

01 EXAMINATION UNDER OATH
02 OF
03 THOMAS DUANE VANOVER
04
05
06 Taken pursuant to Notice by Autumn D.
07 Furby-Pritt, a Court Reporter and
08 Notary Public in and for the State of
09 West Virginia, at Department of
10 Environmental Protection, 1101 George
11 Kostas Drive, Logan, West Virginia,
12 on Thursday, February 9, 2006, at
13 1:56 p.m.

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

02
03 KENNETH A. MURRAY
04 District Manager
05 U.S. Department of Labor
06 Mine Safety and Health Administration
07 Coal Mine Safety and Health
08 District 6
09 100 Fae Ramsey Lane
10 Pikeville, KY 41501
11
12 TERRY FARLEY
13 Health & Safety Administrator
14 Office of Miners' Health, Safety &
15 Training
16 1615 Washington Street, East
17 Charleston, WV 25311
18
19 MARK E. HEATH, ESQUIRE
20 Spilman, Thomas & Battle, PLLC
21 990 Elmer Prince Drive
22 Suite 205
23 P.O. Box 4474
24 Morgantown, WV 25604-4474
25

3

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

05 Office of the Regional Solicitor
06 1100 Wilson Boulevard
07 22nd Floor West
08 Arlington, VA 22209-2247

09
10 WILLIAM TUCKER
11 Assistant Inspector at Large
12 West Virginia Office of Miners'
13 Health, Safety & Training
14 142 Industrial Drive
15 Oak Hill, WV 25901

16
17 KEITH E. BELL, ESQUIRE
18 U.S. Department of Labor
19 Office of the Solicitor
20 1100 Wilson Boulevard
21 Arlington, VA 22209-2296

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. FRANCCART
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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5

01 I N D E X

02

03 WITNESS: THOMAS DUANE VANOVER

04 QUESTIONS

05 by Mr. Murray 16 - 75

06 by Mr. Farley 75 - 82

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09 CERTIFICATE 102

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

02 -----

03 MR. MURRAY:

04 Mr. Vanover, my name's
05 Kenny Murray. I represent the
06 Mine Safety and Health
07 Administration, which is an
08 agency of the United States
09 Department of Labor. I'm the
10 team leader of MSHA's accident
11 investigation team that's been
12 charged with investigating the
13 accident that occurred at the
14 Aracoma Coal Company,

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

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

8

01 includes various specialists
02 from all over the United
03 States.

04 At this time, I would
05 like for each of those team
06 members to introduce
07 themselves to you.

08 MR. FINNIE:

09 Michael Finnie, MSHA in
10 Madisonville, Kentucky.

11 MR. FRANCCART:

12 Bill Francart with MSHA
13 in Pittsburgh.

14 ATTORNEY BELL:

15 Keith Bell, Solicitor's
16 Office.

17 MS. MITSKOG:
18 Marne Mitskog with the
19 Solicitor's Office.

20 MR. WAGGETT:
21 Jeff Waggett, MSHA,
22 Pittsburgh.

23 MR. WEBB:
24 Anthony Webb, MSHA
25 Pikeville, Kentucky.

9

01 ATTORNEY BARISH:
02 Dan Barish with the
03 Solicitor's Office.

04 MR. MURRAY:
05 And to my left is Mr.
06 Terry Farley from the State of
07 West Virginia, and he'll
08 introduce his team.

09 MR. FARLEY:
10 Before I introduce
11 them, just a couple comments.
12 As Mr. Murray stated, the
13 Office of Miners' Health,
14 Safety and Training and MSHA
15 are conducting this
16 investigation, these
17 interviews jointly, and I'm
18 going to point out that we are
19 in agreement with the

20 procedures that he will
21 outline.

22 Also, but I need to
23 make it clear that the
24 Director reserves the right,
25 if necessary, to call or

10

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

07 Again, I'm Terry
08 Farley, this is Bill Tucker.

09 MR. WHITE:
10 Eugene White.

11 MR. COX:
12 Steve Cox.

13 MR. FARLEY:
14 Thanks.

15 MR. MURRAY:
16 Okay. Thanks, Terry.
17 This investigation is being
18 conducted by MSHA and the
19 State of West Virginia to
20 gather information to
21 determine the cause of the

22 accident and to help prevent
23 another one from happening in
24 the future. These interviews
25 are an important part of the

11

01 investigation. After the
02 investigation is completed,
03 MSHA will issue a written
04 report detailing the nature
05 and causes of the accident.
06 MSHA accident reports are made
07 available to the public in the
08 hope that greater awareness
09 about the causes of accidents
10 can reduce their occurrence in
11 the future.

12 Information obtained
13 through witness interviews is
14 frequently included in these
15 reports. Your statement may
16 also be used in other
17 enforcement proceedings. I
18 would like to thank you in
19 advance for your appearance
20 here. We appreciate your
21 assistance in this
22 investigation. The
23 willingness of miners and mine
24 operators to work with us is

25 critical to our success in

12

01 making the nation's mines

02 safer.

03 This interview with

04 Duane Vanover is being

05 conducted under Section 103(a)

06 of the Federal Mine Safety and

07 Health Act of 1977 as part of

08 an investigation by the Mine

09 Safety and Health

10 Administration into the

11 conditions, events and

12 circumstances surrounding the

13 fatalities that occurred at

14 the Aracoma Alma Mine Number

15 One, located at Route 17

16 North, Bandmill Hollow Road,

17 Stollings, West Virginia,

18 25646.

19 This interview is being

20 conducted at the Department of

21 Environmental Protection

22 office in Logan, West Virginia

23 on February 9th, 2006. And

24 it's approximately 2:03 p.m.

25 Eastern Standard Time.

13

01 Mr. Vanover, the
02 interview will begin by asking
03 you a series of questions.
04 Feel free at any time to
05 clarify any statements that
06 you make in response to these
07 questions. After we have
08 finished asking questions, you
09 will also have the opportunity
10 to make a statement of your
11 own and provide us with any
12 additional information that
13 you believe relevant to this
14 accident investigation.

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

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

22 Following the questions by
23 MSHA and the State, your
24 representative will be given
25 the opportunity to ask

14

01 questions for the purposes of
02 clarification on areas already
03 discussed.

04 Your statement is
05 completely voluntary. You may
06 refuse to answer any question,
07 and you may end your interview
08 at any time. If you don't
09 understand a question, tell me
10 and I'll rephrase it. If you
11 need a break, let me know.
12 You may request the
13 opportunity to make a
14 confidential statement, which
15 will be withheld from the
16 public to the extent allowed
17 by law. Should you desire to
18 give a confidential statement,
19 you should advise me before I
20 begin your interview, so that
21 I can reschedule this
22 interview in order to properly
23 consider your request. Do you
24 desire a confidential
25 statement?

15

01 MR.VANOVER:
02 No.
03 MR. MURRAY:
04 A court reporter will
05 record your interview and will

06 later produce a written
07 transcript of the interview.
08 I ask that you state all of
09 your answers verbally because
10 the court reporter can't
11 record your gestures, such as
12 nodding your head.

13 If any part of your
14 statement is based not on your
15 own first hand knowledge, but
16 on information that you
17 learned from someone else,
18 please let me know that.

19 Please answer each question as
20 fully as you can, including
21 any information that you
22 learned from someone else.

23 We may not ask the
24 right questions to learn the
25 information that you have, so

16

01 don't feel limited to the
02 precise question that I ask.
03 If you have information about
04 the subject area of a
05 question, please provide us
06 with that information. Do you
07 have any questions about the
08 manner in which the interview

09 will be conducted?

10 MR. VANOVER:

11 No.

12 MR. MURRAY:

13 Would you please swear

14 in Mr. Vanover.

15 -----

16 THOMAS DUANE VANOVER, HAVING FIRST

17 BEEN DULY SWORN, TESTIFIED AS

18 FOLLOWS:

19 -----

20 BY MR. MURRAY:

21 Q. Okay. Mr. Vanover, please

22 state your full name, address and

23 telephone number, and please spell

24 your last name for the record.

25 A. It's Thomas Duane Vanover,

17

01 V-A-N-O-V-E-R, [REDACTED]

[REDACTED]

[REDACTED]

04 Q. That would be area code 304?

05 A. Yes.

06 Q. Mr. Vanover, are you appearing

07 here voluntarily today?

08 A. Yes.

09 Q. Has anyone made any promises

10 to you for giving this statement or

11 offered you any rewards in exchange
12 for making this statement?

13 A. No.

14 Q. Has anyone threatened you, or
15 warned you not to provide this
16 statement?

17 A. No.

18 Q. Do you understand that you may
19 refuse to answer any questions or
20 terminate the interview at any time?

21 A. Yes.

22 Q. Do you have a representative
23 with you?

24 A. Yes.

25 Q. And who is that?

18

01 A. Mark Heath.

02 Q. How long have you known Mr.
03 Heath?

04 A. Just since this happened.

05 Q. Since the 19th?

06 A. Yeah.

07 Q. Have you been made aware that
08 Mr. Heath also represents the company
09 in this matter, and that there's a
10 potential for a conflict of interest
11 to arise between yourself and the
12 company?

13 A. Yes.

14 Q. Okay. And you still want to
15 proceed?

16 A. Yes.

17 Q. Okay. Did you contact Mr.
18 Heath, or did he contact you?

19 A. He contacted me.

20 Q. Okay. And at that point, did
21 he request to be your representative,
22 or did you request him to be your
23 representative?

24 A. He told us he was available.
25 I said I'd like to have him here.

19

01 Q. Okay. Have you been
02 interviewed before today ---

03 A. No.

04 Q. --- concerning this accident?

05 A. Just through the --- not an
06 interview, just through the Massey
07 lawyers.

08 Q. The Massey lawyers?

09 A. Uh-huh (yes).

10 Q. And what did they ask you?

11 A. Just how we got out, just went
12 on throughout the day and how we ---
13 you know, how we got outside.

14 Q. Okay. Have the Massey lawyers
15 told you what to expect from me

16 today?

17 A. They said be --- yeah, just
18 pretty much the same questions they
19 asked.

20 Q. Have they prepared you to
21 answer any questions that I ask in
22 any particular manner?

23 A. No.

24 Q. Did they tell you any
25 questions to anticipate from me?

20

01 A. No.

02 Q. Did you meet with them this
03 morning?

04 A. No.

05 Q. What about this afternoon?

06 A. Just when I walked in the
07 door.

08 Q. Okay. Have you met with
09 anybody that has already been
10 interviewed?

11 A. No.

12 Q. Okay. Mr. Vanover, how long
13 have you worked at the Aracoma Alma
14 Mine Number One?

15 A. Since 2004.

16 Q. What's your current job title?

17 A. I get paid as a shuttle car
18 operator, but when I was on Two

19 section --- I went from Three section
20 to Two section, and I went from a
21 shuttle car operator to a scoop man.

22 Q. Okay. So on January 19th,
23 2006, what was your ---?

24 A. Scoop operator.

25 Q. Scoop operator. How long have

21

01 you held that position?

02 A. I've only been on Two section
03 for about three weeks, so ---

04 Q. Okay.

05 A. --- that's how long I've been
06 up there.

07 Q. Okay. Have you held any other
08 positions at Aracoma?

09 A. Shuttle car operator.

10 Q. Shuttle car. In another area
11 of the mine?

12 A. Yeah, Three section.

13 Q. Okay. Have you ever worked on
14 the longwall?

15 A. No, just during the belt ---
16 during the longwall moves.

17 Q. Have you ever been on the
18 longwall?

19 A. Yes.

20 Q. How about the longwall face?

21 A. Yes.

22 Q. To work?

23 A. To help move the longwall, to
24 break it down, yes.

25 Q. I see. How many total years

22

01 of mining experience do you have?

02 A. Twelve (12). I started out in

03 '93 as surveyor, setting spads. And

04 got hired on production in 2004 at

05 Aracoma.

06 Q. Okay. Has all that experience

07 been with A.T. Massey?

08 A. No. No.

09 Q. All of it in West Virginia?

10 A. Yes.

11 Q. Okay. The next series of

12 questions would be related to January

13 19th, 2006, in case I don't preface

14 that. What shift were you scheduled

15 to work that day?

16 A. Second shift.

17 Q. What time does second shift

18 start?

19 A. We go underground at 2:30.

20 Q. 2:30. And what time does it

21 end?

22 A. We're supposed to be outside

23 by 12:00, or 1:00, whatever nine

24 hours is. Yeah, one o'clock.

25 Q. Okay. What time did you

23

01 arrive at the mine that day?

02 A. Two o'clock.

03 Q. Two o'clock. Who was your

04 supervisor that day?

05 A. Mike Plumley.

06 Q. Is he your normal supervisor?

07 A. Yeah. When I'm on that

08 section, yes.

09 Q. What were you assigned to do

10 that day?

11 A. Just normal job, get --- when

12 I first get there I get roof bolt

13 supplies and clean dust section, and

14 any other supplies that need brought

15 up and load flatcars, whatever else

16 comes about.

17 Q. But it was all related to the

18 production cycle?

19 A. Uh-huh (yes).

20 Q. Had you been in that area of

21 the mine before the 19th?

22 A. Yes.

23 Q. And when was the last time?

24 A. Like I said, from three weeks

25 from --- I went back, I've been on

01 that section for three weeks now.

02 Q. So were you there on the 18th?

03 A. Yes.

04 Q. And if you would, from the

05 beginning of your shift, kind of

06 describe to me the chain of events

07 that happened between the time you

08 entered the mine until the time that

09 you were notified that you needed to

10 evacuate?

11 A. Well, we got --- we just

12 traveled to the section as normal.

13 We got to the section, we --- the

14 dayshift crew was there waiting on

15 us. And Terry Shadd was there, and

16 they was discussing going on six and

17 three schedule, six on, three off.

18 And wanted to know how everybody felt

19 about that. We talked there for a

20 few minutes, and then proceeded onto

21 our equipment. My job was to go get

22 the scoop and go to the supply hole

23 and get supplies for the roof bolter.

24 I got the supplies. And Billy

25 Mayhorn was down there, and helped me

01 get the supplies. And then I left

02 and he stayed, and was loading crib

03 blocks. Made it to the section. I
04 started towards the left bolter,
05 which I believe he was in Number One,
06 I'm not real sure if that's where I
07 was headed. And the miner man
08 stopped me and needed some hydraulic
09 oil. So I backed down behind the
10 miner and gave him his hydraulic oil.

11 And when I got ready to get back on
12 the scoop, I seen the light flashing
13 on the phone. And that's when Mike
14 Plumley, the boss, answered the
15 phone, and then he hollered and told
16 us we need to get outside, we had a
17 fire on the belts.

18 Q. Did he say which belt?

19 A. No.

20 Q. When you say a light flashing
21 on the phone, what does that mean to
22 you?

23 A. What does it mean to me?

24 Q. Uh-huh (yes).

25 A. Somebody was trying to get

26

01 ahold of us for something. It
02 usually means somebody's family's
03 called, they need them home for
04 whatever reason, or they just need to

05 talk to the boss for something.
06 That's the only time I've ever
07 answered when it was flashing, they
08 needed a boss. When it was something
09 to talk to him about.

10 Q. Does that have anything to do
11 with the CO system?

12 A. Not to my knowledge. I don't
13 know.

14 Q. Okay. Can the belt continue
15 to operate while the light's
16 flashing?

17 A. Yes.

18 Q. Okay. You mentioned Terry
19 Shadd. What was --- I didn't catch
20 what relationship he had in your
21 events of the day.

22 A. He's the --- he's the Two
23 section foreman. He's over the whole
24 section. He was there during day
25 shift, and he was riding out with the

27

01 day shift crew, so he was there with
02 us talking about the six and three
03 schedule.

04 Q. Okay. So Terry Shadd was the
05 foreman that Plumley was relieving?

06 A. No. What they got --- Paul
07 Scott was the boss on the section,

08 but they've got a foreman that's over
09 the --- I don't know how they do it.
10 They're over the section, but they've
11 got a boss that stays there the whole
12 time. Terry Shadd won't actually be
13 there the whole time.

14 Q. I see. Paul Scott would be
15 the equal to ---?

16 A. To Mike Plumley.

17 Q. Okay. I understand now. Do
18 you have any idea what time it was
19 when you saw that light flashing?

20 A. No. I never looked at my
21 watch or anything, I don't know.

22 Q. How long would it take you to
23 go from the outside to the section?

24 A. It takes us normally 50
25 minutes to an hour to get in and get

28

01 --- you know, one-way trip.

02 Q. Could you proffer a guess how
03 long, from the time you got on the
04 section until it was that you saw
05 that?

06 A. I'd say we sat and talked for
07 --- if we got on the section, left at
08 2:30, so we got there at 3:30. It
09 was probably time --- it was probably

10 an hour and a half or so by that
11 time. So 5:30 or so.

12 Q. Okay. Whenever you got to the
13 section and you wanted to --- you
14 went to retrieve your scoop, where
15 was it at?

16 A. It was in front of the manbus,
17 because we pulled to the section, and
18 they was dusting the section with the
19 slinger-duster in the scoop bucket.

20 So they backed down the intake, and
21 it was setting in front of the manbus
22 in Number Three entry.

23 Q. Okay. And where's your supply
24 hole at?

25 A. It was down in Number Five

29

01 entry, probably four or five breaks.

02 Q. Number Five entry of the
03 mains?

04 A. Yeah. Not the section, the
05 gate road going down.

06 Q. Okay. Before you saw that
07 light flashing and Mr. Plumley got
08 the call to evacuate, did you notice
09 anything unusual?

10 A. No. Everything was normal.

11 Q. How about when you went down
12 to the supply hole on that northeast

13 main? Did you smell anything?

14 A. No.

15 Q. See anything unusual?

16 A. No.

17 Q. Do you know who called Mr.

18 Plumley?

19 A. No, I have no clue. I'm not

20 even sure who called.

21 Q. Did they tell him specifically

22 where the fire was at?

23 A. If they did, I'm not aware of

24 it, because he told us we had a fire

25 on the belts.

30

01 Q. He didn't say which belt?

02 A. No.

03 Q. Did you have occasion to speak

04 with anybody on the telephone ---

05 A. No.

06 Q. --- during that period of

07 time?

08 A. No.

09 Q. What happened after that,

10 after you were made aware that it was

11 time to go?

12 A. I told ---.

13 Q. Well, let me ask you the

14 specific. Who told you specifically?

15 A. I heard Mike hollering --- I
16 suppose he was hollering directly at
17 me, because I was in the belt entry
18 looking right at the phone. And he
19 said to get everybody to the mantrip,
20 we got to get outside. We have a
21 fire on the belts. So I told Joe
22 Hunt and Pat Kinser. And I think Pat
23 Kinser went to the left roof bolters,
24 and Joe Hunt went the right roof
25 bolters, which was Bragg and Elvis.

31

01 And told them --- while I was walking
02 towards the manbus, I still heard the
03 right roof bolter, bolting the top.
04 So I went over and told them that we
05 needed to get outside, we had a fire
06 on the belts. And then we all
07 proceeded to the manbus.

08 Q. Now, when you get to the
09 manbus and everybody's there, what
10 kind of conversations are we having
11 now?

12 A. We didn't think that anything
13 was serious. Everybody was really
14 just joking, carrying on. We thought
15 we was going to go down and put the
16 fire out and just come on back to
17 work. But on the way out we had to

18 stop and pick up Billy Mayhorn and
19 Gary Baisden. They was the two that
20 went down and was loading the cribs
21 up down at the supply hole.

22 That was the --- that was just
23 normal talk until we started hitting
24 the smoke. We hit just a light gray
25 looking smoke. It wasn't nothing

32

01 hard at all. And once we did hit
02 smoke, and I know in the back where I
03 was sitting, Mike Plumley was there,
04 the boss, and he started telling us
05 where we needed to go. Once we made
06 it to a certain point where the cribs
07 --- we have cribs set up there, and
08 once we made it to that point we
09 could get through a man door.

10 He was telling us that the
11 whole way. Once we hit the smoke, I
12 guess he kind of knew it was starting
13 to get serious then. He was telling
14 us which way we needed to go.

15 Q. Did this ever happen to you
16 before to where you had to evacuate?

17 A. No. Nothing --- just the fans
18 went off or something, had to come
19 outside. Nothing to this extent.

20 Q. When you said that you thought
21 --- the crew thought that they were
22 maybe going to go down and put the
23 fire out?

24 A. Uh-huh (yes). That's what I
25 was thinking. We was just going to

33

01 go --- thought a roller was on fire
02 or something, and just go down and
03 knock the roller down and go back to
04 work.

05 Q. Have you ever heard of a
06 roller being on fire before?

07 A. Yes.

08 Q. How long ago?

09 A. Well, we actually had one
10 probably a couple weeks ago before
11 this, just going through the Number
12 One four way, it was smoking and what
13 not. No fire yet, just smoking. We
14 dropped the bottom roller off it,
15 cooled it off in a water hole.

16 Q. What belt would that have been
17 on?

18 A. That would've been the six-
19 foot belt, which I don't know what
20 belt it was. It was right there at
21 the Number One four way.

22 Q. You're going to need to help

23 me on this, because I'm not real
24 familiar with the terminology in the
25 mine. Is the Number --- behind me I

34

01 have a map.

02 A. I don't think it's on that.

03 Q. This is --- just to give you a
04 little orientation. We'll come up
05 here and maybe make some marks. This
06 is the longwall, the current longwall
07 belt. This is the cut-through coming
08 into the longwall. This is the north
09 mains.

10 A. It's outby all this.

11 Q. Coming down here, like I'm
12 going back toward the --- to the
13 outside?

14 A. Yeah. It would be that six-
15 foot belt, I believe.

16 Q. This one here?

17 A. Uh-huh (yes).

18 Q. I think this is Number Six
19 belt. I guess one of the guys in the
20 back ---.

21 ATTORNEY HEATH:

22 I don't know if it
23 splits in the middle or not.

24 BY MR. MURRAY:

25 Q. I'm pointing to the belt that

35

01 the longwall actually dumps onto and
02 the 48-inch belt dumps onto as well
03 in the north mains, as being the
04 Number Six belt. It's also referred
05 to, on this map, as north mains belt.
06 At what location on the belt, if you
07 know, did you have this incident?

08 A. It was in a roadway, because
09 we drove right underneath it. So
10 that's why we seen it smoking.

11 Q. This would be an area that you
12 cross underneath the belt?

13 A. Right.

14 Q. So that would be how you would
15 have detected this smoke on the belt?

16 A. Uh-huh (yes). Yeah, that's
17 how we seen it.

18 Q. Do you know if any CO alarms
19 went off because of that?

20 A. No, the belt was still
21 running.

22 Q. The belt was still running?
23 Do you have any idea what --- was
24 this in January or December?

25 A. It was January.

36

01 Q. Was there a lot of smoke?

02 A. No, not very much. Just a
03 stream coming off the roller ---
04 Q. What color ---?
05 A. --- and the bearings.
06 Q. What color was the smoke?
07 A. Just light gray.
08 Q. Was it something like you saw
09 coming out ---?
10 A. When we first hit it. Yeah,
11 when we first hit the smoke, it was.
12 Q. It was similar to. Let's take
13 a quick break.
14 SHORT BREAK TAKEN***
15 BY MR. MURRAY:
16 Q. Mr. Vanover, if you don't
17 care, how about step up to the map,
18 and we'll talk about a few things. I
19 already referred to it just a little
20 bit, but just for your own
21 orientation, here's the north mains,
22 here's the 72-inch belt, here's the
23 mother drive, here's the longwall
24 belt, cut-through into the longwall
25 section, Northeast Mains, and then I
37
01 think to your area, the Two section.
02 And just to kind of give you
03 some further orientation, I'm going

04 to mark some things on here before we
05 start. And it may help you
06 understand where we're at. Here's
07 that seal that we talked about. Are
08 you aware that there's a borehole to
09 the surface in this area ---

10 A. No.

11 Q. --- that water drips out of
12 every once in a while?

13 A. I've heard people talk about
14 it, I've never seen it.

15 Q. I thought you might have
16 passed it --- you noticed it on your
17 way in and out. It's visible. It's
18 in right here, the borehole. And
19 we've been underground since then,
20 since the accident, and we know that
21 the mantrip is parked right here.
22 About like this. So with that in
23 mind --- right in this area here,
24 which I previously --- give you a
25 little idea of some of that area. I

38

01 wouldn't expect you to be able to
02 read a blank mine map.

03 But back into the Two section,
04 this is the end of your belt, Two
05 section belt. And you talked about
06 some different locations that you

07 have traveled to on the Two section
08 this day. And just so I understand
09 what we're talking about when we talk
10 about the entries numbered One and
11 Two. How are the entries numbered in
12 the Two section?

13 A. Out here in the mine is from
14 Left to Right. There's One, Two,
15 Three, Four, Five, Six.

16 Q. Okay.

17 A. And here is One, Two, Three
18 and Four.

19 Q. Okay. So on Two section,
20 they're numbered left to right, One,
21 Two, Three, Four?

22 A. Uh-huh (yes).

23 Q. And the same way as I'm
24 looking inby on the Northeast Mains,
25 it would be One, Two, Three, Four,

39

01 Five, Six. And by that account, the
02 48-inch belt would be in the Number
03 Three entry of Northeast Mains?

04 A. Yes.

05 Q. At this location?

06 A. Yes.

07 Q. Okay. And the entry adjacent
08 to the right of the belt inby the

09 belt would be the Number Four entry
10 of Northeast Mains?

11 A. Yes.

12 Q. Okay. I understand. Show me
13 on this map where the supply hole
14 was, what we talked about earlier.

15 A. It should be in this area
16 here. I'm really not sure. We're
17 coming off the section down three
18 breaks, and --- they was just
19 scattered really up and through here.

20 Q. Is it against the stopping, or
21 was it in the entry?

22 A. Some of them over on the
23 break, or on the corners where I can
24 scoop them up fairly easy.

25 Q. Okay. Do you want to give me

40

01 a range and I'll mark it on here of
02 where it would be, or where it could
03 be?

04 A. I'd say within these three
05 breaks right here probably.

06 Q. Okay. So where we've
07 described the supply hole to be,
08 would be in the Number Five entry of
09 the Northeast Mains, and it would be
10 between survey stations 4177 and
11 4163; is that right?

12 A. Yeah.

13 Q. You did that, yes?

14 A. Yes.

15 Q. Okay. And I'll call this the
16 supply hole. On the 19th, where did
17 you pick your scoop up at? Where was
18 it at?

19 A. As soon as we made this turn,
20 probably --- it was probably in this
21 area right here. Then we'd just come
22 off the top of the hill on break, in
23 this area right here. They backed it
24 down and parked.

25 Q. Okay. And this being the

41

01 section tailpiece?

02 A. Right. Number Three entry.

03 Q. Number Three entry was right
04 across from the section tailpiece?

05 A. Uh-huh (yes).

06 Q. Okay. And then the mantrip
07 that you all brought in on that
08 night, where was it at?

09 A. It was right in this breaker.
10 We pulled it down and parked. That's
11 where they'd meet us at, day shift
12 crew.

13 Q. Okay. So the mantrip that you

14 guys were going to take out on the
15 19th, this mantrip right here ---?
16 A. Oh, it was sitting. Once you
17 make this turn, straight down, it was
18 sitting right here.
19 Q. Okay. So the mantrip that was
20 sitting waiting for you guys to get
21 on was sitting in the Number ---
22 let's call it the --- we'll reference
23 the Northeast Mains, so we're calling
24 it the Number Five entry of Northeast
25 Mains at survey station 4228; would

42

01 that be accurate?
02 A. Yes.
03 Q. Where's the telephone that you
04 saw flashing?
05 A. Sitting beside the tailpiece.
06 Q. The telephone is at the
07 tailpiece ---
08 A. Right.
09 Q. --- of the Two section belt?
10 A. Two section belt.
11 Q. Okay. How about --- let me be
12 a part of the mantrip crew today.
13 You're getting on this mantrip that's
14 taking you to here.
15 A. We got on the bus ---
16 everybody gathered and got on the bus

17 down here, and drove this as our
18 roadway. Drove it down, and that's
19 where we started making a turn coming
20 out. As soon as we made that turn
21 right there, it seemed like somebody
22 threw a blanket overtop of you. You
23 couldn't see nothing. That's why we
24 stopped the mantrip.

25 Q. Okay. So you followed the

43

01 Number Five entry beginning at survey
02 station 4228, and you continued out
03 the Number Five entry of the
04 Northeast Mains until you got to
05 survey station 3547?

06 A. Yes, sir. To the best of my
07 knowledge, that's where we turned.

08 Q. And then you made a right-hand
09 turn to approach the Number Four
10 entry?

11 A. Right.

12 Q. And the mantrip came to a stop
13 at survey station 3546 of the Number
14 Four entry of Northeast Mains?

15 A. Yeah.

16 Q. Tell me again why it stopped
17 there?

18 A. Because Steve said he couldn't

19 see to drive any further because the
20 smoke was so thick. That's why we
21 stopped. He couldn't see where he
22 was going.

23 Q. How about you, yourself?

24 A. I couldn't --- you couldn't
25 see nothing. Once we made that turn,

44

01 you couldn't even see the light on
02 top of your head, it was so thick.

03 Q. If you had to describe the
04 visibility in feet or inches, how far
05 would you think you could see?

06 A. I'd say you was lucky if you
07 see a foot in front of you. Once you
08 made that turn, it was just like a
09 blanket was thrown overtop of you.

10 Q. Well, in this area right here,
11 where that says visibility, that
12 equals one foot?

13 A. Yeah.

14 Q. And then describe the smoke.

15 A. At that point it was real
16 black. It started out as a light
17 gray and just got darker, and when we
18 made that turn it was real black.

19 Q. Let me ask you this. Let's
20 say there were green reflectors ---
21 and I don't know whether there are or

22 not, but let's just say for the sake
23 of this question that this entry had
24 green reflectors in it. Could you
25 see the reflectors?

45

01 A. No, unless you was right on
02 top of it. Because I actually ran
03 into those cribs, it's like you
04 couldn't see them.

05 Q. Okay. Before I assume too
06 much, what designates your primary
07 escapeway?

08 A. The green reflectors.

09 Q. So if you're traveling in the
10 right direction, you should be able
11 to see green?

12 A. Green reflectors, yeah. That
13 would have been your way out.

14 Q. But if you were standing in
15 this entry, do you think you could
16 see them with this condition?

17 A. No. No, you couldn't see
18 them.

19 Q. Okay. Now, describe to me,
20 from when we started here, whenever
21 we got on the mantrip, then we
22 proceed outby, did you smell
23 anything?

24 A. No.

25 Q. Did you see anything?

46

01 A. No.

02 Q. When did you first smell or
03 see anything in the Number Five
04 entry?

05 A. I'm not sure really. I think
06 we traveled --- it seemed to be a
07 pretty good way. It seemed once we
08 got down just outby at Ten headgate,
09 in this area. I'm not really for
10 sure. It started getting like a real
11 light smoke.

12 Q. Could you smell it?

13 A. Yeah, you could smell it. You
14 smelled it first, actually, and then
15 you come into a real light smoke.

16 Q. Did you have an SCSR on you in
17 this area?

18 A. Yes, I had it on my side.

19 Q. On your side?

20 A. On my side.

21 Q. Not in your mouth?

22 A. No.

23 Q. Okay. So I can mark something
24 on here, indicate where you think you
25 first encountered any type of smoke.

47

01 A. To the best of my knowledge,
02 it would be in this area right here,
03 3608.

04 MR. MURRAY:

05 Okay. What Mr.
06 Vanover's indicated is that at
07 survey station 3608 in the
08 Number Five entry was the
09 first time that they --- the
10 first indication of smoke.

11 ATTORNEY HEATH:

12 Kenny, could you ask
13 him about smell or sight.

14 MR. MURRAY:

15 I'm going to get to
16 that.

17 ATTORNEY HEATH:

18 All right.

19 BY MR. MURRAY:

20 Q. And in your words now,
21 describe the visibility of this smoke
22 right here.

23 A. That? That was --- I mean,
24 you could see all you wanted to see
25 there. It was real light.

48

01 Q. What color would you describe
02 it if you had to?

03 A. Sort of like a white color.

04 Q. A white color? Okay. White

05 in color --- could you smell it?

06 A. Yeah.

07 Q. What did it smell like? Did

08 it irritate you?

09 A. No. Just choked you a little

10 bit. Just a cough. It was nothing.

11 We actually put our shirts over our

12 mouths.

13 Q. To try to filter it?

14 A. Yeah.

15 Q. Was there anybody talking

16 about maybe this would be the time to

17 don the SCSR? No discussion about

18 that?

19 A. No.

20 Q. Okay. Shirts over mouth. Let

21 me ask you this now. Just to compare

22 what you told me up here. For the

23 sake of the question now, I'm not

24 saying it is or it isn't, but let's

25 say there were green reflectors in

49

01 this entry, could you see them?

02 A. In that smoke?

03 Q. Yeah. Where you told me about

04 the gray smoke.

05 A. Yeah. Yes.

06 Q. You could see them?

07 A. Yes.

08 Q. Okay. Okay. Did this change
09 at all? This description right here,
10 did it change at all before you made
11 the turn?

12 A. It just got a little heavier,
13 the smoke did, and a little darker.
14 It wasn't completely black, but it
15 just got a little gray, darker color,
16 and it got a little heavier.

17 Q. Okay.

18 A. And when we made that turn,
19 that's when it got the worst.

20 Q. The lights went out?

21 A. Uh-huh (yes).

22 Q. At 3547, that's the
23 intersection that you made the turn,
24 if --- now, I'm saying if there were
25 green reflectors here, could you see

50

01 them at that point? Do we still have
02 that ---?

03 A. It's real hard to say. Yeah,
04 it was still pretty heavy right
05 there. I'd say you probably could
06 if, you know, you looked and had your
07 lights shining on it, I'd say you

08 probably could.

09 Q. Okay. Now, describe the scene
10 here. We're at the mantrip. We're
11 still in the mantrip, when we make
12 that turn and the driver of the
13 mantrip was ---?

14 A. It was Steve Hensley.

15 Q. Steve Hensley. Steve stops
16 the mantrip on his own, nobody said
17 stop?

18 A. No, he stopped --- he just
19 stopped. He told us he couldn't see
20 to go.

21 Q. Even with his lights?

22 A. Yeah.

23 Q. Okay. So he stops the
24 mantrip, then what? Who suggests to
25 put the SCSRs on?

51

01 A. We all got off the bus, and I
02 think it was Mike Plumley, I can't
03 say --- it sounded like his voice,
04 said that we need to put our rescuers
05 on. And then we all gathered there
06 and put them on and tried to make our
07 way back out.

08 Q. Where were you at when you put
09 yours on?

10 A. I was in --- I walked around

11 to this side of the bus, because I
12 was sitting in the back on this side.
13 And I exited the bus probably in this
14 area right here. I might have even
15 been past the bus. I'm not for sure.

16 Q. As you exited the bus, you
17 walked toward the front of the bus,
18 and you're actually walking toward
19 the Number Four entry and then really
20 towards survey station 3537?

21 A. Right.

22 Q. And how far in front of the
23 bus, if you can guess, were you when
24 you actually physically put your
25 self-rescuer on?

52

01 A. It couldn't have been a couple
02 feet, if I even was in front of the
03 bus.

04 Q. Okay.

05 A. Because I couldn't see ---.

06 Q. So you were real close to the
07 bus?

08 A. Right. Yeah, I was right
09 there at the manbus.

10 Q. Okay. And you're right in
11 front of the bus and you're putting
12 your SCSR on, did you have any

13 trouble?

14 A. No.

15 Q. You personally?

16 A. No. Me personally, no,
17 everything worked fine on mine.

18 Q. Did anybody have any trouble?

19 A. I heard --- we call him Blue,
20 Elmer Mayhorn, I heard him saying his
21 wouldn't work, and I think Mike Shull
22 told him to blow in it. And he did,
23 and he said it was working. That's
24 the only trouble I heard anybody say
25 they had.

53

01 Q. And where was Mr. Bragg at?

02 A. I'm not --- he was on either
03 the --- either one of the sides. I'm
04 not sure where he was at, because I
05 was in the back. He was on either
06 one of the sides, because you got the
07 driver, three people can sit on both
08 sides of the manbus, and then you got
09 the back of the manbus. He was on
10 either side. He wasn't back there on
11 the back.

12 Q. What about Mr. Hatfield?

13 A. He was on the opposite side of
14 wherever Bragg was at, in the middle
15 of the bus, either side. I'm not

16 sure what side they was on.

17 Q. When was the last time you saw

18 Mr. Bragg?

19 A. I never saw him, until we got

20 --- we all got on the bus and ---

21 because I went over to get him off

22 the bolter to tell them about the

23 fire, because they was bolting the

24 top. And he come on out to the bus

25 with us and got on the manbus, and I

54

01 never saw him again.

02 Q. What about Mr. Hatfield?

03 A. The same. I never seen him.

04 The only ones I even remember seeing

05 would probably be --- I seen Blue and

06 Mike Shull, and on the way out, I

07 think I grabbed ahold of Steve

08 Hensley's jacket, because he brushed

09 by me. I reached out and grabbed

10 ahold of him and followed him out.

11 Q. Do you have any opinion as to

12 how they got separated from the

13 group?

14 A. I don't have --- the guys that

15 was sitting with them has told me,

16 said that Bragg --- as soon as the

17 bus stopped, he was gone. I don't

18 know that for sure, but that's just
19 what the guys I was sitting with him
20 told me. And the other guys said
21 with Elvis, which is Hatfield.

22 Q. Yes.

23 A. Said he was right there with
24 that group putting their rescuer on.

25 Q. Okay. Let's continue the

55

01 journey. You now are located right
02 here and you have your self-rescuer
03 on.

04 A. Are them cribs? I thought
05 they was on this side. Because I
06 thought I was on --- they'd be on
07 that side.

08 Q. Maybe on both sides.

09 MR. FARLEY:

10 Maybe on both sides.

11 MR. TUCKER:

12 Both sides, the cribs.

13 A. Yeah. Because I know I ran
14 --- because I tried to --- because I
15 knew the cribs on this side, on the
16 left side looking at --- I knew those
17 were there. We just made our way
18 down looking for these cribs, because
19 on the bus, Plumley told us to find
20 them cribs. I'm not sure if it's two

21 breaks outby the cribs with the door,
22 or three breaks, I'm not sure. And I
23 found the cribs --- I ran into the
24 cribs, and I told every --- I
25 hollered out --- I don't know if

56

01 anybody heard, but I found the cribs.
02 Then I started making my way towards
03 this side of the entry, because I
04 knew the door's on this side.

05 And I ran into the rib and
06 started scooting on my way down the
07 rib line, and somebody brushed by me,
08 and I grabbed ahold of him when they
09 went by, and I think it was Steve
10 Hensley. And then you heard somebody
11 holler that they found the door. I'm
12 not sure who it was. But we started
13 going towards the voice, and when we
14 got over in that, I'm not sure --- I
15 know the door's here somewhere,
16 because they put it in to check that
17 seal. I don't know where it's at.
18 Everybody made it to the door, and we
19 got on the other side of the door.
20 And Mike Plumley said is everybody
21 here? And everybody looked around,
22 and everybody seemed like at the same

23 time, they said Bragg and Elvis.

24 BY MR. MURRAY:

25 Q. I'm going to help you out with

57

01 the doors, just for the purpose of

02 this discussion, it'll help us

03 better. It's one block from the

04 crib. It would be right here. Do

05 you know which way the door opened?

06 A. I think it opened towards the

07 beltline, and I'm not for sure. I

08 can't say for sure.

09 Q. You're thinking you would have

10 to push the door to step in?

11 A. I'm not for sure.

12 Q. Whenever you went through the

13 door, could you tell if the smoke was

14 following you, or the fresh air was

15 coming in your face in the beltline?

16 A. I don't think it was following

17 us, because when I went through the

18 door there was just a little bit on

19 the other side of the door. It was

20 nothing big, but just where it was

21 coming through. But once you got

22 through the door, it was just clear.

23 It was clear as this room.

24 Q. Okay. So I'm going to bring

25 us inside the door. So from the

01 mantrip you were traveling outby in
02 the Number Four entry. And we're
03 going to come through the
04 intersection where the cribs are,
05 which is 3228, and in the next block
06 we're going to make a right-hand
07 turn. We're going to go into the
08 belt, through the door, and we're
09 going to be standing in the belt
10 entry, the 42-inch belt entry at
11 survey station 3230.

12 Okay. Is the whole crew in
13 there now?

14 A. Through the door?

15 Q. Yeah.

16 A. No, Bragg and Elvis weren't.

17 Q. Okay. With the exception of
18 Bragg and Elvis?

19 A. Yeah, everybody was there.

20 Q. When did you first realize
21 that Bragg and Elvis weren't there?

22 A. Just as soon as --- when I
23 went through the door and crossed
24 under the belt, it just took that
25 long. And I heard Plumley ask if

01 everybody was here, and they said

02 Bragg and Elvis weren't. So at that
03 point, I know for sure Plumley went
04 back, but I don't know who else went
05 back through the door and was
06 hollering for them.

07 Q. How long did they spend over
08 here through the door?

09 A. It just seemed like it was a
10 few minutes, because when he come
11 back over he said it was smoking real
12 heavy.

13 Q. Then what did y'all do?

14 A. We continued --- we walked the
15 beltline out. We walked out and met
16 up at the longwall somewhere,
17 wherever they come out at.

18 Q. Here's the longwall.

19 A. And we met up with them.

20 Q. Here's the cut-through.

21 A. That's where the cut-through
22 ---. We met up with them here, and I
23 think --- and we actually went back,
24 because by that time, Dusty Dodson
25 and Terry Shadd, which is the two

60

01 foremen had made it there, and they
02 had the some curtain --- and I'm not
03 even sure where I was at in that
04 area. But they told us where to hang

05 the curtain at to try to, you know,
06 clear some air and stuff.

07 Q. Where did you come out of the
08 belt at, the 48-inch belt? We're
09 going to travel down the belt.
10 Here's the mother drive, here's the
11 48-inch belt, and then here's north
12 mains, here is where it dumps onto
13 that belt that we talked about
14 earlier, north mains belt.

15 A. I don't know where we come out
16 of. After we got down through here,
17 I was kind of lost as to where I was
18 at.

19 Q. Okay. When you did come out,
20 where did you go next?

21 A. We staged up --- I'm not sure
22 where we staged up, but there's
23 another boss there, he was Pat
24 Calloway. He got us all gathered up,
25 took everybody's name, and we all

61

01 gathered at the same spot. I don't
02 even know where it was at. And then
03 after everybody come back from
04 hanging the curtain, Pepé Lester and
05 Chris Adkins was there and said to
06 get everybody outside.

07 Q. Where were you at when they
08 told you that order?
09 A. To get outside?
10 Q. Uh-huh (yes).
11 A. I'm not for sure. Wherever
12 they brought the buses to. I don't
13 know where it was at, because in that
14 area there, I'm just lost.
15 Q. Okay. Did you ever, on this
16 particular night, end up on the
17 longwall face?
18 A. No. No, I wasn't on the
19 longwall.
20 Q. Because there was some of the
21 folks that said that they went up to
22 retrieve some SCSRs.
23 A. Well, I know when --- we met
24 the longwall guys coming off. They
25 had some with them, some extras.

62

01 Q. Okay. So you didn't go up
02 into the longwall to help with that?
03 A. No. No.
04 Q. Okay. Do you think you may
05 have met those --- that longwall crew
06 where they come out of the cut-
07 through in the north mains here?
08 A. It's a possibility. I'm
09 thinking maybe more --- because they

10 was walking towards us, so it might
11 have been there, and it might have
12 been in this area here. I'm not for
13 sure.

14 Q. Okay. Then what happened when
15 you met up with Guppy (sic) and ---?

16 A. That's when Pepé and Chris
17 Adkins said to get everybody
18 together, everybody's names that was
19 on Pat Calloway's list and everybody
20 that was there. He had to take
21 everybody's name down, get everybody
22 outside except for the bosses,
23 whoever else stayed.

24 Q. Okay.

25 A. He told all of us to get

63

01 outside.

02 Q. How did you get outside?

03 A. Mantrip. They brought
04 mantrips in, and we rode the mantrip
05 out.

06 Q. Where did Pepé and --- what
07 did Pepé and Chris do?

08 A. I'm not sure where they went.
09 They went --- I don't know where they
10 was going to go. They said to send
11 us outside, have Pat Calloway take us

12 outside. And then they just went on,
13 and we all went outside. So I don't
14 know what they were doing.

15 Q. I'm just going to put in this
16 area here since we don't know exactly
17 --- let me just say somewhere in
18 here, exited the 48-inch belt, you
19 met up with the longwall crew?

20 A. Uh-huh (yes).

21 Q. Okay. You met longwall crew,
22 then what, you rode out of the mine
23 on the mantrip?

24 A. Right.

25 Q. Anything else I missed that

64

01 you may want to add to this map?

02 A. No.***

03 Q. Okay. Do you have any idea
04 --- and I know this stuff is going
05 fast. Do you have any idea what time
06 it was whenever you met up with Chris
07 Adkins and Pepé Lester?

08 A. No. I know we got outside
09 about 7:30.

10 Q. You got outside at 7:30?

11 A. That's all I remember, about
12 7:30 when we got outside.

13 Q. Once you got on the bus, the
14 mantrip, were there any delays, any

15 stops?

16 A. No. We come straight out.

17 Q. Straight out. Okay. I

18 appreciate that, that was quite a

19 description. Back to your own SCSR.

20 Did you put the goggles on?

21 A. Yeah, after I found --- I lost

22 them at first, because they fell out

23 from the bottom, and I bent on the

24 ground looking for them, and they was

25 actually under my boot. So I seen

65

01 them sticking out, so I got --- I put

02 them on.

03 Q. What about the nose clips, ---

04 A. Yeah.

05 Q. --- did you put them on, too?

06 A. Yes.

07 Q. Okay. At what point did you

08 take your breathing lug out of your

09 mouth?

10 A. I actually took it out one

11 time during, while we was in the

12 smoke, when I ran into the cribs to

13 tell everybody I found the cribs.

14 And it didn't stay out long, I'll

15 tell you that right now. And then I

16 put it back in and it stayed in until

17 we got through the door, over into
18 the 48-inch belt into fresh air.

19 Q. At what point along the 48-
20 inch belt did you take it out?

21 A. I probably walked a break or
22 two, and then I realized I still had
23 it in my mouth. I took it back out.

24 Q. Okay. At what time did you
25 take it off your --- off your body?

66

01 A. I never did. I still got mine
02 at the house.

03 Q. The rest of yours is at the
04 house?

05 A. Yeah.

06 Q. We're going to want to
07 retrieve that for testing purposes,
08 then we'll return it to the company
09 once we get it back. We'll be
10 requesting that through the company.
11 We're trying to locate those.

12 Do you know what caused the
13 fire?

14 A. No.

15 Q. Have you heard anybody talk
16 about what their opinions are or
17 what ---?

18 A. No. Nobody says nothing.

19 Q. Do you have any idea how that

20 smoke got so thick so quick in the
21 primary escapeway?
22 A. No. That's what we all been
23 trying to figure out, how it did it
24 get in our escapeway. I can't --- me
25 myself, I don't know.

67

01 Q. Has anybody offered any ideas?

02 A. No.

03 Q. Has anybody talked about any
04 stoppings being out that would
05 separate the primary escapeway from
06 the belt?

07 A. None that I know of, not that
08 I know of.

09 Q. When was the last time you
10 participated in an escapeway drill at
11 the mine?

12 A. It was probably --- it wasn't
13 but a few weeks before all this
14 happened, we'd walk from the three-
15 way, walked the escapeway out.

16 Q. Kind of just briefly describe
17 what I would --- if I were in an
18 escapeway drill, what I would see, or
19 witness. If I was going to observe
20 an escapeway drill, what will I see?

21 A. As far as --- what do you mean

22 see?

23 Q. What would be the discussion
24 that I would --- and some of the
25 training that you would have during

68

01 this drill?

02 A. Just follow the green
03 reflectors, you know, on your way
04 out. We walked it from the three-way
05 to the box cut, probably --- I'd say,
06 it might have been three to four
07 weeks before this. We walked from
08 the three-way to the box cut. The
09 boss led us through the escapeway all
10 the way up to the box cut.

11 Q. Who was the boss that day?

12 A. Mike Plumley.

13 Q. Mike was?

14 A. Yeah.

15 Q. Does he use any maps or
16 anything when he talks about this ---
17 you know, escapeway drills or
18 anything, does he have a map posted,
19 say here's where we're at, and here's
20 the escapeway, and here's what we're
21 going to do?

22 A. Not underground. We've got
23 the one up in the bathhouse that we
24 use.

25 Q. Where's it at?

69

01 A. It's on the table. The
02 tabletop.

03 Q. Is that that big table ---

04 A. Yes.

05 Q. --- down where everybody
06 congregates?

07 A. Right.

08 Q. So that's where you'd expect
09 to see where the escape routes are?

10 A. (Indicates yes.)

11 Q. Is that a yes?

12 A. Yes.

13 Q. What about on the section, is
14 there one on the section, a map?

15 A. I have --- just his section
16 print he has.

17 Q. What about an escapeway map
18 that would show the routes out of the
19 section?

20 A. I haven't seen them
21 personally.

22 Q. Let me ask you this. If I was
23 on the Two section for the first
24 time, and all of a sudden something
25 happens, and I know in my mind,

70

01 because somebody told me before I
02 went in that if something happens,
03 the primary escapeway is designated
04 with green reflectors, I know that.
05 And the alternate escapeway is
06 designated with ---?

07 A. Amber.

08 Q. Amber reflectors, and I know
09 that, because somebody told me that
10 before I went in the mine. And so I
11 go up on the section, and in my mind,
12 I understand that, and something
13 happens, and I get separated from the
14 group. In my mind, I'm thinking
15 all's I have to do is follow the
16 green reflectors, would I be able to
17 walk from the Two section to the
18 outside by following the reflectors?
19 Forget about the smoke for now,
20 there's no smoke.

21 Would I would be able to,
22 without anybody's help, without
23 anybody's guidance --- I'm the new
24 guy, haven't been in the mine, not
25 familiar, I don't even know the

71

01 terminology about mother drives and
02 boreholes and seals, or anything like
03 that. Would I be able to physically

04 follow green reflectors the entire
05 length to find my way out of the
06 mine?

07 A. Yes.

08 Q. There's only one route that I
09 would follow, I couldn't get lost?

10 A. Right.

11 Q. What about, in my mind I'm
12 thinking I'd rather be in the
13 alternate, would I be able to do the
14 same there?

15 A. Yes.

16 Q. I'd be able to follow my way
17 the entire --- because Two section
18 looks like to me, the furthest place
19 in the mine that you could be.

20 A. It is.

21 Q. And so if I'm up in Two
22 section and something happens,
23 without a map, without anybody
24 leading me, without any other
25 assistance other than those

72

01 reflectors, I should be able to find
02 my way out?

03 A. You should be, yeah. From the
04 areas that I've been in, yeah,
05 they're all up.

06 Q. Okay. And I'm not trying to
07 trick you. I'm not colorblind or
08 anything, but I just want to
09 understand, if I'm in that section
10 will I be able to find my way out?
11 There's only one way that that will
12 lead me?

13 A. Yes.

14 Q. Okay. Because I think that's
15 important. When we talking about the
16 three-way that you started your
17 escapeway drill from, is it on this
18 map?

19 A. No. No, it's close to the box
20 cut. I mean, it's not very far
21 inside.

22 Q. It's further out of the mine?

23 A. Yes.

24 Q. So the escapeway drill really
25 wasn't from the section?

73

01 A. No.

02 Q. It was from an area further
03 outby?

04 A. Yes.

05 Q. Is that something that would
06 be a normal evacuation drill, that if
07 you're assigned to a miner unit, or
08 in this case, if you're assigned the

09 Two section and you're going to do an
10 escapeway drill to get out of Two
11 section, the drill would start
12 somewhere miles away from the Two
13 section?

14 A. Like I said, I've been on Two
15 section for three weeks, and that's
16 the only time I've done one, is right
17 there at that time, on Two section.

18 Q. Do you think that's an
19 effective escapeway drill?

20 A. Myself, no --- yeah.

21 Q. It's kind of far out to start.
22 So when you start at Three section
23 --- or at the three-way, to train how
24 to get out of the coal mine, that
25 doesn't tell you anything about what

74

01 you need to do get out of Two
02 section, to get out of northeast, to
03 get out of the north mains?

04 A. No.

05 Q. To get out of the longwall?

06 A. No.

07 Q. Boy, that's interesting.

08 During this evacuation, did you ever
09 hear any alarms going off, or
10 anything in the spirit of an alarm?

11 A. No.
12 Q. A detector in alarm mode?
13 A. No. I could hear Mike
14 Plumley's spotter going off.
15 Q. Okay.
16 A. Because he was sitting with
17 me.
18 Q. Okay. What about as you
19 traveled out the beltline, were there
20 any alarms or anything along the
21 beltline that were in ---?
22 A. On the beltline, I never heard
23 --- the only thing I heard, any kind
24 of alarm was Mike Plumley's spotter
25 he had.

75

01 MR. MURRAY:
02 Okay. Terry?
03 BY MR. FARLEY:
04 Q. Okay. Let me make sure I
05 didn't misunderstand, because we're
06 bouncing around here. The escapeway
07 drill that you participated in a few
08 weeks prior to January 19th of 2006,
09 started at a location called the
10 three-way; is that correct?
11 A. Yes.
12 Q. Okay. All right. The
13 goggles, you said you lost your

14 goggles. You're not the first guy
15 who said he lost his goggles. When
16 you popped open, they just dropped
17 there or somewhere; right?

18 A. Yeah. I suppose they was on
19 the bottom and they just fell out.

20 Q. Does that sound like something
21 we need to work on?

22 A. Yeah. Something that needs to
23 be --- because when you pop the cap,
24 unless you're holding onto it, it
25 will --- they'll just fall. And if

76

01 you can't see, you can step on them
02 trying to get around. But I found
03 mine.

04 Q. Right. Well, maybe we can
05 take that up with the people that
06 manufacture those things. Let's go
07 back to the section. Now, you run
08 the scoop; right?

09 A. Yes.

10 Q. Did you have an opportunity to
11 get up around the miner at any time?

12 A. The miner?

13 Q. Yes.

14 A. Yeah, I backed --- I actually
15 backed down in behind the miner to

16 give him hydraulic oil.

17 Q. Did you notice, was he cutting

18 coal at the time?

19 A. No, he had backed out. I

20 don't know where he backed out from,

21 but he had backed out and was sitting

22 in Number Two.

23 Q. Did you see him cutting coal

24 at any time?

25 A. No.

77

01 Q. So would you have any

02 knowledge of how their water pressure

03 was that day?

04 A. No, I don't have any clue

05 about that.

06 Q. Is your water pressure

07 routinely good or adequate on that

08 section?

09 A. Yes.

10 Q. Okay. Now, after you got the

11 call, you leave the section, if I

12 understood you correctly, you said

13 that you were in the back rear

14 compartment of the mantrip vehicle?

15 A. Yes.

16 Q. And Mike Plumley was with you?

17 A. Yes.

18 Q. Okay. Do you remember who

19 else was with you in that back
20 compartment?

21 A. Yes. It was Pat Kinser and
22 Randall Crouse.

23 Q. Kinser, Crouse, you and
24 Plumley?

25 A. And Plumley. And Gary

78

01 Baisden.

02 Q. And Gary Baisden?

03 A. Yes.

04 Q. Five of you?

05 A. Five of us.

06 Q. Okay. Now, if I got you
07 correctly, Bragg was sitting on one
08 side, Hatfield was sitting on the
09 opposite side ---

10 A. Yes.

11 Q. --- of the side compartment?

12 A. Yes.

13 Q. Do you remember who was
14 sitting with Bragg?

15 A. No, I don't --- Mike Shull
16 said he was, and that's all I know
17 who was sitting with him.

18 Q. Okay. Do you recall who was
19 sitting with Hatfield?

20 A. I know Blue, Elmer Mayhorn.

21 Q. Elmer Mayhorn. Okay. Now,
22 you indicated that at about the point
23 that you first encountered smoke,
24 first began to smell it or first
25 began to see it, you indicated that

79

01 Plumley told you to find the cribs
02 and find the door just past it.

03 A. Right.

04 Q. Is that correct?

05 A. Yes.

06 Q. Okay. Did he say anything
07 before that about how you would
08 evacuate?

09 A. No, not until --- when we
10 first hit the smoke, because we had
11 no clue what --- all we knew we had a
12 fire on the belt.

13 Q. Okay. He said nothing when
14 you left the section?

15 A. No. We just got on the manbus
16 and left.

17 Q. Okay. And he said nothing at
18 any time as to the fire's location?

19 A. No.

20 Q. If I understood you correctly,
21 you indicated that the call came
22 ordering you to evacuate about 5:30;
23 is that correct?

24 A. Yeah, somewhere in that area.

25 Q. Okay. Did you happen to look

80

01 at your watch at that time?

02 A. No.

03 Q. Would you have any ability to

04 estimate how long it took you once

05 you got the call to travel from the

06 section down to where you stopped the

07 mantrip, left it on foot, and then

08 traveled down to 48-inch entry belt,

09 where you ended up down here at the

10 cut-through?

11 A. No, I couldn't tell you that.

12 I never even looked at my watch the

13 whole time.

14 Q. All right. No problem. So I

15 guess you wouldn't have any idea how

16 long the fire might have been burning

17 before you were called?

18 A. No.

19 Q. I think you said when your

20 interview first started that you had

21 been interviewed by the Massey

22 lawyers. Who are these Massey

23 lawyers?

24 A. I spoke with Dave --- is that

25 his --- Dave.

01 Q. Would that be David Hardy?

02 A. Yes, that's who ---.

03 Q. Well, when did you speak with

04 Mr. Hardy?

05 A. I don't know what day it was.

06 It was one day last week, I believe.

07 Q. Okay. Today is February the

08 9th, so a week ago would be about

09 February 2nd.

10 A. Yeah, sometime last week. I'm

11 not sure what day it was.

12 Q. Who else did you speak with?

13 A. Just him.

14 Q. Okay. Once you eventually

15 made it down here to around the cut-

16 through area, before you left the

17 mine, did you travel up the belt ---

18 up the longwall belt? Did you see

19 the fire at any time?

20 A. No, I never seen the fire.

21 Q. Okay. Did you hear any ---

22 while you were down there or

23 elsewhere, did you hear any

24 discussion about the firefighting

25 efforts, as to what they might have

01 been doing?

02 A. No. I know Brian Cabell met

03 us down there. I remember him saying
04 something about he put eight fire
05 extinguishers on it, or something to
06 that effect. And it just got out of
07 his control, and he had to leave,
08 too. He met up with us.

09 Q. Brian Cabell; right?

10 A. Yes.

11 Q. Did he say anything about
12 using any water?

13 A. No.

14 Q. Did he say anything about the
15 fire suppression system or ---?

16 A. No.

17 MR. FARLEY:

18 Okay.

19 MR. MURRAY:

20 Okay.

21 BY MR. MURRAY:

22 Q. Just a couple more to follow-
23 up on some of what Mr. Farley said,
24 and some what I failed to ask. I
25 asked you if anybody discussed or if

83

01 you heard that there may have been
02 some separation, ventilation controls
03 that were missing that would allow
04 this smoke to get into the primary

05 escapeway. Did anybody talk about
06 this stopping right here at the tail
07 of the 72-inch belt that the longwall
08 dumps on?

09 A. No, I've never heard anybody
10 say anything.

11 Q. You described the
12 conversations you had with Mr. Hardy
13 last week. Did this conversation
14 take place before or after Mr. Webb
15 called you to schedule this interview
16 here today?

17 A. Before.

18 Q. It was before Mr. Webb called
19 you?

20 A. Yes.

21 Q. Did you call Mr. Hardy, or did
22 he call you?

23 A. They called us over to the
24 office to meet with him.

25 Q. And so you met at the office?

84

01 A. Uh-huh (yes).

02 Q. Who was in that room?

03 A. When I was talking to Dave?

04 Q. Yes.

05 A. Just me and Dave.

06 Q. Okay. What kinds of questions
07 did he ask you?

08 A. He was just asking me what
09 time we got to the section, how we
10 got out. It was just a few minutes
11 long. He just asked me how we got
12 out and what we done while we was on
13 the section.

14 Q. Was it an interview, something
15 like we're talking right now? Was he
16 trying to gain information to figure
17 out what happened in this --- what
18 happened in this whole accident?

19 A. Yeah. He just wanted to know
20 how we got off the section.

21 Q. So there must be more than one
22 investigation going on right now
23 then; right?

24 A. I don't know.

25 Q. Okay. Do you know if anybody

85

01 else was invited to that interview?

02 A. Yeah, we was all.

03 Q. And do you know if the State
04 was invited?

05 A. Oh, I don't know about that.

06 I just know us --- the guys that was
07 on the section was there.

08 Q. Do you know if MSHA was
09 invited?

10 A. I don't know.

11 Q. Did he tell you we might have
12 to wait because there's other people
13 going to come?

14 A. No.

15 Q. Just you and him in a room by
16 yourself?

17 A. Yes.

18 Q. Okay. Are you aware that Mr.
19 Hardy and Mr. Heath work for the same
20 law firm?

21 A. Yes.

22 Q. And they're both attorneys?

23 A. Yes.

24 Q. Did Mr. Hardy give you a
25 pledge of confidentiality, that he

01 wasn't going to tell anybody that you
02 had that interview, or he wasn't
03 going to tell anybody what you told
04 him?

05 A. I don't remember anything ---
06 you know, saying anything.

07 Q. And who asked you to meet with
08 Mr. Hardy?

09 A. Let me think. I know we had
10 shown up for work that day, and they
11 --- I'm not sure who told us to go
12 over to the office, it might have

13 been Pepé. I'm not sure who told us
14 to go over there, but they said we
15 had to go --- yeah, it was Pepé and
16 Gary Goff, because they went --- the
17 other guys went to Rum Creek to work,
18 and I was waiting on the mine
19 inspector to go with us underground.
20 I was going to do some cleaning on
21 the roadway. And Pepé and Gary went
22 and got the other guys at Rum Creek,
23 and they came back and got me and
24 told me we need to go to the office.
25 That's Pepé and Gary Goff.

87

01 Q. So this meeting occurred on
02 your normal work shift then?

03 A. Yes.

04 Q. Who's the mine foreman at this
05 mine?

06 A. I know the superintendent is
07 Pepé Lester, and then Gary Goff's
08 above him. So probably, I guess,
09 Gary Goff.

10 Q. Okay. Today we looked at the
11 mine map a little bit. Do you --- as
12 a miner, now, you personally, do you
13 have occasion to look at a mine map
14 for any reason just on a regular day?

15 A. Yeah, the one upstairs in the
16 bathhouse.

17 Q. On that table that we were
18 talking ---?

19 A. On that table, yes.

20 Q. And what do you look at
21 whenever you look at a mine map?

22 A. I just look --- when I look at
23 it, I look to see where we're at.
24 You know, just look at the other
25 parts of the mines.

88

01 Q. Okay. Do you look at the
02 ventilation controls?

03 A. No.

04 Q. For example, do you know what
05 this symbol is, if you saw a double
06 line?

07 A. Yeah, it's a stopping.

08 Q. Do you know what this double
09 line with the little half circle on
10 it means?

11 A. Yeah, that's a man door.

12 Q. Are they always accurate?
13 Today we have --- for example, we had
14 a stopping here that we know had a
15 man door in it; right, because you
16 went through it?

17 A. Right.

18 Q. But yet the map itself showed

19 just the stopping with no door?

20 A. Yeah, on that map it did.

21 Q. Would that be unusual for you

22 to see a map like that and it not be

23 accurate?

24 A. For me, I've surveyed for 12

25 years, and I've seen them like this

89

01 in other mines before where the

02 doors, there'd be a break ahead. But

03 as far as this mine goes, I don't

04 know. I've not really looked at any

05 of that to see.

06 Q. So you had the advantage on me

07 today. Okay. Let me ask you this.

08 Let's go back to the mother drive.

09 Are you familiar with these equipment

10 doors that ---?

11 A. Yeah, the four sets of double

12 doors?

13 Q. Yeah, that you drive through.

14 A. Yes.

15 Q. Have you ever had occasion to

16 personally open one of those doors?

17 A. Yes.

18 Q. Are they heavy?

19 A. No. Hard to push open?

20 Q. Yeah.

21 A. No.

22 Q. When you open the outby door,
23 which way does the airway go in the
24 area of the mother drive?

25 A. I'm not sure. I've never paid

90

01 any attention to which way it does
02 go.

03 Q. Okay. Whenever you were
04 talking about that crossover to cross
05 under that day that you saw the
06 roller smoking, and you said that you
07 didn't think a CO alarm was going off
08 because the belt was still running.

09 Do the belts always stop when there's
10 a CO alarm?

11 A. As far as I know, they're
12 supposed to. I've never heard one go
13 off myself. I haven't been around
14 any.

15 Q. Do you think a belt could
16 continue to run and still be having a
17 CO alarm being activated?

18 A. I guess it could. But as far
19 as I know, it shouldn't. I don't
20 know.

21 Q. The escapeway drill that you
22 --- that we talked about that began

23 at the there-way, how did you get to
24 the three-way?

25 A. Rode a manbus.

91

01 Q. From?

02 A. From the Two section.

03 Q. Okay. Does the manbus follow
04 the primary escapeway the entire
05 route from the Two section?

06 A. Yes. Yeah, it follows the
07 primary escapeway all the way down to
08 the --- well, except at the four-way.

09 It cuts over into the --- the four-
10 way's not on there.

11 Q. What about around this gas
12 well, does the roadway follow the
13 primary escapeway?

14 A. Where's the gas ---? No, we
15 go the roadways through them four
16 sets of double doors right there.

17 Q. Right here?

18 A. Yeah.

19 Q. Is that the primary escapeway?

20 A. As far as I know it is, yeah.

21 I don't know for that area.

22 Q. I mean, if you're coming out
23 of Two section, does the primary
24 escapeway go through the double set

25 of doors, or does it go up and around

92

01 another direction?

02 A. To be honest with you, I don't

03 know.

04 Q. Do you know if the primary

05 escapeway crosses any overcasts?

06 A. I know from the three-way out

07 it does, because we cross three of

08 them --- three or four of them. From

09 the three-way out.

10 Q. Just to use an example, down

11 here, they're saying that the primary

12 escapeway coming out of Northeast

13 Mains goes overtop an overcast. Can

14 a diesel mantrip go overtop an

15 overcast?

16 A. No.

17 Q. So it may follow a different

18 roadway. The roadway that the diesel

19 mantrip would have to follow may be a

20 little bit different than the primary

21 escapeway?

22 A. Yes. Because I know from the

23 three-way out I know you cross three

24 or four overcasts, walk up steps.

25 Q. Do you know anything about

93

01 this project that's going on down

02 here in the vicinity of --- I guess
03 it's almost coming down to your
04 supply hole, where they're extending
05 that belt structure from the 72-inch
06 belt for a future beltline in this
07 area? Have you ever seen that rib
08 structure?

09 A. Yeah, I've seen them coming
10 --- yeah, I've seen it.

11 Q. Do you know who's doing that
12 project?

13 A. As far as I know, it's Don
14 Haggie (phonetic) and --- they call
15 him Shiner. I don't know his real
16 name.

17 Q. Okay.

18 A. That's the two bosses that do
19 the construction.

20 Q. They're the guys that's
21 installing that structure?

22 A. Yes.

23 Q. Have you ever seen them
24 working on it?

25 A. I've seen them --- yeah, once

94

01 or twice I've seen them down there.

02 Q. How do they get that structure
03 in on that beltline where they're

04 working?

05 A. I don't know. I just seen
06 them --- when we drove by I've seen
07 them there. I never actually seen
08 them actually work. I've seen them
09 at the site.

10 Q. Did they ever come up on your
11 section to borrow your scoop, to come
12 down there?

13 A. Yes.

14 Q. Okay. When the company
15 lawyers interviewed you, did they
16 tell you not to discuss your
17 interview with anybody?

18 A. Not to my knowledge.

19 Q. It's okay, because I'm going
20 to tell you that. When you guys
21 finished your interview, he didn't
22 say what I just told you, keep it to
23 yourself?

24 A. No, I don't remember.

25 Q. You don't remember, or you

95

01 don't know?

02 A. I don't know. I don't know if
03 he did or not.

04 Q. Okay. In your opinion, what
05 do you think could have been done to
06 prevent this accident?

07 A. As far as the fire goes, I
08 don't know what caused it, but as far
09 as those two that got lost, in my
10 opinion, we should have --- we could
11 have known the severity of the fire,
12 if somebody was there and knew had
13 bad it was, they could have told us
14 and where it was at. I didn't know
15 where it was at, and obviously, them
16 other two guys didn't either, or they
17 wouldn't went towards the mother
18 drive.

19 Something needs to be done
20 about the --- somehow marking these
21 man doors a little better as to where
22 they're at, except for this one
23 reflector saying man door. Because
24 when you're in smoke, you can't see
25 that. That's just --- that's one

96

01 thing.

02 MR. FARLEY:

03 A couple very quick
04 ones.

05 BY MR. FARLEY:

06 Q. Have you been involved with
07 building a stopping anytime here at
08 this mine?

09 A. Yeah, on the section I have.

10 Q. Okay. How do you know when to
11 put in a door?

12 A. It's every five breaks.

13 Q. Okay. Also, when you did your
14 interview with Mr. Hardy, did he ask
15 you any questions about what happened
16 here that we haven't asked you?

17 A. No. No, he just --- he really
18 just basically wanted to know what we
19 done when we got there and how we got
20 outside.

21 MR. FARLEY:

22 Okay. Very good.

23 Thank you.

24 MR. MURRAY:

25 Mr. Heath, any

97

01 clarifying ---?

02 ATTORNEY HEATH:

03 No clarifying.

04 MR. MURRAY:

05 Mr. Vanover, can I get
06 you to sign the map and date
07 it so we know that that's the
08 information that you've
09 explained to me is how I
10 recorded it.

11 A. Yeah, it's to the best of my

12 knowledge.

13 MR. MURRAY:

14 Okay. And I appreciate
15 it. Just anywhere --- today's
16 the 9th. Thank you. And for
17 the record, the map that we
18 discussed during this
19 interview will be Exhibit A
20 Vanover.

21 (Vanover Exhibit A
22 marked for
23 identification.)

24 MR. MURRAY:

25 Mr. Vanover, again, we

98

01 thank you for appearing here
02 today and answering our
03 questions and sharing your
04 information about the mine.
05 Your cooperation is very
06 important as we work to
07 determine the cause of this
08 accident. If you wish, you
09 may now go back over any
10 answer that you've given
11 during this interview, and you
12 may also make a closing
13 statement covering any

14 additional points you believe
15 should be raised to give us
16 further information.

17 A. I have none.

18 MR. HEATH:

19 Can he order a copy of
20 his transcript? I've told him
21 y'all won't do that right now,
22 but he does want one.

23 MR. MURRAY:

24 Okay. Do you
25 understand that while the

99

01 investigation's open, we need
02 to keep those closed. We need
03 to keep those in our
04 possession while the
05 investigation's open?

06 A. Okay. Yes.

07 MR. MURRAY:

08 We ask that you not
09 discuss your interview today
10 with any person who may have
11 already been interviewed or
12 who may be asked to give a
13 statement in the future. This
14 will ensure that we've
15 obtained everybody's
16 independent memory of the

17 events surrounding the
18 accident.

19 After questioning other
20 witnesses and obtaining
21 additional information, we may
22 ask you to come back to kind
23 of give us some more expanded
24 information than what we
25 learned as we build this

100

01 investigation. If at some
02 later point you have
03 additional information
04 regarding the accident that
05 you'd like to provide us, or
06 if you think of something
07 after you leave the room, if
08 you could call either myself
09 or Anthony Webb, the gentleman
10 that called you earlier, we'd
11 really appreciate that.

12 That's our contact
13 information.

14 The Mine Act provides
15 certain protections for
16 individuals who participate in
17 accident investigations. If
18 at any time you believe that

19 you've been treated unfairly
20 because of your cooperation in
21 this investigation, call one
22 of those numbers, and we'll
23 make sure that you get the
24 justice that you deserve.
25 Again, thank you for your

101

01 participation.

02 MR. FARLEY:

03 I might add that the
04 West Virginia Mine Regulations
05 also provide you some
06 protection. Here's my card if
07 you need to contact us. Thank
08 you.

09

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11 * * * * *

12 SWORN STATEMENT

13 CONCLUDED AT 3:37 P.M.

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