

01                   EXAMINATION UNDER OATH  
02                                   OF  
03                   HAROLD MICHAEL SHULL  
04  
05  
06       Taken pursuant to Notice by Autumn D.  
07       Furby-Pritt, a Court Reporter and  
08       Notary Public in and for the State of  
09       West Virginia, at Holiday Inn  
10       Express, 101 George Kostas Drive,  
11       Logan, West Virginia, on Wednesday,  
12       February 8, 2006, at 4:03 p.m.

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

02  
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04 District Manager  
05 U.S. Department of Labor  
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07 Coal Mine Safety and Health  
08 District 6  
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01 A P P E A R A N C E S (cont.)  
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10 WILLIAM TUCKER  
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20 1100 Wilson Boulevard  
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22  
23  
24  
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01 A P P E A R A N C E S (cont.)

02

03 ALSO PRESENT:

04 TIMOTHY BRADFORD, ESQUIRE

05 MARNE MITSKOG

06 STEVE COX

07 MICHAEL FINNIE  
08 DENNIS A. BEITER  
09 RONALD W. STAHLHUT  
10 WILLIAM J. FRANCAERT  
11 CHARLES W. POGUE  
12 RODNEY BROWN  
13 ARLIE A. WEBB  
14 ANTHONY L. BURKE  
15 C.A. PHILLIPS  
16 EUGENE WHITE  
17  
18  
19  
20  
21  
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23  
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01 I N D E X

02

03 DISCUSSION 7 - 17

04 WITNESS: HAROLD MICHAEL SHULL

05 QUESTIONS

06 By Mr. Murray 17 - 78

07 By Mr. Farley 78 - 90

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09 By Mr. Murray 114 - 117

10 By Mr. Farley 117 - 118

11 By Mr. Murray 118 - 123

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

02 -----

03           MR. MURRAY:

04           My name is Kenny  
05 Murray. I represent the Mine  
06 Safety and Health  
07 Administration, which is an  
08 Agency of the United States  
09 Department of Labor. I'm the  
10 lead acting investigator for  
11 MSHA's accident investigation  
12 team that's charged with  
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 accident investigation that  
20 MSHA is conducting with the  
21 State of West Virginia. I'll  
22 be asking the questions for  
23 MSHA today. And with me here  
24 are some of our team members  
25 from our MSHA accident

8

01 investigation team, that  
02 includes individuals from  
03 different parts of the United  
04 States. At this time, I'll  
05 let them introduce themselves  
06 to you.

07 MR. FRANCCART:

08 Bill Francart with the  
09 MSHA office out of Pittsburgh.

10 MR. STAHLHUT:

11 Ron Stahlhut, MSHA,  
12 Vincennes, Indiana.

13 MR. FINNIE:

14 Michael Finnie, MSHA,  
15 Madisonville, Kentucky.

16 MR. BURKE:

17           And I'm Tony Burke,  
18           MSHA, Whitesburg, Kentucky.

19           MR. WEBB:

20           Anthony Webb, MSHA in  
21           Pikeville.

22           ATTORNEY BELL:

23           Keith Bell, the  
24           Solicitor's office.

25           MR. BROWN:

9

01           Rodney Brown, MSHA  
02           Public Affairs.

03           MR. POGUE:

04           Charlie Pogue, MSHA,  
05           Hunker, Pennsylvania.

06           ATTORNEY MITSKO:

07           Marne Mitskog, the  
08           Solicitor's office.

09           ATTORNEY BARISH:

10           Dan Barish, the  
11           Solicitor's office.

12           MR. MURRAY:

13           At the front table with  
14           me, we also have  
15           representatives from the State  
16           of West Virginia.

17           Representing the state today  
18           will be Mr. Bill Tucker, who  
19           will be asking questions for



20 the state. And I'll have him  
21 give you some comments from  
22 the state.

23 MR. TUCKER:

24 I'll just read a brief  
25 statement to you. The West

10

01 Virginia Office of Miners'  
02 Health, Safety & Training is  
03 conducting this interview  
04 session jointly with MSHA.  
05 We're in agreement with the  
06 procedures outlined by Mr.  
07 Murray. However, let me make  
08 it clear that the Director  
09 reserves the right, if  
10 necessary, to call or subpoena  
11 witnesses or require the  
12 production of any record,  
13 document, photograph or other  
14 relevant materials necessary  
15 to conduct this investigation.  
16 Again, my name is Bill Tucker,  
17 and I work out of the Region  
18 Four Oak Hill office. I'll  
19 let the other state people  
20 introduce themselves.

21 MR. PHILLIPS:

22 C.A. Phillips, Deputy  
23 Director of Miners' Health,  
24 Safety & Training.

25 MR. WHITE:

11

01 Eugene White, Region  
02 Three.

03 MR. COX:

04 Steve Cox, Region  
05 Three.

06 MR. MURRAY:

07 Thank you, Bill. This  
08 investigation is being  
09 conducted by MSHA and the  
10 State of West Virginia to  
11 gather information to  
12 determine the cause of the  
13 accident and to help prevent  
14 this from happening in the  
15 future. These interviews are  
16 an important part of the  
17 investigation. After the  
18 investigation is completed,  
19 MSHA will issue a written  
20 report detailing the nature  
21 and causes of the accident.  
22 MSHA accident reports are made  
23 available to the public in the  
24 hope that greater awareness

25 about the causes of accidents

12

01 can reduce their occurrence in  
02 the future. The information  
03 obtained through witness  
04 interviews is frequently  
05 included in these reports.  
06 Your statement may also be  
07 used in other enforcement  
08 proceedings.

09 I'd like to thank you  
10 in advance for your appearance  
11 here. We appreciate your  
12 assistance in this  
13 investigation. The  
14 willingness of miners and mine  
15 operators to work with us is  
16 critical to our success in  
17 making the nation's mines  
18 safer.

19 This interview with  
20 Mike Shull is being conducted  
21 under Section 103(a) of the  
22 Federal Mine Safety & Health  
23 Act of 1977 as part of an  
24 investigation by the Mine  
25 Safety & Health Administration

13

01 into the conditions, events  
02 and circumstances surrounding  
03 the fatalities that occurred  
04 at the Aracoma Alma Mine  
05 Number One located at Route 17  
06 North, Bandmill Hollow Road,  
07 in Stollings, West Virginia,  
08 25646.

09 This interview is being  
10 conducted at the Holiday Inn  
11 Express in Logan, West  
12 Virginia, on February 8th,  
13 2006. The current time is  
14 4:08, Eastern Standard Time.

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

14

01 provide us with any other  
02 information that you believe  
03 may be important. You're

04 permitted to have a  
05 representative with you during  
06 the interview, and you may  
07 consult with your  
08 representative at any time.  
09 You may designate any person  
10 to be your representative.  
11 Following the questions by  
12 MSHA and the state, the  
13 representative will be given  
14 the opportunity to ask  
15 questions for purposes of  
16 clarification on areas already  
17 discussed. Your statement is  
18 completely voluntary. You may  
19 refuse to answer any question  
20 and you may end your interview  
21 at any time. If you don't  
22 understand a question, tell me  
23 and I'll rephrase it. If you  
24 need a break for any reason,  
25 just let me know. You may

15

01 request the opportunity to  
02 make a confidential statement,  
03 which will be withheld from  
04 the public to the extent  
05 allowed by law. Should you

06 desire to give a confidential  
07 statement, you should advise  
08 me before I begin your  
09 interview so that I can  
10 reschedule your interview in  
11 order to properly consider  
12 your request. Do you wish a  
13 confidential interview?

14 MR. SHULL:

15 No.

16 MR. MURRAY:

17 A court reporter will  
18 record your interview and will  
19 later produce a written  
20 transcript of the interview.  
21 I ask that you state all your  
22 answers verbally because the  
23 court reporter cannot record  
24 your gestures, such as nodding  
25 your head. If any part of

16

01 your statement is based not on  
02 your own first-hand knowledge  
03 but on information that you  
04 learned from someone else,  
05 please let me know that.  
06 Please answer each question as  
07 fully as you can, including  
08 any information that you

09 learned from someone else. We  
10 may not ask the right  
11 questions to learn the  
12 information you have, so don't  
13 feel limited to the precise  
14 question that I ask. If you  
15 have information about the  
16 subject area of a question,  
17 please provide us with that  
18 information. Do you have any  
19 questions about the manner in  
20 which the interview will be  
21 conducted?

22 MR. SHULL:

23 No.

24 MR. MURRAY:

25 Will you please swear

17

01 Mr. Shull in.

02 -----

03 HAROLD MICHAEL SHULL, HAVING FIRST

04 BEEN DULY SWORN, TESTIFIED AS

05 FOLLOWS:

06 -----

07 BY MR. MURRAY:

08 Q. Mr. Shull, please state your

09 full name, address and telephone

10 number, and please spell your last

11 name for the record.

12 A. Harold Michael Shull,

13 S-H-U-L-L. [REDACTED]

[REDACTED]

[REDACTED]

16 Q. And the spelling of your last  
17 name?

18 A. S-H-U-L-L.

19 Q. Oh, you said that. Okay.

20 Thanks. I'm sorry. Are you

21 appearing voluntarily today?

22 A. Yes.

23 Q. Has anyone made any promises

24 to you for giving this statement or

25 offered you any rewards in exchange

18

01 for making your statement?

02 A. No.

03 Q. Has anyone threatened you or

04 warned you not to provide this

05 statement?

06 A. No.

07 Q. You understand that you may

08 refuse to answer any questions or

09 terminate the interview at any time?

10 A. Yes.

11 Q. Do you have a representative

12 with you?

13 A. Yes.



14 Q. Who is that?

15 A. Mark Heath.

16 Q. How long have you known Mr.

17 Heath?

18 A. I just met him --- well,

19 talked to him last night.

20 Q. Last night, for the first

21 time?

22 A. Yeah.

23 Q. Okay. Have you been made

24 aware that Mr. Heath also represents

25 the company in this matter and that

19

01 there's a potential for a conflict of

02 interest to arise between yourself

03 and the company?

04 A. Yes.

05 Q. Did you contact Mr. Heath or

06 did Mr. Heath contact you?

07 A. He contacted me.

08 Q. Did you request him to be your

09 representative?

10 A. Yeah.

11 Q. Were you taken into a room

12 today in this hotel before coming

13 into this interview?

14 A. No.

15 Q. Did you meet with Mr. Heath

16 and some others this morning?

17 A. No.

18 Q. This afternoon?

19 A. I just met him when I come

20 through the door.

21 Q. Did you have any conversations

22 today with Randall Crouse?

23 A. No.

24 Q. Steve Hensley?

25 A. No.

20

01 Q. Pat Kinser?

02 A. No.

03 Q. Okay. How long have you

04 worked at the Aracoma Alma Mine

05 Number One?

06 A. Since --- I'm going to say

07 right around July of 2000.

08 Q. What is your current job

09 title?

10 A. Electrician troubleshooter.

11 Q. Is that a management position?

12 A. No.

13 Q. What was your job on January

14 19th, 2006, the date of the accident?

15 A. Electrician for the section.

16 Q. How long have you held that

17 position?

18 A. Since probably 2000.

19 Q. What other positions have you  
20 held at the mine at Aracoma?

21 A. Hoot owl maintenance,  
22 electrician for the maintenance  
23 crews.

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

21

01 A. Fifteen (15).

02 Q. The next series of questions  
03 will be related to the day of January  
04 19th, 2006. What shift were you  
05 scheduled for that day?

06 A. Second.

07 Q. And what time did second shift  
08 start?

09 A. 2:30.

10 Q. What time did it end?

11 A. Supposedly ended at 12:00.

12 Q. Well, what time did you arrive  
13 at the mine that day?

14 A. Probably around 2:00.

15 Q. Who was your supervisor that  
16 day?

17 A. Sorry?

18 Q. Who was your supervisor?

19 A. Are you speaking of my boss on  
20 the section or ---?

21 Q. Who do you report to directly?

22 A. I report to Jimmy Wells

23 (phonetic). He's my chief

24 electrician.

25 Q. Okay.

22

01 A. But he doesn't go to the

02 section with us.

03 Q. Okay.

04 A. My boss on the section would

05 be Michael Plumley.

06 Q. Are those your normal

07 supervisors?

08 A. Yes.

09 Q. Are you routinely assigned to

10 the Two section?

11 A. Yes. That's my section

12 permanent.

13 Q. So you're part of the crew?

14 A. Right.

15 Q. And in what area of the mine

16 were you assigned to work on that

17 shift?

18 A. On the section --- Two

19 section.

20 Q. Two section, okay. Prior to

21 January 19th, when was the last time

22 you were on Two section?

23 A. The night before.

24 Q. The 18th?

25 A. Yeah.

23

01 Q. Okay. If you can, in your own  
02 words, could you briefly describe  
03 what you did from the beginning of  
04 the shift until the time that you  
05 were ordered to evacuate?

06 A. Are we talking about from the  
07 outside?

08 Q. Yeah. Walk me through it.  
09 Just bring me into the mine and bring  
10 me up onto the section.

11 A. Like I said, the shift starts  
12 at 2:30. I usually go down a little  
13 early and clock in, get whatever  
14 parts may be called out. Sometimes  
15 we have to throw maybe a couple extra  
16 things on the mantrip and take them  
17 with us. Probably didn't leave the  
18 box cut until 2:30, maybe 15 'till  
19 3:00. We went underground. Got to  
20 the section I'm going to say around  
21 probably about five minutes 'till  
22 4:00, pretty close. I'm not for sure  
23 on that time. Probably five 'till  
24 4:00.

25 Q. That's fine.

01 A. And got to the section. The  
02 other crew was --- had met us there  
03 and was getting ready to leave. And  
04 we had a discussion with Terry Shadd  
05 about --- they were thinking about  
06 six and three schedules and what we  
07 thought about it, discussing it  
08 amongst ourselves, talk to the hoot  
09 owl and see what they thought. And  
10 at that time, he asked me to adjust  
11 the midpoint dust suppression on the  
12 belt head and to install ancil fire  
13 suppression system on a charger  
14 outby, two breaks outby the section.  
15 And that's where I was working at, at  
16 the charger, running back and forth  
17 from my parts, parts sled, which was  
18 straight across from the right  
19 shuttle car. I was running back and  
20 forth to that charger to my parts  
21 car, gathering parts up to get the  
22 suppression system hooked up, when  
23 the belts went off. And I think that  
24 they had shut the belts off to get  
25 ahold of us.

01 I was standing there talking  
02 to Michael Plumley. And it's usually

03 routine for the belts to go off  
04 because we load so much rock. So he  
05 --- he kind of looked at me and he  
06 said, well, he says, let's go find  
07 out what's wrong with the belts. We  
08 walked over and, of course, the buggy  
09 man was sitting at the feeder waiting  
10 to dump. And I could hear Plumley  
11 talking on the phone. I couldn't  
12 hear the other end of the  
13 conversation. I just heard him say,  
14 what, slow down for a minute here.  
15 Where is the fire? He said, I can't  
16 drive into a fire. Where's the fire  
17 at? So then he turns around and  
18 tells Joe --- I believe it was Joe  
19 Hunt, tells him, he said, get  
20 everybody gathered up and get on the  
21 mantrip. We got to get out of here.  
22 There's a fire.

23 So we all go to the mantrip,  
24 get on the mantrip, and we noticed  
25 that two of the guys weren't with us,

26

01 which was Bill Mayhorn and Gary  
02 Baisden. So Gary --- Gary and Bill  
03 were supposed to be outby the section  
04 a couple breaks, loading cribs in a

05 scoop. So we stopped and picked them  
06 up and proceeded to head out. The  
07 driver was Steve Hensley. And we  
08 probably did a head count before we  
09 took off and made sure everybody was  
10 on there.

11 We took off and we were  
12 heading down Five entry because Steve  
13 was afraid that the intake, if we  
14 would hit anything, that it would be  
15 in Four entry, because it has a  
16 straight shot to the section. So he  
17 stayed in Five entry, which we were  
18 smelling smoke, but not bad. And as  
19 soon as we come around the curve, we  
20 hit the smoke in Number Four entry  
21 head on. And Steve knew from right  
22 there it was only going to be two  
23 breaks to a mandoor that we was going  
24 to have to go through. So he tried  
25 to get us as close to it as he could

27

01 until he couldn't breathe anymore.  
02 And at that time, he shut the mantrip  
03 off and hollered back and told them,  
04 I can't go any further. And Plumley  
05 said, go to the mandoor, a break past  
06 the cribs, and everybody started  
07 getting off the mantrip. And I made



08 it probably --- I'm going to say ten  
09 feet --- I made it from where I got  
10 out of the mantrip to the front of it  
11 before I donned my rescuer and then  
12 went to the upper rib and felt my way  
13 out. And as I was feeling my way  
14 out, I could hear Plumley tell --- it  
15 was a muffle, but you could hear  
16 where he had the SCSR on, he was  
17 telling people to get in line, get in  
18 front of each other.

19 So as I was easing down the  
20 rib, I almost tripped over one of our  
21 guys. He was looking for his  
22 goggles. And I guess he found them  
23 right there. And I finally grabbed  
24 him and threw him in line. And as I  
25 started feeling my way down the rib,

28

01 somebody grabbed onto my back. I  
02 guess that was what Plumley was  
03 doing, putting them in line, and they  
04 were grabbing onto each other. And  
05 as I started down through there, I  
06 knew if I hit the cribs, I was a  
07 break away from the mandoor I was  
08 trying to make it to. And when I  
09 felt the cribs, I stepped around, and

10 I remember hitting the Heinzmann  
11 jack. So I knew that I was close,  
12 within a break. And as I started on  
13 past it, feeling for the next  
14 Heinzmann jack because --- I mean,  
15 visibility was zero, I remembered my  
16 light and hitting face-to-face with  
17 Gary Baisden. And I just grabbed him  
18 by the back and spun him around and  
19 pushed him toward the mandoor because  
20 there were a few that were with us  
21 that hadn't been up on our section a  
22 whole lot, and that would have been  
23 Gary Baisden, Duane Vanover, Pat  
24 Kinser. I believe that was it. I  
25 believe that was the three that

29

01 probably wouldn't have known. They  
02 wouldn't have known where that  
03 mandoor was, unless somebody was  
04 trying to show them where it was at,  
05 because I put the mandoor in, me and  
06 a couple other guys. We put the  
07 mandoor in prior to this, probably  
08 three weeks, because the mandoor is  
09 straight across from some seals that  
10 the bosses were having to check. And  
11 the only way to get access to the  
12 seals were to go like several breaks

13 inby or outby where we went through  
14 the door at, at that time. They  
15 asked me to put the door in there so  
16 that they could get through there to  
17 go check the seals straight across  
18 from us instead of having to walk  
19 five breaks or six breaks down and  
20 back. So I knew where the door was.  
21 And I thought that everybody would  
22 know where the door was because we  
23 stopped there daily, day or second  
24 shift, either one, whichever shift we  
25 were on, for Mike to check his seals.

30

01 And like I said, I grabbed  
02 Gary and turned him around and pushed  
03 him toward the door because I knew  
04 where it would be at. And as soon as  
05 I felt my hand round the break where  
06 I knew the door was at, I heard  
07 somebody holler, here's the door.  
08 And I'm pretty sure that was Pat  
09 Kinser, because Bill was behind him,  
10 hollering at him. And Bill opened  
11 the door up and he said, it's clear  
12 over here. So he held the door open  
13 as we went through it. And we all  
14 got across the belt line. And on the

15 other side, there was some of them  
16 that went ahead and went on down the  
17 belt line. And when Plumley came  
18 through, he hollered and told  
19 everyone to wait. He says, stop, he  
20 said, I've got to get a head count.  
21 And when he said head count,  
22 automatically he noticed that Bragg  
23 wasn't with us, and one of the other  
24 guys noticed that Elvis wasn't with  
25 us. So I believe on that side of the

31

01 belt with Plumley was Plumley, Steve  
02 Hensley, and Bill Mayhorn went back  
03 across the belt, and they went back  
04 out into the smoke, trying to find  
05 Don and Elvis. And they were  
06 probably out there, I'm just going to  
07 say 20 seconds, 30 seconds, I mean,  
08 the time-wise I have no idea, but I  
09 know that they --- they couldn't have  
10 had their respirators on the whole  
11 time because they were hollering.  
12 You could hear them hollering at the  
13 top of their lungs, hollering for  
14 them. And they came back in and said  
15 they couldn't find them, it was too  
16 thick, the smoke was too thick, and  
17 nobody would answer.

18           So we proceeded down Four  
19    belt, I mean down the 48-inch belt.  
20    And we ran into Bryan Cabell, and  
21    Bryan directed us what door we needed  
22    to go to. And when we came out, we  
23    had Pat Calloway waiting on us right  
24    there when we came in the intake.  
25    And just seconds later, Billy Mayhorn

32

01    and Fred Horton came around the  
02    corner and went in and started ---  
03    Pat told us all to stay in the group,  
04    right there, because he didn't want  
05    anybody else getting away from him.  
06    And anybody that would show up, he  
07    wanted them there. And then at that  
08    time, they found out that Bragg and  
09    Elvis wasn't with us. And fire  
10    rescuers, of course, had been used or  
11    were in the process of being used.  
12    And Mike Plumley, Steve Hensley and  
13    Joe Hunt wanted to go back and look  
14    for them again, but, like I said, our  
15    rescuers had been used. And Steve  
16    looked at Pat Calloway and he said,  
17    let me see your rescuer. He said,  
18    I've got to have one, I'm going back.  
19    And Pat gave him his rescuer, and

20 Steve went back into the smoke.  
21 Steve and Mike Plumley and Joe Hunt  
22 had come back and gave Pat his  
23 rescuer back and he said --- Pat  
24 said, did you find them, and he said,  
25 no, he said, it's just too bad. He

33

01 said, we can't find them.

02 So at that time, Pat took  
03 everybody's names down that was  
04 there. And about that time, Raymond  
05 Gramlett (phonetic) pulled around the  
06 corner on a grader. And he told  
07 Raymond Gramlett, he said, back it  
08 up, park it right there and get off  
09 and get here with this group. So  
10 Raymond come over there and he took  
11 everybody's name down. And he said,  
12 we need to get ahold of the outside,  
13 and he said, and the phones aren't  
14 working right.

15 So at that time I went down  
16 with --- straight down to the Seven  
17 belt with Fred and Billy Ray and  
18 tried to get communication  
19 established. And I guess that's  
20 where they got a hold of them, out  
21 --- the outside, and told them what  
22 we had going on. And when we all

23 came back and got in the group, Fred  
24 and Billy Ray said they were going  
25 down to the cut-through and will go

34

01 around and try to come back up the  
02 belt to see if they might be able to  
03 find them or somewhere there.

04 We walked over to the intake,  
05 probably about a break away, and  
06 looked straight down, and we seen two  
07 lights. And I mean, we thought, you  
08 know, this is our two guys here, this  
09 is what we need right here. And Fred  
10 was on a diesel ride, a diesel five  
11 man. Him and Billy took off down  
12 there to find out. But by the time  
13 they started getting close, we  
14 started seeing more lights come out,  
15 so we knew it was the longwall coming  
16 out.

17 So Pat decided, he said, well,  
18 let's just all go down to the  
19 cut-through and wait on everybody.  
20 So we all went down to the  
21 cut-through and waited. And at that  
22 time, probably within five minutes,  
23 as far as I can remember, Terry Shadd  
24 and Dusty Dotson showed up. And of

25 course, Terry used to be our boss.

35

01 He hadn't had his job very long as  
02 superintendent of the section. And  
03 he got off and he was tore all to  
04 pieces, you know, tell me everybody  
05 is all right, tell me everybody is  
06 all right. We had to tell him that  
07 Don and Elvis we lost, we didn't know  
08 where they were at. Of course, you  
09 know, he was tore up pretty bad. He  
10 said, no, don't tell me you left my  
11 boys. And I said, we didn't leave  
12 them. When they got off, we don't  
13 know where they went. So we decided  
14 we were going to try to find them.  
15 So the guys from the longwall said  
16 they had some six-packs of SCSRs on  
17 their face line. So we went over on  
18 the face line, walked a couple of  
19 them, went up the belt, trying to  
20 make --- up the mother drive belt.  
21 We went down to the face line, got  
22 all the rescuers, the SCSRs. And the  
23 first box we donned ourselves, just  
24 in case we'd need it. And then the  
25 other two boxes we brought out with

36

01 us, packed them up the hill to the



02 cut-through and put them at the cut-  
03 through. And when we got back to the  
04 cut-through, that's when we ran into  
05 Fred again, and Fred said, there's  
06 two --- 15 men coming, and they want  
07 you guys outside. So we left and  
08 went outside.

09 Q. That's an excellent account.

10 Let's go back up on the Two section  
11 for a minute. You said you were  
12 working on a charger. Where was the  
13 charger located?

14 A. Two breaks, I think, outby the  
15 section feeder.

16 Q. And that was a battery charger  
17 for the scoop?

18 A. Uh-huh (yes).

19 Q. And you were talking about  
20 overhearing half of a conversation,  
21 at least the foreman's half of the  
22 conversation on the Two section, and  
23 they were telling him about a fire.  
24 Who was he talking to?

25 A. I have no idea. I don't know

37

01 who it could have been. I'm not  
02 going to speculate on who it was  
03 because I don't know.

04 Q. Did he tell you where the fire  
05 was?

06 A. Yeah. Yeah, because he said  
07 that they had been saying that there  
08 was a fire, whoever it was. And he  
09 said, you know, I can't take them ---  
10 he said I told him, you know, I can't  
11 take them through a fire. I don't  
12 want to run into a fire if it's on  
13 our belt line. And he said then  
14 that's when they told him it was the  
15 mother drive. So the mother drive is  
16 where the fire was, and we tried to  
17 stay clear of everything. You'd  
18 never believe it would come into your  
19 intake and your primary escapeway,  
20 but we hit it head on.

21 Q. How do you think that  
22 happened?

23 A. I don't know. I have no idea,  
24 unless --- I don't know. I can't  
25 speculate on how it would happen. I

38

01 know we have two sets of double  
02 doors, but I never went back. And  
03 I'm sure they closed the double doors  
04 because I know that the dayshift  
05 closed them because Terry Shadd was  
06 with them, and Terry --- you don't go

07 through the doors unless you close  
08 them back.

09 Q. Did you ever hear anybody  
10 mention anything about the stopping  
11 at the tail of the 72-inch belt?

12 A. I have never heard anything  
13 mentioned on the stopping.

14 Q. Whether it was in or out?

15 A. No. I have no idea about a  
16 stopping.

17 Q. Back up on the Two section.

18 Before the evacuation order was  
19 issued, before you heard this  
20 conversation on the telephone, was  
21 there anything unusual?

22 A. No.

23 Q. Did you smell any smoke?

24 A. No. Like I said, I was at the  
25 belt head. As a matter of fact, I

39

01 went over to the belt head looking  
02 for some cold roll to help mount the  
03 ancil system on the charger. I  
04 wanted to do it in a way that they  
05 could take it on and off without  
06 destroying the charger and the ancil  
07 system. I wanted to be able to move  
08 it separately. But you know, when I

09 was over there, I adjusted the  
10 midpoint on the belt, like Terry  
11 wanted me to do, and everything was  
12 fine. I mean, I didn't smell  
13 anything. Nothing at all.

14 Q. Do you have a CO alarm at your  
15 tailpiece?

16 A. Yeah, one at the tailpiece and  
17 one at the belt head and two breaks  
18 outby.

19 Q. It's actually an alarm that  
20 would make an audible sound or a  
21 visual sound?

22 A. I think that the CO box is  
23 alarmed. Yeah, they've got a  
24 speaker, I mean, a little siren,  
25 alarm on it, I think. I'm not ---

40

01 never really heard one go off, but if  
02 there would be an alarm, and I've had  
03 it happen before, the dispatcher will  
04 get ahold of us and will tell us, you  
05 know, Mike, you've got a CO sensor  
06 going off. You need to go check it  
07 if you can get to it. I can't get  
08 ahold of a belt man to get to it or  
09 something. So if it's close, you  
10 know, I'll go to it. If it's not,  
11 you know, I'll tell him, you know, I

12 can't go down there. You'll have to  
13 get ahold of somebody.

14 Q. Who's responsible for the  
15 maintenance of that CO alarm system?

16 A. That would be Jessie Jude  
17 (phonetic).

18 Q. Which is --- he's a belt  
19 foreman?

20 A. No. Jessie is an electrician.

21 Q. Okay.

22 A. That's basically what he does  
23 is the CO systems. And during any  
24 time they can ask Jessie to work on a  
25 fall line, COs. Most of the time,

41

01 he'll be with them, wiring up heads  
02 or something. And he floats around,  
03 does just about anything, fans,  
04 elevators.

05 Q. Are you familiar with Pyott-  
06 Boone belt bosses?

07 A. Not really. I mean, I can  
08 wire them up. As far as setting ---  
09 calibrating and stuff, I don't do  
10 that. That's Jessie's job.

11 Q. Are you familiar with the  
12 location of these boxes along belt  
13 lines?

14 A. Yeah.

15 Q. Where are they on the Six,  
16 Seven and Eight units?

17 A. Six, Seven and Eight?

18 Q. The belts. Where are the Six,  
19 Seven, and Eight belt boss units, the  
20 numbers Six, Seven and Eight?

21 A. I don't know what you're  
22 talking, Six, Seven and Eight. I  
23 could tell you where they're at, you  
24 know, at the belts, you know.

25 Q. Okay. We're going to go to

42

01 the map here in just a bit.

02 A. Where certain units are. I  
03 mean, I don't know where all of them  
04 are, but I can tell you where some of  
05 them are.

06 Q. Okay. Did you personally  
07 speak with anybody on the telephone?

08 A. Nope.

09 Q. When you all gathered at the  
10 mantrip, what was the conversation at  
11 that point?

12 A. Really, we thought we were  
13 probably going outside, wherever this  
14 was at, to help them get that fire  
15 under control. We didn't think it  
16 was going to be a big fire or

17 anything. And all the way down until  
18 we got into the smoke, there was  
19 laughter. You know, we were laughing  
20 on the bus and carrying on and joking  
21 with each other. And then we started  
22 smelling the smoke and, you know,  
23 things --- you could feel the tension  
24 set a little bit. But you know, the  
25 smoke that we were seeing was just a

43

01 mist. I mean, it wasn't --- it  
02 wasn't a lot. It was just, you know,  
03 smoke here and there. And when we  
04 popped around the corner, that's when  
05 we hit it big. And that's when  
06 Steve, you know, hollered and said, I  
07 can't go any further. He was ---  
08 just probably about everybody on the  
09 mantrip was gagging.

10 Q. If you don't care, would you  
11 step up to the map for a minute? We  
12 talked about a couple of the things,  
13 and before I mark anything I want to  
14 make sure that you agree. I'll give  
15 you just some orientation. Right  
16 here is the seal. And do you know  
17 where the borehole is, where the  
18 water comes in?

19 A. Uh-huh (yes).

20 Q. That's it right here.

21 A. Okay.

22 Q. So what I've done so far is  
23 identified the location of the seal  
24 just inby survey station 3265,  
25 encircled it with blue, and I've

44

01 identified the location of the  
02 borehole just to the right of survey  
03 station 3233, as you're looking into  
04 the mine, along the northeast main  
05 section.

06 Now, let's back up here with  
07 Number Two section. And you talked  
08 about the charging station. Here's  
09 the Number Two section belt. Could  
10 you point out where the charger  
11 station was at that you were working  
12 on?

13 OFF RECORD DISCUSSION

14 MR. MURRAY:

15 What we've indicated  
16 here, the witness has told me  
17 that the charging station he  
18 refers to earlier in his  
19 statement is located right  
20 adjacent to survey station  
21 4228 in the Number Three entry



22 of Two section. And I'll mark  
23 it against the stopping. It  
24 was on the intake side of the  
25 stopping.

45

01 BY MR. MURRAY:

02 Q. And the telephone that you  
03 spoke of when you heard the  
04 conversation about the fire, ---?

05 A. It was at the section  
06 tailpiece.

07 Q. And the section tailpiece  
08 would have been at the end of the  
09 section belt?

10 A. Right.

11 Q. We're pointing to the location  
12 that's depicted as the end of the  
13 Number Two section belt conveyor.

14 MR. MURRAY:

15 And that's the location  
16 of the telephone on the Number  
17 Two section that the witness  
18 overheard the conversation  
19 between the section foreman  
20 and someone from somewhere  
21 else. We don't know who it  
22 was that indicated that there  
23 was a fire in the mine.

24 BY MR. MURRAY:

25 Q. Could you point out where the

46

01 mantrip was, where you were actually  
02 assembled?

03 A. The mantrip was here.

04 MR. MURRAY:

05 And he's pointing to  
06 the survey station 4228, which  
07 would have been right across  
08 from the charging station we  
09 just talked about.

10 BY MR. MURRAY:

11 Q. So is that your recollection  
12 where the mantrip would have been,  
13 adjacent to survey station 4228,  
14 across from the charger station?

15 A. Yeah.

16 Q. Now, if you can bear with me a  
17 bit and kind of lead me out of the  
18 mine. And as you go, I'll follow you  
19 around with arrows with this red  
20 Magic marker on the map. So let's  
21 say the crew is assembled right now  
22 at the mantrip, and lead me out of  
23 the mine.

24 A. Okay. Our regular route we  
25 take, we come down this end. This

47

01 would be where Don Haggie (phonetic)  
02 and them guys --- all the way down.  
03 This is where the borehole is  
04 out ---.

05 OFF RECORD DISCUSSION

06 A. The borehole was going break  
07 outby the door to the left. So this  
08 would be where the door was that we  
09 went through.

10 MR. MURRAY:

11 The witness has  
12 indicated that the door that  
13 the crew traveled through was  
14 adjacent to survey station  
15 3230 on the 48-inch belt  
16 entry.

17 BY MR. MURRAY:

18 Q. And you're the one that  
19 installed that door. Could you tell  
20 me how it opened?

21 A. It would open toward the  
22 primary escapeway and then to the  
23 outby side.

24 Q. Let's go back up to the  
25 section. When you got on the

48

01 mantrip, you traveled in an outby  
02 direction in the Number Five entry of

03 northeast mains, beginning at survey  
04 station 4228. We continued outby  
05 until we arrived at ---?  
06 A. Let's see. I think this is  
07 the area where we came around the  
08 corner, we come down --- we go around  
09 the corner right here, because this  
10 one is the fall. There's a fall  
11 right here. There should be cribs  
12 and Heinzmanns.

13 MR. MURRAY:

14 The witness has  
15 indicated that there's a fall  
16 between survey stations 3228  
17 and 3227.

18 OFF RECORD DISCUSSION

19 A. Yes. Yes.

20 MR. MURRAY:

21 He's indicated that the  
22 fall extends through the  
23 intersection at 3228.

24 A. It's not in the intersection.

25 This was all cleaned, cribbed and

49

01 Heinzmanned. It was on this side of  
02 3228 and on the other side.

03 BY MR. MURRAY:

04 Q. To the stopping?

05 A. Yeah. We cleaned all this up.

06 MR. MURRAY:

07 So he's indicating that  
08 the intersection of 3228 is  
09 clear to travel.

10 A. Correct.

11 BY MR. MURRAY:

12 Q. Go ahead.

13 A. And we turned right here.

14 MR. MURRAY:

15 So the witness has  
16 indicated that the mantrip had  
17 traveled outby in the  
18 northeast mains in the Number  
19 Five entry until they arrived  
20 at survey station 3547. And  
21 at that time, he's indicated  
22 that it made a right-hand turn  
23 from the Number Five entry  
24 toward the Number Four entry,  
25 from survey station 3547

50

01 toward survey station 3546.

02 BY MR. MURRAY:

03 Q. Where did you end up? Where  
04 did you stop?

05 A. Somewhere between 3227 and  
06 3214.

07 Q. I'm sorry.

08 A. Somewhere between 3537 and  
09 3546.

10 Q. Okay.

11 MR. MURRAY:

12 The witness has  
13 indicated that the mantrip  
14 stopped in the Number Four  
15 entry, somewhere between  
16 survey station 3546 and survey  
17 station 3537.

18 BY MR. MURRAY:

19 Q. Is that where the crew exited  
20 the mantrip?

21 A. Yes.

22 Q. And at what location did you  
23 guys don your SCSRs?

24 A. Right at the mantrip there  
25 were --- I don't know about the guys

51

01 on the backside of me or the ones in  
02 the back. I know that Mike Plumley  
03 was in the back, and he tried to make  
04 sure everybody got in front of him.  
05 That was on the --- what would be the  
06 other side of the mantrip. And I  
07 exited --- I made it to the front of  
08 the mantrip before I had to put mine  
09 on. I mean, I was choking down --- I  
10 was trying to make it as far as I

11 could. And then I got down on my  
12 knees to try to get out of the smoke  
13 to put it on.

14 Q. Did you have any trouble  
15 putting your SCSR on?

16 A. In about 15 seconds I had it  
17 on.

18 Q. And do you wear glasses to  
19 see?

20 A. No.

21 Q. Did you put your goggles on?

22 A. No. I lost my goggles. I  
23 wasn't really worried about them as  
24 long as I got the thing in my mouth.  
25 I knew if I hit that rib, I'd find my

52

01 way.

02 Q. Did you use the nose clip?

03 A. Yes.

04 Q. Once you had your SCSR on,  
05 keep on leading me out of here.

06 A. Okay. Then I hit the upper  
07 rib and just started dragging my hand  
08 down the upper rib with my light on.  
09 It was probably about a foot away  
10 from my hand. And as I started down  
11 the rib, probably --- this was cribs  
12 that I hit. There's cribs and

13 Heinzmanns here.  
14 Q. Okay.  
15 A. And I knew when I hit the  
16 cribs and the Heinzmanns, that the  
17 mandoor was just right away. And as  
18 soon as --- right there somewhere,  
19 that's where I hit --- Gary Daniels  
20 --- I mean, Dingus (phonetic),  
21 whatever they call him. I turned him  
22 around and walked him out to the  
23 mandoor, the break with the mandoor  
24 in it, and then we started going to  
25 the mandoor.

53

01 MR. MURRAY:

02 So the cribs that he's  
03 referring to are in the  
04 intersection of 3228.

05 BY MR. MURRAY:

06 Q. When you opened that door ---  
07 or who was in the lead? Who opened  
08 the door?

09 A. I'm pretty sure it was Bill  
10 Mayhorn that opened the door. Pat  
11 Kinser and Bill Mayhorn were there.  
12 Bill, he pretty well knew where to go  
13 to. He was on our crew. Pat, I'm  
14 not sure if he would have known where  
15 to go to, but when the mantrip



16 stopped, Plumley hollered and said,  
17 go to the door outby the cribs. You  
18 know, he may have went over to the  
19 cribs or Bill may have been leading  
20 him. But it was Bill and Pat who  
21 were the first ones to go to the  
22 door.

23 Q. If you can remember, what  
24 number in line were you as you went  
25 into the stopping?

54

01 A. I know Pat and Bill went in.  
02 I'm going to say I was probably  
03 sixth, fifth or sixth. I don't know  
04 where Blue or Randall Crouse was. I  
05 don't know whether they went through  
06 ahead or behind me. I know that I  
07 pushed Gary Daniels in ahead of me to  
08 get through the door, because I had  
09 him by the back. And as he went in  
10 and I went in, whoever was behind me  
11 held onto my back and went in behind  
12 me. So I mean, I don't know, I was  
13 probably fifth.

14 Q. When you opened that door  
15 toward the primary escapeway, did the  
16 smoke want to go into the belt or did  
17 the fresh air want to come out into

18 the primary escapeway?

19 A. I don't know about that. I  
20 mean, when we got in, it was clear.

21 Q. The 48-inch belt was clear?

22 A. Yeah.

23 Q. Let me ask you, on your way  
24 out of the Two section in this Number  
25 Five entry, at what location did you

55

01 encounter any type of smoke, whether  
02 it be visible or where you could  
03 smell it?

04 A. We could smell it, I'm going  
05 to say, somewhere in between Ten and  
06 the return. I'm going to say  
07 probably somewhere between 3591 and  
08 3602 you could smell it. And then we  
09 started seeing just a little bit  
10 right before the turn, probably 3566.

11 Q. Okay.

12 A. Just, you know, roughly  
13 somewhere around there.

14 Q. So you can smell it here?

15 A. Somewhere around there.

16 Q. So you smelled smoke somewhere  
17 between survey station 3602 and  
18 survey station 3591 of the Number  
19 Five entry of the northeast mains.

20 A. Yeah.

21 Q. And then at location of survey  
22 station 3566 you now can visibly see  
23 smoke.

24 A. But just --- it's like a mist  
25 of ---.

56

01 Q. What color was it?

02 A. Almost clear. You could just  
03 see it.

04 Q. Like a hazy ---?

05 A. Like a hazy ---.

06 Q. At what point did the smoke  
07 become thick and dense?

08 A. As soon as we cut to the  
09 mantrip around the entry, at 3537.

10 Q. What about the crosscut here?

11 A. Clear, just about the same as  
12 the hazy smoke.

13 Q. But as you made the turn into  
14 the Number Four entry, the smoke is  
15 now --- how would you describe it?

16 A. When the mantrip --- where I  
17 was sitting at, in the middle of the  
18 mantrip, your visibility was probably  
19 two foot. Steve, in front of the  
20 mantrip, I'd say his visibility was  
21 probably zero, because he was  
22 coughing and gagging and said that's

23 as far as he could go. And as soon  
24 as I got out of the mantrip, like I  
25 said, I made it to the front of the

57

01 mantrip before my visibility was  
02 gone.

03 Q. Now, as you was telling me a  
04 little bit about this, you mentioned  
05 something about Haggie working  
06 somewhere. What did you mean by  
07 that?

08 A. He was on dayshift, Don Haggie  
09 and his crew. They're in charge of  
10 setting up the mother drive belts.  
11 So he was up here probably working on  
12 this mother drive belt, but he wasn't  
13 in there at the time. We didn't see  
14 him.

15 Q. That would be for the next  
16 longwall panel?

17 A. Right.

18 Q. And Mr. Haggie is the longwall  
19 foreman?

20 A. No. I don't know what  
21 position he really carries. I just  
22 know he works on the mother drive.  
23 And he's more or less boss over the  
24 guys working there.

25 Q. So he is a foreman?

01 A. Yes.

02 Q. Would he be the same foreman  
03 that's in charge of the project that  
04 --- where they have extended the belt  
05 structure for the 72-inch belt?

06 A. He may be, or Chris Hernley  
07 (phonetic). I don't know. One of  
08 those two. They're both bosses. I  
09 don't know.

10 Q. Okay. You're aware that  
11 there's some structure laid out ---  
12 or installed ---?

13 A. Yeah, I'm aware there's some  
14 structure through here because when  
15 we turned the curve --- I don't know  
16 where it would be here. When we  
17 turned the curve, you could see the  
18 structure on this side and this side  
19 of the road.

20 Q. You could see it from where?  
21 Where would you be?

22 A. Where we turned. I'm not sure  
23 where we turned at. This is the  
24 borehole. I'm going to say probably  
25 somewhere in here somewhere. I'd say

01 probably right here somewhere.

02 Q. Okay. So if you're out in  
03 here, this location?

04 A. Right.

05 MR. MURRAY:

06 What the witness is  
07 speaking to now is in the  
08 Number Four entry, at survey  
09 station 3293, you can look  
10 down toward what would, at one  
11 time, in the future be the  
12 extension of the 72-inch belt  
13 and visibly see the belt  
14 structure installed in that  
15 crosscut.

16 A. It's not looking down into it.  
17 We took the mantrip down towards the  
18 mother drive belt. See where we got  
19 the double doors coming through where  
20 the mother drive belt is, when you  
21 come through and start up the hill,  
22 see, we have to turn and come up this  
23 same way that we traveled out.

24 BY MR. MURRAY:

25 Q. Okay.

60

01 A. We was starting through here,  
02 and you could see the structure. You  
03 could see the belt drive on the other  
04 side of the entry.

05 Q. So when you traveled through  
06 here --- when you traveled the  
07 roadway that comes through the  
08 airlock doors at the mother belt  
09 drive toward the Number Two section  
10 at survey station 3310, which is in  
11 the Number Five entry of northeast  
12 mains, and you turn up the hill  
13 toward survey station 3309, can you  
14 travel up into here and get into this  
15 roadway?

16 A. Uh-huh (yes).

17 Q. So this stopping must not be  
18 in?

19 A. Well, one of these stoppings  
20 is not in.

21 Q. Okay.

22 MR. MURRAY:

23 Now, he's saying either  
24 the stopping before you get to  
25 33 --- survey station 3308 in

61

01 the Number Four entry or the  
02 next inby stopping between  
03 Number Four and Number Five is  
04 not in, because the mantrip is  
05 able to travel through this  
06 area without going through an

07 airlock.

08 BY MR. MURRAY:

09 Q. The stopping that I've  
10 referred to earlier would be back in  
11 this area here where they're going to  
12 extend the 72-inch belt. This would  
13 be the stopping right inby the  
14 tailpiece?

15 A. Right.

16 Q. That's the question I had  
17 basically ---.

18 A. I had no idea about that  
19 stopping.

20 Q. Did anybody mention that since  
21 the day of the accident that this  
22 stopping may or may not have been in?

23 A. I heard speculations that  
24 somebody thought that the stopping  
25 might not have been inby. I don't

62

01 know. I didn't see it myself.

02 Q. But there is a discussion that  
03 it may not have been in?

04 A. There was discussion on it,  
05 yeah. But as far as it goes, just  
06 seeing it, no, I can't say I seen  
07 that the stopping is not there.

08 Q. In your opinion, if this  
09 stopping wasn't in, would that be a



10 reason for this primary escapeway to  
11 be smoke-filled?

12 A. That and if the doors were  
13 open, either way. The belt is  
14 supposed to be isolated. So if the  
15 doors were open and that stopping  
16 wasn't in, that would be the reason  
17 that the smoke hit us. I'm not going  
18 to speculate and say that it was or  
19 it wasn't.

20 Q. Okay. Let's go back to the  
21 door. And now you're inside the  
22 door.

23 A. Right.

24 Q. What's the atmosphere inside  
25 this door relative to smoke?

63

01 A. There's no smoke in there.

02 Q. Right inside the door, is that  
03 the location that we talked about  
04 earlier, where we took the head  
05 count?

06 A. Yeah, right across that side  
07 of the belt and then we come back  
08 into it and looked, and then back in  
09 we went.

10 Q. Now you're assembled again?

11 A. Yes.

12 Q. And lead me out now.

13 A. We went just straight down the

14 48-inch belt, straight down to ---

15 there should be a door here

16 somewhere. Down the 40-inch belt and

17 we came out somewhere around in here

18 because --- then we come through with

19 the mantrip. It would be somewhere

20 in here we came out.

21 Q. So the crew is continuing

22 outby on the 48-inch belt? It would

23 be one of these two doors?

24 A. Right. Probably --- I'm going

25 to say probably the 2236.

64

01 Q. So they travel outby on the

02 48-inch belt until they come to ---

03 it looks like survey 2866, and at

04 that point they exit the 48-inch belt

05 back into the intake and arrive on

06 the other side of the door at survey

07 station 2236. Let's continue.

08 A. So that's where we did the

09 second head count, where Steve and

10 Mike and Joe went back to see what

11 they could come up with. Steve said

12 the smoke was bad, so I don't know if

13 he was talking the smoke was bad back

14 up here or the smoke started coming

15 down the 48-inch belt line. So then  
16 that's when we walked over right  
17 here, probably 2855, and we seen the  
18 two lights down here, probably around  
19 --- somewhere between 2488 and 3239.

20 Q. Okay. So after they exit the  
21 door, they make a right-hand turn  
22 toward survey station 2855, in the  
23 Number Five entry of the north main.  
24 They proceed outby into Number Five  
25 entry until they come to the

65

01 intersection of the Number Two  
02 cut-through toward the longwall. And  
03 that would be between survey station  
04 3239 and 2488 of the Number Five  
05 entry of north main. Okay.

06 A. Right. At that point, that's  
07 where we assembled at the longwall  
08 and was out here waiting. And at  
09 that time, that's when --- that Terry  
10 and Dusty --- Terry and Dusty, they  
11 showed up. We went through the doors  
12 and went to the longwall.

13 Q. When you talk about Terry and  
14 Dusty, who are they?

15 A. Terry Shadd and Dusty Dotson.  
16 Dusty is the dayshift mine foreman

17 and Terry is the superintendent of  
18 Two section. They were the two that  
19 showed up here to meet us. Terry  
20 used to be our boss.

21 Q. Terry, Dusty ---?

22 A. Dusty Dotson.

23 Q. Terry ---?

24 A. Shadd.

25 Q. S-H ---?

66

01 A. A-D-D.

02 Q. And from that point you  
03 traveled through the double doors,  
04 ---

05 A. Right.

06 Q. --- toward --- or in the  
07 cut-through, Number Two cut-through,  
08 toward the longwall section?

09 A. Right.

10 Q. Okay.

11 A. We got over here and went  
12 toward the longwall. Where that's  
13 at, I don't know. I'm not familiar  
14 with this down here.

15 MR. MURRAY:

16 They traveled into the  
17 Number Three entry of the  
18 longwall headgate section at  
19 survey station 3300, and then

20 proceeded inby toward the

21 longwall face area.

22 BY MR. MURRAY:

23 Q. And then what happens when we

24 get up ---?

25 A. We got up to the longwall and

67

01 the first canisters of the SCSR pack,

02 six-packs, that we got, we started

03 putting them on our belts. And then

04 the second pack that we got, we

05 passed them on, took up the other

06 guys. And the third pack come out,

07 and then we all started up the hill,

08 brought them back up to the

09 cut-through, and that's where we ran

10 into Fred, and he sent us outside.

11 Q. In order to retrieve these

12 SCSRs from the longwall, did you have

13 to go onto the longwall face?

14 A. No. We went right there at

15 the shields.

16 Q. Right at the stage loader?

17 A. Right. That's as far as we

18 went.

19 Q. So you were in the belt entry

20 of the longwall where the face

21 conveyor from the longwall would dump

22 onto the rubber conveyor?

23 A. Right.

24 Q. The mother belt, what you call

25 it.

68

01 A. I guess. I'm not familiar

02 with the longwall at all.

03 Q. Okay. Well, you're told to

04 come off the face conveyor?

05 A. Right, come off the panel and

06 onto the belt.

07 Q. So you were up in the

08 intersection where that face conveyor

09 would meet the longwall belt?

10 A. Right.

11 Q. Now, did you smell any smoke

12 when you were on that longwall belt?

13 A. Didn't smell anything.

14 Q. Did you see any smoke?

15 A. No.

16 Q. And you didn't have an SCSR on

17 at this point?

18 A. No. I had it on me, but

19 didn't have it on.

20 Q. But you still physically have

21 it attached to your person?

22 A. Right.

23 Q. But it's not into your

24 respiratory system.

25 A. Right.

69

01 Q. At what point did you take it  
02 out of your respiratory system?

03 A. I took it out when we got over  
04 here and where we met up with Terry.

05 MR. MURRAY:

06 So the witness is  
07 pointing back to where they  
08 met Mr. Dotson and Mr. Shadd  
09 and the longwall crew on the  
10 Number Five entry of the north  
11 mains.

12 MR. FARLEY:

13 Hey, Kenny?

14 MR. MURRAY:

15 Yes, sir.

16 MR. FARLEY:

17 Can I suggest you ask  
18 whether he took it out of his  
19 mouth or off his body, because  
20 I'm not sure which.

21 MR. MURRAY:

22 I think that's what  
23 he's told ---.

24 A. I took it out of my mouth at  
25 that point.

70

01 MR. FARLEY:

02 Okay.

03 MR. MURRAY:

04 That's why I'm

05 referring to the respiratory

06 system. He still has it on

07 his person, if I understand

08 what you told me.

09 A. Right.

10 BY MR. MURRAY:

11 Q. But it's not providing you

12 oxygen?

13 A. Right.

14 Q. Okay. Now, after you've

15 retrieved these other SCSRs, are you

16 retracking your own steps ---?

17 A. Right. Yeah. Come back the

18 way we came in.

19 Q. So we were going this way.

20 Now we're coming back this way.

21 A. Uh-huh (yes).

22 Q. And we're going to do the same

23 --- go through the same entry, ---

24 A. Uh-huh (yes).

25 Q. --- through those double

71

01 doors?

02 A. Uh-huh (yes). When we get

03 right here, that's probably where we



04 ran into Fred Horton.

05 MR. MURRAY:

06 What the witness is  
07 pointing to is in the Number  
08 Four entry of the longwall  
09 head gate where it intersects  
10 with the middle entry of the  
11 Number Two cut-through at  
12 survey station 3301, is where  
13 he met ---

14 BY MR. MURRAY:

15 Q. --- tell me his name.

16 A. Fred Horton.

17 Q. Fred Horton. And who is Fred  
18 Horton?

19 A. Fred is the second shift mine  
20 foreman.

21 Q. The second shift mine foreman?

22 A. Uh-huh (yes).

23 Q. Okay.

24 A. And at that point, that's  
25 where Fred told us that we had to get

72

01 out of there, they wanted us outside.

02 Q. Did he tell you how to get  
03 out?

04 A. Oh, yeah. He walked --- I  
05 believe he walked over with us

06 through the double doors, back over  
07 to here, and there was 15 men showing  
08 up --- 15 men rides showing up,  
09 diesel rides. I can't really  
10 remember. I think that's the time  
11 that I took my rescuer off. I'm not  
12 sure about that. I think I took it  
13 off because it was strapped to my  
14 chest. That's when I took it off, I  
15 believe.

16 Q. Where do you think you threw  
17 it?

18 A. It would be right there, where  
19 we met Terry and them at, if I  
20 throwed it anywhere. It would be  
21 right here somewhere. Because that's  
22 where the rides was sitting at on the  
23 return and that's where we were  
24 standing at, talking, because a  
25 couple of us wanted to go back in.

73

01 And Fred said, no, he said, you got  
02 to go outside.

03 MR. MURRAY:

04 The witness has  
05 indicated that his  
06 self-rescuer may have been  
07 deposited onto the mine floor  
08 in the area where they

09 originally met the longwall  
10 crew that we talked about  
11 earlier, and that would be in  
12 the Number Five entry of north  
13 mains between survey stations  
14 2492 and 2495.

15 BY MR. MURRAY:

16 Q. And is that the location where  
17 the diesel mantrips were at?

18 A. Right.

19 Q. So at that point is where you  
20 board the mantrip and you ride ---?

21 A. Down Four entry.

22 Q. Four entry is the tram road?  
23 So you travel Number Four entry of  
24 north mains.

25 A. And exit the mines.

74

01 Q. And you exited the mine. Bear  
02 with me a moment. I'm trying to  
03 collect my thoughts. I appreciate  
04 that. That's an excellent job of  
05 telling me how you got in and out.  
06 Let me ask you a question about this  
07 in general. This is different than  
08 the exercise we just went through.  
09 Coming into the mine, ---

10 A. Uh-huh (yes).

11 Q. --- okay, you talked about  
12 traveling down through these  
13 equipment doors ---

14 A. Right.

15 Q. --- and traveling in the area  
16 of the mother drive. Okay.

17 A. Right.

18 Q. When you open those equipment  
19 doors in the area of the mother  
20 drive, are they hard to open?

21 A. No.

22 Q. When you open the outby door,  
23 which way is the air going to go?

24 A. Open the outby door, the air  
25 wants to go toward the section.

75

01 Q. Toward the section. When you  
02 close the outby door and open the  
03 inby door, is there --- can you tell  
04 an air direction?

05 A. No.

06 Q. What about on the second set?

07 A. I'm not sure.

08 Q. Does the air want to continue  
09 toward Two section or does it want to  
10 hit you in the face?

11 A. I'm not sure. I don't pay  
12 attention.

13 Q. Whenever you guys were leaving

14 the section and coming to this  
15 location here, did you have occasion  
16 to speak with Mr. Bragg or Mr.  
17 Hatfield?

18 A. Don was sitting right beside  
19 me on the mantrip.

20 Q. What kind of conversation did  
21 you have?

22 A. Don was kind of --- I don't  
23 know. Don was kind of a fidgety  
24 fellow. It was easy to get him  
25 going. And he was kind of quiet.

76

01 And the only thing that I can  
02 remember saying to him is when he was  
03 getting off the mantrip, where he was  
04 in the middle, I put my hand on his  
05 back and was helping him out of the  
06 mantrip and I said, put your rescuer  
07 on, man. And then I hollered, I  
08 said, put your rescuers on, because I  
09 knew the smoke was bad.

10 Q. So you directed that command  
11 to Mr. Bragg?

12 A. Yeah.

13 Q. Did he respond to that?

14 A. No. No. Once Don had got off  
15 the mantrip, I never seen Don after

16 that. I don't know if he just  
17 panicked and ran or --- I mean, he  
18 was just gone. A matter of fact,  
19 nobody ever seen him after that.

20 Q. When was the last time you saw  
21 Elvis?

22 A. I never seen Elvis. I don't  
23 know. The smoke was too thick.

24 Q. Do you know if anybody was  
25 having problems with their SCSR,

77

01 donning their SCSRs, when you guys  
02 left the mantrip?

03 A. The only one that I know of  
04 was, like I said, was Blue. And  
05 that's just because he lost his  
06 goggles, and I about tripped over him  
07 trying to find the rib. That would  
08 be the only one. But I'm sure he  
09 found his goggles.

10 Q. What about you personally, did  
11 you have any trouble with your SCSR?

12 A. No. I mean, as soon as I  
13 popped the tops on it, I threw the  
14 neck strap over and put the  
15 mouthpiece in my mouth and my nose  
16 clip on. And at first, I was a  
17 little panicked. I had my hand on  
18 the tag to pull and I just --- I was

19 just trying to overrun it, I guess.  
20 I blew into my bag and inflated my  
21 bag up like a balloon, but I knew  
22 something wasn't right. I looked  
23 down and seen the handle and pulled  
24 the handle, pulled the tag. I knew  
25 it was working then. Matter of fact,

78

01 I believe I heard it just inflate. I  
02 knew it was working. But even at  
03 that point it didn't feel like it was  
04 working. I mean, I knew it was, but  
05 it didn't feel like it. I guess I  
06 was overbreathing it, because I  
07 remember several times when I sucked  
08 the bag flat and had to stop and  
09 blow, blow in it a couple times and  
10 fill it back up.

11 MR. MURRAY:

12 Thanks a lot.

13 BY MR. FARLEY:

14 Q. You mentioned that nobody saw  
15 Mr. Bragg after a certain period.

16 Did you all talk about what may have  
17 happened?

18 A. No. I mean, we asked did

19 anybody see Don, and everybody's

20 reply was the same thing, they don't

21 remember seeing Don. I mean, once he  
22 left the mantrip, I don't know where  
23 he went. I don't know why he passed  
24 the door up. I mean, he was with us  
25 for years, and he knew where the

79

01 mandoor was as well as anybody did.  
02 And the only reason I can figure that  
03 he passed it was panic. That's all I  
04 can think, was panic setting in, he  
05 just ran. I think that he probably  
06 ran until he couldn't breathe, and  
07 then put his rescuer on and went the  
08 rest of the way. That's just my  
09 speculation on it. I don't know.

10 Q. How do you think Mr. Hatfield  
11 got separated from the group?

12 A. I have no idea, unless the  
13 same thing happened to him, panic. I  
14 know that Bill had said that he was  
15 panicking out about putting his  
16 rescuer on, and Bill told him, he  
17 said, let me get mine on and I'll  
18 help you. And as he turned around,  
19 he was gone. So I would say that he  
20 panicked, too, and ran.

21 Q. Who's Bill?

22 A. Bill Mayhorn.

23 Q. Okay. So you guys --- or you



24 described to me that whenever you  
25 guys got into the belt line at that

80

01 door, that you took a head count. Is  
02 that the first time ---

03 A. Right.

04 Q. --- that you realized that Mr.  
05 Bragg and Mr. Hatfield were not with  
06 the group?

07 A. Since we got off the mantrip,  
08 yeah. And that's probably --- it  
09 probably took us, at the most, I'm  
10 going to say ten minutes to get to  
11 the mandoor from the mantrip.

12 Q. Do you know what caused the  
13 fire?

14 A. No. I have no idea to this  
15 day what caused the fire.

16 Q. Have you heard anybody  
17 speculate or talk about what may have  
18 caused the fire?

19 A. The night of they speculated  
20 it was a bearing. Then they  
21 speculated that it was a carriage.  
22 And I don't know. I mean, I've asked  
23 and they say they don't have any  
24 information yet, that you guys will  
25 find out what it was. But to this

01 point, no, I have no idea what caused  
02 the fire.

03 Q. Are you aware of any other  
04 fires at the mine prior to this?

05 A. No.

06 Q. When was the last time you  
07 participated in an escapeway drill?

08 A. The Saturday before.

09 Q. And tell me about that drill.

10 What did it consist of?

11 A. Going through our primary  
12 escapeways and walking the escapeways  
13 outside.

14 Q. Where did you start and stop?

15 A. Started in the primary  
16 escapeway and went through it all and  
17 stopped when we got outside, outside  
18 the porthole. Before you go in, it  
19 would be to the right, if you're  
20 looking at the mines. And there's  
21 two metal doors there. They're  
22 pretty hard to open, too. You got to  
23 go over several overcasts. The doors  
24 there have so much air on them, that  
25 they have chain ratchets hooked to

01 them. You have to break the seal  
02 with a chain ratchet. And once you

03 break the seal, then you can go  
04 through them.

05 Q. Where at? Where are those  
06 doors ---?

07 A. Outside.

08 Q. Before you exit ---?

09 A. Right before you exit outside  
10 the mines.

11 Q. Is there an escapeway map on  
12 Number Two section?

13 A. Should be right on --- if  
14 there is one, it should be on the  
15 front of the power center. It should  
16 have one in the box.

17 Q. What about outside? Is there  
18 any escapeway map outside?

19 A. On the surface, all over the  
20 place outside.

21 Q. Could you tell me where an  
22 escapeway map would be outside where  
23 you would have access to it?

24 A. Might be one on the table  
25 downstairs. If you go upstairs,

83

01 there's one hanging on the left-hand  
02 side of the wall. There's probably  
03 one hanging in the conference room.  
04 There's probably a map hanging in

05 Pepe's (phonetic) office. They've  
06 got maps, like I said, hanging  
07 everywhere. There's a map in the  
08 boss' office.

09 Q. How is the primary escapeway  
10 from the Two section marked? What  
11 depicts ---?

12 A. Green.

13 Q. Green?

14 A. Green.

15 Q. Would there only be one path  
16 with green reflectors to get you to  
17 the outside?

18 A. Right. In a primary you've  
19 got the green reflectors. Secondary,  
20 you've got amber. Any time you see  
21 red reflectors, you're going the  
22 wrong way.

23 Q. Have you ever traveled to  
24 other entries in that northeast mains  
25 area and seen green reflectors in

84

01 more than one entry, side-by-side?

02 A. Not that I paid any attention,  
03 no. I mean, maybe Four entry.  
04 That's another part of our intake  
05 onto our section. Four entry is a  
06 power entry, but the intake does come  
07 up through there.

08 Q. Did you notice any green  
09 reflectors in there?

10 A. I can't say that there is or  
11 there isn't. I just don't remember  
12 that.

13 Q. I'm trying to ---.

14 A. Really, I can't say if there  
15 is or there isn't any in our Number  
16 Five entry. I mean, I just know  
17 where it's at. Only the parts of the  
18 mines that I don't know is where I  
19 would know the green reflectors are  
20 or the amber reflectors. But I mean,  
21 I've seen them up there. I mean, I  
22 just can't tell you where.

23 Q. So tell me a little bit more  
24 about the amber reflectors. That  
25 would be ---?

85

01 A. Be your secondary escapeways.

02 Q. So if I was on the Number Two  
03 section, I would expect to see amber  
04 reflectors in that entry? That would  
05 be the alternate escapeway?

06 A. Right. There's only four  
07 entries on our sections we drive. So  
08 you would have one primary, one  
09 secondary and two returns.

10 Q. And if I'm a new guy, I should  
11 be able to follow ---?

12 A. You should be able to follow  
13 the reflectors if you see them.

14 Q. One or the other, and it would  
15 take me to the outside?

16 A. Right.

17 Q. Back to those escapeway maps  
18 that we were talking about on the  
19 surface, ---

20 A. Right.

21 Q. --- which one would be in an  
22 area where the miners would normally  
23 congregate and have the most access  
24 to?

25 A. Probably down at the

86

01 check-in/check-out boards on the  
02 table. They have a table there with  
03 Plexiglas that has a map under it.

04 Q. Are the escapeways marked on  
05 that map?

06 A. Everything should be marked on  
07 that map, escapeways, belt lines,  
08 everything.

09 Q. You talked about the --- right  
10 before the order to evacuate was  
11 given, that the section foreman came  
12 to you and said that the belt had

13 stopped, let's go find out why.  
14 A. We were standing there  
15 talking. I had come down to the  
16 parts car, like I said, to get parts  
17 to work on that ancil fire  
18 suppression system. And we were  
19 standing there and he was asking me  
20 about the six and three schedule,  
21 what was my opinion on it, what did I  
22 think. Because really, we don't  
23 really like the six and three  
24 schedule. He said, what's your  
25 opinion. About the time I started

87

01 answering, the belts went off. He  
02 said, let's go find out what's wrong  
03 with the belts, so we walked over to  
04 the belts.

05 Q. Is this something that happens  
06 frequently?

07 A. Yeah. We load a lot of rock.  
08 And the way we set our rock boxes up,  
09 you have land mines outside and gob  
10 switches inside the boxes. And if a  
11 rock gets in just right, it will shut  
12 the belt off, coal will pile-up and  
13 shut them off. Or if they have  
14 problems outby, like maybe one of the

15 longwall belts on outby Seven will go  
16 off for a gob switch, then it will  
17 shut our belts off. But it has to be  
18 outby Seven.

19 Q. This keeps coming up, and I  
20 guess for my own information, tell me  
21 just a little bit about that six and  
22 three schedule.

23 A. Well, with a six and three  
24 schedule, you'll be working six days  
25 on, three days off. That's basically

88

01 what it is. I mean, now we work six  
02 and one. But the way we had been  
03 working, just regular nine-hour  
04 shifts, we were so far back in there,  
05 by the time we get outside, you know,  
06 it's been ten hours, 11 hours, you  
07 know, whatever. So everybody was  
08 kind of, you know, wondering, you  
09 know, when we was going to get this  
10 straightened out, because we're hot  
11 seating. And they were --- they were  
12 talking about us not hot seating  
13 anymore, and then it was brought up  
14 the six and three schedule. What  
15 would we think about the six and  
16 three schedule? And maybe if we  
17 didn't want it, maybe we could talk



18     them into giving us, you know, like a  
19     Saturday off a month or two Saturdays  
20     off a month or whatever and, you  
21     know, make it for sure and definite.  
22     And that's what the six and three  
23     schedule is, six days on, three days  
24     off. And the way we rotated, really  
25     it messes with your paydays mainly, I

89

01     mean. A lot of them don't realize  
02     it, but it does.

03     Q. I heard the terminology quite  
04     a few times today. I just figured  
05     I'd explore that just to --- so I  
06     understand it.

07     A. Right.

08     Q. Thank you. For the record, on  
09     this map behind me, we've been  
10     talking about the mother belt. And  
11     which belt is that?

12     A. That's the belt to the right  
13     coming up, yeah.

14     Q. That's the longwall belt?

15     A. That's the longwall belt.

16     Q. Did you or anybody that was  
17     with you from the crew have a map as  
18     you were exiting the mine?

19     A. No.

20 Q. Did you encounter any water as  
21 you were exiting the mine at any  
22 point?

23 A. No. The 48-inch belt is  
24 pretty dry. I mean, it's laying on a  
25 hill. Water can't stand there very

90

01 long.

02 BY MR. TUCKER:

03 Q. Mike, my name is Bill Tucker.  
04 I've got a few questions for you. I  
05 may be bouncing around a little bit  
06 with some of this stuff just so I can  
07 maybe get you to clarify a little  
08 bit.

09 A. Okay.

10 Q. You talked about when you went  
11 by the belt drive on your way in the  
12 mines, that you had picked up some  
13 rolled steel to --- or something,  
14 that you were going to work on the  
15 charger or something?

16 A. That was our section belt  
17 head.

18 Q. At your section belt head?

19 A. Right.

20 Q. It wasn't at the ---?

21 A. Our section belt head, we just  
22 set it prior to this --- I'm not

23 going to be sure. I'm just going to  
24 say probably a week, two weeks,  
25 something like that. I'm really not

91

01 sure on how long it was, but we had  
02 --- there was some coal roll laying  
03 on the other side of the belt. We  
04 had to go over the crossover to get  
05 on the other side to get it. That's  
06 where I went.

07 Q. So that wasn't at the mother  
08 drive?

09 A. No.

10 Q. So when you came out of the  
11 mother drive belt area, around the  
12 airlock doors, ---

13 A. Right.

14 Q. --- did you notice any other  
15 workers there at all, anybody doing  
16 anything, when you come through?

17 A. The only one that I noticed,  
18 usually when we pull up, somebody  
19 gets off and opens up the doors,  
20 okay, usually two people. The first  
21 one gets off, he'll open up the first  
22 set of doors, and he waits. The  
23 second guy, he'll get off and he'll  
24 open up the second set of doors, and

25 he'll go on and open up the third set

92

01 of doors. And as he's going on with  
02 the mantrip, the other guy will close  
03 the doors back right behind the  
04 mantrip. And he's usually the last  
05 one to get on the mantrip. Ninety  
06 (90) percent of the time it's Mike  
07 Plumley, you know, our boss. But the  
08 first set of doors inby, when we got  
09 there that day, Karl --- as we was  
10 coming in, Karl White was standing  
11 there with the doors open, waiting on  
12 us to get through, and then he shut  
13 him back, him and who --- probably  
14 Mike Plumley or whoever was the last  
15 one on the mantrip.

16 Q. They just opened them up after  
17 you went through the outby set of  
18 doors?

19 A. Right.

20 Q. When you heard Mike receive  
21 the call on the phone there after the  
22 belts had shut down and he went to  
23 see what was wrong with the belts and  
24 they started telling him about, you  
25 know, they had a situation, how

93

01 excited did he seem? I mean, what

02 was your kind of feeling at that  
03 point?  
04 A. Well, at first, you know, he  
05 wasn't real excited, you know. I  
06 believe he thought the same thing we  
07 did, we were going to go put a fire  
08 out, you know, something that maybe  
09 somebody didn't understand how to put  
10 out or couldn't put out or whatever  
11 or maybe somebody needed some help  
12 with it, and he wasn't real excited.  
13 And the only thing I seen him getting  
14 real excited about was when he was  
15 trying to find out where the fire  
16 was, because he was talking to the  
17 guy on the phone and he was just  
18 shaking his head. He said, yeah, I  
19 understand that, but where is the  
20 fire.

21 Q. Right.

22 A. He said, I can't take these  
23 boys into a fire. Where's it at?

24 Q. So at that point, you all was  
25 pretty much looking at going to help

94

01 ---

02 A. Right.

03 Q. --- with the situation rather

04 than escaping out of the mines, ---  
05 A. Right.  
06 Q. --- so to speak? Okay. By  
07 them shutting the belt off to get  
08 ahold of you, had you received any  
09 calls on the section mine phone up to  
10 that point, ---  
11 A. I don't know.  
12 Q. --- that you're aware of?  
13 A. I had talked outside to people  
14 on the phone prior to that.  
15 Q. Do you know if they could page  
16 in?  
17 A. Yeah, because I checked.  
18 Q. It was working?  
19 A. It was working then. Because  
20 I paged outside and talked to Jimmy  
21 Wells about that ancil system and  
22 then talked to --- let's see, the  
23 dispatcher probably once or twice.  
24 Him and Jimmy would be the only ones  
25 I know of. And maybe Terry. I  
95  
01 believe Terry might have been on the  
02 phone once, and I talked to Terry  
03 about the ancil system.  
04 Q. So where you were working at  
05 on the charger, you could hear the  
06 phone --- could you hear the phone

07 from there?

08 A. Not from where I was on the  
09 charger, no. It was a break outby or  
10 two breaks outby. The section phone  
11 on the belt head would have been like  
12 a break outby --- or inby.

13 Q. So when he went to answer the  
14 phone, did you see a light flashing  
15 or anything?

16 A. I didn't pay any attention to  
17 it.

18 Q. Okay. So when you all were  
19 starting out, was there any  
20 discussion on how you were actually  
21 going to get to your destination?  
22 When you were headed out, I mean, had  
23 you discussed, you know, how you were  
24 going to get where you was planning  
25 on going at that point?

96

01 A. No. I mean, just --- Steve  
02 just basically jumped in the driver's  
03 seat and headed down Five entry. He  
04 was closest to the driver's seat to  
05 get in. He got in. We all belted in  
06 and took off down Five entry. And  
07 like I said, we stopped and got Bill  
08 and Gary and headed on down Five.

09 And when the manbus stopped in the  
10 smoke, that's when Mike hollered and  
11 said, go to the door outby the cribs.

12 Q. So at that point, once you ran  
13 into the real thick smoke, that was  
14 only --- the plan of action at that  
15 point was --- you knew there was a  
16 door just outby you there, so ---?

17 A. Right.

18 Q. Okay. When you all had ended  
19 up down around the --- you know, back  
20 in the intake, you came out of the  
21 belt line and you were back in the  
22 primary escapeway and you started  
23 running into other people, and I know  
24 there had to be a lot of confusion,  
25 excitement and discussions going on

97

01 about what to do and ---.

02 A. Right.

03 Q. Did you hear any discussion  
04 about fighting the fire, about what  
05 could be done as far as putting the  
06 fire out ---

07 A. No.

08 Q. --- or what anybody had done?

09 A. I just heard Bryan Cabell say  
10 that he had used fire extinguishers  
11 or an extinguisher on it. And I'm



12 not sure if it was one or several,  
13 whatever. And he said he couldn't do  
14 anything with it.

15 Q. Was there any discussion about  
16 hooking up a fire hose, ---

17 A. No.

18 Q. --- running a water line,  
19 anything of that nature?

20 A. No.

21 Q. As far as you know, was that  
22 ever done --- or an attempt made even  
23 or do you have any knowledge ---?

24 A. I have no knowledge of that, I  
25 mean, what they did with the fire. I

98

01 really wasn't really worried about it  
02 at the time. I mean, ---.

03 Q. Right. You had two co-workers  
04 missing.

05 A. Right.

06 Q. I understand. Do you happen  
07 to know how the water system works  
08 there at the mother drive as far as  
09 the supply line and maybe have any  
10 knowledge of the water sprinkler  
11 system there that you can share with  
12 us?

13 A. It should be just a

14 heat-activated, you know , fire  
15 suppression system. And water stands  
16 in the line, and then when the  
17 sprinkler is opened, it will open the  
18 celnoid up and --- open it up and  
19 send it in, even more water than  
20 what's in the lines. When heat hits  
21 the sprinklers, it will melt a little  
22 piece of metal out of it. But as far  
23 as, you know, the water, I'm sure it  
24 has to get water from down off the  
25 top hill, going down the hill, north

99

01 mains belt, down that way. Because  
02 that's how our water comes in. As  
03 far as which way it comes in, I don't  
04 know. I'm not familiar with nothing  
05 down there.

06 Q. Have you heard any discussion  
07 about the sprinkler system at all as  
08 to whether it ever activated?

09 A. I asked a couple of them  
10 outside, Keith and a couple of them,  
11 and Keith said, yeah, that the  
12 sprinkler system had worked.

13 Q. On the 19th, he said ---?

14 A. Yeah. He said that the  
15 sprinkler systems were still hanging  
16 in place.

17 Q. I mean, had they activated?

18 A. Yeah, he said they had  
19 activated. All the stuff was melted  
20 out of them.

21 Q. Keith?

22 A. Heiner.

23 Q. Have you ever heard any  
24 discussion on the phone or around the  
25 mines of any problems at that drive

100

01 as far as a hot bearing, hot roller,  
02 the belt running out of alignment,  
03 anything ---?

04 A. No. I'm usually not around a  
05 phone unless I need to holler outside  
06 for parts or something or somebody  
07 hollers for me. That's the only time  
08 I'm around a phone.

09 Q. Have you ever been sent to  
10 answer --- to check on a CO sensor  
11 maybe that has alarmed?

12 A. Yes, I've been sent to check  
13 on CO sensors that's alarmed.

14 Q. At any time, was it --- I  
15 mean, the times that you went, what  
16 was ---?

17 A. No, it was nothing.

18 Q. No problem?

19 A. No. It would just be maybe a  
20 belt rubbing in the tailpiece or  
21 something because maybe the belt was  
22 gobbed out. Stop, clean it out,  
23 clear it up.

24 Q. So it was actually picking up  
25 something, but it was something that

101

01 was, in your cases, easy to fix?

02 A. Minute, I mean, nothing. Just  
03 once you shut the belt off and clean  
04 it up, which wouldn't be much to  
05 clean up. I mean, just clean it up,  
06 reset your CO, or a lot of times  
07 you'd get down there and the  
08 dispatcher would tell you, you know,  
09 oh, that CO is cleared up now on us.  
10 No kidding. I'm here at the belt  
11 head, there's nothing here.

12 Q. All right. Have you ever been  
13 withdrawn from a section because of a  
14 high CO alarm?

15 A. No.

16 Q. Time-wise, I'm not sure if  
17 it's been asked, but did you look at  
18 your watch as far as when you got the  
19 call that you had a problem as far as  
20 coming out and ---?

21 A. Probably right around 5:30 I'm

22 going to say.

23 Q. Is that just a guess or ---?

24 A. Yeah, that's just a guess.

25 Probably around 5:30.

102

01 Q. Okay.

02 A. We hadn't been on the section

03 long.

04 Q. When you ran into the smoke,

05 was it --- was the whole entry filled

06 with smoke or was there any clear ---

07 like down low, was it more clear or

08 anything?

09 A. No. It was pretty covered. I

10 mean, it was not as bad down low, but

11 it was still bad enough to choke you.

12 Because I was choking the whole time

13 I was trying to put my rescuer on.

14 Q. And once you started seeing

15 some light smoke coming out --- you

16 know, once you started running into a

17 little bit of smoke and you started

18 --- you know, you knew you had smoke

19 in your escapeway, was it moving inby

20 very fast or ---?

21 A. No. I was on the entry.

22 Q. I mean, I know you were going

23 outby, too.

24 A. Like I said, the smoke, it was  
25 just light. I mean, it wasn't ---

103

01 you could see it --- you know, just  
02 barely see traces of smoke and you  
03 could smell it.

04 Q. Once you arrived outby the  
05 mother drive, I mean, with your crew,  
06 I know that you all, you know, ended  
07 up doing a few things there as far as  
08 rescuers and things. Do you have any  
09 idea once you got there how long it  
10 was before you started outside?

11 A. Probably, at the most, ten  
12 minutes, at the most.

13 Q. Did you ever look at your  
14 watch ---

15 A. No. That's just an estimate.

16 Q. --- during that time as to  
17 what time you started out? I mean as  
18 far as when you got the call to go  
19 outside, ---

20 A. No.

21 Q. --- you don't know what time  
22 that was? You mentioned you had  
23 heard that night --- you know, people  
24 had speculated maybe it was a  
25 bearing, maybe a carriage dolly or

104

01 something down there at the fire. Do

02 you remember who was speculating ---

03 A. No.

04 Q. --- as far as ---?

05 A. I don't remember anybody, I

06 mean, who it was. I just overheard

07 talk.

08 Q. Right.

09 A. You overhear so much talk.

10 Q. Yeah, I understand.

11 A. And like at the church, when

12 --- like the next day there was some

13 guy standing in front of me and he

14 was telling his side of the story,

15 and he wasn't even nowhere in it.

16 And I was just sitting there

17 listening to him, and I said, buddy,

18 just shut up. You don't know what

19 you're talking about.

20 Q. Have you ever had to stop the

21 longwall belt to work on it, say,

22 during the production?

23 A. I don't work on the longwall

24 belt.

25 Q. You don't ---

105

01 A. Uh-uh (no).

02 Q. --- normally?

03 A. Maybe a week prior to, two  
04 weeks, something like that. And this  
05 would be on down outby. Probably  
06 there was --- the way we came  
07 through, and there was a roller as we  
08 go onto the belt there, and the  
09 roller was --- you could smell it  
10 getting hot. And me and Mike Plumley  
11 dropped that roller down and told  
12 them that that roller was getting hot  
13 and we dropped it down.

14 Q. Out by the Four way?

15 A. Yes. We got it down and  
16 throwed it over the side.

17 Q. Have you heard any discussion  
18 about anybody trying to hook up a  
19 water line in the fire area?

20 A. Never heard anything on it.

21 Q. You have no knowledge of that?

22 A. No.

23 Q. Do you have an idea in your  
24 own mind maybe what caused the fire?

25 A. I can't say. I mean, on the

106

01 water line deal, later on it was  
02 mentioned that they tried hooking the  
03 water line up to try to --- to help  
04 them with the fire. But at the time,  
05 I even knew that they wasn't going to



06 get anything besides what was in the  
07 line because they tried knocking off  
08 power in case, I guess, it's  
09 electrical or whatever. I don't  
10 know. I can speculate. I don't  
11 know. But when they knocked the  
12 power, that takes the power from our  
13 pump, which is outby the Number One  
14 four way, at break 22. So when they  
15 knock that pump, then you're not  
16 pushing any water up the hill. So if  
17 they did try to hook the water line  
18 up, what they're going to get is  
19 what's in the line and that's it.  
20 That would be the end of that, until  
21 they put the power back in for the  
22 pumps.

23 Q. To your knowledge was that  
24 power even put back in?

25 A. Once I left, I don't have any

107

01 idea. I don't even know when I was  
02 in there if anybody did anything with  
03 water.

04 Q. When your crew came --- when  
05 you exited the mine, did others stay  
06 in the mine to fight the fire when  
07 you all --- when your crew came out?

08 A. The ones that I knew of would  
09 have been Terry and Dusty, Billy Ray,  
10 Fred. That's the only ones I knew  
11 of. I think maybe Pepe. I never  
12 really seen Pepe. Then when we got  
13 outside, I know that there might have  
14 been a couple more go in. And I know  
15 that they ended up calling them back  
16 out and telling them that they had to  
17 come outside. Because I remember  
18 them saying they had a hard time  
19 getting Terry to come out.

20 Q. Did Terry Shadd or Dustin  
21 Dotson make any comments about the  
22 fire that ---?

23 A. Just they couldn't --- they  
24 tried going up the mother drive belt  
25 to get up there around those guys

108

01 somewhere and try to find them, and  
02 they just said that the heat was too  
03 hot, they couldn't get around nothing  
04 up there within, you know, however  
05 far of it they got. And Dusty just  
06 said, it's just too hot. He said, we  
07 can't get near nothing. The smoke is  
08 too thick, you can't see.

09 Q. So they tried to go, say, from  
10 this longwall face down the longwall

11 belt?

12 A. Up to.

13 Q. Okay. Toward the head?

14 A. Right.

15 Q And try to get through that

16 way?

17 A. Right.

18 Q. Once you arrived outside, what

19 happened and what did you do after

20 you ---?

21 A. Just got outside and everybody

22 was in the box cut. And me and Steve

23 went upstairs, took everyone and went

24 upstairs and started trying to help

25 them try to figure out where they

109

01 were at. And at that time, you know,

02 that's when all the firefighters and

03 everything was coming in and trying

04 to get in there, and they wouldn't

05 let them go, not the firefighters.

06 Q. And you may have already

07 answered this, but when you mentioned

08 that Mr. Bragg got out, I guess was

09 you sitting on the side of the

10 mantrip or in the back?

11 A. I was on the side.

12 Q. So when Mr. Bragg got outside

13 of the mantrip, would that have been  
14 --- going out, would that have been  
15 on the right side or left side?  
16 A. Going out, the way the mantrip  
17 was sitting, he would have got out on  
18 the rib side, where the door would  
19 have been. It would have been on the  
20 right.  
21 Q. The right side?  
22 A. Yeah.  
23 Q. So when he got out, and you  
24 actually kind of helped him out, from  
25 that point ---

110

01 A. Nobody seen him.  
02 Q. --- you don't know which way  
03 he went, whether he went up Number  
04 Four or ---?  
05 A. Well, Mike Plumley was in the  
06 back of the mantrip. And Mike said  
07 nobody went by him. He said, nobody  
08 went by me. He said he made sure  
09 that nobody went back the other way.  
10 Q. Did Mike get out on the right  
11 side or left side?  
12 A. He got out on the right side,  
13 and then he walked completely around  
14 the mantrip from the right to the  
15 left, because he had his bucket of

16 stuff on the left side of the mantrip  
17 and he wanted to get it just in case  
18 something happened that he would need  
19 his bucket. So when he come around  
20 the mantrip --- when I made it to the  
21 front of the mantrip and he come  
22 around the mantrip and I started  
23 donning my rescuer, when he knelt  
24 down, me and Mike bumped shoulders,  
25 and he was putting his rescuer on.

111

01 So he tried making sure that  
02 everybody that was on that side of  
03 the mantrip went forward instead of  
04 going backward.  
05 Q. Which again, I know that it  
06 had to be really crazy during that  
07 time, with everything going on, and  
08 then all of a sudden, you run into a  
09 wall of smoke. But initially they  
10 kind of thought maybe that they had  
11 went back toward Ten head gate. Was  
12 that because of something that  
13 somebody saw or just an idea because  
14 they worked up there?  
15 A. Well, they worked with us.  
16 They worked with us on the left-hand  
17 side of the mains, you know, forever.

18 We've all been together. And our  
19 crew is a tight crew. And no matter  
20 what they've done to the other crews,  
21 they left our crew alone because we  
22 were --- been together so long. And  
23 we had drove all that, on the right  
24 side of the mains out. So they knew  
25 that --- in their minds I guess they

112

01 speculated, just hoping that maybe  
02 they might have went down Ten head  
03 gate because they knew that if they  
04 came down Ten head gate, they could  
05 have got on the old Three section.  
06 Q. I commend you on your  
07 testimony today, Mike. You've done  
08 an excellent job and showed us a lot  
09 of patience in trying to help us to  
10 visualize what happened. But if you  
11 were to encounter smoke like that  
12 again, I mean, do you know of  
13 anything maybe you'd do differently  
14 if you entered an area with that much  
15 smoke?

16 A. I don't know of anything ---.

17 Q. Anything that ---?

18 A. I don't know of anything  
19 different you could do. I mean, if  
20 you had any visibility at all, it

21 would be different. But our  
22 visibility went from two feet to zero  
23 in seconds, in split-seconds. And  
24 really, if you didn't know where that  
25 mandoor was, you would have probably

113

01 --- you would have probably been  
02 gone.

03 Q. And I guess, kindly, you know,  
04 when you all stopped there because  
05 you ran into this wall of smoke, the  
06 decision was made to go through that  
07 mandoor because you all had knowledge

08 ---

09 A. Knew exactly where it was at.

10 Q. --- and you knew there was one  
11 there.

12 A. Right.

13 Q. So it was kindly ---.

14 A. We didn't know ---.

15 Q. Was there ever any discussion  
16 about maybe going to a mandoor, I  
17 mean, or that was it, that one  
18 mandoor was the focus?

19 A. Yeah, it was the focus. We  
20 knew we were that close to that  
21 mandoor, within two breaks. Really,  
22 I mean, you don't know, because you

23 can't see, how far the other ones  
24 are. So that was the focus, we're  
25 two breaks, you know, go to that

114

01 mandoor outby the cribs, which is  
02 why, you know, we couldn't understand  
03 where those two went to. Why they  
04 went past it, where they went to, we  
05 don't know.

06 MR. TUCKER:

07 I appreciate it.

08 That's all I have.

09 BY MR. MURRAY:

10 Q. I just got a couple more to  
11 clarify and expand on some of what  
12 we've just discussed. We talked  
13 about the power being knocked in the  
14 mine. Do you know where it was  
15 knocked?

16 A. No, I don't know. I just know  
17 that the power was knocked I guess to  
18 do the --- find out if it was  
19 electrical or something or to maybe  
20 keep it from, you know, doing some  
21 damage or something. I don't know.  
22 I have no idea.

23 Q. These pumps that you described  
24 about pushing water up the hill, does  
25 that same pump that supplies the



01 water to the fire taps supply the  
02 water to the fire suppression systems  
03 on the mother belt?

04 A. It should, yeah, I would say.

05 Q. It's all one system, ---

06 A. Yeah.

07 Q. --- water system?

08 A. It's an eight-inch line, I  
09 think, or six-inch line.

10 Q. Do you know who was working in  
11 the area where the fire occurred?

12 A. No.

13 Q. The roller that you and Mike  
14 dropped out, did it cause a --- you  
15 talked about where you dropped a  
16 roller out that was causing some  
17 problems. Did it cause any CO  
18 alarms?

19 A. Not that I know of, no. I  
20 mean, we come through the door and it  
21 was squalling, and it started  
22 smoking, and we dropped it out, Mike  
23 said --- because we stopped on the  
24 other side and Mike said, help me get  
25 this roller down out of here, he

01 said. He said, it's going to catch

02 ablaze if we don't, he said, so we  
03 dropped it out.

04 Q. Do you have any idea when that  
05 was? Was it December, January?

06 A. It would have been January  
07 probably. It was early January, I'd  
08 say.

09 Q. What do you think could have  
10 been done to prevent this accident,  
11 knowing what you know?

12 A. I really don't know. It was a  
13 bad deal altogether, especially the  
14 smoke coming in our intake. But I  
15 think that maybe, you know, if they  
16 knew the smoke was in our intake,  
17 which nobody did, I'm sure they was  
18 too busy trying to get the fire out,  
19 I really don't know of anything they  
20 could have been --- been done.

21 Q. How could we have prevented  
22 the smoke from being in the intake?  
23 Let's just back up to that point.

24 A. The only thing I would have  
25 known was, you know, make sure the

117

01 intakes was isolated right, you know.  
02 I don't know. That's the only thing  
03 you can do, I mean.

04 MR. MURRAY:

05 Do you have more?

06 MR. FARLEY:

07 I have one other

08 question.

09 MR. MURRAY:

10 Yeah, go ahead.

11 BY MR. FARLEY:

12 Q. If your secondary escapeway

13 would have --- if you went over on

14 the 48-inch belt and it had smoke, do

15 you have any idea what you would have

16 done at that point?

17 A. Well, if the secondary --- I

18 mean, being me I can move pretty

19 quick when I'm scared anyway. If my

20 secondary escapeway would have had

21 smoke in it, I would have made it to

22 Ten head gate. I would have got out

23 of there. I would have hit Ten head

24 gate. Because it's downhill. You're

25 going to have speed on you anyway,

118

01 and I would have made it down the

02 bottom to Ten head gate. But you

03 know, what it would have been like

04 down there, I don't know.

05 MR. FARLEY:

06 Thank you. That's all

07 I have.

08 BY MR. MURRAY:

09 Q. Is there anything else you'd  
10 like to tell us regarding what  
11 happened on the day of the accident  
12 that we haven't yet asked?

13 A. Nothing that I know of.

14 MR. MURRAY:

15 Mr. Heath, any  
16 clarifying ---?

17 ATTORNEY HEATH:

18 No, no questions.

19 MR. MURRAY:

20 We appreciate your  
21 patience, we really do. We  
22 know we've bounced back and  
23 forth, and it's difficult.  
24 Difficult times. We  
25 appreciate that. And we thank

119

01 you for appearing here today  
02 and answering our questions  
03 and sharing your information  
04 about the mines. It's very  
05 useful. Your cooperation is  
06 important to us as we work to  
07 determine the cause of this  
08 accident. If you wish, you  
09 can go back now over any

10 answer that you may have given  
11 during the interview and  
12 clarify it or add to it or  
13 provide a closing statement,  
14 covering any additional points  
15 that you believe should be  
16 raised.

17 A. None that I know of.

18 MR. MURRAY:

19 We ask that you not  
20 discuss your interview today  
21 with any person who may have  
22 already been interviewed or  
23 who may be asked to give a  
24 statement in the future. This  
25 will ensure that we obtain

120

01 everybody's independent memory  
02 of the events surrounding the  
03 accident. After questioning  
04 other witnesses and obtaining  
05 additional information, we may  
06 ask you to come back. As we  
07 learn more, we may be able to  
08 generate more questions.

09 If at some point after  
10 you leave today something jogs  
11 your memory or you think of

12 something additional, feel  
13 free to contact either me or  
14 my staff assistant, Anthony  
15 Webb. That's the gentleman  
16 that contacted you initially.  
17 And here's our contacts. The  
18 Mine Act provides certain  
19 protection for individuals who  
20 participate in accident  
21 investigations. If at any  
22 time you believe that you've  
23 been treated unfairly because  
24 of your cooperation in this  
25 investigation, let us know.

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01 MR. FARLEY:  
02 Just to mention, you  
03 also have that same protection  
04 under the state. And here's a  
05 couple cards with numbers on  
06 it, if you need us for  
07 anything or have any  
08 additional comments.

09 ATTORNEY HEATH:  
10 Kenny, I don't know if  
11 you want me to say it or he  
12 can say it, but he does want a  
13 copy of this transcript.

14 MR. MURRAY:

15           Did your representative  
16           explain to you about our  
17           position?

18           A.   Yes.  I'd like to have a copy  
19           of it as soon as we can get it in.

20           MR. MURRAY:

21           It's important that we  
22           --- while the investigation is  
23           open, that we maintain ---

24           A.   Right.

25           MR. MURRAY:

122

01           If I could get you to  
02           sign --- certify this map,  
03           that the information that you  
04           told me and I depicted is  
05           accurate.  And you can certify  
06           it anywhere and then date it.

07           WITNESS COMPLIES

08           MR. MURRAY:

09           We'll identify this map  
10           that we used during this  
11           interview as Shull Exhibit A.  
12           (Shull Exhibit A marked  
13           for identification.)

14           ATTORNEY HEATH:

15           I don't know if certify  
16           is the right word.  Folks are

17 telling you to the best of  
18 their memory. I don't know if  
19 ---.

20 MR. MURRAY:

21 He's certifying to the  
22 best of his memory.

23 ATTORNEY HEATH:

24 Okay. Then we just  
25 need to say that.

123

01 MR. MURRAY:

02 Okay. Thank you.

03 \* \* \* \* \*

04 EXAMINATION CONCLUDED

05 AT 5:58 P.M.

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