

01 EXAMINATION UNDER OATH
02 OF
03 FRANKLIN D. THOMAS
04
05
06 Taken pursuant to Notice by Autumn D.
07 Furby-Pritt, a Court Reporter and
08 Notary Public in and for the State of
09 West Virginia, at Department of
10 Environmental Protection, Division of
11 Mining and Reclamation, 1101 George
12 Kostas Drive, Logan, West Virginia,
13 on Monday, March 20, 2006, at 1:02
14 p.m.

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

02
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04 Mine Safety and Health Administration
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23 Health, Safety & Training
24 142 Industrial Drive
25 Oak Hill, WV 25901

3

01 A P P E A R A N C E S (cont.)
02 DANIEL M. BARISH, ESQUIRE
03 U.S. Department of Labor
04 Office of the Regional Solicitor

05 1100 Wilson Boulevard
06 22nd Floor West
07 Arlington, VA 22209-2247

08

09 ALSO PRESENT:

10 RONALD STAHLHUT

11 C.A. PHILLIPS

12 CHARLIE POGUE

13 MIKE FINNIE

14 BETH SPENCE

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01 I N D E X

02 INTRODUCTION 6 - 15

03 WITNESS: FRANKLIN D. THOMAS

04 QUESTIONS

05 By Mr. Pogue 16 - 50

06 CONCLUSION 50 - 53

07 CERTIFICATE 54

08

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01 EXHIBIT PAGE

02 PAGE

03 NUMBER DESCRIPTION IDENTIFIED

04 A Large mine map 25

05 B Hand-drawn map of Bragg
06 location 31

07 C Blow-up of 72" belt area 40

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

02 -----

03 MR. POGUE:

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

12 been charged with
13 investigating the accident
14 that occurred at the Aracoma
15 Coal Company, Inc., Aracoma
16 Alma Mine Number One, on
17 January the 19th of 2006.

18 This is a joint
19 investigation that MSHA is
20 conducting with the State of
21 West Virginia. I will be
22 asking the questions for MSHA
23 in today's interview. With me
24 here today are other members
25 of the MSHA team and the State

7

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

09 MR. MURRAY:

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

12 MR. STAHLHUT:

13 Ron Stahlhut, MSHA,
14 Vincennes, Indiana.

15 MR. FINNIE:
16 Mike Finnie, MSHA,
17 Madisonville, Kentucky.
18 ATTORNEY BARISH:
19 Dan Barish, the
20 Solicitor's Office, Arlington,
21 Virginia.
22 MR. FRANCCART:
23 Bill Francart,
24 Pittsburgh Tech Support.
25 MR. POGUE:

8

01 And I'm Charlie Pogue
02 from --- with MSHA, from
03 Hunker, Pennsylvania.
04 Here with me today,
05 representing the State of West
06 Virginia is Mr. Bill Tucker.
07 Mr. Tucker will be asking the
08 questions for the State. At
09 this time, I would ask Mr.
10 Tucker to introduce the
11 members of the State team who
12 are here today.
13 MR. TUCKER:
14 I need to read a brief
15 statement for the record. The
16 West Virginia Office of

17 Miners' Health, Safety &
18 Training is conducting this
19 interview session jointly with
20 MSHA, and we are in agreement
21 with the procedures outlined
22 by Mr. Pogue.

23 However, let me make it
24 clear that the Director
25 reserves the right, if

9

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

07 We appreciate you
08 coming in today, Frank. And
09 I'm Bill Tucker with Miners'
10 Health, Safety & Training, out
11 of the Oak Hill office.

12 MR. PHILLIPS:

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

18 MS. SPENCE:

19 I'm Beth Spence, with

20 the Governor's Office.

21 MR. POGUE:

22 This investigation is
23 being conducted by MSHA and
24 the State of West Virginia to
25 gather information to

10

01 determine the cause of the
02 accident and to help prevent
03 this from happening in the
04 future. These interviews are
05 an important part of the
06 investigation.

07 After the investigation
08 is completed, MSHA will issue
09 a written report detailing the
10 nature and the causes of the
11 accident. MSHA's accident
12 reports are made available to
13 the public in hopes that a
14 greater awareness about the
15 causes of the accident can
16 reduce their occurrence in the
17 future. Information obtained
18 through witness interviews is
19 frequently included in these
20 reports. Your statement may
21 also be used in other

22 enforcement proceedings.

23 I would like to thank
24 you in advance for your
25 appearance here today. We

11

01 appreciate your assistance in
02 the investigation. The
03 willingness of miners, mine
04 rescue team members and mine
05 operators to work with us is
06 critical to our success in
07 making the nation's mines
08 safer.

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

25 This interview is being

12

01 conducted at the Department of
02 Environmental Protection in
03 Logan, West Virginia, on March
04 the 20th, 2006, at five
05 minutes after 1:00.

06 Mr. Thomas, can I call
07 you Frank?

08 MR. THOMAS:

09 Yes.

10 MR. POGUE:

11 This interview will
12 begin by asking you a series
13 of questions. Feel free at
14 any time to clarify any
15 statements that you make in
16 response to the questions.
17 After we have finished asking
18 questions, you will have an
19 opportunity to make a
20 statement of your own and
21 provide us with any other
22 information that you believe
23 may be important. You are
24 permitted to have a
25 representative with you during

13

01 this interview, and you may
02 consult with that
03 representative at any time.
04 You may designate any person
05 to be your representative.
06 Following the questions by
07 MSHA and the State, this
08 representative will be given
09 an opportunity to ask
10 questions for the purpose of
11 clarification on areas already
12 discussed.

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

23 You may request the
24 opportunity to make a
25 confidential statement which

14

01 we will withhold from the
02 public to the extent allowable
03 by law. Should you desire to

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

11 MR. THOMAS:

12 No.

13 MR. POGUE:

14 A court reporter will
15 record your interview and will
16 later produce a written
17 transcript of the interview.
18 I ask that you state all your
19 answers verbally because the
20 court reporter cannot record
21 your gestures, like nodding of
22 your head. If any part of
23 your statement is not based on
24 your own first-hand knowledge
25 but on information that you've

15

01 learned from someone else,
02 please let us know. Please
03 answer each question as fully
04 as you can, including any
05 information that you've

06 learned from someone else. We
07 may not ask the right
08 questions to learn the
09 information you have, so do
10 not feel limited by the
11 precise question asked. If
12 you have information about a
13 subject area of a question,
14 please provide us with the
15 information.

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

20 MR. THOMAS:

21 No.

22 MR. POGUE:

23 Will you please swear
24 in Mr. Thomas?

25 -----

16

01 FRANKLIN D. THOMAS, HAVING FIRST BEEN
02 DULY SWORN, TESTIFIED AS FOLLOWS:

03 -----

04 BY MR. POGUE:

05 Q. Please state your full name,
06 address, telephone number, and spell
07 your last name for the record.

08 A. [REDACTED]



11 Q. Are you appearing voluntarily
12 for this interview?

13 A. Yes.

14 Q. Has anyone made any promises
15 to you for giving this statement or
16 offered you any reward in exchange
17 for making your statement?

18 A. No.

19 Q. Has anyone threatened you or
20 warned you not to provide this
21 statement?

22 A. No.

23 Q. Do you understand that you may
24 refuse to answer any question or
25 terminate this interview at any time?

17

01 A. Yes.

02 Q. Do you have a representative
03 with you today?

04 A. No.

05 Q. Do you wish to have a
06 representative?

07 A. No.

08 Q. We'll proceed with the
09 questioning. Who is your employer?

10 A. MSHA, Mine Safety and Health

11 Administration.

12 Q. How many years of mining
13 experience do you have, Frank?

14 A. A total of 17, 18 years.

15 Q. What office are you assigned
16 to with the Mine Safety ---?

17 A. District Three, Morgantown
18 office.

19 Q. What is your position at that
20 location?

21 A. Electrical inspector.

22 Q. How many total years of mining
23 --- how many total years do you have
24 with the federal government?

25 A. Three.

18

01 Q. And what has been your
02 position for those three years?

03 A. Electrical.

04 Q. Electrical. Are you a member
05 of the Mine Safety and Health
06 Administration's mine rescue team?

07 A. Yes.

08 Q. How many years have you been a
09 member?

10 A. Two.

11 Q. Did you have any prior mine
12 rescue experience?

13 A. No.

14 Q. Who notified you of the
15 Aracoma mine fire?

16 A. Jeff Kravitz (phonetic).

17 Q. Do you recall what day that
18 was that he notified you?

19 A. No, I can't recall. It was
20 the day before ---.

21 Q. The fire occurred on January
22 the 19th, 2006, the evening.

23 A. It was the --- the 20th is
24 when he called me, yes, the 20th.

25 Because the 21st is the first day I

19

01 went in.

02 Q. Do you recall approximately
03 what time you were notified by Jeff
04 Kravitz?

05 A. I can't answer --- I don't
06 know. I cannot remember that.

07 Q. Did you travel to the mine by
08 yourself?

09 A. Yes.

10 Q. Can you recall what time you
11 got at the mine?

12 A. I got at the mine at midnight
13 shift, somewhere around 11 o'clock,
14 10 or 11 o'clock at night.

15 Q. And that would have been on

16 the 19th?

17 A. That would have been the 20th.

18 Q. On the 20th?

19 A. The 21st was the day I spent
20 in there. So after midnight would
21 have been the 21st.

22 Q. When you got at the mine, who
23 did you report to?

24 A. I believe it was Charlie
25 Pogue.

20

01 Q. What days were you assigned at
02 the Aracoma Mine?

03 A. The 21st --- I was called the
04 20th and assigned there the 21st and
05 the 20th --- 22nd and the 23rd I left
06 to go back to Beckley. And I come
07 back on the --- it was a Wednesday, I
08 believe, and Jeff called me and told
09 me to go home.

10 Q. So what days did you actually
11 travel underground at Aracoma?

12 A. Monday and Tuesday.

13 Q. On the days that you were
14 assigned to go underground, were you
15 given a briefing prior to going
16 underground?

17 A. No.

18 Q. Did you find that that was

19 strange that you wasn't briefed prior
20 to going underground?

21 A. Yes.

22 Q. How about the team that you
23 went underground with, had they been
24 given a briefing?

25 A. Yes.

21

01 Q. Do you recall what the name of
02 the team was that you went
03 underground with?

04 A. The first night I went in with
05 I think the Southern App team and
06 Excel Team. And there was a third
07 team, but they ended up going back
08 out because we replaced them. But
09 the first night there was three
10 teams. And I can remember Southern
11 App with Harvey on it and Excel with
12 ---.

13 Q. By Southern App you're saying
14 ---?

15 A. That's the Peabody mine that
16 Harvey ---.

17 Q. Southern Appalachian?

18 A. Is that what team he's on?

19 Q. I think so.

20 A. That's who it is, yes.

21 Q. Okay. Did they have --- you
22 say they appeared to have had a
23 briefing prior to going underground?

24 A. Yes. Uh-huh (yes).

25 Q. Did they have mine maps ---

22

01 A. Yes.

02 Q. --- to take with them?

03 A. Uh-huh (yes).

04 Q. Did you get an opportunity to
05 look at the mine map?

06 A. Yes.

07 Q. Do you recall any problems
08 with the mine map as far as
09 ventilation controls?

10 A. No. No, I don't.

11 Q. How about the accuracy of the
12 map?

13 A. Compared to what was
14 underground?

15 Q. Yes.

16 A. I didn't pay that much
17 attention to it, Charlie.

18 Q. Do you think it's important to
19 have an accurate map when you go
20 underground like that?

21 A. Yes, I do.

22 Q. Do you recall any days that
23 you went underground getting any type

24 of a briefing prior to going
25 underground?

23

01 A. No, nothing --- nothing
02 substantial, no.

03 Q. Nothing formal?

04 A. No.

05 Q. Well, Frank, let's go to the
06 wall maps here and kind of indicate
07 to us what you did on your days that
08 you did go underground, what areas of
09 the mine you traveled in.

10 A. Okay.

11 Q. And we'll use a marker, and
12 we'll start with the blue one for
13 your first day underground.

14 A. Do you just want me to start
15 when I got off the mantrip, Charlie?

16 Q. Well, let's first start by
17 signing and dating that map.

18 A. Okay.

19 WITNESS COMPLIES

20 BY MR. POGUE:

21 Q. Now, what was your first day
22 underground?

23 A. Well, I believe this was the
24 main haulage we came up. We come
25 around and we got off the mantrip

01 here, right in this area, I believe.
02 I think it was right here, Charlie.
03 Q. All right.
04 A. We crossed over the overcast.
05 Q. Stop right there. Let's call
06 that a staging area. Was it an
07 active, known fresh air base to you
08 or was it just an area ---?
09 A. It was just a place they
10 dropped us off. The fresh air base
11 was over on the belt line --- that we
12 thought was the fresh air base. And
13 they told us to go on inby. Then
14 there was another phone up here. And
15 then finally we ended up finding a
16 fresh air base being here, here where
17 there's a power car on this belt
18 line.
19 Q. Mark this as a staging area
20 and then the first fresh air base
21 that you really went to. Put
22 underneath there what day that ---
23 what your date was.
24 WITNESS COMPLIES
25 A. Okay. Do you want me to draw

01 a line where we walked, Charlie?
02 BY MR. POGUE:

03 Q. Yes, if you can remember.
04 A. There was a phone here. We
05 thought that was a fresh air base.
06 Then they sent us on in. We walked
07 all this belt.
08 Q. And you're indicating on the
09 Exhibit A Thomas map that you're now
10 in the 48-inch belt entry, walking
11 ---
12 A. Yes.
13 Q. --- in an eastward direction?
14 A. Uh-huh (yes).
15 Q. Okay. Which, by the way,
16 according to the map, is entry Number
17 Four. Now, is this an area that
18 you're exploring or are you just
19 walking ---?
20 A. We're walking up to where the
21 fresh air base is at.
22 Q. So all this area is all prior
23 ---?
24 A. Yeah, it's all been --- it's
25 covered.

26

01 Q. Okay.
02 A. Do you know where the power
03 car was at in this crosscut, Charlie?
04 I think the power car was right here.

05 It was either there or in that
06 crosscut, okay. And that's where our
07 fresh air was.

08 Q. Do you recall what number
09 fresh air base?

10 A. It was like eight or nine.

11 Q. Okay. Don't get too close to
12 that wall there.

13 A. Okay. That's where we
14 stopped. I backed up when Mack
15 Wright went in. Mack Wright restored
16 this area with his team.

17 Q. He went all the way up into
18 Two section?

19 A. Yeah. As far as I know, they
20 did. Okay. They spread out and they
21 made it in there and they explored
22 it. Called them back out, then they
23 sent me in. And they had to --- I
24 guess they run into a lot of smoke in
25 here somewhere. They wanted us to go

27

01 in and hang a check. So they sent
02 --- Mack's unit was out of oxygen, so
03 we went on up --- let's see.

04 Q. Do you recall what time this
05 is, Frank?

06 A. No. No.

07 Q. Okay.

08 A. We walked up --- I'm sorry,
09 this way. We walked our pass this
10 way, go down here and there's a ---
11 they're putting in a belt drive and
12 stuff here, and they make us hang a
13 check. Okay. That was the first
14 team I went with. After we hang ---.

15 Q. So you're indicating that in
16 the Number One entry ---?

17 A. There was a check in this
18 entry ---

19 Q. Number Four entry. I'm sorry.

20 A. --- we hung a check in this
21 entry and we hung a check --- that
22 would have been the belt, a check
23 right here against this --- where the
24 belt was at.

25 Q. Can you indicate with a symbol

28

01 for a check and put it in there?

02 WITNESS COMPLIES

03 A. Good enough?

04 BY MR. POGUE:

05 Q. Yes. Okay.

06 A. All right. And they called us
07 back out to the fresh air base. And
08 the phones won't clear up, then they
09 decide they're going to send another

10 team in which was the Southern App
11 team. The Southern App team went on
12 in. I wasn't with them. I followed
13 behind them with the Excel team, and
14 we end up walking down 22 --- we
15 walked down 22, and Southern App made
16 it to 34 or 35, I believe. And
17 that's when they found the items and
18 they asked us to come back out.

19 Q. Okay. Can you tell us
20 anything about these ventilation
21 controls on either side of your
22 travel down Ten headgate?

23 A. They seemed to be fine,
24 Charlie. Everything looked intact.
25 Everything looked okay.

29

01 Q. So then when they found the
02 items, they called you back out to
03 your fresh air base?

04 A. Yeah. They wanted me and the
05 state guy to go look at the items.

06 Q. Okay. Had you been briefed on
07 that prior to going into the mine?

08 A. No. Other than when I was at
09 a different catastrophe in a mine
10 office somewhere else, no.

11 Q. So then you retreated back to
12 your fresh air base in the northeast

13 mains entries. And then what from
14 there?

15 A. Me and the state fellow got
16 our orders from our headquarters and
17 we had gone back this way. And we
18 hooked up with a guy by the name of,
19 I want to say John Robertson or Tom
20 Robertson.

21 Q. I think it's John Robinson.

22 A. He's a fire brigade --- I
23 mean, on the fire brigade or
24 something for the mine.

25 Q. Did he travel with you guys?

30

01 Was he with your team?

02 A. No. He was --- apparently, he
03 was fighting the fire while we was
04 inby. There was a fire going on here
05 the whole time while we was inby,
06 okay, and he was fighting it with his
07 crews. But we was supposed to get
08 with him because he's the one who
09 found the items.

10 Q. And by items, you're saying
11 --- what do you mean by items?

12 A. People.

13 Q. Victims?

14 A. Yes.

15 Q. Okay. All right. Take us
16 from there.

17 A. All right. So Mr. Robinson
18 gets me and the state fellow.

19 Q. Who was the state fellow you
20 was traveling with?

21 A. Bill.

22 Q. Bill?

23 A. Uh-huh (yes).

24 Q. Okay. Bill Tucker?

25 A. Bill Tucker.

31

01 Q. All right. So we went over
02 here and we measured the victim,
03 where he was lying and we seen if he
04 was disturbed or anything. They
05 mentioned that they moved him to read
06 his tag, and that's all they did,
07 okay. So we hung a flag overtop of
08 the victim, and then we drew on the
09 paper there what we measured out.

10 (Thomas Exhibit B

11 marked for

12 identification.)

13 BY MR. POGUE:

14 Q. Okay. I have in front of me
15 here Exhibit B, Thomas. It's a map
16 of the area of the victim, Mr. Bragg.
17 Can you identify that?

18 A. Yep.

19 Q. Is that your writing?

20 A. Yes, sir.

21 Q. Is there anything you can tell
22 us that is not on that map that might
23 be helpful to our investigation?

24 A. No. I think I measured
25 everything I was supposed to. I

32

01 don't think I left anything out,
02 Charlie.

03 Q. Okay.

04 A. I can't think of anything. I
05 don't know if it's relevant or not.

06 There was a pop bottle laying beside
07 the fellow and it wasn't melted. I
08 don't know if that means anything to
09 you or not.

10 Q. So the body had already been
11 found prior to you getting there; is
12 that correct?

13 A. Yes. Uh-huh (yes). Yes. And
14 after we got done taking our
15 measurements, they wrapped up the
16 bodies and got them ready for
17 transportation.

18 Q. That's what they did with Mr.
19 Bragg; is that correct?

20 A. Yes.
21 Q. Okay. And then take us from
22 after you identified the body and
23 took your measurements, where ---?
24 A. We walked this way, this
25 route, over here, down this way,

33

01 right into Ellis.
02 Q. And the other victim would be
03 Mr. Hatfield?
04 A. Yeah. I drew a map of him,
05 but I don't know where it's at,
06 Charlie.
07 Q. Who did you turn the second
08 map in to?
09 A. I turned both of them in to
10 --- he's on our team. I can't
11 remember who was outside that night.
12 Q. Was it Link Selfe?
13 A. No. He was supposed to give
14 it to Link. Link was up in the
15 command center.
16 Q. Jim Langley (phonetic)?
17 A. No.
18 Q. Jerry Cook?
19 A. Yep, Jerry. Jerry Cook.
20 Q. So you gave both of your maps
21 ---
22 A. Yes.

23 Q. --- with your information on
24 the bodies to Jerry Cook?

25 A. Right.

34

01 Q. And from that point on, did
02 you see the maps after giving them to
03 Jerry?

04 A. No.

05 Q. Did Jerry indicate to you that
06 he was going to give them to someone?

07 A. He said he took care of it.

08 Q. Okay. And that's all he ---?

09 A. I asked him, and he said it's
10 taken care of.

11 Q. All right. Once the two
12 victims had been identified and the
13 measurements and the bodies had been
14 removed, what was the next thing that
15 you did after that? Did you
16 accompany the bodies to the surface?

17 A. Yes.

18 Q. Do you want to pick up from
19 there and just tell us what happened?

20 A. Well, after we made our
21 measurements of the victims, they had
22 two crews working, one with each
23 victim, wrapping --- you know,
24 wrapping them up in brattice cloth

25 and getting them to where no one

35

01 could see them. And we got them

02 transported over to the mantrip

03 station and we got them in the

04 mantrip.

05 Q. Did they have body bags for

06 the victims?

07 A. Not at --- not there at that

08 time. I believe they brought them in

09 but did not end up using them for the

10 way the bodies were. They couldn't

11 get them in the bag or nothing. They

12 was already on the stretcher when

13 they got them over to the mantrip.

14 And that's where the bags ended up

15 being after they got them wrapped up.

16 Q. So they transported the

17 victims to the surface at that time?

18 A. Yes. We all got on the

19 mantrip. It was me, Bill, Mr.

20 Robinson. And I believe that was it;

21 wasn't it? And the two victims

22 traveled to the surface.

23 Q. And once you arrived at the

24 box cut, what took place then?

25 A. When we got in the box cut, no

36

01 one was there to receive the victims.

02 Q. Nobody from the company?

03 A. Nobody.

04 Q. Nobody to turn ---?

05 A. No one. The only people there

06 were employees, and they gathered

07 around and started crying and ---.

08 Q. Prior to you coming out from

09 underground, was a telephone call

10 made to the command center to tell

11 them that you were on your way out?

12 A. I'm sure I heard Tom call out

13 and say, get an ambulance here so we

14 can get these guys transported. I'm

15 sure I was standing beside him when

16 he said that.

17 Q. Does that pretty much conclude

18 all the information that you have on

19 that first night?

20 A. Uh-huh (yes).

21 Q. Okay. Was there a second

22 night that you traveled underground?

23 A. Yep.

24 Q. Okay. Just hold up one

25 second. Why did your team hang these

01 two checks in this area right here?

02 A. Because it was smoky over

03 here, too smoky to explore. And they

04 wanted to vent it out, and they said
05 this would help vent it out, if we
06 checked this off and forced the air
07 down that way some how. That was
08 what they told us, so ---.

09 Q. Did it actually make a change
10 and force the air inby; could you
11 tell?

12 A. It didn't help. It stayed
13 smoky inby, outby, just --- it didn't
14 help.

15 Q. Did those orders to hang those
16 checks come from the command center?

17 A. Yes.

18 Q. Did you hear those orders come
19 across the communications or was that
20 something that was just ---?

21 A. I was sitting there when the
22 guy received them on the headset. I
23 mean, I didn't actually have my head
24 to the headset.

25 Q. We need to clarify one point

38

01 here. When did you actually leave
02 the mine, on the 22nd or the 23rd?
03 Do you recall exactly?

04 A. My last day at the mine would
05 have been the 22nd, because the 23rd
06 I went for a meeting in Beckley.

07 Q. Okay.

08 A. And when I come back, Jeff

09 told me I didn't have to go back to

10 the mine.

11 Q. So the only two days you were

12 actually underground was the 21st ---

13 A. And the 22nd.

14 Q. --- and the 22nd?

15 A. Yes.

16 Q. What do you mean when you say

17 the way the bodies were you couldn't

18 get ---

19 A. They were ---.

20 Q. --- you couldn't get them into

21 the body bags?

22 A. When they laid there that

23 long, they were so stiff, it was just

24 better to wrap them up in a canvas

25 than try to stretch them out and mess

39

01 with the body to get them straight

02 into a body bag.

03 Q. If that concludes your first

04 day of travel, let's get another

05 felt-tip, and you can indicate your

06 travel on the second day.

07 A. That will be easy. Back to

08 the mantrip station and ---.

09 Q. Let's start here with green.

10 A. Okay. What do you want me to
11 put there?

12 Q. Just draw a line up to there
13 maybe.

14 A. Second day?

15 Q. Yes, second day.

16 WITNESS COMPLIES

17 BY MR. POGUE:

18 Q. What's your date there?

19 A. 3/21/06.

20 Q. Now, what date should that be?

21 A. 22/06. I don't know. What
22 should it be? You're confusing me
23 now.

24 Q. One.

25 A. Okay.

40

01 Q. That was the day you were
02 underground.

03 A. Oh, God.

04 Q. Okay. That's okay. You're
05 doing good. All right. Let's go
06 from there now. You're at the
07 staging area on the 21st.

08 A. We were sent in to just patrol
09 the area where the fire was at that
10 night, and pretty much that's what we
11 did. Mack and myself and two teams

12 patrolled pretty much that area right
13 there.

14 Q. Can I ask you to move over to
15 our second map, which will be Exhibit
16 C, Thomas?

17 (Thomas Exhibit C
18 marked for
19 identification.)

20 BY MR. POGUE:

21 Q. And start out from that
22 staging area again and indicate the
23 areas that you were in on that night
24 over here.

25 A. Near the staging area?

41

01 Q. Yes. Now, just indicate with
02 one line what areas you were in that
03 night.

04 A. Okay.

05 WITNESS COMPLIES

06 A. I'm wrong, Charlie. This here
07 I believe was the staging area.
08 Here's the double doors that I had to
09 walk through to get over ---.

10 BY MR. POGUE:

11 Q. Okay. If that's the case,
12 just cross this out and indicate back
13 to there.

14 WITNESS COMPLIES

15 BY MR. POGUE:

16 Q. Let's go back to our Exhibit

17 A. Give me a signature over here

18 with today's date.

19 WITNESS COMPLIES

20 BY MR. POGUE:

21 Q. Try to leave our survey

22 stations uncovered so we can identify

23 some things.

24 A. All right. Okay. I remember

25 walking through that crosscut.

42

01 That's about it, Charlie.

02 Q. And that would have been your

03 --- the belt entry?

04 A. Yeah. They had us patrolling

05 all this and running water on it, you

06 know, just monitoring it.

07 Q. Did you go down this direction

08 any at all?

09 A. No, I didn't go past this

10 crosscut.

11 Q. Okay. How about the water

12 system? Did you happen to trace any

13 of the water system, the waterlines

14 for the firefighting?

15 A. For the wall that's supposed

16 to be over top of the belt drive, you

17 mean?

18 Q. No, just like for your fire
19 hoses and ---. Did you travel this
20 48-inch belt to know where the valves
21 were for turning on and turning off
22 the water or any of that?

23 A. Actually, one of the crews ---
24 the second crew that was sent in
25 there with us that night had to do

43

01 something with the valve, and I took
02 him over to it. And it was --- I
03 can't remember where it was at on the
04 belt. It was down this way a little
05 ways. I don't know what block it was
06 at.

07 Q. But you didn't travel that or
08 ---?

09 A. I did walk --- I did walk down
10 there, yes. You're right. You
11 reminded me. I walked down to the
12 valve, but I don't know what block it
13 was at, Charlie.

14 Q. Okay. All right. Let's talk
15 about some of these ventilation
16 controls that you --- where you
17 indicate that you traveled through.
18 Let's start with the 48-inch belt,

19 the stopping line that is to the
20 south of that belt. Can you recall
21 the condition of these ventilation
22 controls, if they were there, if
23 there were blocks out of them?
24 A. I never noticed any blocks out
25 of them, no.

44

01 Q. Okay.

02 A. They looked to be intact when
03 I seen them.

04 Q. All right. If we start here
05 from your staging area and you're
06 indicating that you traveled north
07 from survey station 3204 to survey
08 station 3199, ---

09 A. The overcast?

10 Q. --- yes, do you recall that
11 overcast being there?

12 A. Yeah.

13 Q. Do you remember any other
14 controls or anything in that area
15 that would indicate anything
16 concerning that overcast being under
17 construction or ---?

18 A. No. I'd say it's been there
19 for a while. It had steps on it and
20 everything.

21 Q. You traveled up over the

22 overcast?

23 A. Uh-huh (yes).

24 Q. What about this overcast here,
25 do you recall anything about it?

45

01 A. No.

02 Q. How about these three
03 stoppings here, did you ---?

04 A. This one was a good stopping,
05 good stopping. I don't remember one
06 being there. I think this was either
07 knocked out or something, because I
08 walked down through there. I can't
09 honestly recall, but I walked through
10 there. Like there was pipe running
11 through it or something, waterline.
12 I didn't see that. That wasn't
13 there. That was there.

14 Q. On the ventilation controls
15 that you know for a fact, without a
16 doubt in your mind, that were there
17 and not there, indicate by circling
18 it and say missing.

19 A. Circle which ones was missing?

20 Q. Yes, circle it if it's missing
21 and indicate --- write the word
22 missing.

23 WITNESS COMPLIES

24 A. What if it's questionable?

25 BY MR. POGUE:

46

01 Q. Only if you know for a fact it
02 wasn't there. This is the 72-inch
03 ---.

04 A. I had a check curtain here,
05 too, right here. Can we take a quick
06 break?

07 Q. Yes.

08 SHORT BREAK TAKEN

09 BY MR. POGUE:

10 Q. Right now we're on Exhibit C,
11 Thomas. And we need to clarify a
12 couple things here, Frank. And let's
13 back up to that staging area, which
14 you indicate is survey station 3204.
15 And we're going to head north towards
16 survey station 3199. And there's an
17 overcast indicated on that one map.

18 A. I didn't cross that overcast.

19 Q. Okay.

20 A. I messed up. I should have
21 went up this one. It would have been
22 3221.

23 Q. All right. Do you recall
24 anything at all about the overcast at
25 3199?

47

01 A. From what I can remember, I
02 thought there was a wall there.
03 That's about it.

04 Q. But you can't ---?

05 A. I can't say the overcast was
06 intact, no.

07 Q. Okay. All right. Before we
08 went on break, we were talking about
09 some of the ventilation controls in
10 this area of the belt drive. Is
11 there anything else that you can
12 indicate on the mine map that you
13 know for sure, either the door wasn't
14 there or a stopping wasn't there?
15 This entry right here that I'm
16 indicating is the 72-inch belt
17 conveyor entry, which is at Number
18 Seven entry, do you recall any
19 ventilation controls across the entry
20 inby survey station 3266?

21 A. That way you mean?

22 Q. Yes.

23 A. No.

24 Q. And you indicated that you
25 didn't travel inby this area. So do
01 you know any condition of stoppings
02 that were in this area?

03 A. I traveled from the first
04 victim down this area.

05 Q. Okay. Do you recall any of
06 the stoppings, the condition of them,
07 blocks missing out of them or
08 anything?

09 A. I never noticed no stoppings
10 where I walked, Charlie.

11 Q. That's fine. Is there any
12 other information, Frank, you can
13 tell us about the fire area or the
14 areas that you explored on either one
15 of the maps?

16 A. Not really, no.

17 Q. These two equipment doors that
18 were in the Number Eight entry, just
19 inby survey station 3267, do you
20 recall what position they were in?

21 MR. POGUE:

22 Let's go on break for a
23 second.

24 SHORT BREAK TAKEN

25 BY MR. POGUE:

49

01 Q. We're on Exhibit C, Thomas.
02 And what can you tell us about these
03 two equipment doors that were just
04 inby survey station 3267 and entry
05 number Eight?

06 A. I didn't notice no doors when
07 I walked through that crosscut, so
08 I'm not sure if they were there or
09 not, Charlie. I didn't notice any
10 doors.

11 Q. Is there any other information
12 you'd like to indicate at this time,
13 Frank?

14 A. No.

15 Q. Okay. You can sit down. At
16 the completion of your exploration on
17 each of the two days, were you given
18 a debriefing by anybody?

19 A. No.

20 Q. Do you recall if the team was
21 ever debriefed that you traveled with
22 that day?

23 A. I never noticed it if they
24 were, Charlie.

25 Q. And the information that you

50

01 had concerning the two victims was
02 just turned over to Jerry Cook?

03 A. Yes, sir.

04 Q. Okay.

05 A. That same information was also
06 drawn by two other people.

07 Q. Did you ever go into the

08 command center ---

09 A. No.

10 Q. --- in the mine office?

11 MR. POGUE:

12 Bill, do you have any
13 questions?

14 MR. TUCKER:

15 No.

16 MR. POGUE:

17 I'm going to read you a
18 closing statement here, Frank.
19 On behalf of MSHA, I want to
20 thank you for appearing here
21 today and answering our
22 questions and sharing your
23 information about the mine.
24 Your cooperation is very
25 important to us as we work to

51

01 determine the cause of the
02 accident. If you wish, you
03 may now go back over any
04 answer that you've given
05 during the interview. You may
06 also make a closing statement
07 covering any additional points
08 you believe should be raised.
09 Do you have any points you'd
10 like to raise or any comments

11 you'd like to make, Frank,
12 about anything, the command
13 center, maps, briefings?

14 A. Uh-uh (no). No.

15 MR. POGUE:

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

52

01 After questioning other
02 witnesses and obtaining
03 additional information, we may
04 be asking you back for further
05 questioning. If at some point
06 you have additional
07 information regarding the
08 accident that you would like
09 to provide us, please contact
10 Mr. Kenny Murray, the lead
11 accident investigator, or his
12 staff assistant, Anthony Webb.

13 And I have two business cards
14 here with their address on it,
15 Frank.

16 A. Thank you.

17 MR. POGUE:

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

53

01 investigation, please
02 immediately contact Mr. Murray
03 or Mr. Webb. Bill also has a
04 statement he'd like to ---.

05 MR. TUCKER:

06 The State also offers
07 protection against
08 discrimination, Frank. If you
09 need us, there's my card. You
10 can reach me. And here's C.A.
11 Phillips' card. He's the
12 Deputy Director out of our
13 Charleston office.

14 A. Thank you.

15 MR. TUCKER:

16 And I'd like to
17 personally thank you and on
18 behalf of Miners' Health,
19 Safety & Training also thank
20 you for the hard work that you
21 do as a mine rescue team
22 member, and we greatly
23 appreciate those efforts.
24 A. Thank you.

25 EXAMINATION CONCLUDED AT 1:49 P.M.