risk getting in there and
13 messing something up, you know, to
14 find out what to do.

15 Q. I can understand.

16 A. And I usually change the maps.
17 I would check through the maps, each
18 map and, you know, and stuff and see
19 the different places.

20 Q. Does this identify what
21 direction the air flow was on the
22 belt entries? Can you tell that by
23 looking at this?

24 A. No, not that I know of.

25 Q. Did anybody ever tell you what

54

01 the direction of the air flow was on
02 those belt entries?

03 A. I always took it that they was
04 neutral, because when the track was
05 there, the track went down along the
06 belts. And like in the winter, it
07 wasn't real cold there, but you know
08 if you go down the intake, it would
09 be cold. So I kind of just took it
10 that they were --- the belts and the
11 track at the time was like in a
12 neutral area.

13 Q. And by neutral you mean like
14 not a lot of air flow moving?

15 A. Right. Right.

16 Q. Not necessarily one way or the
17 other?

18 A. Not an intake and not a
19 return.

20 Q. Do you know why --- you said
21 Jesse Jude turned the audible on in
22 December?

23 A. Right.

24 Q. Do you know what --- did he
25 say anything to you about why he did

55

01 or ---?

02 A. No, I don't think he did. He
03 just said something like, I'm going
04 to turn this audio on. He says, what
05 --- and he explained to me what it
06 will do. When he did, he says, when
07 those goes off, it'll beep, that way
08 if you're not looking right at it,
09 you know, you'll hear it. But that
10 didn't help any either when you was
11 all the way over in the other side of
12 the other end giving out lights and
13 stuff, you can't be there monitoring
14 this, too.

15 Q. He never said that the reason
16 he was doing it was because someone
17 else told him to?

18 A. No, he never said anything.

19 Q. Did he ever tell you that it
20 used to be on before but ---

21 A. No.
22 Q. --- it was turned off?
23 A. No, he never said anything.
24 Q. Do you know how long this AMS
25 system's been in use out there?

56

01 A. I have no idea.
02 Q. Was it in always in use when
03 you were working ---?
04 A. Yes, as far as I know it has
05 been while I was working there.
06 Q. You said when you were
07 somewhere else, like in the warehouse
08 or that, you couldn't hear it. And I
09 didn't ask you where all you did work
10 when you were a dispatcher. I kind
11 of got an idea in my head where the
12 dispatcher's office is and ---.
13 A. Have you been there?
14 Q. Yes. In the box cut.
15 A. Right.
16 Q. And where the lighthouse ---
17 lamp room is and the warehouse in
18 between the two.
19 A. Right.
20 Q. Where all did you have to
21 work?
22 A. That whole area. Through the

23 dispatcher's office, the warehouse
24 and the lamp room. And some people
25 didn't understand, I hadn't got

57

01 calls. Pepe called me once. But I
02 didn't know he was calling because
03 they don't have no phone over in the
04 lamp house, while I was over there
05 putting the lamps up or watering the
06 lamps or something. And when I came
07 back over to the dispatcher's office,
08 the phone's ringing. And when I
09 start to hear it ring, I run to grab
10 the phone. Where you been? This
11 phone's been ---. I'm like, Pepe,
12 I've been in the lamp house, you
13 know. You're the one that set this
14 all up, you should know, you know.

15 Q. Was he upset because you
16 didn't answer the phone right away?

17 A. Right. You know, and I ---.

18 Q. Was he upset because you
19 weren't ---?

20 A. It's hard to be in two places
21 at one time.

22 Q. Was he aware that you couldn't
23 hear the --- oh, I guess was that
24 before the audible was started or
25 after the audible was started?

01 A. That was before, I think.

02 Q. Was Pepe aware that --- was it

03 Pepe you said?

04 A. Yeah.

05 Q. Was Pepe Lester aware that

06 there was no audible alarm for the

07 dispatcher's office?

08 A. I don't know. I didn't even

09 know that that was even on the

10 computer until it was turned on.

11 Q. Lucy never did say anything to

12 you about an audible alarm?

13 A. Not that I can recall, no.

14 Q. Okay. I've got a couple more

15 pictures here of the other screens

16 that are options for you to look at.

17 A. Now, see, they've lost power

18 here.

19 Q. Where it says CO dead?

20 A. That's CO ---.

21 Q. CO dead?

22 A. That's dead.

23 Q. Okay.

24 A. And usually that actually

25 would happen at times. And the power

01 would kick to a section or even

02 they'd shut the section down and they
03 turned off the power.

04 Q. Yes.

05 A. And that's usually what
06 happens to that.

07 Q. Okay. So you're indicating on
08 the 48-inch belts ---

09 A. Right, for Two section

10 Q. --- for Two northeast mains.

11 A. I think it's Two section,
12 yeah.

13 Q. Yes. All the way up into Two
14 section where the CO boxes are
15 indicating --- they're gray and they
16 indicate CO dead, that that's
17 indicating ---?

18 A. I got no communications with
19 them right now on this screen.

20 Q. Okay. This is Exhibit B
21 Shelton. It also has a digital
22 photograph log number DSC00027.
23 There's a little red box here that
24 says UPS disc ---

25 A. Uh-huh (yes).

60

01 Q. --- and it's red. And it's
02 got a sensor number above it. It
03 says 1.14. Do you know what that
04 means?

05 A. I know nothing about that.

06 Q. I'm not sure I do at this
07 point either.

08 A. I've seen it, but I don't know
09 what it is.

10 Q. Okay.

11 A. Unless it's like maybe a main
12 connection for a bunch of COs maybe.

13 Q. Okay.

14 A. I mean, that's my guess.

15 Q. That's fine. Well, here's the
16 last picture here, Exhibit D Shelton
17 DSC00031. And can you describe what
18 this is?

19 A. Yeah, that's the longwall
20 there.

21 Q. Okay.

22 A. Lots of times I would have COs
23 going off. I think this one here,
24 which ---.

25 Q. Which is ---?

61

01 A. You know, they would always
02 say that there was nothing there or
03 anything.

04 Q. What number is that?

05 A. It's 1.82.

06 Q. Is that located near the belt

07 head, or that the drive? Is that
08 the ---?
09 A. This is on the mother drive
10 here.
11 Q. The mother drive, which is the
12 longwall belt?
13 A. Yeah. It's close to the tail.
14 Q. And that's the first sensor?
15 A. Like I said, that sheet would
16 have told me exactly where it was at.
17 Q. Yes. And that first sensor,
18 that's the first sensor ---
19 A. On the belt.
20 Q. --- on the belt. On the
21 longwall belt. And you said near the
22 tail, you meant near the tail of the
23 72-inch belt?
24 A. Right.
25 Q. Okay. You said sometimes you

62

01 step away from ---.
02 A. I think this went off before,
03 too, but like I said on those, every
04 time I'd tell them, you know, to
05 check it whatever, they'd always say
06 there was no problems, so it was kind
07 of ---.
08 Q. And the latest --- this one,
09 just so that the record reads okay,

10 is ---?

11 A. But those are dead.

12 Q. Yes.

13 A. The power's been shut off for

14 --- and they shut down the line or

15 something, something's going on.

16 Q. The last sensor that you

17 identified is ---

18 A. 1.83.

19 Q. --- 1.83. Thanks. You talked

20 a little bit --- and I kept on going

21 away from that and I should have

22 stayed with it to finish up that area

23 there. When you're doing other work

24 besides dispatcher, ---

25 A. Uh-huh (yes).

63

01 Q. --- were you away from your

02 dispatcher's office or desk where you

03 could see the visual alarm, I

04 guess ---

05 A. That's one thing that bothered

06 me ---

07 Q. --- for a portion of time ---?

08 A. --- a lot is having to leave

09 these monitors. And as far as I

10 know, to me everything --- if they

11 wanted me to do it like I told a few

12 people. I don't know if it was
13 anybody of any concern, but I said,
14 you know, this office should all be
15 together that way you don't have to
16 leave nothing, but to like give out
17 lights or put lights away or water
18 lights, or anything to do with the
19 lamp room, you had to walk out of the
20 dispatcher's office.

21 You could not see the monitors
22 and you had to walk all the way
23 across the supply place and over into
24 the lamp house. And there's no way
25 you could hear an alarm over there.

64

01 There's no way you can hear the
02 telephone over there. There's no way
03 you can hear anything over there.

04 Q. Did you ever tell Mr. Horton
05 this?

06 A. Yeah. I've complained to Mr.
07 Horton about it.

08 Q. That's Fred Horton?

09 A. Yes.

10 Q. The second shift mine foreman?

11 A. Right.

12 Q. Do you ever talk to Mr. Lester
13 about it? I guess there's many

14 Lesters. Pepe Lester.

15 A. No, I never talked to Pepe
16 about it, but I complained to Kirby
17 Puett about it.
18 Q. Kirby Puett, ---
19 A. Yeah.
20 Q. --- who was the dayshift
21 dispatcher?
22 A. Right. See he's the one, like
23 I said, scheduled our work times. He
24 also, like sweeping and stuff like
25 that, he'd schedule us ---. You know

65

01 where the elevator comes down?
02 Q. Yes.
03 A. Okay. That area in there?
04 Q. Yes.
05 A. He would even have schedules
06 made out like for me and the other
07 guy or whoever was working when he
08 was off to even sweep that and clean
09 that up.
10 Q. Now that's not inside either
11 the warehouse or the ---?
12 A. That's outside the lighthouse.
13 Q. That's all the way over in
14 front of the elevator?
15 A. Right.
16 Q. Could you even hear the page

17 phone from over there, the page phone
18 that's inside of the ---?
19 A. Yes, there is page phone ---
20 there is a page phone there. There's
21 a page phone there, there's a page
22 phone in all the areas, so the page
23 phone you can hear, just about ---.
24 Q. What about city phone?
25 A. City phone, no, you got to be

66

01 in --- the C&P you're talking about?
02 You got to be in the dispatcher's
03 office to hear that.
04 Q. What amount of time did you
05 spend outside of --- well, I guess,
06 let's back up. Before you had the
07 audible alarm, okay, and you relied
08 on the visual alarm to give you an
09 indication that you had a sensor
10 reporting an alarm or alert condition
11 or a communication error or some
12 other problem with the system, if ---
13 and by looking at these three
14 photographs, which I believe are the
15 three screens that you had available
16 to look at, ---
17 A. Right.
18 Q. --- every sensor isn't on
19 every one of the screens? Like the

20 portion that's on Exhibit D ---

21 A. Oh, no, you can almost ---

22 Q. --- doesn't show up on Exhibit

23 A ---

24 A. Right.

25 Q. --- or Exhibit C; right?

67

01 A. Right.

02 Q. If you were looking at Exhibit

03 D, and you had a sensor that was only

04 visible on Exhibit C alarm, would you

05 know that it was alarming, if you

06 recall?

07 A. Visual, ---

08 Q. Yes.

09 A. I don't think --- I know you

10 couldn't. The audible, I'm not sure

11 about the audible, whether it would

12 go off or not.

13 Q. Okay. Was there ever like a

14 big box that would just pop up on the

15 screen? No matter what screen you

16 were on, that told you that you had a

17 problem with one of the sensors? Do

18 you recall if that was the case?

19 A. Oh, yeah. Yeah. There was a

20 box that would pop up. Now, you can

21 acknowledge that and make it go away.

22 But usually whenever the sensors got
23 to a certain point, that box popped
24 up and that would give you your
25 reading of how much CO it was

68

01 reading. And usually that's what I'd
02 keep my eye on at the time of ---.

03 Q. Does it give you like a real
04 time reading of what the CO was, like
05 say the alert level was five. You
06 said the warning level was five.

07 A. Right.

08 Q. And then say ten is the alarm
09 level, but the sensor can read
10 greater than ten?

11 A. Right.

12 Q. Once the alarm pops up, that
13 it's ten, in that alarm box that's
14 telling you what it is, can you see
15 if the CO is changing?

16 A. Oh, yes.

17 Q. So you can watch what it was
18 doing?

19 A. Oh, wait a minute. Let me try
20 to remember. I'm not sure about it.
21 Yes. Yes, it did change. It changed
22 as you was actually watching it,
23 because I remember it doing it
24 before. When the alarm would go off

25 and the box came up, say it was 7 or

69

01 whatever it was on, you could

02 actually sit and watch it change as

03 it would raise, or get higher.

04 Q. What amount of time did you

05 spend away from your dispatcher's

06 desk?

07 A. I know I usually watered the

08 batteries one night a week. And that

09 usually took close to an hour to do

10 that.

11 Q. Was that while someone else

12 was --- was that like the beginning

13 or end of your shift where somebody

14 else was relieving you in the

15 dispatcher's office?

16 A. No, it was during my shift.

17 That could have been my fault. Maybe

18 I should have got somebody else to

19 come in there. Usually it was ---

20 I'd do that when I was working a ---.

21 I'd work second, but when Kirby was

22 off, I would have to work. No, it

23 was when Mike was off, I'd have to

24 work third shift. So I'd usually do

25 it that night because that's kind of

70

01 the slower time. And usually
02 everything was shut down, you know,
03 and they were working on the belts
04 and stuff, so that's usually the
05 night that I scheduled doing the ---
06 refilling the batteries and stuff.

07 Q. Did anybody ever instruct you
08 not to leave your station unattended?

09 A. No.

10 Q. Did any manager, management
11 personnel ever instruct you not to
12 leave your station while belts were
13 running?

14 A. No, it was kind of ---. I
15 took for granted it was kind of
16 expected of me to do these other
17 things, that they were part of my
18 job.

19 MRS. SHELTON:

20 Well, I don't mean to
21 interrupt, but can you
22 remember that one time that
23 you brought that note home
24 that was from John or whatever
25 his name was? And he was kind

71

01 of upset because they had all
02 these other things that they
03 wanted you to do?

04 A. That was Kirby's note.

05 MRS. SHELTON:

06 Yes. That was Kirby's
07 note.

08 A. Pepe Lester put Kirby as the
09 one to schedule things for the
10 dispatchers. That's what I was told.
11 So we'd get a list. It wasn't a
12 whole lot to do, but my complaint was
13 it's just like, you know, you get
14 jumped on if you don't answer a
15 phone. Well, how can you be there
16 and answer a phone if you're over
17 here doing this, you know? It's like
18 one of those things you can't win,
19 because you're going to lose.

20 So he'd make out this list.
21 And like I said, you know, if you're
22 out there sweeping in front of the
23 elevator you're a long way away from
24 that C&P phone, so you can't hear it.
25 But you also can't see these

01 monitors.

02 And I think Lucy used to ---
03 but Lucy, they would even have her
04 going upstairs after hours, from what
05 Lucy told me. And this is not me

06 knowing this. This is what she said.
07 She said they had had her to go up
08 there and make out P.O. numbers when
09 deliveries would come for upstairs.
10 Well, she'd go on the elevator and go
11 upstairs but she'd have like one of
12 them electricians or somebody go in
13 and sit for her.

14 They started to do that with
15 me and I told them, I said, listen,
16 I'm going to be down here where I can
17 keep my eye on this. I forget who it
18 was that was telling me. I said, I'm
19 not saying I wouldn't do the job. If
20 you want me to do that, put the
21 computer stuff down there that I can
22 look these P.O.'s and stuff ---.
23 I'll do the job, but, you know, I
24 don't think I'm supposed to be away
25 from this stuff. I mean, why is it

73

01 there if there ain't supposed to be
02 somebody keeping an eye on it?

03 BY MR. BEITER:

04 Q. Do you know who maintained the
05 CO system before Jesse Jude?

06 A. No, I don't.

07 Q. Did you ever have to shut down
08 belts to contact sections?

09 A. Yes.

10 Q. Is that because they wouldn't
11 answer the phone?

12 A. No. I never did that. Just
13 it was like if a wife would call and
14 say that she has an emergency. I
15 keep trying to get ahold of the
16 section and if I can't get the
17 section then it was like the last
18 thing that I would do.

19 Q. Did someone instruct you that
20 that was how you were supposed to get
21 ahold of someone?

22 A. I think --- I'm trying to
23 remember who it was first. Fred
24 Horton was wanting me to get ahold of
25 I think it was Three section. And I

74

01 never could get ahold of them. And
02 he told me to go ahead and shut the
03 belt down to get their attention so
04 they'd get on the phone.

05 Q. What was the reason that you
06 left Aracoma Coal?

07 A. I hated being a dispatcher. I
08 didn't go into the coal mines to be a
09 dispatcher. I mean, you want the
10 truth don't you?

11 Q. Uh-huh (yes). You discussed a
12 little bit about what Lucy had to do
13 when she left the box cut and would
14 go upstairs ---

15 A. Right.

16 Q. --- in the office and that.
17 Was there ever a time that you had to
18 leave it?

19 A. I never went upstairs. We had
20 no restroom down there, so I'd always
21 try to use the bathroom before I left
22 home. And if I had to urinate ---
23 I'm trying to be ---.

24 MR. BEITER:

25 That's all right.

75

01 A. I would usually go out to
02 where the pump was. Okay. But now
03 they got that boxed in, so I don't
04 know how you would do it now.

05 BY MR. BEITER:

06 Q. You don't happen to have ---
07 or do you happen to have a copy of
08 the note or list that you brought
09 home that you talked about from
10 Kirby, I guess it was.

11 A. Oh, have I got any of them?

12 MRS. SHELTON:

13 I think so.

14 A. I may have one.

15 MRS. SHELTON:

16 I think so. I think I

17 put it in the drawer.

18 MR. BEITER:

19 Would there be an

20 opportunity that we could

21 receive a copy of that off of

22 you?

23 A. Sure. If I can get her to

24 find it. She knows where more things

25 is in the house than I do.

76

01 MR. BEITER:

02 That's the way it is in

03 my house too. Thank you.

04 BY MR. BEITER:

05 Q. Do you know why the CO system

06 was used at the mine?

07 A. Like I said, I figured out

08 that it was probably for fires.

09 Q. Do you know anything about its

10 use in lieu of point heat-type

11 sensors, or its use in conjunction

12 with using belt air to face?

13 A. What do you mean?

14 Q. As a means of monitoring for

15 fires on that belt entry, you can use

16 a CO system, but there's also point
17 heat-type sensors. And once they see
18 a certain temperature, they activate.

19 A. Oh, no, I didn't know they did
20 that.

21 Q. Okay.

22 A. Do they do that?

23 Q. These don't.

24 A. Oh, okay.

25 Q. It's a different type of

77

01 system.

02 A. Okay. I was trying to
03 remember.

04 Q. Do know if there's a --- as
05 part of the CO system, there's not
06 just the sensors located underground
07 but there's also an alarm that gives
08 a visual alarm on a section. Do you
09 know if there's any of those used or
10 ---?

11 A. The alarm that I usually alarm
12 the section with like a strobe light
13 or ---?

14 Q. Not the one on the telephone.

15 A. Okay.

16 Q. The one that's associated with
17 the system.

18 A. I've never heard of them.

19 Q. Okay. Do you think it would
20 be --- if you were to be a dispatcher
21 again --- you wouldn't want to be a
22 dispatcher again?

23 A. Too much responsibility. It's
24 one thing to be responsible for a car
25 and wreck and tear it up, but it's

78

01 another thing to be responsible for
02 lives.

03 Q. So you feel the dispatcher's
04 job has a lot of responsibility?

05 A. Oh, more than I want. It
06 ain't got no work to it, but there's
07 a lot of responsibility to it.

08 Q. Do you think that ---? I
09 guess I'm going to list some things
10 that might be --- that you might
11 consider important as a dispatcher to
12 have knowledge of. And I guess just
13 tell me if you think they are or not.
14 Air flow direction on the belt? Do
15 you think that's something that would
16 be important?

17 A. Monitoring the air flow?

18 Q. No. You, as a dispatcher, ---

19 A. Uh-huh (yes).

20 Q. --- knowing what the air flow

21 is, so that if you got an alarm on
22 the belt, that you could have an
23 idea of where the gas ---?

24 A. Oh, yeah. Because if the
25 air flow's going towards the men

79

01 or ---. Yeah, that would be
02 important.

03 Q. Did anybody ever make you
04 aware of where you could find out
05 where the air flow on the belt
06 entries were?

07 A. Not that I know.

08 Q. Is there a map in your
09 dispatcher's office?

10 A. Yeah. We had a map in the
11 office hanging on the wall.

12 Q. Did anybody kind of go over
13 that with you?

14 A. Yeah. Because at times Fred
15 did. I said, Fred, what about this
16 here, you know. And, you know, I'd
17 gradually learn a little as I'd go
18 along.

19 Q. And I'm taking it by the way
20 you described that, you initiated
21 that conversation as opposed to ---

22 A. Right.

23 Q. --- Fred initiating it with

24 you and saying, Jim, I want to
25 explain something to you here.

80

01 Here's how the air flow travels in
02 the mine.

03 A. Uh-huh (yes).

04 Q. And if you see something go on
05 here, now you'll understand what's
06 going on? Did a conversation ---

07 A. I think when I first ---

08 Q. --- like that ever take place?

09 A. --- started, somebody had went
10 over the mine map with me when I
11 first started.

12 Q. Okay. Including how the air
13 flow traveled?

14 A. Yeah. Like primary and
15 secondary escapeways and stuff.

16 Q. Escapeways.

17 A. Yeah. But that thing you were
18 showing me, I don't ever remember
19 seeing that.

20 Q. Well, were you familiar enough
21 with the escapeways that if someone
22 called you and said they had a
23 problem somewhere that you could give
24 them direction as to where it was?

25 A. What, Aracoma?

01 Q. Yes.

02 A. Yes. It was like the back of
03 my hand almost. Personally, now this
04 is just my own personal feelings, if
05 they had had track in there, them
06 guys might have all got out. Because
07 I try to picture myself at the
08 diesels. You know, I haven't never
09 been in the smoky place like that,
10 but I'd imagine you couldn't see
11 anything.

12 And trying to ride a diesel
13 out, that's like a Mack 8 or
14 something. How are you going to know
15 which direction to go? I mean, you
16 use a lot of your SAT (phonetic)
17 trying to see where you're going.
18 And if they were on the track, they
19 didn't need --- they wouldn't have
20 needed to see. And they could have
21 just went slow to keep from wrecking
22 and follow the track until they go
23 out. I mean, that just ---. I mean,
24 it seems simple at the time. Though
25 hindsight is 20/20. But I believe

01 the track's better than diesel.

02 That's just my own personal opinion.

03 Q. Have you ever talked --- or
04 asked any questions about the AMS
05 system with an inspector or with a
06 manufacturer?
07 A. Yes. Minnes, he would tease
08 me sometimes when he come over.
09 Well, if I go in there and I set one
10 of them off, are you going to know
11 it, you know? Do you know how to
12 read them? And I'm like, well, I
13 guess I'd do good enough to find out
14 what you're doing, you know. And it
15 was a time he did put off a couple on
16 me. I kind of figured it was him.
17 But yeah, the inspectors has got a
18 way of making you wake up sometimes.
19 Q. Did your immediate supervisor
20 or your representative of the company
21 respond to your concerns about the
22 difficulties that you might have as
23 an AMS operator not being able to be
24 in a location where you could hear
25 the sensor or hear the alarms or

83

01 before they had the audible, see the
02 alarm on the screen?
03 A. No. Nobody seemed to be too
04 concerned. I mean, it just didn't

05 seem to be that important of a thing.

06 Q. Did that bother you?

07 A. Yeah, because I knew what it

08 was for, I mean as far as ---. I

09 even told somebody one time, I said

10 it's just big expensive fire

11 detectors is what them is.

12 Q. They are.

13 A. I mean, we put them in our

14 houses, don't we, what do we put them

15 in there for, to set and listen to

16 them go off and not think anything

17 about it?

18 Q. I thought you --- if I

19 remember you right, and I guess just

20 maybe to refresh my memory, ---

21 A. Okay.

22 Q. --- if I remember correctly or

23 not. The concerns that you had about

24 where you worked and that, did you

25 say you communicated that to Fred

84

01 Horton?

02 A. Right.

03 Q. About not being able to hear

04 the sensor or as you would see ---?

05 A. And Kirby. I also told Kirby.

06 Q. And Kirby Puett as well?

07 A. Right.

08 Q. Okay. And neither of those
09 persons responded back to address
10 those concerns? I'm asking, did
11 they?

12 A. Well, Fred did look at me
13 once, because we got a lot of water
14 problems there. You know, we had a
15 lot of water problems after that.
16 And if the main pumps weren't turned
17 on, then the drift mouth there where
18 the entrance is would flood. And he
19 had looked at me one night and told
20 me --- or said, why you letting the
21 drift mouth flood? I said, I didn't
22 know I was supposed to be out there
23 watching the drift mouth, you know.
24 He said, well yeah, you're letting it
25 flood up there. You've got to go

85

01 over there and turn your pumps on.
02 Well, the pumps are on the other side
03 of what we was talking about, the
04 elevator. And that pump for that
05 side is over there in behind that
06 area. And I was told that I take care
07 of this pump over here. But I was
08 never told that I took care of that
09 pump over there. But this pump over

10 here is mainly most of the time
11 automatic, unless you got to shut it
12 off or what have you.

13 Q. How did he expect you to know
14 --- how would you know if you needed
15 to go over there or not?

16 A. I guess what he was expecting
17 of me was to get up and start
18 checking the drift mouth from then
19 on, you know, and keep my eye on it.

20 Q. Just leave your station as
21 dispatcher ---

22 A. Yeah.

23 Q. --- and walk over to the drift
24 mouth to make sure the water wasn't
25 flooding ---?

86

01 A. Right.

02 Q. And if it was, activate the
03 pump?

04 A. Yeah.

05 Q. And can you hear from the pit
06 mouth the audible alarm?

07 A. No, you couldn't hear anything
08 out there.

09 Q. Before you had the audible,
10 from the pit mouth, could you see
11 your computer screen?

12 A. No.

13 Q. When you were sweeping in
14 front of the elevator, could you see
15 your computer screen?

16 A. No.

17 Q. When you were in the ---?

18 A. I'm sorry. I'm starting to
19 get low again. I even caught myself
20 on that one.

21 Q. When you were in the --- I'm
22 not real loud either. When you were
23 in the warehouse, could you see the
24 computer screen?

25 A. No.

87

01 Q. When you were in the lamp
02 house, could you see the computer
03 screen?

04 A. No.

05 Q. And did you say that Mr.
06 Horton was aware of that?

07 A. Yes.

08 Q. And you know that because you
09 told him so?

10 A. Right.

11 Q. Can you stop the belts from
12 the surface, in the dispatcher's
13 office?

14 A. Yes, you can shut down the

15 belts from the dispatcher's office.

16 Q. Would you have felt
17 comfortable talking to a federal
18 inspector about your concerns as an
19 AMS operator, as a dispatcher with
20 the AMS operator duties,
21 responsibilities?

22 A. Well, let's be honest, when
23 you're working for somebody else and
24 they want you to do things, if you
25 complain and you say you don't want

88

01 to do them, you know, you can be
02 replaced. We all know that.

03 Q. Thank you. Okay. Does this
04 book look familiar?

05 A. Yes. That is their logbook.

06 ATTORNEY BEITER:

07 Okay. What we have
08 here we're going to identify
09 it as Exhibit E Shelton.

10 (Shelton Exhibit E
11 marked for
12 identification.)

13 BY MR. BEITER:

14 Q. It's a copy of the CO logbook;
15 is that correct?

16 A. Yes.

17 Q. And it's got Aracoma 002832 on

18 the front page as a stamp number.
19 And on the last page, it's Aracoma
20 002846. I'm just going to let that
21 in front of you there to kind of
22 refresh your memory on some things.
23 You said you were there ---
24 A. I was there ---.
25 Q. --- through January 12th or

89

01 something like that?
02 A. Yeah, the 12th or 13th was the
03 last day. This is me here.
04 Q. And this ---
05 A. Here's where I told them ---.
06 Q. --- here is 12/22/05?
07 A. Yes.
08 Q. And this is where you told
09 Elvis and Elvis is Elvis Hatfield?
10 A. Right.
11 Q. And Mike ---
12 A. Mike Shull.
13 Q. --- Shull.
14 A. I wasn't sure if he was a boss
15 up there or not at the time.
16 Q. I'm just going to put a blue
17 arrow in front of this here so we'll
18 identify this here.
19 A. Then Elvis came back and told

20 me that those COs, that there wasn't
21 nothing wrong with them.

22 Q. And those COs are where at,
23 1.79, 1.75, 1.72?

24 A. Uh-huh (yes).

25 Q. Now, if we look on one of

90

01 these here other exhibits that have
02 --- there we go. Exhibit B Shelton.

03 A. 1.72, 1.75. What was the
04 other one?

05 Q. I think 1.79.

06 A. 1.79.

07 Q. The picture's a little fuzzy.

08 Is that a nine at the belt tail? I'm
09 having trouble seeing. 1.72, 1.75,
10 1.7 ---.

11 A. Yeah, it must be this one. I
12 can't really tell.

13 Q. I'm not sure. 1.72 and 1.75
14 are on this ---?

15 A. Right. That's on the belt
16 that was right there on ---.

17 Q. The 48-inch belt?

18 A. Right. They were all three
19 going off.

20 Q. And this is on Aracoma 002845,
21 that page and that exhibit that's
22 Exhibit E Shelton, where we're

23 talking about this here, on 12/22/05,
24 on those sensors, 75, 72 and 79; is
25 that correct? Okay.

91

01 A. Yes.

02 Q. Are any of these other ones?

03 A. Pardon me?

04 Q. Are any of these other entries
05 yours?

06 A. These are not. Well, I can't
07 even make out whether that's my
08 writing or not. No, this is not mine
09 here. I don't think that's my
10 writing.

11 Q. Do you know Karl White and
12 Junior Robertson?

13 A. Yes.

14 Q. This is ---.

15 A. Junior was one that --- I'm
16 pretty sure it was Junior, whenever I
17 had a problem with CO, he'd go
18 straight to it.

19 Q. Is he on your shift?

20 A. I'm not sure. I think Junior
21 had another name that we called him,
22 if it's the same one I'm thinking
23 about. But Karl White is an old man.
24 And he worked up on that hill and it

25 was rough on him trying to go back

92

01 and forth.

02 Q. Do you see this entry here for
03 this bottom one?

04 A. Uh-huh (yes).

05 Q. I'll put a double line arrow
06 there.

07 A. Right.

08 Q. It says 12/29/05. That's on
09 the same, Aracoma 002845. It says
10 sensor 1.1 --- or 1.94, ---

11 A. Uh-huh (yes).

12 Q. --- 1.50. The bottom of it,
13 you can't hardly see, but it looks
14 like the top of a five and a one?

15 A. Well, this is not my writing.

16 Q. I know.

17 A. That writing, I believe, that
18 looks like Mike's writing.

19 Q. Yes. Okay. 1.53, 1.80, 1.81.

20 And you see where it says --- what
21 does it say after that, fire at 1.94?

22 A. Right.

23 Q. And that's what the next outby
24 sensor on that list of sensors?

25 A. Right.

93

01 Q. And then it says, smoke up the

02 line. Fire put out. Did you hear

03 any discussions about that?

04 A. Okay. Now, 12/29.

05 Q. Do you recall if one of the

06 gentlemen who responded there had any

07 trouble with the smoke?

08 A. I'm trying to think because

09 while I was there ---. I'm not sure

10 about that. If that's the date I'm

11 thinking of, Kirby took a vacation

12 day. I'm pretty sure that is. Kirby

13 took a vacation day and there's only

14 three of us. And so one of us got to

15 be there all the time, so I slid back

16 from second shift into Kirby's

17 daylight. And then Mike slipped back

18 from third to second, so Mike was on

19 my shift. This should have been my

20 shift, but I wasn't there that night.

21 Q. Okay.

22 A. But when I came back from

23 that break that we had for the

24 holiday, ---

25 Q. Yes.

94

01 A. --- Mike had told me that

02 they'd had a fire up there on the

03 mother drive. And, you know, he was

04 telling me about it, and he said that
05 ---.

06 Q. On the mother drive?

07 A. I think it was the mother
08 drive. And it was up toward the wall
09 there, I believe. And he had told me
10 that Brandon, the beltman, was doing
11 his rounds there and he happened to
12 catch it before --- it hadn't got big
13 yet. And I think he used a fire
14 extinguisher or something. And this
15 is not my saying, but Brandon told me
16 that he grabbed the fire hose and was
17 going to put it on the thing and it
18 didn't fit. The fittings weren't
19 right or something. And I think he
20 used a fire extinguisher or something
21 and finally got the fire out that
22 day. And I think it's --- if that's
23 the same time I'm thinking about.

24 And, anyway, this fire that
25 happened this time, that the two men

95

01 lost their lives over, Brandon had
02 --- it happened like six days after I
03 quit. And I was worried that it was
04 Brandon, because he was always up
05 there as the beltman. I was worried
06 he was in there, so I called his

07 wife. But his wife said, no, it
08 wasn't him. So I was really relieved
09 of that, you know, because I knew
10 Brandon pretty well.

11 And anyway, Brandon had told
12 me that the fire this last time
13 started in the same place. And I
14 don't know. If that's the case if
15 something could have been prevented.

16 Q. Could that incident have been
17 on 12/23? I see here on 12/23 at
18 sensors 82 and 81 ---.

19 A. That might be it, because he
20 reported to Brandon

21 Q. Brandon Conley.

22 A. This is the incident I'm
23 thinking about. Okay, now, the
24 12/29.

25 Q. So we'll put a triple ---

96

01 A. See, now, I'm not aware of
02 this one.

03 Q. --- triple line arrow there
04 for the Brandon Conley one that
05 describes ---.

06 A. This one here ---.

07 Q. It describes the conversation
08 we just had about the incident with

09 Brandon Conley at the mother belt on
10 12/23. Now, go ahead. I'm sorry.

11 A. I'm not aware of this one.

12 Q. And of this one there, is the
13 double-headed arrow for 12/29/05.

14 A. Wait a minute. Now, there was
15 one time, I can't remember which one
16 of the six-foot belts it was. We had
17 a bearing go out on it. I think they
18 had to put it out.

19 Q. See, here's 94.

20 A. Oh, is them the one's you're
21 talking about?

22 Q. Yes, 94 ---.

23 A. That may be the same time.

24 Q. That's on Exhibit D?

25 A. Yeah. And that brings back my

97

01 memory, yeah. But I thought that
02 happened way before that. Yeah, I
03 remember him telling me about this
04 one happening.

05 Q. The him is Kirby?

06 A. No, no, Mike ---

07 Q. Mike Brown.

08 A. --- Brown.

09 Q. Okay.

10 A. See, and it should have been

11 me there during these incidents. It

12 shouldn't have been him. But anyway,
13 yeah, I remember, I think it was Karl
14 or Junior, one, him telling me how
15 sick he got because of the smoke
16 while they was trying to fight it and
17 put it out. Okay. Yeah, it was a
18 bearing that caught on fire is what
19 that was. I think it was maybe a
20 tail bearing, I believe. I forgot
21 about that one.

22 Q. Did you ever work on that ---
23 where the 72-inch belt is on the
24 Northeast Mains, where the longwall
25 belt dumps on to? Did you ever work

98

01 on the extension of that, the belt
02 structure inby that?

03 A. No, I never worked on the
04 extension of it.

05 Q. Did you ever hear anybody
06 talking about working on the
07 extension of that?

08 A. Such as ---?

09 Q. Needing to remove a stopping
10 to continue to install the belt
11 structure, or using curtains to
12 replace stoppings or ---?

13 A. No, I don't remember. I know

14 about a week before I quit I think it
15 was. I know they were needing like
16 nine stoppings built up on Two
17 section. And they were having a time
18 trying to get the block up the hill
19 and up to Two section.

20 BY MR. TUCKER:

21 Q. I have a few questions for
22 you, Mr. Shelton. I may be bouncing
23 around a little bit on these. You
24 mentioned you had quit working there
25 around the 12th or 13th of January.

99

01 Do you work in the mines now?

02 A. Yes.

03 Q. Where do you work at?

04 A. I work over at Rock Springs.

05 Q. Rock Springs.

06 A. A wonderful place. Don't be
07 mean to them people, they're safety.

08 Q. How would you compare the two?

09 A. Night and day. There's so
10 much rock dust on that floor in
11 there, you step in it, it's soft.

12 Q. When did you start
13 dispatching?

14 A. I started --- it was only
15 about a month in. I only had about
16 four weeks underground, I think it

17 was, or close to that, maybe a little
18 more. And I started July 19th, I
19 think it was, somewhere around that
20 area. So about a month later in
21 there, August ---.

22 Q. Toward the end of August?

23 A. Toward the end of August.

24 Q. You had mentioned about the
25 sensors, Mike turning them on. Do

100

01 you know how to turn a sensor off or
02 on, the audible?

03 A. Not the sensor.

04 Q. Are there times when you're
05 the only person outside?

06 A. When you're talking outside,
07 you're talking about ---?

08 Q. At the mines. When everybody
09 else is underground on your shift and
10 you're the only person outside.

11 A. There's one night a week. I'm
12 trying to remember which night that
13 was, but it's for the third shift
14 guy, most of the time.

15 BRIEF INTERRUPTION

16 A. There's one night a week that
17 I know of that you were ---. But any
18 time there would be an alarm, it

19 would probably be on third, because
20 second shift they usually had
21 somebody out there working in on the
22 equipment out there or something.

23 BY MR. TUCKER:

24 Q. In the box cut?

25 A. Right. And then sometimes

101

01 they may have to run parts in to the
02 guys, then you're alone, during that
03 time they're running the part in and
04 they come back out.

05 Q. I guess what I should say, are
06 there times that you're the only
07 person who is outside, who is
08 actually responsible for answering
09 the phone, if anybody calls from
10 underground to the outside?

11 A. Yeah.

12 Q. There are times you're the
13 only communication ---

14 A. Yes. Right.

15 Q. --- person on the surface?

16 A. Right.

17 Q. Okay. During those times, are
18 there things that arise that would
19 keep you from hearing the mine
20 phone ---

21 A. The mine phone ---?

22 Q. --- from any location that
23 you're at?

24 A. No. They got mine phones in
25 all the locations, like where I was

102

01 talking about sweeping in front of
02 the elevator, there's a mine phone
03 there, too.

04 Q. Okay. So if you're back in
05 the warehouse cleaning or working on
06 something back there, ---

07 A. They've got a mine phone
08 there, too.

09 Q. --- you can still hear the
10 mine phone?

11 A. Yeah.

12 Q. Okay. And you mentioned that
13 you don't go --- take the elevator up
14 and go to the bathhouse for any
15 reason?

16 A. No. No.

17 Q. Okay. So you've never ---
18 nobody underground has ever had a
19 problem getting ahold of you on your
20 shift?

21 A. No, I was pretty quick to
22 respond.

23 Q. The only problem, basically,

24 that you've had, as far as
25 communicating, is being on the C&B

103

01 phone?

02 A. (No audible response.)

03 Q. What was your shift, again, on
04 December 23rd, that was the Friday
05 before Christmas?

06 A. Okay. Kirby took a vacation
07 day to make his holiday longer, so I
08 had to --- I worked the night before
09 'til 11 o'clock. Then I came back in
10 at --- was it 5:00? Anyway, it was
11 the day turn. I think I got back off
12 like around 3:00. If I'm not
13 mistaken, it was 2:00 or 3:00 maybe

14 Q. So 5:00 in the day, 5:00 p.m.
15 to 3:00 in the morning?

16 A. No, no, the opposite, 5:00 in
17 the morning ---.

18 Q. 5:00 in the morning until 3:00
19 in the ---?

20 A. Right.

21 MRS. SHELTON:

22 Because there was times
23 that you would come home and
24 you'd only get a couple hours'
25 sleep and you'd have to turn

104

01 right around and go back
02 because the way the shift
03 changed over.

04 Because I asked him, I
05 said, why does he need to come
06 home, just take a nap in the
07 car.

08 A. I work six days a week right
09 now, nine and ten hours a day. And
10 she says, boy, you don't work much
11 anymore, do you?

12 MRS. SHELTON:

13 Well, when he worked
14 with Aracoma, I mean he was
15 gone during the day. And then
16 he'd come home and he'd sleep
17 a couple hours and have to go
18 right back down. I mean, it
19 was ---.

20 MR. TUCKER:

21 You're getting spoiled
22 then, aren't you?

23 A. Oh, it's wonderful.

24 MRS. SHELTON:

25 There was times I was

105

01 even worried about him driving
02 home or driving to work.

03 BY MR. TUCKER:

04 Q. When did Brandon tell you
05 about the situation at the mother
06 drive?

07 A. Which situation?

08 Q. On the 23rd?

09 A. The one before Christmas?

10 Q. Right before ---.

11 A. Brandon didn't tell me that.
12 That was Mike had told me that.

13 Q. Okay. Mike ---

14 A. The other dispatcher, yeah.

15 Q. --- told you? He passed on to
16 you ---?

17 A. After the holiday, when we
18 came back. And then he came in for
19 his shift. We'd kind of overlap
20 shifts, ---

21 Q. Right.

22 A. --- well, like a half an hour
23 or so. Well, during that half an
24 hour or so, he was telling me about
25 what had happened that night.

106

01 Q. Okay. I misunderstood that
02 part. Have you had any conversations
03 with Brandon about that yourself?

04 A. What?

05 Q. About having trouble up at

06 the ---?

07 A. Brandon told me --- right
08 after this accident had occurred,
09 Brandon had told ---. Well, when I
10 was talking to him, he said, it was
11 the same place there, James, he said,
12 in the same place where the fire had
13 started.

14 Q. And could you tell us a little
15 more about that conversation, as far
16 as when he was telling you it was the
17 same place. And it was after, as far
18 as ---.

19 A. He said the same place on the
20 mother drive that he had fit the day
21 before Christmas or whatever,
22 Christmas break.

23 Q. Right.

24 A. He said it happened in the
25 same place this time that it did

107

01 then. And he just felt really bad.
02 He said, I told ---. Who was it he
03 said he told? It might have been
04 Jeff, because Jeff, I think, was over
05 the beltmen. He said, I told him
06 that that needed to be fixed.

07 Q. You're talking Jeff ---?

08 A. The very next day he got to
09 tell him. He said he told them that
10 that had to be fixed up there,
11 because of the way it was.

12 The way he explained it to me
13 was the ends here on the tailpieces
14 or something ---. I can't remember
15 exactly what he said, but he said
16 they had chained it back and it
17 should be welded. And what happened
18 was, the chain had broke. And when
19 it broke, it swung sideways and let
20 the belt ride to one side. And that
21 caused the belt to catch on fire.
22 And he said he had told him that,
23 after that last time, during ---.

24 Q. On the 23rd?

25 A. Yeah. Yeah.

108

01 Q. Who did he say he told?

02 A. I think it was Jeff was the
03 one he told me he told.

04 Q. Jeff ---?

05 A. I'm not good at last names. He
06 was over the beltmen there at
07 Aracoma.

08 Q. Would that have been --- I'm
09 not trying to put words in your
10 mouth, but would it have been ---?

11 A. I could use a little help.
12 Q. Perry.
13 A. Yeah, Jeff Perry. That's his
14 name.
15 Q. Okay. Are you sure that's who
16 it was?
17 A. Yeah, I'm sure that's who it
18 was.
19 Q. Did he say if he told anybody
20 else, other than Mr. Perry?
21 A. I don't recall. Now, that one
22 I'm kind of really shady on. I'm not
23 sure, but I think it was Jeff.
24 That's who I'm thinking he said.
25 Q. Okay.

109

01 A. But at the time when we was
02 talking, it was right ---. I mean,
03 they still hadn't found the guys yet.
04 We was all kind of tore up.
05 Q. It was that night ---
06 A. Yeah.
07 Q. --- of the 19th?
08 A. Yeah. So he was telling me
09 --- you know, he had called me and
10 told me that they hadn't let him
11 leave the mines, that's the reason
12 why he couldn't get home in time and

13 stuff. You know, at breaker time and
14 everything. And, you know, we was
15 just all kind of tore up over it.

16 Q. Right.

17 A. I'm thinking it was Jeff, that
18 was who he said.

19 Q. So he called you from the
20 mines to call ---?

21 A. No, no.

22 Q. It was after he got home?

23 A. I don't think anybody was
24 calling from the mines. I think they
25 disconnected everything there.

110

01 Q. That was after he got home
02 that night he called?

03 A. Yeah.

04 Q. Do you remember about what
05 time that was?

06 A. No, it wasn't until the next
07 day ---

08 Q. The next day?

09 A. --- that we talked. Yeah.

10 Q. I understand you was only
11 underground for a short period of
12 time, ---

13 A. Right.

14 Q. --- around a month or so, but
15 was you ever around the tail piece of

16 the Number Seven belt? That's the
17 belt that the longwall dumps onto.
18 A. The only thing that I seen
19 before they brought me out, was I
20 seen the top rollers and the bottom
21 rollers hanging, no belt on them yet.
22 They still hadn't pulled out from the
23 old place they were in. These were
24 all just set up where they was
25 getting ready to put it in. Because

111

01 when they put me in there ---.

02 Q. Where exactly are you talking
03 about now?

04 A. Up there to where the Seven
05 belt dumps on to the six-foot belt.
06 They were putting Seven in.

07 Q. Oh, okay. Do you recall the
08 sensors 1.82 and 1.83 are on the
09 longwall belt ---

10 A. Okay.

11 Q. --- next to the mother
12 drive the head area.

13 MR. BEITER:

14 That's on Exhibit D.

15 MR. TUCKER:

16 Yeah.

17 BY MR. TUCKER:

18 Q. Do you recall if those were
19 giving you a lot of warnings in
20 December or in January?

21 A. I know the 1.82 was. And it
22 was either the 1.83 or the 1.81.
23 Yeah. Those in that area were giving
24 me some troubles.

25 Q. So you were having to send

112

01 people to check them?

02 A. Yeah. I'd have them to check
03 down there. I'd get a hold of the
04 longwall or I'd have them --- the
05 headgate. And they'd usually --- I
06 guess they were checking. He might
07 have just been standing there for a
08 few minutes and then holler back at
09 me and tell me no. You know,
10 I don't know what they were doing,
11 but they were coming back to me and
12 saying there was nothing up there.

13 Q. Do you ever recall any times
14 that they'd call back and they did
15 have a problem?

16 A. No.

17 Q. Do you know how often that was
18 happening during the period, how
19 common was it for those alarms to
20 give you a warning?

21 A. Pretty often. I would say
22 probably ---. I know it was almost
23 every week. Every week I was getting
24 --- but it just seems to me like it
25 might have been three or four times a

113

01 week, maybe.

02 Q. Okay. Did you ever send
03 anybody to check an alarm anywhere
04 and they would call back and say, you
05 know, we got a hot roller or anything
06 of that nature that would resemble a
07 fire in any way?

08 A. Not since I've been there.

09 Q. When you were on the second
10 shift as dispatcher, did Mr. Horton
11 go underground a lot?

12 A. Yeah. He daily went
13 underground.

14 Q. Were you allowed upstairs for
15 any meetings in the mine office, or
16 for any reason would you normally go
17 upstairs?

18 A. No, I never went upstairs.
19 Never had a need to go up there.

20 Q. But if you needed to go, you
21 wouldn't have had a problem, you
22 don't think going?

23 A. No, if I knew --- I'd have
24 probably got somebody that stepped in
25 for me if I was going to go up there,

114

01 but there was never anything upstairs
02 that I really needed to go for.

03 Q. I mean like before your shift
04 started?

05 A. Oh, well, you had to go
06 through the upstairs. Oh, you're
07 talking about going upstairs?

08 Q. In the bathhouse.

09 A. Okay. Yeah. Daily I had to
10 go through there. And I'd have to go
11 upstairs like every day to fill out
12 my time sheet up in the offices.

13 Q. Okay.

14 A. Now, if you're hitting at
15 anything that was on the board up
16 there, if I missed it, it was
17 probably just because I didn't look.

18 Because I daily had to go through
19 there.

20 Q. I just wondered if you was
21 allowed --- you know, if it was
22 normal procedure for the day to go
23 upstairs or ---?

24 A. Yeah. Like I said, I had to
25 go through the bathhouse to get to

01 the elevator. Then when I'd go up at
02 least once a day, like after my
03 shift, to write down my time for the
04 day.

05 Q. Would you mind, or do you have
06 any objection to giving us the last
07 four digits of your Social Security
08 number?

09 A. The last four?

10 Q. Just the last four.

11 A. 6138.

12 Q. Do you feel that you were
13 given adequate training to perform
14 your duties as a dispatcher?

15 A. Probably was, with the
16 exception, maybe, of COs. I could
17 have learnt more on those, probably.

18 MR. TUCKER:

19 That's all I have right

20 now.

21 BY MR. BEITER:

22 Q. I asked a little earlier about
23 escapeway maps. Maybe I did. Maybe
24 I didn't. Do you know where they
25 have the escapeway maps posted at the

01 mines?

02 A. I'm not positive, but I think
03 the one that we had in the
04 dispatcher's office might have had it
05 marked on it, but I'm not sure,
06 because I can't remember.

07 Q. Was there another map that, I
08 don't know I guess I'll use the term
09 where miners could congregate? I
10 guess that was easily accessible.

11 A. I don't know.

12 Q. What was the longest it ever
13 took to get ahold of someone to
14 respond to an alarm?

15 A. I think I spent up to 10, 15
16 minutes trying to get ahold of
17 somebody. The main reason why was
18 that most of the time they were
19 trying to get ahold of the beltmen.
20 I mean, it doesn't do any good if
21 it's on the mainline belts to get off
22 a section, you know, they're too far
23 away. But mostly I was trying to get
24 ahold of the beltmen. And like I
25 said, mainly I think the problem

117

01 there is, is they walked from head to
02 head. And then there's no way of
03 getting ahold of them and they can't
04 even hear you between there. And I

05 just keep hollering, keep hollering
06 until finally they get close enough
07 to a phone to hear me and then they
08 get on the phone.

09 Q. If it took that long for them
10 to --- for you to contact them, how
11 much longer would it take for them to
12 actually like go to the location
13 where you had a problem with a
14 sensor?

15 A. Well, see, that was another
16 thing that was --- that's according
17 to where the sensor would be as to
18 how fast they could get there,
19 because a lot of times they didn't
20 have a ride to ride, so they'd have
21 to run. Or most of the time they
22 said they ran. A lot of times we'd
23 get on the phone, you could tell they
24 had ran.

25 Q. Did they carry fire

118

01 extinguishers with them?

02 A. Not that I know of.

03 Q. Did they carry water hose with
04 them?

05 A. No.

06 Q. If they responded to a

07 location that you sent them to
08 because there was an alarm, and I'm
09 assuming they didn't have any
10 transportation with them because they
11 were running from ---

12 A. Right.

13 Q. --- wherever the phone is to
14 the location that you're telling them
15 to respond to, how would they be able
16 to respond if indeed there was a fire
17 at that location?

18 A. Well, I think, I'm pretty sure
19 they kept fire extinguishers at all
20 the heads. And if I'm not mistaken,
21 I think they might have had some rock
22 dust. See, I wasn't inside, so I
23 really don't know what they were
24 keeping at that time. I'm trying to
25 go by memory of what little time I

119

01 was inside. But I think they had
02 access to like rock dust and fire
03 extinguishers. And maybe they had a
04 water line there or two, or they
05 could use a fire hose if there was
06 fire hose. But that would be at the
07 head, so I don't know about between
08 there.

09 Q. I guess if they went --- did

10 they just ---? When you got ahold of
11 them, the phones were at the belt
12 heads?

13 A. Right.

14 Q. Did they indicate to you they
15 took a couple of extinguishers with
16 them and a 50-pound bag of rock dust
17 over their shoulder ---

18 A. No, they didn't say anything
19 like that.

20 Q. --- and ran down the beltline?

21 A. No.

22 Q. So they'd like primarily kind
23 of give you the impression they were
24 responding just in person to see what
25 it was, ---

120

01 Q. Right.

02 Q. --- and then assess the
03 situation after they got there?

04 A. And then they might have to
05 call me back and then have me to get
06 somebody else to bring something. I
07 don't know, you know.

08 Q. Did they take a phone with
09 them to splice in right by the ---?

10 A. No.

11 Q. So they'd like run all the way

12 back to the same phone that you
13 called them at and then ---?

14 A. Right.

15 Q. Okay. And could that be
16 somewhat time-consuming?

17 A. Yes, it could.

18 Q. In the event that you actually
19 had a fire, could that be like
20 something that could be very
21 significant?

22 A. Every minute counts.

23 Q. What do you do at Rock Spring
24 Mine now?

25 A. I'm more or less like utility.

121

01 I'm working through a contractor,
02 Belo, but I'm working on the
03 sections. We're doing belt moves and
04 power moves, move the section. I run
05 the equipment some.

06 Q. Well, when you were a
07 dispatcher at Alma Number One, ---

08 A. Uh-huh (yes).

09 Q. --- did you ever evacuate
10 anyone from the mine?

11 A. No.

12 Q. Do you believe --- who had the
13 authority to evacuate someone from
14 the mine?

15 A. If I seen that there was a
16 fire or something, I would be the one
17 getting ahold of them and telling
18 them to get out of there, whether
19 they liked it or not.

20 Q. Okay. Do you know how many
21 beltmen they normally had on your
22 shift to take care of all the belts?

23 A. There for a while there was
24 two, one on the upper belts and one
25 on the lower belts. When I say

122

01 lower, I'm talking about the Rum
02 Creek, the overland Two Four.

03 And since they made the move,
04 they put --- they kept having
05 problems I think it was with the
06 Number Seven belt. Something up
07 there. And they had a guy that sat
08 there and baby sit it most of the
09 time, so they couldn't really do the
10 rest of the belts. So they finally
11 put another guy up there to do that.
12 Then I think sometimes they'd give
13 them a red hat to help them out or
14 something.

15 Q. You mean baby sit, but you
16 mean Number Seven belt, is that ---

17 A. I think it was ---

18 Q. --- the 72-inch belt?

19 A. --- the belt that it was. The
20 one that dumps on to the six foot
21 Number Six belt.

22 Q. The one that the longwall belt
23 dumps on to the Number Seven belt?

24 A. Right.

25 Q. Or maybe it might have been

123

01 the mother drive. I can't remember
02 it that well. But Brandon used to
03 complain about that because he'd have
04 to sit there and baby sit it because
05 it would keep kicking off or
06 something or gobbing out.

07 Q. Do you know who the top
08 management official at the mine was,
09 at Alma Number One, when you worked
10 there?

11 A. I'm sorry it's taking so long.

12 Q. That's okay.

13 A. I'm not good at names. He
14 just got there. What was his name?

15 MRS. SHELTON:

16 Was it John?

17 A. No, it wasn't John. My
18 brain's not working right.

19 BY MR. BEITER:

20 Q. That's okay. That's all
21 right.

22 A. I know it wasn't Pepe. I
23 mean, Pepe's high, but it ---.

24 Q. That's okay.

25 A. I keep thinking John Powers,

124

01 but ---.

02 MRS. SHELTON:

03 Oh, you're talking
04 about Don Blankenship.

05 A. No.

06 MRS. SHELTON:

07 No.

08 A. Not there at the mines. I
09 hate it when that happens. Not John
10 Powers. What's his name?

11 MRS. SHELTON:

12 I don't know.

13 A. Give me some more help.

14 BY MR. BEITER:

15 Q. Pepe Lester, you said? No?

16 A. No, it's above Pepe Lester.

17 Q. Gary Goff?

18 A. Yeah, Gary Goff. That's the
19 one I was looking for. I'm sorry,
20 I'm not good with names.

21 Q. That's okay.

22 A. I really ain't.

23 Q. They're all new names for me,
24 too.

25 MRS. SHELTON:

125

01 Yeah. He was one of
02 the guys that left you a note.

03 A. Yeah, Gary's the one. But he
04 just told me to clean the office up,
05 so you're right there where the
06 monitor's at.

07 BY MR. BEITER:

08 Q. You said whether they like it
09 or not. Did you mean anything by
10 that in particular?

11 A. Yeah, because I think the
12 guys' lives is worth more than my
13 job. That's one thing I was
14 concerned about.

15 Q. I guess I understood that ---
16 I mean, did you mean anything by it
17 by, they like it or not, not meaning
18 the people who you'd be notifying
19 would appreciate you notifying them
20 but somebody that wouldn't appreciate
21 you evacuating them, I guess is what
22 the question is?

23 A. Oh, I'm not insinuating that I
24 would get fired if I would have done

25 something.

126

01 Q. Yes, sir.

02 A. I'm not insinuating that. I'm
03 just --- around about way if they did
04 fire me, it wouldn't matter over a
05 man's life, you know.

06 Q. I understand that. You're
07 just saying, whatever, ---

08 A. Right.

09 Q. --- you would do what you
10 needed to do?

11 A. Yeah, I mean, in other words,
12 it's quicker for me to make that ---
13 if I see that there's smoke, I see
14 --- it's quicker for me to get them
15 guys out than it is to go get
16 permission to do that. I mean, I'm
17 going to kill time getting that
18 permission.

19 Q. Did you feel that you had to
20 have permission?

21 A. Well, I probably would have
22 got ahold of Fred Horton or somebody.
23 But if it was right down to the line,
24 I'd worry about Fred later.

25 MR. BEITER:

127

01 I understand.

02 BY MR. TUCKER:

03 Q. What can you tell us about the
04 required two-hour reports that
05 you ---?

06 A. The required two-hour reports
07 are more important than anything.
08 That's why I quit. Or that's why I
09 quit the day I quit.

10 Q. Why?

11 A. Well, the reports are due like
12 at 2:00, 4:00, 6:00, 8:00. And my
13 normal second shift schedule was to
14 come in at 2:00. And Kirby's got me
15 scheduled on Fridays because Mike
16 would take off Fridays. He got me
17 scheduled to come in at 4:00 and then
18 work 'til 5:00 in the morning.

19 So I went in that Friday and
20 they were --- Gary Goff --- well, the
21 guy said he knew Gary Goff and stuff,
22 and Gary was the one that got him the
23 job there. But he was training to be
24 the dispatcher, the new one, to
25 replace Mike when Mike ---. They

128

01 said they was going to put him back
02 underground. And anyway, this guy
03 was kind of funny to be around, but

04 --- he just doesn't seem to be all
05 there. He might be, but I'm not a
06 psychologist.

07 And Kirby had already left.

08 Well, I got to looking and when I go
09 in, I always like to catch up on
10 everything, you know. There's quite
11 a bit that can happen during the day
12 when you're not there that you need
13 to get to know about. And all these
14 belts were down and I had no
15 communication with them, them or the
16 COs. These belts I could see, I
17 could read. But these were down. I
18 couldn't figure out what was going
19 on.

20 Q. These are the ones on Exhibit
21 C in the Rum Creek mains area?

22 A. Right.

23 Q. And so Kirby's already left.
24 And that's just like three or four
25 minutes after 4:00 now. And I'm

129

01 sitting here and looking at this and
02 like, what's wrong with my belts, why
03 are they down? Why don't I have
04 communication?

05 Well, Fred Horton and Billy

06 Ray was in the office, which is --- I
07 think Bill Ray's the chief
08 electrician. They were in the
09 dispatcher's office there. And I
10 said, what's wrong? I didn't even
11 have time to even listen to what they
12 were saying. When I turned and I
13 looked, and I seen the four o'clock
14 report wasn't out. If that report's
15 not out, they are calling you and
16 hounding you to get that report out,
17 you know what I'm saying?

18 And I'm sitting here --- you
19 know, now I've got two problems. I've
20 got these belts to worry about and
21 these COs. And here the report's not
22 out. And I know I'm going to get
23 chewed up for that report not being
24 out. And I wasn't even there.

25 And I looked --- the new guy's

130

01 there. I said, why hasn't the four
02 o'clock report went out? He's like,
03 well, I don't know. I said, well,
04 did anybody get a four o'clock? Did
05 anybody get the report for the four
06 o'clock? He's like, well, yeah, I
07 got one here. I said, well, where's
08 it at? Let me see this, you know,

09 give it to me, let me write it down,
10 and put it on there and get it out.
11 And he gives it to me. And I said,
12 no, this here is bad numbers and
13 stuff you got, this is your final. I
14 said, I need a four o'clock before a
15 final for the day shift.

16 And I didn't know what to do.
17 And I knew that Don Blankenship's
18 girl is going to be calling me and
19 jumping onto me for not having that
20 report out. And I'm like, I just
21 walked into this mess, you know.
22 It's a mess I've walked into. I've
23 already given my two-weeks' notice.
24 I said, today's going to be the day.

25 And so I didn't know what to

131

01 do. I looked at Fred ---. So I just
02 wrote the final down and left the
03 four o'clock off. I thought, well,
04 if that's all I've got to send, the
05 section's already moved out and
06 everything. It's like I can't get
07 ahold of anybody right now at this
08 point to find out anything, so I just
09 wrote the final down and the spad
10 numbers and I sent it out.

11 Anyway, somehow it got messed
12 up that evening. And anyway, she
13 called me. She was jumping on me. I
14 said, wait a minute, I'm putting you
15 up to Pepe. It went straight to
16 Pepe. Then Pepe's like, what did you
17 put her up to me for? I'm like, I
18 don't know what happened today, you
19 were here today, you know. I was
20 left holding the bag and I don't know
21 what to do in this case. I said my
22 belts are down and stuff. And I
23 said, I don't know what to do.

24 So anyway, Fred looks at me
25 and says what did you --- how did you

132

01 get a final? I said, the new guy
02 said that he took the final. I said
03 and he showed it to me. I said see
04 right here is what he wrote it down.

05 I said, that's what ---. He says,
06 it's impossible. I said, what are
07 you talking about? He said, they
08 couldn't have had a two point
09 something. I said, why? He said the
10 last report they had was one point
11 something and them belts has been
12 down since. I'm like, oh ---.

13 So now, Rob Morrison calls

14 down. What the fuck's going on
15 down ---? No, no, let me back ---.
16 What the fuck is going on down there
17 God ---. He started cussing me out
18 and I said, are you done Rob? Well,
19 let me tell you, just what the fuck
20 is going on down here. And I give it
21 all right back to him and I said,
22 come down here and do it yourself, I
23 quit? So there we have it.

24 MRS. SHELTON:

25 Oh, no, you never left

133

01 --- you left out the good
02 part.

03 A. Oh, yeah, I go upstairs and
04 he's wanting to fight and ---. Man,
05 I ain't an employee. I ain't no
06 longer an employee.

07 MRS. SHELTON:

08 He met you on the
09 elevator, didn't he.

10 A. Yeah. He's wanting to fight.

11 BY MR. BEITER:

12 Q. What's that new guy's name?

13 A. Working underground is better
14 than a dispatcher.

15 MRS. SHELTON:

16 It was Shane. Was
17 Shane his name, the new guy?

18 MR. BEITER:

19 The new guy you was
20 training, or ---.

21 A. I think it's Shane. Shane
22 something. An old guy.

23 MRS. SHELTON:

24 Yeah, because do you
25 remember the car messed up and

134

01 he didn't know to even page
02 you.

03 A. Yeah.

04 MR. TUCKER:

05 Just a couple more
06 right here.

07 A. Okay.

08 BY MR. TUCKER:

09 Q. You mentioned that Mike Brown
10 had told you about the problem at the
11 mother drive after the Christmas ---

12 A. Right.

13 Q. --- holiday, when you came
14 back, the first shift?

15 A. That was after I came back.

16 Q. And then after the 19th,
17 Brandon had talked to you about it
18 and told you what happened because he

19 was in the ---?

20 A. Yeah, the 19th you're talking
21 about, the last time?

22 Q. Yes. The night of the
23 accident. So looking back on it with
24 what Mike told you and what Brandon
25 told you, is it pretty --- is the

135

01 description pretty much the same of
02 the account of what happened at the
03 mother drive that night?

04 A. You mean ---?

05 Q. I'm talking about the 23rd.

06 A. Yeah. The way they was
07 talking it was the same. But I guess
08 the reason it was put out the first
09 time was because the beltman happened
10 to be there right when it started.

11 Q. Okay. Did you hear any
12 discussion about water problems?

13 A. Not other than the water hose
14 wouldn't hook up --- or the fire hose
15 wouldn't hook up to where it was
16 supposed to.

17 Q. Have you heard any other
18 discussions about water problems at
19 the mine or in that area at any other
20 time other than the situation with

21 Brandon hooking up the fire hose?

22 A. Not other than they've got a
23 major water problem period, just
24 water in general in the mines.

25 Q. When you speak to that, are

136

01 you talking about a water pressure
02 problem ---

03 A. No.

04 Q. --- or just the mine's making
05 too much water?

06 A. Right. Making too much water.

07 MR. TUCKER:

08 Okay. That's all I
09 have.

10 BY MR. BEITER:

11 Q. The new dispatcher, Shane, is
12 that Shane Stanley? Could that be
13 his name?

14 A. I never did know what his last
15 name was.

16 Q. Okay. What information is put
17 on two-hour reports?

18 A. Let's see, you kept me in here
19 so long now my nicotine's kicking out
20 now.

21 Q. We're almost done.

22 A. Okay. There was two types of
23 reports that actually went out.

24 There was a actual fax report and
25 then there was a actual page report

137

01 that you paged --- put on the
02 computer and sent the page out to the
03 pagers. And pretty much basically
04 they're the same information. I
05 guess, the page they just get in case
06 they're not around their fax machine.

07 But mainly what I put down
08 would be how many passes they had
09 made from the last report. And I
10 would put down any kind of down time
11 or anything that they were down over
12 and the times that they were down
13 over that. I can't remember
14 what else. I don't know. I'm
15 telling you, my nicotine's running
16 out.

17 Q. Did you have to --- was
18 everything pretty much production-
19 related on those two-hour reports?
20 Is that the purpose of it?

21 A. Yeah.

22 Q. Down time and ---?

23 A. It's mainly to let I guess the
24 company people know what's going on
25 the last two hours, what they're

01 having problems with, where they're
02 standing at. Estimated time if they
03 are down when the reports goes out to
04 when they'll be back up and running.

05 Q. Do you know why they wanted
06 the reports on a two-hour basis?

07 A. So they could call and jump on
08 somebody if they ain't getting what
09 they want, I guess.

10 Q. Was it a pretty high priority?

11 A. Yes, it was a very high
12 priority.

13 Q. Did anybody ever ask you to
14 send a report ---?

15 A. Because I looked at one lady
16 one day ---. I had an accident up on
17 Two section. It was minor, but, you
18 know, we still called the ambulance
19 and stuff.

20 Q. Right.

21 A. And I didn't know it at the
22 time before they came out, but, you
23 know, when you hear that, you don't
24 know how bad a person is. And I'm
25 sitting there and I'm trying to keep

01 the roads clear and everything. And
02 here Sheila's calling for the report.

03 Sheila, I ain't got time for that
04 report right now, I said, I'll get it
05 out to you as soon as we're done. I
06 said, I got an accident here.

07 Well, it went through
08 everybody in the company, you know.
09 And everybody in the company knew
10 that there was an accident. And the
11 sad part of it is, is, you know, it's
12 a shame that I've got to explain
13 myself to her on why this report's
14 not out over an accident like that,
15 'cause ---. I don't know.

16 But like she said one time,
17 and I looked at her and was talking
18 to her, she said, well, the reason I
19 jump on you is because if I don't
20 jump on you, I get jumped on, too, if
21 I don't get it into ---. You know,
22 it's falling right down the line,
23 but ---.

24 Q. Who does she report to?

25 A. I guess --- we got Sheila and

140

01 then we got Jennifer. I think Sheila
02 reports to Don and Jennifer reports
03 to Chris, I think, Chris Adkins.

04 Q. Where do they work?

05 A. Oh, I don't know which is
06 where, but one's in the main office
07 and one's in the Chattensville
08 (phonetic) office.

09 Q. Do you also have like a
10 two-hour report like for accidents or
11 alarms on your CO system, or you
12 know, if you had a fire and the smoke
13 went inby like that one we saw on
14 this one injury ---?

15 A. No. I've never been told to
16 report it to anybody outside of like
17 a mine foreman or a beltman.

18 Q. Do you consider that --- would
19 you consider that like pretty
20 important information?

21 A. Yeah, that would be more
22 important than two-hour reports to
23 me. But then again, I don't own the
24 company.

25 Q. Is a two-hour report just for

141

01 a longwall section?

02 A. Yes. We got a mid-shift
03 report and a final report for the
04 sections.

05 Q. When somebody goes to the
06 hospital for an accident, does that
07 get reported on one of those two-hour

08 reports that goes in?

09 A. No.

10 Q. Do you know if there's another

11 type of report that would be just

12 as ---?

13 A. Like I said, I think the

14 safety guy that we call that comes

15 out, I think he does all that,

16 because I've never done anything like

17 that.

18 Q. Do you know what that person's

19 name is?

20 A. It was on that list. I can't

21 remember his name.

22 Q. Could it be Charles Kahn?

23 A. Yeah, Charles Kahn is one of

24 them. Then there was another. But

25 Charles Kahn is one of them.

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01 Q. And would he be notified every

02 time there was an accident?

03 A. Yeah. Whenever there was an

04 accident, the first thing I did was

05 call 9-1-1 and made sure an ambulance

06 was coming on its way. And then I

07 would get ahold of the safety

08 director so that he could go admit

09 him at the hospital or whatever.

10 Q. So every time there was a
11 serious accident involving an injury
12 that required medical attention, Mr.
13 Kahn would be notified?

14 A. Right.

15 Q. But was he notified of fires
16 and those types of things, smoke?
17 Like one entry in the book where
18 smoke was going in by or the problem
19 with the smoke up on the longwall
20 mother drive?

21 A. Not that I know of.

22 Q. Okay. From what you heard
23 about the fire and the accident
24 itself on January 19th, do you have
25 any idea ---? I know you talked

143

01 about the track entries and track
02 better facilitating escape in a smoky
03 environment, do you know of anything
04 else or do you have any ideas on
05 anything else that might have been
06 able to prevent it?

07 A. Well, I like what Rock Springs
08 does over there. We got the extra
09 rescuers stored at certain places in
10 the mines. I mean, if you can make
11 it down to there, you know, you got
12 an extra chance there to ---.

13 Q. Okay.

14 A. You know, it might help and it
15 might not help, but I just like that
16 idea, you know. But you know,
17 there's some places you probably
18 couldn't put them because of theft.

19 MR. BEITER:

20 Mr. Shelton, on behalf
21 of MSHA, I wish to thank you
22 for appearing here today and
23 for answering our questions
24 and for being patient. I know
25 we took quite some time, and

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01 sharing your information about
02 the mine. Your cooperation
03 is very important to us as we
04 work to determine the cause of
05 the accident.

06 If you wish, you may go
07 back over any answer that
08 you've given during this
09 interview. And you also have
10 an opportunity to make a
11 closing statement. We can
12 cover any additional points
13 that you believe need to be
14 raised.

15 We ask that you not
16 discuss your interview today
17 with any person who may have
18 already been interviewed, or
19 any person who may be
20 interviewed in the future.
21 This will ensure --- the
22 reason we ask that is so that
23 when we speak with someone,
24 that we get an independent
25 memory ---

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01 A. Unbiased.

02 MR. BEITER:

03 --- yes, yes ---
04 surrounding the accident.

05 After questioning other
06 witnesses and obtaining
07 additional information, we may
08 ask you back for further
09 questions. If at some later
10 point you have additional
11 information regarding the
12 accident that you'd like to
13 provide to us, please contact
14 Mr. Ken Murray who's in the
15 back of the room here. He's
16 the lead accident
17 investigator, or his staff

18 assistant, Anthony Webb. And
19 they've provided some contact
20 cards ---

21 A. Okay.

22 MR. BEITER:

23 --- for me to give to
24 you. I'm sorry, I never gave
25 you an opportunity to ask any

146

01 clarifying questions if you
02 had any.

03 MRS. SHELTON:

04 No, I don't. Thank you
05 anyway.

06 MR. BEITER:

07 I apologize. The Mine
08 Act provides certain
09 protection for individuals who
10 participate in accident
11 investigations. If at any
12 time you believe that you have
13 not been treated fairly
14 because of your cooperation in
15 this investigation, please
16 contact Mr. Murray
17 immediately. And again, thank
18 you very much for your help.

19 A. Thank you.

20 MR. BEITER:
21 I'm sure the state has
22 something they'd like to add,
23 too.

24 MR. TUCKER:
25 I'd like to also thank

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01 you for coming out and for
02 giving us your testimony
03 today. And we offer the same
04 protections that Denny's
05 mentioned to you. And here's
06 one of my cards and here's a
07 card of C. A. Phillips, our
08 deputy director out of our
09 Charleston office. If you
10 ever need us for anything or
11 have any additional
12 information, just give us a
13 call.

14 A. Well, thanks to you guys, the
15 mines is getting safer.

16 MR. BEITER:

17 Thank you.

18 MRS. SHELTON:

19 You know, I'm going to
20 have to say, though, that when
21 they was up there, when we all
22 were at the church up there

23 when all that was going on,
24 Sheila ---. We did meet
25 Sheila up there and that thing

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01 she did talk about was the
02 two-hour reports, how, you
03 know, regardless even if the
04 world came to an end, she had
05 to have that two-hour report.

06 She said really it wasn't a
07 two-hour report, it was an
08 hour and 45 minute report
09 because she didn't even have
10 time to get it fixed up. Is
11 that not what she said? But
12 it just ---. I don't know.
13 Paperwork's important to
14 Massey, I guess.

15

16 * * * * *

17 EXAMINATION CONCLUDED AT 6:12 P.M.

18 * * * * *

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