

01 STATEMENT UNDER OATH
02 OF
03 JERRY WORKMAN
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 Monday, March 27, 2006, at 2:33
13 p.m.

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

02

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04 Assistant Inspector at Large

05 West Virginia Office of

06 Miners' Health, Safety & Training

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09

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11 U.S. Department of Labor

12 Mine Safety and Health Administration

13 Whitesburg Field Office

14 CMS&H Inspector

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16 Whitesburg, KY 41858

17

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25

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

02

03 ARLIE A. WEBB

04 Special Investigations/

05 Staff Assistant
06 U.S. Department of Labor
07 Mine Safety and Health Administration
08 Coal Mine Safety and Health,
09 District 6
10 100 Fae Ramsey Lane
11 Pikeville, KY 41501

12

13 ALSO PRESENT:

14 Dennis Beiter

15 Charlie Pogue

16 Ronald W. Stahlhut

17 Derrick Tjernlund

18 C.A. Phillips

19 Beth Spence

20

21

22

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01 I N D E X

02

03 INTRODUCTION 6 - 16

04 WITNESS: JERRY WORKMAN

05 QUESTIONS

06 by Mr. Beiter 16 - 70

07	by Mr. Tucker	70 - 72
08	by Mr. Beiter	72 - 77
09	by Mr. Tucker	77
10	by Attorney Heath	78 - 81
11	by Mr. Beiter	81 - 82
12	by Attorney Heath	83
13	CLOSING	83 - 87
14	CERTIFICATE	88

15
16
17
18
19
20
21
22
23
24
25

01	EXHIBIT PAGE		
02			PAGE
03	NUMBER	DESCRIPTION	IDENTIFIED
04			
05	A	Threeway & Longwall	
06		Maps	25
07	B	Production Report	64
08			
09			

10
11
12
13
14
15
16
17
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19
20
21
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23
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25

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

02 -----

03 MR. BEITER:

04 Good afternoon. My
05 name is Dennis Beiter. I
06 represent the Mine Safety and
07 Health Administration, which
08 is an agency of the U.S.
09 Department of Labor. I am a
10 member of MSHA's accident
11 investigation team that is

12 assigned the task of
13 investigating the accident
14 that occurred at Aracoma Coal
15 Company, Incorporated, Aracoma
16 Alma Mine Number One on
17 January 19th, 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 MSHA's team and the State's

7

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

08 MR. BURKE:

09 I'm Tony Burke with
10 MSHA out of Whitesburg,
11 Kentucky.

12 MR. WEBB:

13 I'm Anthony Webb with
14 MSHA out of Pikeville,

15 Kentucky.

16 MR. POGUE:

17 I'm Charlie Pogue with
18 MSHA from the Hunker,
19 Pennsylvania office.

20 MR. STAHLHUT:

21 Ron Stahlhut, MSHA,
22 Vincennes, Indiana.

23 MR. TJERNLUND:

24 Derrick Tjernlund, MSHA
25 Tech Support, Triadelphia.

8

01 MR. BEITER:

02 And I work for Tech
03 Support out of the
04 Triadelphia, West Virginia
05 office. Here with us today
06 representing the State of West
07 Virginia is Mr. Bill Tucker.
08 Mr. Tucker will be asking
09 questions for the State. And
10 at this time, Mr. Tucker has a
11 statement to make, and will
12 introduce members of the
13 State's team.

14 MR. TUCKER:

15 Thank you. I
16 appreciate you coming in

17 today. The West Virginia
18 Office of Miners' Health,
19 Safety & Training is
20 conducting this interview
21 session jointly with MSHA, and
22 we're in agreement with the
23 procedures outlined by Mr.
24 beiter.

25 However, let me make it

9

01 clear that the Director
02 reserves the right, if
03 necessary, to call or subpoena
04 witnesses or require the
05 production of any record,
06 document, photograph or other
07 relevant materials necessary
08 to conduct this investigation.

09 Again, my name is Bill
10 Tucker, and I work for Miners'
11 Health, Safety & Training out
12 of the Oak Hill office.

13 MR. PHILLIPS:

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

20 MS. SPENCE:

21 I'm Beth Spence with
22 the Governor's office.

23 MR. BEITER:

24 This investigation is
25 being conducted by MSHA in the

10

01 State of West Virginia to
02 gather information to
03 determine the cause of the
04 accident and to help prevent
05 this from happening in the
06 future. These interviews are
07 an important part of the
08 investigation. After the
09 investigation is completed,
10 MSHA will issue a written
11 report detailing the nature
12 and causes of the accident.

13 MSHA accident reports
14 are made available to the
15 public in the hope that
16 greater awareness about the
17 causes of accidents can reduce
18 their occurrence in the
19 future. Information obtained
20 through witness interviews is
21 frequently included in these

22 reports. Your statements may
23 also be used in other
24 enforcement proceedings.

25 I would like to thank

11

01 you in advance for your
02 appearance here. We
03 appreciate your assistance in
04 this investigation. The
05 willingness of miners and mine
06 operators to work with us is
07 critical to the success in
08 making our mines safer.

09 This interview with Mr.
10 Jerry Workman is being
11 conducted under Section 103(a)
12 of the Federal Mine Safety and
13 Health Act of 1977 as part of
14 an 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 at Route 17
22 North, Bandmill Hollow Road,
23 Stollings, West Virginia,
24 25646.

25 This interview is being

12

01 conducted at the State of West
02 Virginia Department of
03 Environmental Protection,
04 Division of Mining and
05 Reclamation at 1101 George
06 Kostas Drive, Logan, West
07 Virginia, 25601 on March 27th,
08 2006.

09 Mr. Workman, the
10 interview will begin by asking
11 you a series of questions.
12 Feel free at any time to
13 clarify any statement that you
14 make in response to those
15 questions. After we finish
16 asking questions, you will
17 also have an opportunity to
18 make a statement of your own
19 and to provide us with any
20 other information that you
21 believe may be important.

22 You are permitted to
23 have a representative with you
24 during this interview, and you
25 may consult with your

13

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

11 Your statement is
12 completely voluntary. You may
13 refuse to answer any question,
14 and you may end this interview
15 at any time. If you do not
16 understand a question, please
17 let me know and we'll try to
18 rephrase the question so that
19 we have the same
20 understanding. If you need a
21 break for any reason, please
22 let me know, we'll take a
23 break.

24 You may request the
25 opportunity to make a

14

01 confidential statement, which
02 we will withhold from the
03 public to the extent allowed

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

12 MR. WORKMAN:

13 No.

14 MR. BEITER:

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

24 Neither the transcript
25 of this interview nor the

15

01 content of this interview will
02 be released to the public or
03 the media until MSHA's final
04 accident investigation report
05 is issued, or until required

06 by court order or until a
07 public hearing takes place.

08 If any part of your
09 statement is based not on your
10 own firsthand knowledge, but
11 on information that you
12 learned from someone else,
13 please let us know that.

14 Please answer each
15 question as fully as you can,
16 including any information that
17 you learned from someone else.
18 We may not ask the right
19 questions to learn the
20 information that you have, so
21 please don't feel free (sic)
22 by the precise wording of the
23 question in your response. If
24 you have information about the
25 subject area of a question,

16

01 please provide us with that
02 information.

03 Do you have any
04 questions about the manner in
05 which this interview will be
06 conducted?

07 MR. WORKMAN:

08 No.

09 MR. BEITER:

10 Will you please affirm,

11 or swear the witness.

12 -----

13 JERRY WORKMAN, HAVING FIRST BEEN DULY

14 SWORN, TESTIFIED AS FOLLOWS:

15 -----

16 BY MR. BEITER:

17 Q. Mr. Workman, please state your

18 full name, address, telephone number,

19 including area code, and please spell

20 your last name for the record.

21 A. [REDACTED]

[REDACTED]

24 Q. Thank you. Are you appearing

25 here voluntarily at this interview?

17

01 A. Yes, I am.

02 Q. Has anyone made any promises

03 to you for giving this statement?

04 A. Nope.

05 Q. Has anyone offered you any

06 rewards in exchange for making this

07 statement?

08 A. No.

09 Q. Has anyone threatened your or

10 warned you not to provide this

11 statement?

12 A. Nope.

13 Q. Do you understand that you may
14 refuse to answer any question or
15 terminate this interview at any time?

16 A. Yes, I do.

17 Q. Do you have a representative
18 with you?

19 A. Yes, I do.

20 Q. Would you please identify your
21 representative.

22 A. Mark.

23 Q. Do you know Mark's last name?

24 A. No.

25 MR. BEITER:

18

01 Could you ---?

02 ATTORNEY HEATH:

03 It's Mark Heath,
04 Spilman, Thomas & Battle.
05 Aracoma's Counsel.

06 MR. BEITER:

07 Thank you.

08 BY MR. BEITER:

09 Q. When did you first meet Mr.
10 Heath?

11 A. Today.

12 Q. How did this meeting come
13 about?

14 A. I asked for him.

15 Q. Who did you ask?

16 A. Pepé Lester.

17 Q. Did you make the decision to

18 choose Mr. Heath as your

19 representative?

20 A. Yes, I did.

21 Q. Have you been made aware that

22 Mr. Heath also represents the company

23 in this matter?

24 A. Yes, I have.

25 Q. And that there is a potential

19

01 for a conflict of interest arising

02 between you and the company?

03 A. Yes.

04 Q. Do you wish to proceed with

05 Mr. Heath as your representative?

06 A. Yes, I do.

07 Q. Were you interviewed by the

08 company before today?

09 A. Nope.

10 Q. Did you attend a meeting at a

11 local grade school?

12 A. No, sir.

13 Q. Mr. Workman, may I call you

14 Jerry?

15 A. Yeah.

16 Q. Jerry, how long have you
17 worked at the Aracoma Alma Mine
18 Number One?
19 A. I started there October 7th of
20 last year.
21 Q. Were you a contractor at that
22 time?
23 A. No.
24 Q. What is your current job
25 title?

20

01 A. I'm longwall outby. Tear
02 down, set up.
03 Q. How long have you held that
04 position?
05 A. Since I started there, October
06 7th.
07 Q. Do you rotate shifts?
08 A. No, I do not.
09 Q. What's your normal shift?
10 A. I work the dayshift.
11 Q. What's your normal work hours
12 for that shift?
13 A. We work from 7:00 to 4:00.
14 Q. Are you considered a member of
15 management?
16 A. No.
17 Q. Do you supervise anyone?
18 A. No.

19 Q. Do you hold any state or
20 federal mine certifications or
21 qualifications?

22 A. No, I don't.

23 Q. What other jobs do you hold at
24 this mine, or have you held at this
25 mine?

21

01 A. That's it.

02 Q. Have you worked in the mines
03 elsewhere?

04 A. Yeah.

05 Q. Can you just go into a brief
06 description of your experience?

07 A. I worked at Independence Coal,
08 there, and done the same thing for
09 eight years. I've worked different
10 mines pinning top, running buggies.

11 Q. Do you know how many total
12 years of mining experience you have?

13 A. Twenty-nine (29).

14 Q. What was your title again?

15 A. I'm longwall setup, tear down
16 and set up. We work outby all the
17 time.

18 Q. Longwall outby set up and tear
19 down?

20 A. Yeah.

21 Q. What are your duties as a
22 longwall outby set up and tear down?
23 A. Well, we set all the panel up
24 ready --- to get them ready for the
25 next panel, and then when we do move

22

01 from wherever they're mined to the
02 next one, we go back and clean that
03 mess up, take it outside to have it
04 rebuilt, and we bring it back and set
05 it up again.

06 Q. As far as on the setup work,
07 is that just relative to the face
08 equipment itself, or does it also
09 include pieces that are in the belt
10 entry, stage loader, tailpiece?

11 A. Yeah. We take the stage
12 loader apart and the tailpiece and
13 the head drive, the tail drive, all
14 the pans, monorails, dollies, and
15 then we'll take it to the next panel
16 and set it up.

17 Q. Do you install the longwall
18 belt structure ---

19 A. No.

20 Q. --- in the belt entry as well?

21 A. No, we don't fool with that.

22 Q. Who does that?

23 A. The other crew. They have

24 another outby crew for belts.

25 Q. The outby belt crew does that?

23

01 A. Yeah.

02 Q. Do you know who supervisors

03 that crew?

04 A. Don Haggy.

05 Q. They would install all the

06 longwall belt structure?

07 A. They install it right up to

08 the tailpiece.

09 Q. And that's where you pick it

10 up?

11 A. Yep.

12 Q. Do you also build any

13 stoppings or ventilation controls?

14 A. No.

15 Q. Have you ever since you've

16 been working here?

17 A. At Aracoma?

18 Q. Yes, prior to the accident.

19 A. No, sir.

20 Q. Who's your immediate

21 supervisor?

22 A. Clarence Workman.

23 Q. Do you know what his title is?

24 A. He's longwall coordinator.

25 Q. Since October, in what areas

01 of the mine did you work?
02 A. We've been working on Nine
03 tailgate.
04 Q. Nine tailgate or Nine
05 headgate?
06 A. Nine tailgate side.
07 Q. Nine tailgate side?
08 A. Yes, sir.
09 Q. For the setup of the Ten
10 headgate section?
11 A. Yes.
12 Q. When you say working on the
13 Nine tailgate side, what do you mean
14 by --- I guess we have a map up here.
15 It's a pretty small scale. Do you
16 understand what we're looking at when
17 we look at the maps?
18 A. Uh-huh (yes).
19 Q. You can see, this is the
20 active panel that we're in by
21 longwall. This is Nine headgate.
22 A. Uh-huh (yes).
23 Q. This is Nine tailgate.
24 A. Uh-huh (yes).
25 Q. Can you show us on here the

01 area that you've been working in? If
02 you don't mind coming up over here.

03 MR. BEITER:

04 This will be Exhibit A

05 Workman.

06 (Workman Exhibit A

07 marked for

08 identification.)

09 A. We've been taking all of the

10 track out up through here.

11 BY MR. BEITER:

12 Q. Oh, you've been working on the

13 track up in here?

14 A. Yes. Before the mine section

15 would have been there, ---

16 Q. Okay. Let's ---.

17 A. --- we had to take all the

18 track out to give us a roadway for

19 pieces of equipment that they now

20 have.

21 Q. If you don't mind taking this

22 blue pen --- and we're talking about

23 in Four Right. Do you call it Four

24 Right, or do you call it old Three

25 section?

26

01 A. Old Three section.

02 Q. Old Three section? Okay. So

03 Four Right on the map is old Three

04 section through our discussion.

05 Could you just kind of like draw a
06 --- here's the equipment doors where
07 you're coming in. Does that look
08 familiar with you on the map?

09 A. Here?

10 Q. Can you just kind of draw a
11 line where --- we're going to make
12 some notations on here about, you
13 know, about what you were going to do
14 in the back in this area, and kind of
15 mark up on this map, where you've
16 been taking track out, just make a
17 note where you --- track removed or
18 whatever may be appropriate.

19 WITNESS COMPLIES

20 A. Where would the other doors in
21 the 88 horsepower pump?

22 BY MR. BEITER:

23 Q. You got me. These are the
24 doors that come down into the
25 tailgate, Nine tailgate.

27

01 A. That's right. Then we took
02 all this track up here, back to here,
03 out.

04 Q. Can you just identify that on
05 here?

06 A. And we was just building us a
07 road for the diesel equipment.

08 Q. All the controls are not being
09 shown on this map.

10 A. There's another door right
11 here.

12 Q. Yeah, you're right. That's
13 what I just want to tell you, Jerry,
14 that everything isn't shown on this
15 map that's actually in the mine on
16 the 19th. So this lot dot where
17 you're showing --- right by this
18 little FV on the map, there's a door.
19 It's either here or here.

20 A. I believe it's the 20th block
21 right here, and we took all this
22 track all the way up back to that
23 door out.

24 Q. Just draw a line there and
25 just put track removed.

28

01 WITNESS COMPLIES

02 BY MR. BEITER:

03 Q. What time frame would that
04 take place?

05 A. Actually, on the day of the
06 19th, we were back there working on
07 it then. Actually, on that day we
08 were back in there, and we was right
09 here where this door is. There was a

10 single set of doors there.

11 Q. Is there a lot of pressure on
12 that door?

13 A. No.

14 Q. No? I mean, what's the
15 direction of airflow in this area
16 here?

17 A. The air's going this way.

18 Q. It's coming from the Nine
19 tailgate back towards Nine headgate?

20 Can you just draw an arrow in here
21 and just put air direction. Is that

22 the same way on 1/19? Is that on

23 1/19, January 19th, that was the air
24 direction then too?

25 A. Yeah.

29

01 Q. Can you put a little comment
02 here, a little note that says track
03 removed? So you indicate that's the
04 area that you removed the track from.

05 WITNESS COMPLIES

06 BY MR. BEITER:

07 Q. How long were those sections
08 of rail?

09 A. They mostly run 33 feet long.

10 Q. How do you get them out?

11 A. We take the bolts out of the
12 piece of plate, then we get hauler

13 underneath them, pick them up, get
14 rid of the hauler, pick them up.

15 Q. A shield hauler?

16 A. Yeah.

17 Q. And just tram out of the top
18 of the shield hauler?

19 A. When we get them, we put a
20 chain across the bucket, a heavy duty
21 chain. Pick two up at a time. We'll
22 just take them and put them in the
23 break out of the way.

24 Q. Are all the breaks back here
25 --- or all the track that you took

30

01 out of here, is it stored in these
02 breaks, or has it been removed from
03 this area already?

04 A. No. Some of it's still in the
05 different breaks up through there.

06 Q. Okay. Do you know if this
07 door that we talked about here was an
08 airlock --- do you know what an
09 airlock is, where you go through two
10 of them so that one stays open and
11 one stays closed?

12 A. That was a single set of
13 doors.

14 Q. Do you know why there's not

15 airlock there?

16 A. The airlock --- the airlock
17 doors is down here somewhere.

18 Q. Okay. Have you been up to
19 those?

20 A. Not since this happened, I
21 haven't.

22 Q. Prior to the accident, have
23 you ever been up to those?

24 A. It wasn't on that day, because
25 on that day, we worked from these

31

01 doors back to these doors. Right in
02 this area right here we had two
03 breaks of track that we hadn't
04 removed yet to do, and that's what we
05 was doing that day.

06 Q. And could you just put a line
07 here down to 119? That area.

08 WITNESS COMPLIES

09 BY MR. BEITER:

10 Q. And I guess just put two
11 breaks across here to show what we're
12 talking about ---.

13 A. Where? Here?

14 Q. Yeah, wherever --- you said it
15 was, I think right in this area. I
16 guess kind of like make a circle ---
17 make a circle around the area that

18 you actually worked on.

19 WITNESS COMPLIES

20 A. It was between the fifth and
21 the sixth break, and that is what we
22 was working on that day.

23 BY MR. BEITER:

24 Q. If you could just circle that
25 then?

32

01 WITNESS COMPLIES

02 A. Now what?

03 BY MR. BEITER:

04 Q. Well, that's okay. So track
05 removed painting to that, and on 1/19
06 that's where the track was removed?

07 A. Yes, sir.

08 Q. Actually, between the fifth
09 and sixth breaks, I think you said.

10 A. Because from the doors to
11 here, we had already removed that,
12 and we had to come down here and get
13 them two breaks out of the way.

14 Q. Have you ever gone through
15 this door, the single door there?

16 A. Yeah.

17 Q. And for what purpose did you
18 go through that?

19 A. We went up in here to go up on

20 Ten headgate and Five panel.

21 Q. Is that how you travel into
22 the setup area for Ten headgate?

23 A. Yeah. Right here, straight
24 up.

25 Q. Let me take a red pen and just

33

01 extend on past where the --- I'm
02 assuming you continued to travel in
03 the track entries?

04 A. Yeah.

05 Q. And that tells you what
06 access ---?

07 A. The track went all the way up
08 to --- actually, we went across right
09 here and here and we'd go back.

10 Q. Okay. Just go ahead and draw
11 where you think you was.

12 WITNESS COMPLIES

13 BY MR. BEITER:

14 Q. That's good. Okay. And the
15 red line indicates where you
16 continued to travel in by that door on
17 the track entry?

18 A. The door's in here.

19 Q. Where you traveled to get into
20 Ten headgate; is that correct?

21 A. Yeah.

22 Q. Okay. And then you said

23 there's doors up here at Ten
24 headgate?

25 A. Yeah.

34

01 Q. Equipment doors, big doors?

02 A. Yeah.

03 Q. Okay. Are they in an airlock?

04 A. Uh-huh (yes). Yes, they are.

05 Q. Do you know why this one back

06 here is just a single door and not a
07 double?

08 A. No, sir, I actually don't.

09 Q. Do you know where the air

10 that's coming from here actually

11 goes, where it actually kind of gets
12 in that area?

13 A. It comes down to here and then

14 it splits off and runs up into the
15 gob area.

16 Q. Do you know if the air that

17 you were working in there was return
18 air, or intake air?

19 A. No, it's intake air. It comes
20 from here down.

21 Q. Ten headgate?

22 A. Yeah.

23 Q. Okay. So the air that --- you

24 have the direction, indicating there

25 where the air that's coming from Ten

35

01 headgate?

02 A. Uh-huh (yes).

03 Q. Thanks, Jerry. Do you know if
04 that single door that we talked
05 about, that you come through right by
06 where the blue line comes to a red
07 line ---

08 A. Uh-huh (yes).

09 Q. --- back at Nine tailgate, has
10 that door ever been left open?

11 A. Not while I've been in there
12 it hadn't. And I've never seen it
13 left open.

14 Q. Okay. Have you ever heard if
15 somebody has?

16 A. No, sir, I haven't.

17 Q. Well, I guess I just took it
18 by the way you answered the question
19 that, you know, you haven't, but does
20 that indicate --- or does that ---?

21 A. I've never seen that door left
22 open.

23 Q. How about the doors up there
24 where Ten headgate is?

25 A. Nope, they've never been left

36

01 open either.

02 Q. Okay. Does your immediate
03 supervisor work with you daily?

04 A. No, sir, he doesn't.

05 Q. Does he work with you at all?

06 A. Yeah.

07 Q. How do you receive your work
08 orders?

09 A. He gives them to me every
10 morning.

11 Q. On the surface?

12 A. Yes, sir.

13 Q. How many people are on your
14 crew?

15 A. Right now, just two of us.

16 Q. Okay. Is one of you a lead
17 man?

18 A. Billy Brown.

19 Q. Billy Brown?

20 A. Oh, yeah.

21 Q. You work with Bill Brown?

22 A. Yeah.

23 Q. Okay. Is there another
24 individual that works with you ever?

25 A. Every once in a while we get

37

01 some help, but most of the time it's
02 me and Billy.

03 Q. Okay. Do you know who posts

04 escapeway reflectors in the mine?

05 A. Do I know who posts them?

06 Q. Uh-huh (yes).

07 A. No, I sure don't.

08 Q. Are you familiar with the

09 escapeway maps?

10 A. Yes, I am.

11 Q. Were you familiar with them

12 before January 19th?

13 A. Oh, yes.

14 Q. Did you ever see one on the

15 surface?

16 A. Ever see this ---?

17 Q. Escapeway map on the surface.

18 A. No, we had walked them.

19 That's how I get familiar with them.

20 Q. Okay. Do you remember where

21 you walked from?

22 A. Yeah.

23 Q. Could you tell me where you

24 walked from?

25 A. Well, we started at the

38

01 Threeway. We went through the doors

02 and back down two breaks across the

03 overcast and come out the other entry

04 at the box cut. And then we walked

05 them from right there all the way

06 out.

07 Q. Right there, meaning old Three
08 section?

09 A. Yeah. Well, from that door
10 right there, that single door,
11 we ---.

12 Q. The single door on the back
13 side of the ---

14 A. Yeah.

15 Q. --- within Three section
16 behind Nine ---?

17 A. Yeah.

18 Q. Okay.

19 A. We walked them out from the
20 double set there ---.

21 Q. Out to the front end of old
22 Three section ---

23 A. Yeah.

24 Q. --- into north mains?

25 A. Yeah.

39

01 Q. And then did you --- did you
02 ride out north mains or did you walk
03 out?

04 A. No, sir, we walked.

05 Q. The intake escapeway ---

06 A. Yeah.

07 Q. --- all the way out to the box
08 cut?

09 A. All the way to the box cut.
10 Q. Do you know if when you leave
11 that area --- like old Three
12 section's no longer an active
13 section; correct?
14 A. No.
15 Q. Do you know if anybody ever
16 takes down the old reflectors? Are
17 they still up now from when they
18 were ---?
19 A. Which old reflectors?
20 Q. The old escapeway reflectors.
21 A. Quite honestly, I couldn't
22 tell you if they're still up there or
23 not.
24 Q. Okay. That's fine. Have you
25 ever reviewed an escapeway map that's

40

01 located on the surface?
02 A. Yeah.
03 Q. What map was that? Where was
04 it located?
05 A. C.W. had one, and when I first
06 started there, he went all overall
07 the escapeways with me. It was in
08 what they call the conference room.
09 Q. Okay. And that's on the
10 second floor?
11 A. Yeah. And prior to that,

12 before I started there, when they had
13 a longwall move, I come from the
14 Justice Mine to go help them move
15 their wall. Every time I was there,
16 they also done that, too. They went
17 over all the escapeways and stuff.

18 Q. And this is before you worked
19 there permanently?

20 A. Permanent.

21 Q. You said Justice, is that
22 Independence?

23 A. Yeah.

24 Q. Have you ever been up to
25 Number Two section?

41

01 A. No, sir, I have not.

02 Q. Have you ever been in
03 northeast mains?

04 A. The northeast mains going
05 toward Two section?

06 Q. Yes.

07 A. As far as I ever been that way
08 was actually three to four breaks
09 inby the mother drive, and that was
10 it on that road going to Two section.

11 Q. What were you up there for?

12 A. We went up there and got a
13 mantrip that had been broke down.

14 Q. Do you know how long ago that
15 was? I guess this is all prior to
16 January 19th?

17 A. Yeah. It was way before that.

18 Q. Okay. Sometime between
19 October and January 19th?

20 A. I think it was sometime
21 actually like in December, ---

22 Q. Okay.

23 A. --- the best I can remember.

24 Q. Did you notice any green
25 reflectors while you were up there

42

01 doing that job?

02 A. Yes, I did.

03 Q. Do you know if any of them
04 went through the airlock doors at the
05 mother drive? Did you notice that
06 when you were coming back out after
07 you picked up that mantrip?

08 A. Yes, sir.

09 Q. Did they go through the
10 airlock doors?

11 A. They was hung on that, the
12 inby side as you go through, and I'm
13 almost positive as I come through the
14 doors, I seen them on the other side,
15 too.

16 Q. Okay. When you went through

17 those doors, were they opened or
18 closed?
19 A. They was closed.
20 Q. All four?
21 A. All four of them.
22 Q. Do you ever work in the Nine
23 headgate? Have you ever worked in
24 there?
25 A. On the top end or what?

43

01 Q. Anywhere in Nine headgate
02 longwall panel.
03 A. Just on the tail side.
04 Q. At the back end?
05 A. Yeah.
06 Q. Or in the tailgate entries
07 themselves?
08 A. The tailgate entry, I have
09 went over there and built cribs.
10 Q. How did you get into that to
11 build cribs?
12 A. Go up and come across.
13 Q. Walk the face?
14 A. Huh?
15 Q. Walk across the face?
16 A. Yes, sir. That's what we
17 done, walked on the face, then come
18 out on the tail side.

19 Q. How did they get the crib
20 block back there for you?
21 A. I don't know, they was there
22 when I got there.
23 Q. It was already there? Okay.
24 They didn't take them across on pan
25 line when you were ---?

44

01 A. The hoot owl was in there
02 building some, and we went and
03 finished it.
04 Q. Okay. Were you working off of
05 trailers from back there, or were
06 they just laying on the ground?
07 A. They was laying on the ground.
08 Q. Okay. Was that --- do you
09 know how long ago that was?
10 A. Sometime in November.
11 Q. Do you know when this wall
12 started, do you know? Was Nine
13 headgate already running when you
14 started here?
15 A. Yes, sir.
16 Q. It was? Okay. Do you know
17 what color the alternate escapeway
18 reflectors are?
19 A. Yellow, or whatever ---
20 Q. Have you seen any?
21 A. --- they were in color. Yes,

22 sir, I have.

23 Q. Are you familiar with the
24 mine's emergency evacuation and
25 firefighting plan?

45

01 A. Yes, I am.

02 Q. Has somebody ever showed it to
03 you?

04 A. Yep.

05 Q. Have they reviewed it with
06 you?

07 A. Yes, sir.

08 Q. Do you know if it's posted at
09 the mine?

10 A. Yeah.

11 Q. Can you describe what training
12 you received regarding this?

13 A. Tell you what now?

14 Q. Can you describe what training
15 you received regarding that program
16 of instruction?

17 A. Well, they showed us the
18 escapeways out in case we had a fire
19 and where the fire hoses was at and
20 rock dust and extinguishers and that
21 sort of stuff.

22 Q. And you're an outby person;
23 right?

24 A. Yes, I am.

25 Q. Did they gear it towards where

46

01 you, as an outby person, would find
02 things in an outby area, or was it
03 geared more towards, you know, if you
04 were working on a section where you
05 would find everything?

06 A. It was geared more towards
07 where we was working at, when they
08 give us ours.

09 Q. Do you recall who gave you
10 that training?

11 A. C.W., Clarence Workman.

12 Q. Clarence Workman. Do you know
13 when that occurred, when that would
14 be reviewed with you?

15 A. When I was first started
16 there.

17 Q. Okay. And do you know who's
18 responsible for evacuating miners in
19 the event of an emergency, according
20 to that plan?

21 A. The dispatcher notifies the
22 people underground when something
23 like that happens.

24 Q. Is he responsible for
25 evacuating people?

47

01 A. No. I don't guess he really
02 would be.

03 Q. Do you know who would be?

04 A. Yeah, it would be the people
05 upstairs there in the office, Pepé
06 and Rod and C.W. and whoever, and
07 your section boss that you're working
08 with.

09 Q. Pyott-Boone fire detection
10 system, the CO system, ---

11 A. Uh-huh (yes).

12 Q. --- are you aware that there
13 is one at the mine?

14 A. Yes, I am.

15 Q. Have you received any training
16 on that?

17 A. No, sir, I haven't.

18 Q. Have you received any training
19 about alarm and alert levels, warning
20 levels?

21 A. No, I haven't.

22 Q. Do you know where the CO
23 sensors are located underground?

24 A. Yeah, most of them --- the
25 majority of them's on the belt line.

48

01 Q. Have you ever been told by the
02 dispatcher or by someone else to

03 check one out?

04 A. No, sir.

05 Q. Back in December, were you
06 aware of any day when difficulties
07 were encountered on one of the belts
08 in the main north and smoke was noted
09 to be traveling inby?

10 A. No, I wasn't.

11 Q. Where's your telephone back
12 there where you were working in old
13 Three section?

14 A. Say what now?

15 Q. Do you have a telephone in old
16 Three section?

17 A. Yes, sir.

18 Q. Where's that at?

19 A. It's hung just this side of
20 this door. That single door.

21 Q. The single door.

22 A. There's a power center there.

23 Q. On the outby side of that?

24 A. Yeah. We have a hauler
25 charger there, and that's mostly

01 where we stop for them, right there.
02 And we had a telephone there. And
03 then three breaks this side of the
04 double doors, at the mouth of the
05 section there's a phone.

06 Q. Mouth of old Three section?

07 A. Yeah. And there's a phone
08 also on the outside of them doors.

09 Q. On both sides of those double
10 doors ---

11 A. Yes.

12 Q. --- there was another phone on
13 both --- on each side?

14 A. The last time I was there,
15 they was there, I'll state it that
16 way.

17 Q. Is that prior to the accident?

18 A. Yes.

19 Q. Okay. When you received your
20 training regarding the firefighting
21 emergency evacuation plan, did you
22 receive any training as to --- or
23 instructions as to what your actions
24 should be in the event of an
25 emergency?

50

01 A. I just go to the telephone and
02 maintain communications.

03 Q. Have you worked on the
04 longwall belt at all?

05 A. No, sir, I haven't.

06 Q. Storage area, takeup area?

07 A. No.

08 Q. Do you know Mr. Brandon
09 Conley?

10 A. No, I don't. I know he works
11 there, but I don't --- I've never
12 worked around him.

13 Q. Do you know who's responsible
14 for ventilation at Alma Mine?

15 A. Eddie Lester, I'd say, and
16 Johnny McNeely.

17 Q. When you were working back in
18 this area here in old Three section,
19 did you ever have to remove any
20 stoppings or build any, or patch any
21 or anything?

22 A. We had patched some, but we
23 never removed none or built none.

24 Q. When you patched them, did you
25 patch them on your own, or did

51

01 somebody give you some direction
02 that, you know, Jerry, there's
03 something back there I want you to
04 take care of?

05 A. We went and checked the face
06 out and found somewhere the miner
07 section had moved that had to be
08 fixed. They had just come out so we
09 went behind them and fixed them.
10 They was moving out as we was getting

11 ready to start in.

12 Q. On what panel?

13 A. Right there on Ten tailgate,

14 or Ten headgate.

15 Q. When you were getting --- Ten

16 headgate was completed, being driven

17 by the miner section, and then you

18 were getting ready to start working

19 on installation of the equipment for

20 the longwall; is that correct?

21 A. Uh-huh (yes).

22 Q. Is that what you're talking

23 about?

24 A. Yeah.

25 Q. And when they left, they had

52

01 left some stoppings that needed to be

02 worked on; is that what you're

03 saying?

04 A. Yep. We went behind them and

05 fixed them.

06 Q. Did somebody show you where

07 those were at? Did they point them

08 out?

09 A. Yes, they did.

10 Q. Underground or on the surface?

11 A. underground.

12 Q. Okay. Did they indicate on

13 any map on the surface where these
14 stoppings were?
15 A. Not that I recollect.
16 Q. Okay. They pretty much took
17 you around underground and said here,
18 here, here, and here?
19 A. Uh-huh (yes).
20 Q. Okay. I guess the purpose of
21 the question was to find out if
22 anybody ever used a map on the
23 surface to instruct you as to what
24 stoppings that needed to be worked on
25 or anything like that.

53

01 A. I remember that day. Me and
02 C.W. walked up through there and
03 checked them, and then me and Billy
04 went and fixed them.
05 Q. Okay. You went through those
06 doors up on Two unit's travelway
07 after you pass underneath that
08 longwall belt?
09 A. Do what now?
10 Q. When you went through those
11 two sets of airlock doors up there on
12 the Number Two unit travel road,
13 travelway to get that mantrip that
14 was broke down up there ---
15 A. Uh-huh (yes).

16 Q. --- do you recall seeing the
17 longwall power boxes there between
18 that second set of inby doors?

19 A. Yeah. The ones that sat on
20 the left?

21 Q. Yeah.

22 A. Yeah.

23 Q. Could you see them just
24 driving through on the travelway?

25 A. Yes, you could.

54

01 Q. Okay. There wasn't a stopping
02 there that was blocking your view?

03 A. No, sir.

04 Q. Okay. Do you know who's
05 responsible for maintenance of the
06 longwall belt?

07 A. I guess that would be Don
08 Hagy.

09 Q. Okay. Do you work with any
10 waterlines in the mine?

11 A. Nope.

12 Q. Do you install waterline for
13 the longwall belt?

14 A. No.

15 Q. Remove any waterlines from the
16 longwall?

17 A. Just what's along the roadway

18 that the miner section left on the
19 waterline we removed.

20 Q. Up there on the headgate for
21 Ten?

22 A. Yeah.

23 Q. Okay. Do you have any
24 knowledge about the longwall face
25 blockage, tailgate blockage?

55

01 A. Do I have any knowledge of
02 what now?

03 Q. Blockage of that tailgate side
04 of the longwall face. A roof fall on
05 a tailgate entry that blocks access
06 off of the longwall on the tailgate
07 side. Do you have any knowledge of
08 that? I think you said you were down
09 there building cribs?

10 A. Yeah.

11 Q. And that's to keep that open
12 over there?

13 A. Uh-huh (yes).

14 Q. Do you have any knowledge
15 about the failure to keep it open?
16 The inability to keep it open where a
17 roof fall occurred and blocked
18 the ---?

19 A. No, I don't.

20 Q. Okay. You have not heard

21 anybody talking about it?

22 A. No.

23 Q. Okay. You did say you were

24 over there building cribs, but do you

25 access that area by walking across

56

01 the longwall face?

02 A. Across the face line.

03 Q. So on those days, the tailgate

04 had to be open for you?

05 A. Yeah.

06 Q. And if I remember you

07 correctly, you said that the material

08 was already over there?

09 A. Yes, it was.

10 Q. And you didn't remember how,

11 or didn't know how the material got

12 there?

13 A. No, I don't.

14 Q. Okay. Did you ever hear

15 anything about anybody losing airflow

16 on the longwall face?

17 A. No, I haven't.

18 Q. Has anybody ever called back

19 to you while you worked back there on

20 dayshift and said, hey, Jerry, do you

21 want to check to make sure some doors

22 are closed, the longwall's having a

23 problem with air?

24 A. No.

25 Q. Did you work dayshift on

57

01 January 18th, the day before the

02 accident?

03 A. Yes, I did.

04 Q. Did anybody call that day

05 asking about any doors being left

06 open or anything?

07 A. No, not to me they never.

08 Q. Okay.

09 A. Because we was working in the

10 same area there again.

11 Q. On the 18th?

12 A. Yes, sir.

13 Q. A similar area to where you

14 were on the 19th?

15 A. Uh-huh (yes).

16 Q. By looking at that map, can

17 you identify the area --- how far the

18 face was out from the startup face

19 when you were working in the tailgate

20 entry building cribs?

21 A. No, I really can't, because

22 that was early November is all I can

23 say.

24 Q. Okay. Is the longwall setup

25 tear down crew, is that just another

01 name for move crew, or is move crew
02 another name for setup tear down
03 crew, or is that --- like is that a
04 different group of people?

05 A. It's a different group of
06 people.

07 Q. It is?

08 A. Yes, it is.

09 Q. And what is the move crew?

10 A. My version of a move crew is
11 the people that move belts.

12 Q. All right. Do you know who's
13 responsible for removing the two-inch
14 waterline in the longwall headgate
15 out --- there was face retreats,
16 there's a waterline in that headgate
17 entry, and you know, if it wasn't
18 removed it would just be run over by
19 the longwall face equipment. Do we
20 know who's responsible for moving
21 that --- removing it?

22 A. The headgate main? That's on
23 the shift and the utility man.

24 Q. And the utility man ---

25 A. Uh-huh (yes).

01 Q. --- on the longwall crew?

02 A. Yep.

03 Q. Do you know that for sure?

04 A. Yeah. I've seen them boys do

05 it before.

06 Q. The two-inch waterline outby

07 the face?

08 A. The yellow line; is that what

09 you're asking?

10 Q. Yeah, the yellow firefighting

11 line that comes in and off of the

12 mother --- comes in off of northeast

13 mains?

14 A. Uh-huh (yes).

15 Q. Was that done on any specific

16 shift?

17 A. I'd say it's done on all

18 shifts if they do production.

19 Q. When you saw them removing it,

20 do you remember how far outby the

21 face it was at that time? The face

22 was like X distance, and it would be

23 so many feet outby that.

24 A. When I seen it being took out,

25 it was at the headgate box. That

60

01 would be 150 feet out from the face

02 I'm going to roughly guess.

03 Q. Okay.

04 A. I can't actually answer that

05 accurate.

06 Q. Would you happen to know how
07 the --- you can't take the pipe out
08 unless the water's turned off; is
09 that correct?

10 A. Yeah.

11 Q. Is it taken out on the
12 production shift? Were they
13 producing coal when they took that
14 out?

15 A. No, sir, they was not. But
16 they was down setting all their bits
17 and stuff, ---

18 Q. Yes.

19 A. --- and somebody had --- I
20 guess somebody had turned the water
21 off. They pulled two joints out, put
22 the fire valve back on it for them to
23 tap to their line, turn it back on,
24 and it's ready to go.

25 Q. Okay. Do you know about when

61

01 that would have been date-wise?

02 A. No, sir, I really don't.

03 Q. It was before the accident
04 though; right?

05 A. Oh, yeah. Sometime in

06 November.

07 Q. Okay. Do you say on the 19th
08 where you worked is where it's
09 circled on this here Exhibit A; is
10 that correct?

11 A. Uh-huh (yes).

12 Q. Removing track rails?

13 A. Yep.

14 Q. Do you remember the specific
15 names of the people who were removing
16 the two-inch yellow line? I guess
17 they rotate shifts, or ---?

18 A. Yeah, they all --- they do
19 that all the time. No, sir, I don't.

20 Q. Okay. Back to January 19th,
21 2006, were you scheduled to work
22 dayshift on the 19th of January?

23 A. Yes, I was.

24 Q. Do you know what time your
25 shift started that day?

62

01 A. 7:00 in the morning.

02 Q. Do you know what time it ended
03 for you?

04 A. 4:00.

05 Q. At 4:00 you were back on the
06 surface, or at 4:00 you left your
07 worksite underground?

08 A. Most of the time outside by
09 4:00.

10 Q. Okay. Do you know, did you
11 have a supervisor with you that day?
12 A. No, it was just me and Billy.
13 Q. Do you know if there's another
14 B. Brown? I don't know if it would
15 be another name besides Billy. Do
16 you know if there's another B. Brown?
17 A. That works at Aracoma?
18 Q. Yeah.
19 A. Not that I know of.
20 Q. Okay.
21 MR. BEITER:
22 Can we go off the
23 record, please.
24 OFF RECORD DISCUSSION
25 BY MR. BEITER:

01 Q. Did you work with a B. Brown
02 on the 18th of January?
03 A. Billy Brown.
04 Q. Billy Brown, okay. I guess
05 that's why I was asking if you know
06 another Brown besides a Billy Brown.
07 A. No.
08 Q. Okay. Do you know a
09 Christian, a foreman by the name of
10 Christian, last name maybe?
11 A. Derrick Christian?

12 Q. You got me. I don't know.

13 A. I know there's a Derrick
14 Christian that's the longwall hoot
15 owl boss. I never worked with the
16 man.

17 Q. Okay. That sounds about
18 right. Do you know an A.C.?

19 A. There was an A.C. there when I
20 started there, and then he quit. I
21 never did personally know the man.

22 Q. Did he quit after the
23 accident?

24 A. I think so. Sometime right
25 around that I know he quit.

64

01 Q. And you said Bill --- you
02 worked with a Billy Brown on the
03 18th?

04 A. Yeah.

05 Q. Okay. And I guess the reason
06 I'm asking is, ---.

07 MR. BEITER:

08 And I guess I'm going
09 to label this. It's longwall
10 production report from Aracoma
11 Alma Mine Number One. I'm
12 going to label it Exhibit B
13 Workman.

14 (Workman Exhibit B

15 marked for
16 identification.)
17 BY MR. BEITER:
18 Q. And I'll just give you a copy
19 of it, and I'll just kind of read
20 along with you. The foreman's name
21 on the top appears to be Christian.

22 A. Yeah.

23 Q. And it says three shift. I
24 imagine that's midnight shift?

25 A. Yeah.

65

01 Q. And then the date is 1/18/06.

02 A. Yes.

03 Q. And then down here under
04 delays and remarks --- midnight
05 shift's not a coal-producing shift;
06 is it? I mean, it's not a normal
07 coal-producing crew shift; is it?

08 A. No, sir.

09 Q. And down here at the bottom,
10 it says started at 6:45 a.m. Would
11 that indicate that maybe he started
12 loading coal at 6:45 a.m. towards the
13 end of his shift? You don't know?

14 Do you know?

15 A. I honestly couldn't tell you
16 that.

17 Q. Okay. Well, how about going
18 right up above that? It said ---
19 there's a list of things there that's
20 done. You could see gathered up
21 structure and brought it out, and
22 brought out structural tram motor,
23 cutter motor, several more things,
24 monorail, shoveled on tail, busted
25 rock, several other things listed

66

01 there. And then it says down here,
02 it says sent A.C. and two men with B.
03 Brown to change air around. And I
04 guess what I was wanting to know, if
05 that B. Brown was Billy Brown and if
06 you were one of the two men with
07 Billy Brown ---?

08 A. No, sir, I was not.

09 Q. Okay.

10 A. I mean, I was not one of the
11 two men with Billy Brown or B. Brown.

12 Q. Yeah. I don't know that B.

13 Brown is necessarily Billy Brown. I
14 guess that's why I was asking you if
15 you know another B. Brown besides
16 Billy Brown. Do you know --- did
17 Billy Brown work with you all shift
18 on the 18th?

19 A. Yes, sir, he sure did.

20 Q. Did he go --- he wouldn't have
21 gone in earlier than you and worked
22 at the end of midnight shift, would
23 he, then you met him underground?
24 A. He was in there when I got
25 there.

67

01 Q. Okay. So he was already in
02 there when you got there at the start
03 of your shift on the 18th?

04 A. Yes, he was.

05 Q. So this B. Brown might have
06 been, might not have been, but might
07 have been Billy Brown if he came in
08 early on --- or at the end of --- at
09 least at the end of the midnight
10 shift; is that correct, or prior to
11 you coming in on dayshift?

12 A. Yep.

13 Q. Well, that's good. That's
14 helpful. That's all I have on that
15 one. I was just trying to understand
16 who Billy Brown was and --- or who B.
17 Brown was, and when you said Billy
18 Brown, it made me think of him.

19 Billy Brown --- did Billy
20 Brown discuss anything with you on
21 the 18th about anything that he'd

22 done prior to you joining him?

23 A. No, sir.

24 Q. No? You said you worked on

25 old Three section down there?

68

01 A. Yes.

02 Q. Do you have examiner's papers?

03 A. No, sir, I do not.

04 Q. Does B. Brown?

05 A. No, sir.

06 Q. Do you know who conducts your

07 examinations in that area?

08 A. Whoever is on the shift, the

09 midnight shift, fire bosses that

10 area.

11 Q. Okay. Does somebody conduct

12 an on-shift while you're working in

13 there during the day?

14 A. Yeah.

15 Q. Who would that be?

16 A. Different people. It's all

17 the time, different people comes in

18 that area.

19 Q. Okay.

20 A. C.W., Rod, Tyrone. I mean,

21 it's just different people that comes

22 in there every day.

23 Q. Is there someone there every

24 day?

25 A. Yes, sir.

69

01 Q. Okay. During your shift on
02 the 19th of January, did you notice
03 anything unusual?

04 A. No.

05 Q. Were you already --- where
06 were you when you found out about the
07 fire?

08 A. I was at the house.

09 Q. You had already left the mine?

10 A. Yeah.

11 Q. Do you recall what time you
12 left the mine?

13 A. Right around four o'clock that
14 evening.

15 Q. Right after you got out?

16 A. Yeah.

17 Q. Okay. Did you ever hear
18 anybody talking in the wash house or
19 underground or anywhere else about
20 any --- I don't want to say
21 necessarily problems, but any
22 conditions that they were having at
23 the longwall storage unit, takeup
24 unit, regarding its alignment, its
25 ability to keep the belt aligned as

70

01 it passed through the unit?

02 A. No, I did not.

03 Q. Did you hear anybody talking

04 about what effect --- well, I guess,

05 maybe not, the tailgate block --- the

06 blocked tailgate for the longwall,

07 have you heard anybody talking about

08 any problems that was causing with

09 the airflow in the longwall face?

10 A. No, sir, I have not.

11 Q. Okay. Do you work on fire

12 suppression systems or the longwall

13 belt drive?

14 A. No, I don't.

15 Q. Do you know who does?

16 A. No, sir.

17 MR. BEITER:

18 Okay.

19 BY MR. TUCKER:

20 Q. I only have a couple questions

21 for you. Have you ever been sent to

22 the mother drive area of the longwall

23 belt on Nine headgate to work on the

24 belt?

25 A. No, I have not.

01 Q. On occasion, do you use that

02 travelway that goes under the

03 longwall belt there at the head, say,

04 to go on up toward Ten headgate? Do
05 you ever travel in that way?
06 A. The only time I've ever been
07 through there was when we went to get
08 a mantrip.
09 Q. Okay. So that's an area that
10 you typically aren't in?
11 A. No, sir, I'm not.
12 Q. Okay. Just to clear something
13 up. I think initially on a question
14 about certifications you had said you
15 didn't have any certifications.
16 A. Like mine foreman papers or
17 nothing, I don't have them. No belt
18 examiner card or nothing.
19 Q. As to be able to make
20 examinations.
21 A. No, sir.
22 Q. You do have a West Virginia
23 Miner's certificate?
24 A. Yes, I do.
25 Q. Okay.

72

01 MR. BEITER:
02 That wasn't a trick
03 question. I meant what you
04 were thinking.
05 MR. TUCKER:

06 Right. I was thinking
07 along the other line. I just
08 wanted to make sure in my own
09 mind there. I think that's
10 all I have for you, Jerry.
11 BY MR. BEITER:
12 Q. Back to that brief period of
13 time that you passed underneath the
14 longwall belt on the way to get that
15 broken down mantrip, you said that on
16 the --- walking inby towards Two
17 section, the left-hand side those
18 power boxes were over there, and you
19 said that you could see the power
20 boxes, so there wasn't stopping any
21 place in front of the power boxes,
22 between the power boxes and you on
23 the travel road; right? That is what
24 you said; correct?
25 A. Yes. The stopping is behind

73

01 the power box. The power box is set
02 --- you a row of stoppings here and a
03 power box here. Your roadway's here,
04 the best I can remember.
05 Q. You could see the power boxes
06 that day? Could you see the power
07 boxes that day?
08 A. The one red power box is the

09 only one I've ever seen.

10 Q. Was that a toolbox?

11 A. More or less. It's not even a
12 power center. It's a --- let me see
13 how I want to word this. Like a line
14 splitter, I'm pretty sure.

15 Q. Could you see a stopping in
16 that crosscut on that day?

17 A. On the back side of the power
18 box to set --- it was sitting in the
19 entry, the stopping would have been
20 right here, I'm almost sure on the
21 right side. I'm pulling the map off
22 the wall.

23 Q. When you're sitting on that
24 mantrip or standing in that
25 intersection on that mantrip roadway

74

01 in front of those power boxes, do you
02 recall seeing some wire fencing up
03 there, and then a bunch of blocks
04 stacked beside it on that corner? It
05 would have been like right along the
06 travel road.

07 A. I was driving the trip that
08 day, and I don't remember seeing
09 that.

10 Q. Okay. You only recall seeing

11 one box there?

12 A. Yeah, the best I can

13 recollect, because I drove by, I just

14 kind of glanced over and looking

15 around.

16 Q. And did you say that you could

17 recall or can't recall whether or not

18 there was a stopping behind the box

19 that you saw?

20 A. Honest, I cannot actually say

21 that I seen one. I mean, we was

22 moving. Billy got off to open the

23 doors and I was driving. I was

24 glancing around when we went through.

25 He shut them back and we kept going.

75

01 Q. And I guess just to make the

02 record clear, what I'm understanding,

03 and correct me if I'm wrong, is that

04 you can't recall seeing one, not

05 indicating that you looked really

06 hard to see if there was one there,

07 but that passing through, glancing to

08 the side, you just don't recall

09 seeing one; ---

10 A. No, sir.

11 Q. --- is that correct?

12 A. That's correct.

13 Q. Not that you made an intent

14 observation and didn't see a
15 stopping.

16 A. No.

17 Q. It was more of a glance,
18 and ---

19 A. Yes.

20 Q. --- you don't recall seeing
21 one; ---

22 A. No.

23 Q. --- is that a correct
24 depiction of what you're saying?

25 A. Yeah.

76

01 Q. Okay. Because that was a
02 little bit different than what I
03 understood you to say before, and
04 that's why I wanted to revisit that,
05 to make sure that we cleared that up.

06 And do you recall --- you
07 probably told me, but I don't
08 remember if you did or if I asked
09 you, about when that would have been?
10 Would it have been before Christmas?

11 A. That was actually right around
12 Thanksgiving week.

13 Q. Okay. So it was at the end of
14 --- at the end of November?

15 A. November.

16 Q. Okay. From what you know
17 about the accident, do you know of
18 anything that could have been done to
19 prevent the accident from occurring?

20 A. No, sir, I don't, but I wish I
21 did.

22 Q. Is there anything else that
23 you'd like to tell us regarding what
24 happened that day of the accident?

25 A. No.

77

01 Q. Is there anything that we
02 forgot to ask you that you think's
03 important?

04 A. No, sir, not that I can think
05 of.

06 BY MR. TUCKER:

07 Q. You may have already been
08 asked this. I can't recall, so I'll
09 ask you again. Are you aware of any
10 other fires at the mines?

11 A. No. No, I'm not.

12 Q. You never heard any discussion
13 of any other occurrences?

14 A. No.

15 MR. TUCKER:

16 Okay. Thank you.

17 MR. BEITER:

18 Do you mind signing and

19 dating the map that you made

20 notations on?

21 A. Sure will.

22 MR. BEITER:

23 Just anywhere up here

24 would be good.

25 A. No, I don't care a bit.

78

01 WITNESS COMPLIES

02 MR. BEITER:

03 Thanks, Jerry. Jerry,

04 on behalf of --- I'm sorry, I

05 forgot to offer Mark ---.

06 BY ATTORNEY HEATH:

07 Q. Just one quick clarifying

08 question, Jerry. Let me just ask you

09 some questions about a stopping. You

10 mentioned something behind a red box.

11 Do you recall seeing a stopping there

12 when you went through that set of

13 double doors or not?

14 A. Since I said that, I thought

15 about it, and it seems like to me

16 that's a power box or whatever box

17 that is there, kind of set in a

18 neutral entry.

19 Q. Meaning?

20 A. That there didn't have to be a

21 stopping behind it.

22 Q. Okay. So you don't think

23 there was a stopping behind it, is

24 what you're saying?

25 A. No, I'm thinking that when I

79

01 --- as we come through, you come down

02 the hill, turn across and you go by

03 the box. I just kind of glanced over

04 in to see what was in there, and I

05 would have been looking at the

06 stopping on the side of the box in

07 the break where it should have been.

08 Q. And what did you see?

09 A. Just --- I just glanced around

10 and looked over in there, and there's

11 a red block there that's for the

12 mother drive.

13 Q. Okay. Is there a stopping

14 there or not, I guess, is what I'm

15 asking you?

16 A. Yeah. But it's not --- it

17 actually wouldn't be behind it, I

18 don't believe the way that I'm trying

19 to picture this in my mind. It would

20 have been --- the box was sitting

21 right like this that I come around,

22 the stopping would have been right

23 here and across this crosscut.

24 Q. Parallel to the box? In other
25 words, could it have been like a

80

01 partial stopping or something like
02 that, it would have appeared to have
03 been a partial stopping?

04 A. The box was setting in here,
05 we come across, the stopping was
06 right here.

07 Q. Beside the box?

08 A. No, right here. I'm going to
09 say this is the back of your box
10 right here.

11 Q. Yes.

12 A. And it's setting in this
13 crosscut --- this break coming this
14 way, ---

15 Q. Yes.

16 A. --- and when I looked in there
17 I could see a stopping right here.

18 Q. Would that be in the area
19 where the belt would extend on
20 eventually?

21 A. No. Your belt is actually
22 over here. It is a ---.

23 Q. Would a map help you?

24 A. Huh?

25 Q. Would a map help you?

01 A. No, not really.

02 ATTORNEY HEATH:

03 I'm just having trouble
04 understanding.

05 MR. BEITER:

06 Same here. Let's try
07 this.

08 BY MR. BEITER:

09 Q. If you got the two sets there,
10 the inby double doors after you've
11 gone under the belt line, okay, you
12 go through the first door.

13 A. Yeah.

14 Q. And when you're in the middle
15 of the two doors, is that the area
16 you're talking about where the boxes
17 are?

18 A. Yeah. Yeah.

19 Q. Okay. If you're heading
20 toward Two section and you're in that
21 intersection waiting for the door to
22 be opened, when you look over ---
23 that would be, what, looking over to
24 your left?

25 A. Yes, sir.

01 Q. Tell me what you would see.

02 A. Well, it's been so long since

03 I've been in there, the best I can
04 remember, you come down the hill,
05 around the curve, you open this set
06 of doors, you pull through, shut them
07 back, there's another set of doors
08 there. This is a neutral entry right
09 here. You open another set of doors
10 to go under the belt.

11 Q. Right.

12 A. And then you shut them back,
13 you open the other two sets and go
14 on.

15 Q. Okay. And when you're in
16 between those last doors, is that the
17 area you're talking about that you
18 saw boxes, or what area are you
19 talking about had boxes?

20 A. Down the hill across, go
21 through the first set, neutral entry.
22 I thought it was setting right there
23 in this neutral entry before you
24 opened the second set of doors and
25 go under the belt.

83

01 BY ATTORNEY HEATH:

02 Q. Between the two sets of ---
03 where the belt crosses over?

04 A. Say what, now?

05 Q. Is there a belt above you?

06 A. Yeah.

07 Q. Okay. That's the area you're
08 talking about?

09 A. Yeah.

10 ATTORNEY HEATH:

11 That's fine.

12 MR. BEITER:

13 Is that okay, Mark?

14 BY ATTORNEY HEATH:

15 Q. Do you remember any other
16 areas looking --- between the next
17 set of doors is there anything in
18 that area that you can recall?

19 A. No.

20 ATTORNEY HEATH:

21 Okay. That's fine.

22 MR. BEITER:

23 I want to thank you for
24 clearing that up, Mark.

25 Jerry, on behalf of MSHA, I

84

01 thank you for appearing here
02 today and for answering our
03 questions and sharing your
04 information about the mine.

05 Your cooperation is very
06 important to us as we work to
07 determine the cause of the

08 accident.

09 If you wish, you may go
10 back now over any answers that
11 you've given during this
12 interview. If you want to
13 clarify anything.

14 A. No.

15 MR. BEITER:

16 You may also make a
17 closing statement covering any
18 additional points that you
19 believe that should be raised.

20 A. I don't have any more.

21 MR. BEITER:

22 Jerry, we ask that you
23 do not discuss your interview
24 today with any person who may
25 have already been interviewed,

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01 or with any person who may ask
02 to be given --- or asked to be
03 --- asked to give a statement
04 in the future. And we ask
05 this to ensure that we obtain
06 everyone's independent memory
07 and the events surrounding the
08 accident.

09 After questioning other

10 witnesses and obtaining
11 additional information, we may
12 ask you back for further
13 questions. If at some later
14 point you have additional
15 information regarding this
16 accident that you would like
17 to provide us, please contact
18 Mr. Murray or his staff
19 assistant, Anthony Webb. And
20 I'm providing you with a copy
21 of their contact cards. Kenny
22 Murray is the accident
23 investigator, lead
24 investigator for this accident
25 investigation team. And Mr.

86

01 Anthony Webb works for Mr.
02 Murray. Both of them out of
03 the Pikeville office. Their
04 phone numbers are on those
05 cards.

06 A. All right.

07 MR. BEITER:

08 The Mine Act provides
09 certain protection for
10 individuals who participate in
11 accident investigations. If
12 at any time you believe that

13 you have been treated unfairly
14 because of your cooperation in
15 this investigation, please
16 immediately contact Mr. Murray
17 or Mr. Webb.

18 Again, Jerry, thank you
19 for your assistance. And Mr.
20 Tucker has a closing statement
21 as well.

22 MR. TUCKER:

23 Just behalf of Miners'
24 Health, Safety & Training, I,
25 too, would like to thank you

87

01 for coming in today. And the
02 State also offers protection
03 to miners against
04 discrimination. Here's my
05 card if you need to contact me
06 about anything. And this is
07 C.A. Phillips' card. He's our
08 Deputy Director out of the
09 Charleston office. Again,
10 thank you.
11 A. All right. I hope I was some
12 help to ya'll.

13 MR. BEITER:

14 Oh, you were. Thanks

15 very much, Jerry. I

16 appreciate it.

17 * * * * *

18 STATEMENT CONCLUDED

19 AT 3:36 P.M.

20 * * * * *

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