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PUBLIC HEARING

ON THE

SAGO MINE DISASTER

May 2, 2006 - May 4, 2006

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May 2, 2006

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West Virginia Wesleyan College

Rockefeller Physical Education Center

Buckhannon, West Virginia

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A P P E A R A N C E S

DAVITT MCATEER,
Chair
GOVERNOR JOSEPH MANCHIN,
Governor State of West Virginia
RAY MCKINNEY,
Administrator, MSHA
JAMES DEAN,
Director WV Office, MHST
SENATOR JEFFREY KESSLER,
Senate Judiciary Committee
DELEGATE WILLIAM HAMILTON,
Delegate, WV
DELEGATE EUTACE FREDERICK,
Delegate, WV
SENATOR SHIRLEY LOVE,
Senator, Oak Hill
DELEGATE MIKE CAPUTO,
Delegate, WV
SENATOR DON CARUTH
Senator, Mercer

A P P E A R A N C E S

PEGGY COHEN,
Daughter, Fred Ware
VIRGINIA MOORE,
Fiancé, Terry Helms
AMBER HELMS,
Daughter, Terry Helms
RUSSELL BENNETT,
Son, Marty Bennett
PAM CAMPBELL,
Sister-In-Law, Marty Bennett
SAMANTHA LEWIS,
Wife, Dave Lewis
CHRISTOPHER TOLER,
Son, Martin Toler
SHELLY GROVES ROSE,
Daughter, Jerry Groves
JOHN GROVES,
Brother, Jerry Groves
DEBBIE HAMNER,
Wife, George Hamner
CHARLOTTE WEAVER,
Wife, Jackie Weaver
ANN MEREDITH,
Daughter, James Bennett

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KEVIN STRICKLIN,
MSHA District Manager, District Three Office, Morgantown
BRIAN MILLS,
Inspector at Large, WVMSHT
JOHN COLLINS,
District Inspector, WVMSHT
KEN TENNEY,
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ED CLAIR,
Associate Solicitor, MSHA
BENNETT HATFIELD,
President/CEO, ICG
JEFFREY TOLER,
Superintendent, Sago Mine
SAMUEL KITTS,
Senior Vice President, WV&MD, ICG
CHARLES SNAVELY,
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TYRONE COLEMAN,
Manager for Safety, WV, ICG

A P P E A R A N C E S

JOHN STEMPLE, JR.
Assistant Director of Safety and Employee Development, ICG
CARL CRUMINE,
Mine Foreman, Sago Mine
FRED JAMISON,
Fire Boss, Sago Mine

I N D E X

I N D E X

P R O C E E D I N G S

CHAIR:
My name is Davitt McAteer, and I want to welcome all of you here this morning. We'd like to open with a prayer and a pledge of allegiance, and then we'll begin the process. If you could stand for prayer, please.
PLEDGE OF ALLEGIANCE RECITED
CHAIR:
I would like to thank the staff of West Virginia Wesleyan for hosting this hearing, and for the support and cooperation that they have provided to everyone affected by the Sago tragedy and involved in the investigation for the past four months. They have been marvelous.
In a moment, I'll outline the procedure we'll be following. First, however, I would ask us to stand once more for a moment of silence for the 12 miners who perished in this mine

disaster.
MOMENT OF SILENCE
CHAIR:
Thank you. This public hearing on the Sago Mine disaster augments a joint investigation by the West Virginia Office of Miners' Health, Safety & Training, and the Federal Mine Safety & Health Administration.
Historically, investigations of mine disasters in the United States have never involved the families of the victims. That era ends today. The families of the victims have more at stake than anyone else in this room. They want to know that their men, their husbands, fathers, sons, fiancées and friends did not die in vain.
They have the right to expect those in authority to do right by their men. They have the right to participate in this hearing, and they have the right to insist that their questions be answered. Most of all,

they have the right to expect that everything necessary will be done to improve mine safety conditions in the United States, so that the Sago Mine disaster will be remembered as the turning point in this country's history.

Toward that goal and in that spirit, we have convened this panel, this meeting. In addition to the Mine Safety & Health Administration and the Office of Miners' Health, Safety & Training, the legislative bodies of the West Virginia Senate and House of Delegates have both established investigative panels. The members are here as part of their charge to review the tragedy in order to formulate legislative actions to build on the legislation that Governor Manchin introduced and that the legislature enacted earlier this year.

The West Virginia Board of Coal Mine Safety & Health, whose members are here also today is charged

with reviewing accidents, so as to make recommendations. Also, as part of the legislation adopted earlier this year, a joint committee representing labor and management was established to review mine safety technology, and they are with us as well.

The United Mine Workers' of America is represented today by its president, Cecil Roberts. Both in its capacity as the nation's longest standing advocate of improved mine safety & health, and also as a representative of some of the miners of the Sago Mine. Some of the Sago miners have also chosen other representation, and they are represented here as well today.

I will be chairing this meeting, and I will ask for your patience while I briefly outline the procedures we will follow. Our basic intention is to follow the accident chronologically, to look at the events leading up to the accident, then to the

circumstance of the explosion and then to the rescue and recovery effort.

At each stage, we will focus on causation and what can be done to prevent further types of accidents from happening. Clearly, they are of equal importance in determining what went wrong at Sago. In order to attempt to establish an orderly process, we have adopted a set of procedural rules, which you will find attached to your agenda. The representatives of MSHA and the West Virginia Office of Miners' Health, Safety & Training will ask questions of the witnesses, representatives of the family will also ask questions of the witnesses. The legislators will ask questions of the company and will ask questions --- and will ask questions of the state and federal witnesses through the Chair.

Other participation and members of the public may submit

questions in writing, which we will direct to the appropriate third parties to address. We will do our best to see that these questions are addressed in the course of the hearing. They will also be made part of the official record.

The record will remain open for 30 days following the hearing, and questions and comments, suggestions and other materials relevant to the purposes of the hearing may be submitted to me by e-mail or mail at the address shown on the procedures page.

If you have any questions about the procedures we are following, I would ask you to hold those until we have a break, at which time I will attempt to address those concerns.

Now, it is my privilege to introduce the Governor of West Virginia, Joe Manchin. Governor, welcome home.

GOVERNOR MANCHIN:

Thank you, Davitt. First of all, let me thank the West Virginia Wesleyan College, the president, Bill Haden, and the entire staff for being our host, and a gracious host they have been. I also want to acknowledge the U.S. Department of Labor, the Mine Safety & Health Administration, and the West Virginia Office of Miners' Health, Safety & Training. The West Virginia Board of Coal Mine Health & Safety, the United Mine Workers' and the Coal Association of West Virginia for all of their efforts in this investigation and this process.

The members of the West Virginia legislature for their involvement in this process and for their efforts in making changes to our laws, with the knowledge and desire to make mining safer. And they truly have done an outstanding job. But most importantly, we're here for the families, all the extended families and those representing the families today.

With the opening of this public hearing this morning, we continue the ongoing process to determine exactly what happened at the Sago Mine. And we also take another important step to help put closure to this horrible tragedy.

The tragedy at the Sago Mine was devastating, something that no family should be forced to deal with. And I mean families all over the State of West Virginia, all over this nation who have lost a loved one to a horrible tragedy, whether it be just one or whether it would be a multiple of people. I can only reflect on my personal experience in my families at the '68 Farmington Mine Explosion, and a lot of people here today remember that mine explosion so vividly and the impact that it had on our family, and the scars that it left on our family that we still carry today.

Being a family member in a very similar position, I thought

there was something that we could do and do it better and do it differently. And that's why we are here today, basically for you. I know what we went through with the loss of my Uncle John, my mother, who was --- that was her brother, my Aunt Jenny, and my cousins John, and Susie and Vincent, and all of the family. It's just --- it's something you never ever recover from, but you try to go on.

The Sago families need closure, and they need to know what the facts are. It is my sincere hope that this hearing will give the families directly impacted by this tragedy, an opportunity to get answers to their questions.

It pleases me that the commitment made to these families is being honored. Providing them with an opportunity to have their voices heard with regard to this tragedy.

There were two requests that I made at the beginning of this

investigative process, really while we were still at the mine site waiting. I asked for a complete report consisting of an overview of the determined causes of the Sago accident and an overview of the rescue and recovery operation, including the miscommunication that caused such needless heartache. And recommendations as to how mine safety and mine communications can be improved, not only in West Virginia, but across the entire nation.

This report will be completed, hopefully by July 1st. That's our target date. And I've spoken to Davitt, and they have been working towards that, because I believe that we will be able to accomplish that, and I hope so.

I also asked, number two, that upon completion of the traditional state and federal fact finding period, the state would join with the federal government to hold an open public hearing on the accident and this

aftermath.
The open hearing process is very important for everyone involved, particularly, you the family. I believe that if we would have had this opportunity, it might have helped us. And I'm hoping that it's going to help you. The hearing will also provide state and federal officials with additional knowledge to learn and improve from this tragedy to make mining workplaces throughout our state and nation safer.
I'm pleased at Davitt McAteer, former assistant secretary for the Mine Safety & Health Administration and the U.S. Department of Labor, and a noted authority on mine safety, agreed in the days following the Sago tragedy to serve as my special advisor on this investigation. I could not have asked a person who had more skill, trust and knowledge to support me and the people of West Virginia and our staff throughout the course of this

investigation. And to chair and operate this hearing with the guidelines of the state and federal regulations. And Davitt, I can only tell you, on behalf of a grateful state, I appreciate your efforts, your staff efforts throughout this process in working with our office and with all of the families and all of the parties involved.
It is very important to know that these brave miners have not died in vain, as their legacy is living on through the significant safety and technology advances and regulatory changes that are being instituted to improve mine safety. As a result of the horrible tragedy at Sago, we have already strengthened our mine safety laws on a state level. And we are in the process of conducting a very thorough evaluation of our mine safety and regulatory rules.
In passing Senate bill 247, a landmark piece of legislation,

the legislature absolutely worked without any political involvement. They crossed party lines. They did something that needed to be done on behalf of all the miners in West Virginia, all of the miners in America, to make sure we took a step forward to make mining safer. And that bill, on January 23rd, I told them at the time that we were passing and working on that bill, we're not doing one thing to make mining safer at this juncture. What we're doing is making sure that if a miner is caught in a horrible tragedy such as the Sago, Alma or any other place in West Virginia, the chances of us being able to rescue them safely is greatly improved. Rapid response, electronic tracking, portable air station, supplies in mines, all of these things make so much common sense. And we and West Virginia now have the laws in place to do that.
Working together with our partners, we took another significant

step in our efforts to address mine safety with the development of amended emergency mine safety rules. For the industry which addresses breathable air stations, the use of rescue chambers and a development of a technology taskforce to evaluate new mine safety technology. We are now going through the process of working with the federal government and all of our mining states to assist with their ongoing efforts to improve mine safety.
Bringing together experts from the mining and technology sectors, we assembled a global group to discuss ways that we can improve mine safety at the very first International Mine Safety & Health Symposium, which was held ten days ago. It was held in Wheeling, West Virginia, Wheeling Jesuit College, Davitt chaired and put the symposium, did a great job of putting that together. And then we had different exhibiters from all over the world coming in to show us the

technologies and advancements of technologies they're making, that would make mining safer.

It is imperative that we remain committed to properly seeing this joint and federal investigation to its conclusion. We understand the very delicate nature of this investigation, taking into account the heavy emotions that are involved while respecting the need to adhere to the guidelines associated with this effort.

I am confident that if we work properly through the process and it is preserved, that we can attain the goals that we set and help these families with a true sense of closure.

The upcoming days are going to be difficult for the families and everyone connected with this tragedy. In honoring the memory of the Sago miners, we must continue to take every step necessary to ensure that miners in West Virginia and everywhere in the nation are as safe as possible, and that they

are equipped to do their work in an environment that is as safe as we can possibly make it.

There's nothing that we do here today or tomorrow that's going to bring back our loved ones, not one thing, or any of the loss of miners that we've had over the years. But I truly believe --- I really truly believe that we can change the fate of mining, not only in West Virginia, but across this great nation of ours if we do it right and complete.

So I thank you for your participation. My heart and my prayers are still with you every day. I really feel like I became part of most of all of your families. And this state will be with you for as long as we possibly can under the desires and wishes of each one of you. So again, thank you and God bless you.

CHAIR:

I would now like to introduce Ray McKinney, the

administrator of Coal Mine Safety & Health enforcement at the Mine Safety & Health Administration, for a short opening statement.

MR. MCKINNEY:

Good morning. As Davitt indicated, my name is Ray McKinney, and I represent the Mine Safety & Health Administration at this hearing. I'm the administrator for Coal Mine Safety & Health, and in that position, I'm MSHA's senior career official in the Coal Mine Health & Safety division. I have over 36 years of mining experience. Thirty (30) years of that has been dedicated to mine safety & health. I personally participate in every aspect of mine rescue and recovery operations, including underground service with mine rescue teams.

As noted earlier, this is a sad and solemn occasion because of the tragic death of the 12 miners at the Sago Mine on January 2nd. We at

MSHA acknowledge the loss and grief of the families affected by this terrible tragedy, and we mourn with them.

This public hearing should be as seen as part of the larger investigation process that is designed to find the causes of the explosion and the conditions that contribute to the loss of life.

MSHA's investigation process began within hours of the completion of the rescue and recovery operation. And the investigation will continue well beyond this hearing. We have conducted formal interviews of 70 witnesses, and we have more to go, including Randal McCloy and the experts who have been retained by ICG.

Our goal is twofold. First, to learn lessons from this tragedy that can be passed on to the mining community to prevent future accidents. We will make a complete public report of our investigation findings. The accident report will be

widely available to the mining industry. We will discuss it with our own managers and inspection personnel, and we will use it as a training tool.

The history of improvement in mine safety & health protection has advanced as we learn from tragic events at the Sago Mine explosion.

Second, our goal is to enforce the provisions of the Federal Mine Safety & Health Act of 1977 and its regulations.

If our investigation uncovers evidence that the requirements of the Mine Act and MSHA's safety standards have been violated, we will take appropriate enforcement action. The operator will be cited and a civil penalty will be assessed. If the mine operator disagrees with our enforcement action, it may seek review of our action, have a hearing before an administrative law judge of the

Independent Federal Mine Safety & Health Review Commission.

We've seen an alarming upturn in fatal mining accidents this calendar year, particularly in West Virginia. This is all the more distressing, because it follows successive years of record low mining deaths. We are here to learn what happened and why it happened, so that the lives may be saved in the future.

Before we proceed, I would, again, like to express my sincere condolences for the families of the Sago Mine tragedy. They have suffered greatly and we share their grief. We also recognize the severe trauma suffered by the family of Randy McCloy. And while we celebrate his steady recovery, we know that his life was forever changed on January the 2nd. In fact, all of the survivors of the explosion and those who tried to rescue the 13 miners have been through a life-altering experience that will be with

them forever.

I hope this hearing will provide a basis to move forward with a more complete understanding of what happened and why. Thank you.

CHAIR:

Now, I would like to introduce James Dean, the acting director of the West Virginia Office of Miners' Health, Safety & Training.

MR. DEAN:

Thank you. Before I begin my remarks this morning, I'd like to recognize the members of the West Virginia Board of Coal Mine Health & Safety, and ask them to stand and be recognized, if possible.

This board is composed of company and labor representatives, and it's charged by state statute to review all serious accidents, fatalities that occur within the West Virginia mining industry, and determine if additional regulation is needed in order to prevent their

occurrence.

I serve as a chairman of this board and will be asking questions on their behalf, in addition to the West Virginia Office of Miners' Health, Safety & Training today.

The Office of Miners' Health, Safety & Training is committed to finding answers to what happened on January the 2nd at the Sago Mine, in order to ensure that solutions are developed to prevent such disasters in the future. We are determined to get answers to some very important questions. First, what is the truth about what happened before, during and after the explosion in the mine.

Our investigation and partnership with the Mine Safety & Health Administration is still ongoing, and all of the team members are open to listen to what people are able to tell us and to consider all viable options about what happened.

Throughout the past four

months, we've interviewed many different people and looked at a great deal of information from within the mine, the company and agency records, and through testing. We are still obtaining additional information in almost all of these areas. Some of this information is clear, though at times we do have information that is often conflicting.

It's part of our job to sort through all this and anything else we learn that can help us in order to find the truth. What is the ignition source that caused the explosion and what can be done to ensure that we're better prepared in the future, should we need to respond to such an event. And also, what steps can be taken to prevent the event in the first place.

I assure you that the information we discuss in this hearing will become another important part of our investigation review. I hope the information we gather here today will

shed additional light on the accident. More importantly, I hope it will help the families and others gathered here today to see that what happened on January the 2nd is very much in the forefront of what's happening in the Miners' Health, Safety & Training.

We know that we need to find the answers to what happened and solutions that will honor the memory of the miners. To that end, I want to also assure you that our office is doing more than participating in the investigation. We've undertaken an extensive review of our office's organization, its attention to issues of safety, training, inspections and rescue operations. Every day, we're just not examining these issues, but also trying to act on them in a timely way.

So far we have drafted a mine rescue improvement plan for the State of West Virginia. This plan addresses equipment, training and

personnel needs for the Office of Miners' Health, Safety & Training in this area. I'm also working with Governor Manchin to begin to implement this plan once funding has been obtained.

We're also in the process of an extensive industry review of storage of rescuers and moving forward through Senate bill 247, which was passed in law and mentioned earlier. This will give us an inventory of what's there and what mines need to take immediate steps for a better reserve.

A six-member task force, the mine operators and miners and representatives from the UWMA is working diligently to develop recommendations for my consideration on issues surrounding emergency chambers, tracking and communication systems, as called for in Senate bill 247.

The task force is committed to meeting its May 29th

deadline for reporting to me. Today I want to tell you about another important step we are taking. Along with the Mine Safety & Health Administration, we are pursing a four point plan to ensure that SCSRs used in our state are in good working order and that all employees in underground mines have the best training in their use.

I'd like to also recognize the many hardworking professionals at the Office of Miners' Health, Safety & Training that I've worked with over the last ten weeks. They are truly committed to improving mine safety, and I appreciate their efforts.

More than anything, I want you to know that what happened at Sago was a disaster that moved the mining industry regulatory agencies, mine operators and individual miners to an increased awareness of the importance of safety and communications in our mines. This tragic lesson is

not and will not be forgotten as we move forward. Thank you.

CHAIR:

Our next speaker from the legislative panel is Senator Jeff Kessler, who chairs the Senate Judiciary Committee. Senator Kessler?

SENATOR KESSLER:

Thank you, Davitt, members of the panel, and particularly the families. We are here to find the truth, and that's what we expect to do over the next few days. There was a horrible, horrible tragedy that occurred in early January of this year. And I just want you all to know what the legislature is doing in order to address this horrible tragedy.

Shortly after the disaster, the president of the Senate and Speaker of the House got together and commissioned a legislative panel, a bipartisan panel of democrats and republicans from the Senate and the House to have a legislative, a West

Virginia legislature look into and examine this horrible incident. And what we can do as your policy makers in this state to keep that from occurring in the future.

But it's also important to note that there are dual tracks, while the legislature has an ongoing investigation with the members of the legislature, who are here today, who will report to the legislature at the conclusion of our work. There's also a dual track ongoing with the federal Mine Safety & Health Administration with the state mine officials as well, who have a separate track based upon separate legislative federal requirements.

So while the legislature is here today, we are separate and apart from what's going on with MSHA and its activities. We will, however, continue to address those issues as your legislature. But the most important thing that we have to do is

to find the truth. I think we all share the --- we may have dual tracks, but we have a common purpose, and that is to find the truth.

We have to determine the facts and uncover the truth, however harsh, painful or hard that may be. I think we all know many of the things, the who, what, when and where. We know what happened in January. But the question that lingers is why, and that's what we hope to find at the conclusion of our work. And why do we need to find the answer? It's simple. Our job as legislators is to enact public policy in the state that will prevent future tragedies from ever occurring again.

So to the families, on behalf of the legislature, I pledge that we will work to find the truth and to share that with you and to enact and to enforce legislation in the state to make sure that our mines, which are so vital to the state, are the safest and

most productive, as well as mines in the country and the world. Thank you. Thank you very much.

CHAIR:

Thank you. Our next speaker is Delegate Bill Hamilton of Buckhannon, who represents this district in the legislature. Delegate Hamilton.

DELEGATE HAMILTON:

Welcome to Buckhannon and Upshur County, a community that bonds together to support and uplift each other in times of need or in times of jubilation. I would like to thank West Virginia Wesleyan College for hosting our public hearings today.

West Virginia Wesleyan has always been supportive of our community, from opening their campus to visiting high school bands during our West Virginia Strawberry festival, to allowing the community to memorialize our fallen brothers. They have always been a leader in their support of our

city and our county. I'd like to take this time to thank Governor Joe Manchin, III and First Lady Gail Manchin for their support and love in our most tragic times. Our governor did not have to be at the Sago Mine site in January. He could have said I have a legislative session to prepare for, but he did not. He came to Upshur County to be with us because he cared. Our First Lady, Gail Manchin, could have said I have too many duties as your First Lady, but she did not. Our First Lady spent her time supporting the McCloys and the other families in their time of need. Our congresswoman, Shelley Moore Capito could have told us that her schedule did not permit her coming to Upshur County, but she did not. Many were there for moral support. Local drilling companies immediately brought equipment to lend a hand. The United Miner Workers' sent

rescue teams. Other individuals and companies donated food, time and volunteers. On behalf of the citizens of Upshur County, I wish to express our heartfelt thanks to each one of you for your kindness and your caring. Four months ago, Governor Manchin appointed David McAteer to chair this panel today. The members of this committee were chosen by House Speaker Robert Kiss and Senate President Earl Ray Tomblin. Speaker Kiss appointed me along with my two House colleagues, Delegate Caputo and Delegate Frederick. Senate President Tomblin appointed three Senate colleagues, Senator Caruth, Senator Kessler and Senator Love. Davitt, I want to thank you for your efforts and leadership during that past four months. We really appreciate you and your staff and what you've done putting this panel together.

I've been asked what our committee hopes to achieve, my answer is to leave no stone unturned. Let the evidence lead us to the cause of this mine disaster so that we can develop mine safety regulations whereby these tragic events will not be repeated in another mining community. Since the mine accident, I have spoken with mine industry representatives, mine safety inspectors, coal operators, coal miners, both union and non-union, and families of our Sago miners to gain input. From this input and other information that has thus far surfaced regarding the Sago Mine tragedy, I have questions to which I need answers. My understanding of our legislative committee's purpose in these proceedings is that we are to ask questions so that we can receive the answers that our miners' families so desperately need to obtain closure on this unfortunate disaster.

I may not agree with our questioning procedure today, but I assure everyone here today that I am fully committed and determined to seek answers for our Sago miners' families. Answers, which I hope will lead to improvements in mine safety. We cannot bring back our fallen brothers, but we can work to make our mines safer for our current and future miners. Thank you.

CHAIR:

Delegate Eustace Frederick of Bluefield.

DELEGATE FREDERICK:

Good morning. I come out of a coal mining family, and I bring to you today my deepest sympathy with condolences to all of the families that had suffered this great tragedy. When I was in school, grade school in the '70s, and I remember time after time some of my classmates would be called out of class because their dads were killed. I never

forgot that. What a huge tragedy it was then, what a huge tragedy it has been for you. And that's why we must find the cause of this accident and do what it takes to prevent it from happening again.

Now, the overall record of the industry shows from the time --- I'm talking about in the 1930s, it goes way back, up in 2006 there have been huge improvements in coal mine safety throughout America. America's known as the safest coal mines in the world. But our record this year is totally unacceptable, and we've got to go at it with that in mind.

It's been said and known that the safest mines are always the most productive mines, and none of us can rest until we stop all of the mine fatalities.

Again, I've worked in the industry for over 40 years, I've studied for 40 years, and our number one goal, it's always been my goal,

that there will be no mine fatalities in America's coal mines. I believe that is an achievable, doable goal.

Now, we must not let any stone go unturned until we find the cause of this accident and do whatever it takes to prevent future accidents. Again, I offer my deepest sympathy, and I believe before this is over with, that we must find the cause and do what it takes to prevent future accidents. Thank you.

CHAIR:

Senator Shirley Love of Oak Hill.

SENATOR LOVE:

Thank you, Davitt. Methane gas explosions in coal mines have been frequent over the past 100 years, but public hearings such as this one is very, very rare. The last one, to my knowledge, was held in the hard coal region of Pennsylvania, sometime in the early 1970s. But Governor Joe Manchin, he promised the families of

the deceased miners that the State of West Virginia will hold its own public hearings. And today he's fulfilling that promise.

Mine safety in West Virginia has successfully been accomplished through a series of layered regulations. And I mean by this, considering our tragic loss at the Sago Mine, there are requirements to prevent methane accumulation. There are requirements to control ignition sources. There are requirements to examine, to assure all is safe and there's requirements providing means for miners to escape should the other requirements fail.

Why did all these rules fail the miners at Sago? Is the state and federal government doing enough to protect our coal miners from future tragedies? Are there enough inspectors? Are there enough resources, is the state and federal mine agency understaffed, under-funded,

under-equipped?

These miners and families only want to determine what went wrong to cause that explosion, and what could have been done to save the miners who survived that initial blast. And basically, the legislature wants to find out what went wrong at Sago, and what we, as a lawmaking body should do to minimize the chances of such a tragedy ever happening again. Thank you.

CHAIR:

Next is Delegate Mike Caputo from Fairmont.

DELEGATE CAPUTO:

Thank you, Davitt. First of all, my heartfelt condolences to the family members of the Sago miners. Being a coal miner of 20 years, I guess when one coal miner hurts, we all feel a little bit of pain. And your nightmare was certainly thought out by every one of us. And I just want you to know from the heart, from me and my

family, you have our warmest heartfelt condolences on your loss.

And to Governor Manchin and your wonderful wife, Gail, thank you for leading these families through the tragic events of that horrible, horrible January 2nd eve. Gail was wonderful when --- and you come from a wonderful background, Governor, and a wonderful family, and it was just family to you. It was a family-oriented thing. And on behalf of my colleagues and the State of West Virginia, I want to publicly say thank you for what you've done for these families.

But I think our mission here --- our mission here is to get to the truth, no matter what happens. No matter how hard it may seem to get the facts together in this case, the truth must be told, because that's the only way the mines will be made safer. That's the only way that miners will be assured that they can come home at the

end of the shift. So I urge all company representatives and miners from the Sago operation to please be open and honest at these hearings, and that the investigation, hopefully, will unfold and bring together the total facts of this case, which brings me to my next couple points.

While I'm very happy that Governor Manchin is fulfilling his promise to the families that we're going to have public and open debate, there's a couple parties that were not included in this debate, and one of those being the United Mine Workers' of America, which, for full disclosure, I am an employee of. But the reason I bring that up, it was UMWA members who were first on the scene and were members of the rescue teams that put forth those heroic efforts. And I think they should be a part of the testimony today, but for some reason the union, even though they are represented --- representatives of some

of the miners and representatives of some of the families, they were left off today's agenda. And I raised objections to that earlier, and I want to make that noted publicly today.

And I'm also very disappointed that our federal government, our MSHA, has refused to answer questions directed to them from legislators. I think the upper echelon of MSHA, for whatever reason, made that decision, and I think that is certainly the wrong decision. I don't think that I should have to pass notes back and forth to Mr. McAteer to get a question answered of a government agency that's supposed to represent each and every one of us. I don't think there's anybody here for political posturing. I don't think there's anybody here for political grandstanding. I think each and every one of my colleagues at that table are only here for one reason, to get to the bottom of this horrible accident and make sure that your loved

ones did not die in vain. Thank you very much.

CHAIR:

And last you'll hear from Senator Don Caruth of Mercer.

SENATOR CARUTH:

Thank you, Davitt. Some of you may notice, if you look at the program, that I'm from Mercer County, and you probably will notice that other members of the legislative panel are from areas in West Virginia that aren't immediately in this area.

From all of us, I think our special message to you is that people throughout the State of West Virginia share the sympathy for the family and friends of the Sago miners, and certainly recognize and appreciate the heroism involved in so many aspects of what took place in this tragic accident.

You may wonder why we're taking this time for all of us to have a say this morning in opening this

session that we're going to have for the next several days. In regard to that question, if it's in your mind, I think perhaps it's important for those of you who are here to know who we are on this legislative panel and what our function is. And I think it's equally important to know of our determination to get the right answers to the questions.

All of the people who are on the legislative panel were picked for some particular reason. I am an attorney and I've had substantial experience in both surface and underground investigations and accidents. Other members of the panel have other experiences, either in investigations or directly in coal mining and coal mine related activities.

Going back to the first statement made by Senator Kessler, we need to --- during the course of this investigation, we need to get some

answers to a lot of questions.

The first thing I'll remind you is, the investigation is not complete, so the outcome, I suspect, of the three days we will have here is not to answer all of the questions. I don't know that that's possible at this time. But hopefully, the process we're going through, the testimony that'll be offered and the questions that will be asked will be very helpful in resolving this process.

There is a lot of information that's been --- certainly that has come to the attention of MSHA and the state --- the Miners' Safety & Health Administration. There's been a lot of information in the newspapers. There's a lot of speculation about what happened.

What I hope that we can do while we're here is determine what of that information is true, separate fact from fiction, separate rumor from speculation and identify facts. And in

addition to that, determine which of those facts are relevant and material to what we're looking at these three days. So that we can determine as a panel, as a legislative panel, and those of you who are here in your individual capacities and in your professional functions may determine what went wrong and what caused this accident. So that we can also review the rescue procedures and determine how the rescue techniques can be improved, how rescue equipment and apparatus can be improved in the future.

All of this with the goal of improving miners' safety. So it's our function here today as a panel, and I think the function of all --- certainly all of the investigation groups to come to some conclusions based upon the facts, the relevant facts of what happened so that in the future, we can prevent such tragic accidents. So that we can ideally prevent any serious accidents in coal

mining activities. So that we can incorporate new technologies, both in the coal mining function and in the rescue function, if rescues and --- they certainly will be, unfortunately, --- are necessary in the future.

It's our hope that over these three days we can advance that effort. I hope that all of you here appreciate the fact that there's a lot of work to be done, and we're going to hear from a lot of separate and different people, and we're going to hear a lot of different views today.

Our function here is to do the best that we can to receive that information, make some judgment about that information, and hopefully in the future, through a legislative process or rule-making process, do all that's possible to improve coal mining safety in West Virginia. Thank you.

CHAIR:

Thank you very much. All right. What I would like to do now is

take a very brief break in order to allow us to have the first panel this morning, and that will be the representatives of the family for the men who lost their lives at Sago. And if we take five minutes to allow that panel to come up and then we can start it. And Celeste Monforton will be up here, right here for those family members who will be making statements. Thank you.

SHORT BREAK TAKEN

CHAIR:

All right. If we could assemble again. We'll try to speak into the microphone for those in the back who are having a little trouble hearing. As we indicated to begin with, this is the first time for us doing a hearing of this nature, and therefore we'll --- if we have to make it up as we go. So some of the family representatives will come to the podium, and some would remain, would like to remain in their chairs. And we

certainly will permit that and allow them to speak where they like. First I would like to call Peggy Cohen, who is the daughter of Fred Ware, Jr. Peggy.

MS. COHEN:

As I stated, my name is Peggy Ware-Cohen. I'm also speaking on behalf of my brother, Darrell Ware. We lost our dad, Fred G. Ware, Jr. on January 2nd, 2006. This has been and continues to be one of the most painful things we have ever endured. It is a terrible process to go through.

We have difficulty eating, sleeping and even functioning every day. We sit and cry daily. All we want is our answers to our questions. We want the honest truth told to us.

Our dad was a wonderful man who loved us and his grandchildren. He was a miner for over 40 years. Our dad loved being a coal miner, however, now that he has been taken from us, he won't be able to do the things he

loved. We won't be able to go ride four-wheelers. We won't be able to see his pearly blue eyes and big smile, unless we're looking at pictures. Just seeing him smile and being so proud of everything, which made you feel so good. Our dad drove a 1984 Chevy truck with over 400,000 miles. He called it old blue. We used to pick on him about getting a new truck, and he had no intentions of getting a new one. He would say old blue is broke-in just right.

Our dad loved flea markets and going to auctions. We used to go everywhere to them. One time dad bought a pair of skis, and while we were sledding, he decided to ski. He used broomsticks as the ski poles. We laughed so hard that dad actually did pretty good skiing, since he had never skied before.

Dad loved playing practical jokes on everyone. Since our dad was taken away from us, we won't be

able to joke and laugh anymore. We won't be able to go to dad's house and watch him tinkering with things trying to get them to work. I miss my daily phone calls from dad when he got home from work to tell me he was home. And then whether we got together that day or not, he would always call me every evening to tell me goodnight and he loved me. I miss those calls.

Any time I have a question or needed to talk, he was there. Dad would always help us fix things that were broke. He loved hunting. Dad can't do any of those things anymore. We used to sit on the porch and watch humming birds and talk and laugh. He would play with the grandkids, always giving them treats. Dad can't do that anymore either.

We all miss him so much. We won't get to be with our dad again until we all meet in heaven. Dad had so much life and energy in him that we miss so much. He was always willing to

help anyone. Dad won't even be able to see his five grandchildren grow up. We have so many questions, especially after reading the transcripts. Is it coincidental that Mr. Jamison's fire boss notes got lost? Is it coincidental that Mr. Sam Kitts would not elaborate on how the conclusion was drawn it was caused by lightning, or how the lightning got in the sealed area? Is it coincidental that the CO alarms were going off in the dispatch office at 6:10 a.m.? Was the Two Left section properly fire bossed from Mr. Jamison? What is the proof if it was appropriately fire bossed? Is there documentation that our dad had updated training? Did our dad have his own SCSR? Were there enough supplies located in the mines for these men to build an appropriate barricade? Why did it take so long to rescue our dad and the other miners? Was this a preventable explosion? Did our dad

have to die? These are just a few of the many questions I have. We can only hope that we get the answers. The one thing we must do is to make changes and make these mines safe for the other miners that continue to work. We must do something to prevent any more miners dying and their families having to endure this pain. This awful pain. My heart just goes empty. We hope that everything will be investigated thoroughly so we can get our answers. Please do not leave any stone unturned. Twelve (12) men, good family men lost their lives, and we deserve honest answers to our questions. We love our dad and miss him very much. We have to make changes in mine safety and update the technology. Our dad didn't deserve to die so young. Our prayers are with the miners that continue to work in this mine.

CHAIR:
Next, we'd ask Virginia Moore, fiancée of Terry Helms, and Amber Helms, daughter of Terry Helms to come forward.
MS. MOORE:
Hi, I'm Virginia Moore. Mine's not quite as long as what Peggy's was, but it all means the same and it gets to the point. I'm Terry Helms' fiancée. We was to be married this summer. He was one of the best things that ever happened to me. Our love for each other was the strongest you could ever imagine and ever feel. It was almost like being saved and accepting Jesus into your life. It's a wonderful feeling, and that's what our love felt like to each other. See, without Terry there's half of my heart gone, because he made it whole. And without with him here today, I'm sure all the family members, that there's a great piece

that will never ever be filled again in our hearts. Since he is gone, we are here to ask you all for answers and hope that we may get some closure to this.
MS. HELMS:
My name is Amber Helms. And my father, of course, was Terry Michael Helms. He's also survived by a son, Nicholas Michael Helms, who couldn't make it today. Virginia Moore, his fiancée. His brother John Helms and his sister Judy Helms. Excuse me. My dad, in my eyes, was perfect. He was a fantastic role model, a devoted father, a loving companion and a reliable friend. To me, Terry Michael Helms was not just a father, he was that fantastic role model to me. He was a man who would stop in the middle of a rainy day to help someone change a tire, a man who would help even if he didn't have the

time because he would just simply make the time.
My father taught me that I could do anything, and I mean anything. I remember one incident was mowing leaves and they kind of caught fire. And he ran to me, got me off and he stopped it. And of course, I didn't want to get back on, but he made me. He made me overcome my fears and he made me believe that I can do anything, and even if it was scary, I could do anything, and that's why I'm here today, because he made me believe in myself.
He was that devoted father to me. He was always there for me and my brother. He wouldn't miss anything, unless he had to work, of course. And many times he would come straight from work to my track or cross country or basketball games, even if all he saw was me crossing the finish line or the last couple seconds in each ball game, but oftentimes he made it

for the beginning.
One year I said I didn't think he was going to make it to the race, and halfway through I heard him yelling. All the rush that gave me, I think I came in first, at least in my eyes, because I wanted to do good for him. So no matter what it was, no matter what time of night, or morning hour, he was always there.
He was that loving companion to me. Through college I was single, and oftentimes I'd call him up and I was crying and lonely, and he would make sure that I would know that everything will be okay. He would assure me that everything would work out, but last summer I spent at home with him, I decided that so long as I live near him, I could be single my whole life, because that's the kind of relationship we had. But shortly after I found the love of my life, who he highly approved of, so it was great.
Terry was just one of

those men that anybody could just love. I recently had dinner with a friend who I used to play basketball with and track, and she made the comment that described him as the big teddy bear in the crowd. And she was definitely right. And he wasn't just a father to me, he wasn't just a father to my brother, he was a father to many of my friends. His nickname was Dad Helms on my basketball team, and he definitely was like a dad to all of them.
And he was that reliable friend to me. And this could be the most important part of our relationship, and that was our friendship. We could talk about really anything. And he didn't look at me as just his daughter, he looked at me as a good friend that needed some good advice. If I needed an outfit for school, he would go and help me pick it out, and I must say he had some very good taste.
And if I needed some

ideas for a project, he came up with the best ideas. And if there was anything I was unsure about with my actions, he was the first one that I called, because he knew me the best. He was my best friend.
This is the man that I no longer have. I'm not sure anybody could understand how lonely I often feel. I'm so well at masking it. I can't ask his opinion on anything. And I can't even find out what his favorite singer is now, or his favorite cartoon, because we watched a lot of those. Most importantly, I can't talk to him and get a response, because believe me, I talk to him every day.
Terry Michael Helms is why I'm here today. I hope that being here today and tomorrow, I can have several questions answered, such as that morning, did he call out? Who answered his call, and what was actually written in the books that we can't find, the fire boss books that we

haven't found?
And lastly, I would like to thank everybody who is here today, everybody that is here for trying to help the families better understand what happened that terrible day of January 2nd, 2006 that took our loved one's life. Thank you.
CHAIR:
Next, I'd like to have Pam Campbell, sister-in-law of Marty Bennett and Russell Bennett, his son, to come forward.
MR. BENNETT:
My name is Russell Bennett. I was employed at Sago Mines at the time of the accident. I am here today to represent my dad, Marty Bennett. I could spend the rest of the day telling you how good of a dad and how good of a friend he was, but I have that in my heart.
I'm also here today to represent my co-workers and their families. I had the privilege of

working with every one of these men, and they didn't have --- they don't make a better crew than what these men were.
I hope the questions we ask today not only gives us resolution and helps us save the lives of present and future coal miners.
There's many things that went wrong. The rescue efforts, or should I say recovery efforts. The response time was unacceptable. The decisions made to wait, not to go in because of CO in the returns, you know, that's unacceptable. And we turn around at the Aracoma Mines and we go right in knowing that we have a fire, knowing the conditions we had. And that's just unacceptable, but hopefully we'll have results.
MS. CAMPBELL:
My name is Pam Campbell.
My sister Judy was married to Marty Bennett. They had this young man, who they were very proud of. And before

January the 2nd, 2006, most of you, myself, didn't even know the name Tom Anderson, James Bennett, Marty Bennett, Jesse Jones, David Lewis, Terry Helms, Martin Toler, Jackie Weaver, Marshall Winans, Fred Ware, Junior Hamner, Jerry Groves and Randal McCloy. However, I did know one of these men. I knew Marty Bennett from the time I was 15 years old. He married my sister in 1973, 33 years ago, and they had this wonderful young man, and they adored him.
I would like to remind you that today is not about MSHA, today is not about ICG, the State of West Virginia. It's not about our governor, it's not about our politicians we have here. It's about these people and these people, and these gentlemen that you see behind you.
The families have lost husbands, fathers, sons, brothers, brother-in-laws, and for my nephew, not only did he lose his dad, but he lost his very best friend in the whole

world. And my sister lost her soulmate. It's about 12 men who died doing what they were trained to do.
They tried to escape, and when they couldn't escape, they went back where they knew they had air, and they barricaded themselves the way they were taught. And as they shared rescuers amongst them, they beat on the roof bolts and nobody listened. They waited for the blast from the surface, and those blasts never came.
Today, not only do I speak for my sister and my nephew and my entire family, I'm going to take it upon me to also speak for the rest of these families. We expect to get answers to these questions. And so far these answers have not come. Thank you.
CHAIR:
Next, I'd ask Samantha Lewis, the wife of Dave Lewis, to come forward.
MS. LEWIS:

Four months ago today my husband walked out the front door expecting to come home. He kissed me goodbye, and he said I'll see you tonight. It will be difficult for myself and the three children of David's to continue, but we will continue, because we are survivors. We will not let these men let their death be in vain. We've often heard the same while we've been here today. We will leave no stone unturned, and we will find the truth. Well rest assured myself, as well as my family and these other families will not allow you to leave a stone unturned or to let the truth go unheard. We've heard the families speak that they've lost their soulmate, they've lost their best friend and they've lost their everything. I understand those words because I, too, lost my everything. I have great memories of my husband and of our family together.

Whether it was my husband's competition with my mother on who had the yard of the month and David driving by with a yard of the month sign in the truck so my mother couldn't steal it out of our yard. Our vacations and our children, and the memories that we have. To the families that have been left behind, I hope you can find a way to move on. I hope you can find a way for healing, and I hope you can find a way in your heart to make it through the next two days, the next two weeks, and the next two years, the next 20 years. I will always be the wife of David Lewis, just as all of you will always be the son, the father, sister, the daughter. Find a way in your heart to continue. Thank you to everyone that has supported our families, the community, the state, the nation and the world. We are forever grateful for

the cards, the prayer shawls, the letters, the flowers and everything that has been sent on our behalves. We are greatly appreciative for everything. I could tell you all about my husband. He has a great soul, and he was a wonderful father and a wonderful husband. The key term is was, because he is gone. Those questions need to be answered on why our families are gone. Thank you.

CHAIR:

Christopher Toler, son of Martin Toler, Jr.

MR. C.TOLER:

My name is Chris Toler. I'm the son of Martin Toler, Jr. He was the only one man that I truly trust with everything that I have in my life. And if it was not for that man, I would have nothing in my life. Our family wants to know the answers to the explosion and what happened that day, as well as the rest

of the families. And we're all for all the different safety measures that are going to be made in the future because of this. But no matter what safety efforts that you make, we don't live in a perfect world and accidents will occur. It's a step that you make after the accidents that provides life or death. West Virginia is home of the best trained miners in the world today. And for anyone to question their training of the Two Left crew, it's unacceptable. These men did what they was trained to do. They donned their SCSRs, they went down, tried to escape, went up the intake and barricaded theirself all while in the blind. So these men were trained quite well. They pounded on a bolt, wasting precious air, and no one is up above listening for them. And that's a question that I want to know is why. Instead of pointing

fingers at the crew of Two Left and the training they have, MSHA is the one that needs to be doing some training on their own. To know how to get inside there and get the men out safely to their families.

My father loved each and every one of those men that's on that crew. And out of all the things that could have happened to my father, I'm glad that he was with those men when he did go. Thank you.

CHAIR:

Next is Shelly Groves and John Groves, brother of Jerry Lee Groves and daughter of Jerry Lee Groves.

MS. GROVES-ROSE:

Good morning. I'm Shelly Groves Rose. Jerry Groves was my dad. On January 2nd, 2006, four months ago today, my family's lives were changed forever. That day, we lost a huge part of ourselves. My mom lost her husband, I lost my dad, and my three boys lost

their grandfather. A son was lost, a brother was lost, an uncle was lost.

My dad was one of the most import persons in my life. And he means more to me than I can ever stand up here and express in words. He was a wonderful man. He was kind and generous and loving and fun. He was dependable, honest, and he was a hard worker. He put all he had into his job. He rarely, if ever missed a day of work. Really, the only time he missed work was when he was on vacation. Other than that, he was at work faithfully every day.

He was good at his job, and he was a dependable, safe coal miner. My dad has a very special place in the hearts of my three boys. My boys loved spending time with their pop-pop. And he loved being with them. He taught them to drive a four-wheeler, took my oldest on his first hunting trip just this past November and was looking forward to many more.

We all miss him tremendously. And my boys talk about him all the time. For a long time after the disaster, my seven-year-old son, Zachary, would take a picture of pop-pop to bed with him and keep it by his pillow. And he still takes grandpa's wrist watch to bed and lays it on his pillow every day.

Our hearts are broken. More than just broken. They've been ripped out of our chest and shredded to a million pieces. I know that time will slowly heal wounds, but there's a part of my heart that will never be healed. That's the part of my heart that was with my dad in that coal mine for 41 hours and the part that went on with him to eternity.

My hopes and prayers today are that the testimony that we're going to hear over the next couple of days will help us find some peace. I expect that each and every person being questioned today and tomorrow show

respect for our lost loved ones. We deserve the respect. Show respect, please, by answering our questions fully and completely, and most importantly truthfully.

We all deserve the truth, and we deserve to know what happened on January 2nd. Thank you.

MR. GROVES:

Good morning. My name's John Groves. I'm the brother of Jerry Groves. I'd like to say that he was a loving and caring man. And he touched everybody that miss --- everybody that knew Jerry knew that he was in their lives, because he was a great man. He's going to be missed by everybody that knew him.

Him and his wife, Debbie, would stop by our house often, maybe for a glass of my wife's homemade lemonade. That was one of Jerry's favorite things, was homemade lemonade. He would stop by. We'd sit around, we'd chat. Jerry's always a happy

person. He's always willing to help anyone.
You know, even though he's gone now, he's going to be helping people, because we're going to be, through him, working to make sure that a disaster like this never happens.
And we assure you Mr. Politicians that we're not going to let this rest. We know in our hearts this can be corrected, and it needs to be done immediately. It needs to be done now. And it's on you --- it's on you to make the changes. You have the power to do so, and it's your responsibility to do it.
Every day that goes by we have maybe another chance for another disaster. And if it happens without these changes implemented, remember you are the ones that are responsible, because you're responsible for making these changes. We can't do it. We have to have you do it for us. That's why you're there, is to make sure that it

never happens again.
And we ask you, please, from the bottom of our hearts to make for sure that this is done. To make for sure that this is done. We rely on you Senator. We rely on you to make for sure. It can't happen again. People's lives have been changed forever because of what's happened, and you can't let this happen again. No one needs to go through this ever again. And it's up to you to make for sure.
January 2nd, all of us became families. We all waited inside of the church, a little country church in Sago, West Virginia. We all kindly came in as time went by. We all met each other and hugged each other and realized how much we all meant to each other.
During that 40 hours, I feel that I experienced my brother's death with him. We sat there, and we could look over at the coal mine. And the pain and the hurt that was through

everybody as we sat there and we waited, and we waited, as we waited for the answer to come, that they're okay, but that answer never come.
This disaster has touched people from all over the world, and I would like to thank the people for all the cards they sent. Some of the cards that we got were from little children that took the time to tell us how much that they loved us, loved all of us. It was so heartfelt and touching, and I'm sure we all can remember reading those cards.
We thank you for the love that you shared with us. I'd like to thank Governor Manchin for what he's done, by giving us the opportunity to be here, to be able to get some questions answered today.
The governor assigned each of us families someone to help us. And I would like to thank Krista for everything that she's done. She's been very helpful with all of our families.

I'd like to thank Davitt. Sir, we rely on you to get our answers for us today. And I know this is heartfelt for you, and I'm sure that you will.
Celeste, I don't know where she is. She kind of stays behind the scenes, but she's been tremendous. Celeste has absolutely been tremendous in helping getting all of this stuff.
There was times that my mother has some very bad days. The governor would call and want to know how Mother Groves is today. That's what the Governor called her Mother Groves. And I think a lot of you come to call her Mother Groves, because she meant so much to all of us.
Mr. Crumrine has told us not to worry about what goes on behind those seals, it's not important. The federal and state officials have said it's not important, kind of just keep a close watch on what goes on back there, it's not that important. Well, we know now that they are, don't we? We know

now that what goes on behind those seals is important.
And I hope after what we've all went through and what we had to face, that we realize how important those seals are, and we need to make for sure that this doesn't ever happen again now that we know how important the seals are.
Mr. Crumrine, ICG officials, government officials, state officials, we ask you to keep an eye on what goes on behind them seals, because if we don't, there's going to be another one of these someday.
There's been disasters that's happened and it comes to the forefront, but I'd like to say that this is one time it's going to stay in the forefront. It's not going to be swept under the rug as years go by and time goes by and forgotten. And you gentlemen are responsible to make for sure of that. And if it's forgotten, you gentlemen are responsible the next

time we come to the hearings.
I really feel that in my heart, because we can't do it ourselves, you have to do it for us. And I know to have it in your heart, sir --- I know in your heart you've answered some tough questions for us in some of our meetings, sir, and I know this is heartfelt for you, too. And we just ask you that you get our answers for us.
I'd like to thank Randal and Ann McCloy for sharing with us what happened. Randal, I'd like to tell you, sir, that it was a very heroic and commendable thing that you've done. And the other ones, I'm not sure how that went, so I'm not going to say much, but I just ---. Randal, to know that you shared with my brother trying to save his life by putting your own at risk tells us what type of men was in there. And I thank you.
You know, we've talked about the training. These men put on

their self-contain rescue units, it failed them. These men built a barricade like they were trained, and it failed.
I had the privilege to go under the ground to see where my brother was found. You could see the roof bolts. I don't know if any of you know, but I'm sure a lot of you do. The roof bolt on the top of the ceiling where they took the sledge hammer, pounding for someone to help them, that failed, too.
With over 200 years of training here, now they're telling us that failed them, too. No, I'm sorry. They did all they were trained to do, and they were the ones that were failed. They were the ones that were failed here.
I would like to thank you on behalf of myself, my mother, Mother Groves, my sister Sandy Neal (phonetic), Becky Rogers, Geraldine Grusso (phonetic), Ronnie Groves, Bobby

Groves, and Raymond Groves, and the rest of the Groves family. We thank you for this opportunity to find out our answers. And Davitt, we leave it up to you to get them for us. Thank you very much.
CHAIR:
Next I'd call on Debbie Hamner, wife of George "Junior" Hamner.
MS. HAMNER:
That's a picture of my husband there, fourth on the left, your left, the one with the Budweiser hat. You know, it's been reported that my husband was a private man, and I'd like to set the record straight right now. That information didn't come from me. In fact, the opposite is true. Private probably describes me better than it would him.
Junior loved life and he enjoyed life. He had lots and lots of friends. And he was most happy when he was sharing good times with good friends. For instance, every year the

hunting camp was at our farm. I assure you Junior Hamner was an intelligent man, and I know that he was an excellent coal miner. And I know that he struggled to do everything in his power to save himself and his fellow co-workers that morning of January 2nd. But instead, what he was going to do was going to share another time with friends, not a good time.

Junior was my high school sweetheart and my best friend. I've been robbed of my best friend. Because of this tragedy, my life is never going to be the same. And the only peace that I may find is that if the real truth surrounding the Sago Mine disaster isn't uncovered. All I'm left with now are questions. Lightning, lightning.

ICG says the explosion was caused by lightning. If that is true --- right on. If that is true, how did the lightning ignite an explosion underground? How did the

electrical charge from lightning get behind the seals? Was the electrical system properly grounded and protected against lightning?

I also would like to thank Randal McCloy for his letter. Randal McCloy reported that some of the self-contained self-rescuers didn't work that morning. I'd say Randal has to be the expert. MSHA says it tested those self-rescuers and they worked. Why would Randal report that they didn't if they did?

The seals were built by inexperienced miners. That came out in the transcripts. Why weren't the miners who built the seals better trained in the proper way to conduct the --- to construct the seals? MSHA's interviews show that at least one miner was told to certify he had training that he never had. Why did this happen? And was this the only case of falsified training records?

John Boni fire bossed

that mine Wednesday before the explosion happened on Monday. He detected methane. He reported that to his supervisor, Carl Crumrine. Carl followed up on Thursday, and Carl confirmed that there was, indeed, methane escaping around the seals. What did management do to monitor the methane in the areas of the seals between Thursday and the explosion on Monday?

There were two pre-shift fire bosses that morning of January 2nd. Terry Helms, who perished in the disaster, along with my husband and his co-workers, and also Fred Jamison. Now, Fred says his fire boss notes were stolen out of his jacket pocket that morning after the explosion. I find that hard to believe.

Terry Helms called his report out to John Boni. Johnny says, Terry reported two small violations, but he can't remember what they were.

My husband's dead. So there's no small violation to me.

ICG received several citations before the explosion, and according to MSHA, many citations have been issued since the explosion. Why did this mine have so many safety problems?

ICG seems to believe that this explosion was an unavoided accident. This explosion, I believe, was preventable. And I don't call this an accident, I call this a disaster. Is it really just a coincidence that the explosion occurred in a mine that had so many problems complying with mine safety laws? But I want to result throughout the next couple days is a fair and thorough hearing so that I as well as other family members of the fallen miners, may learn the real truth surrounding our loved one's death.

I would like to bring public attention to the issue --- this issue in the hopes that better mine

safety laws can be implemented and enforced so that we do not have to witness a tragedy of this magnitude again, and that no other miner has to give his life or her life to support their families.

Maybe then, and only then will my husband's death and those of his co-workers not be in vain. Thank you.

CHAIR:

Charlotte Weaver, widow of Jackie Weaver.

MS. WEAVER:

As Davitt said, my name is Charlotte Weaver. My son Justin told me today he wanted to read this. And he wanted me to change a couple of things, which I did. And he said, mom, if you get through the first paragraph, you'll be okay. And I agree with him on that.

I've been the wife of Jackie Lynn Weaver for a little over 13 years. A lot of the coal miners have

nicknames they go by. Everyone that worked with my husband called him Jackie, which is his real name. I knew him as Jack, and most of my family, his brothers called him Jack. And Becky and Justin called him dad. And Gavin and Dylan called him granddad.

Jack was a good man, a good Christian, a good husband, a good dad, and a hunting and fishing buddy for Justin and Junior Hamner. And now Justin, who's 12 years old, tells me he wants to be a mine rescue worker so he can help save people so nobody has to go through what we've been through. And I've explained to him that being a mine rescue worker, you don't always get to save the guys that are there, and he understands that.

Jack was my best friend. He was the answer to my prayer many years ago, and he's the love of my life and always will be. He loved his family. He loved the outdoors. He loved to hunt and fish. He was a good

and experienced coal miner. So when I hear comments about not being well-trained, I know there was no one on that Two-Left crew that was not well-trained. And I knew he would have done everything that he possibly could have in order to return home to us that evening.

My family and I would like to thank Governor Manchin and his staff for their support that they've given us since January 2nd, the date of the explosion. We also want to thank Davitt McAteer, Celeste and Debbie for being so helpful and considerate and providing us information and answers leading up to this point in the hearings today. We're also very grateful to Randal McCloy for the letter to the families to let us know some of the things that were going on underground that day.

I know in my heart all of these men went to heaven to gather, and they're watching over us now.

I want to especially thank Jeff Toler, Owen Jones, Dick Wilfong, Vernon Hofer and Al Schoonover for their efforts in trying to reach our men on the Two Left crew. They were so close, yet so far away. Also, thank you to the mine rescue crews that came to the scene and were prepared to put their lives on the line in order to save our loved ones. I believe that 98 to 100 percent of these mine rescue workers would have risked their lives and gone into the mines to get our family members out of there if they had been given permission to do so.

It is unacceptable to me and my family, and I'm sure many others that the rescuers were not allowed to enter the mine and do their jobs. To me, this is like calling out the fire department and having them respond to a house fire, and then standing and watching the house burn knowing there are people inside of the house.

Something needs changed.

If there's some kind of book or manual to go by for rescuers to go by, or for rescue operations to go by, that book needs to be put in the trash and start over. This system does not work.
We know that our men were underground taking turns ---. We know that our men were underground taking turns beating on the roof bolts so someone on the surface would hear them and know their location, but guess what, nobody was listening. Again, the powers that be failed them. Our men were sent underground with one-hour's worth of oxygen, or air, and they were in there for over 40 hours.
I do not believe that my husband gave his life in order for changes to be made in the mining industry. I don't think he had a choice in that matter. Nobody asked him. I do know that if the occasion ever arose and he was in a situation where he would have to lay his life on the line for his fellow men, he would

do it in a heartbeat.
I do think as a result of the deaths of these 12 good men, the very least we can do is to see that proper safety measures are taken so that no other family member has to endure what we have endured and will continue to endure for the rest of our lives.
CHAIR:
And last we'll hear from Ann Meredith, daughter of James Bennett.
MS. MEREDITH:
The first thing that I would like to read today and to let everybody know, the note that my dad left for my family. It says, Lily, I love you. If someone finds this, please give this to my wife. I love you. We have air right now, but the smoke is bad. Tell my mother I love her and my kids, love daddy. And he wrote that at 11:40 a.m.
At 3:07, the air is bad.

I don't know how long we can last. Call for 457-4412, Jim Bennett. At 4:22 p.m. he wrote time is running out for us. We have not heard anything from the outside yet. And the last thing that he wrote was at 4:25 p.m. I love you. And he tried to write my name but could not finish.
My name is Ann Bennett-Meredith, and I am the daughter of the late Jim Bennett, who was one of the 12 that perished in the Sago Mine accident. My dad was going to retire this past April in 2006, but he never got the chance to.
He and my mom was going to do some traveling and grow older gracefully together. He was going to get to enjoy spending time with his seven grandchildren and two great grandchildren. Now the chance of that ever happening is gone, not only for my dad, but also for his grandchildren.
Dad had a huge smile and a handshake for all he met. He had a

great love for his wife and children and also for the Lord as well. I could call upon my dad for advice or for a shoulder to cry on, but now my dad is gone, and who do I call?
Daddy was a good Christian man and very active in his church. He was the assistant Sunday school superintendent and would also hold some devotional services as well.
It's hard for me to walk into our church and not find my dad standing at the door and greeting folks as they would come in with a smile and a handshake.
When my husband and children and myself would walk through the door, dad knew he was going to get a big hug from me. He would say I'm glad to see you this morning Sis. And when he yelled after church, do ya'll want to come down to the house and watch a movie and spend the afternoon with your mom and me?
We had our family

traditions, and just to mention a couple. We would have the annual family wiener roast in August and making homemade ice cream on Christmas Eve. But now our family traditions are minus one last person now. That's my dad. And it's just not fair.

I never got the chance to see my dad at church on Sunday before he died. I had the flu and wasn't able to make it, so therefore I lost a chance to get to spend that last day with my father. After church he called to see how I was doing. And the last words that I got to hear my dad say to me was, is Sis sick? And guess where I took your mom and grandma to lunch after church. Well, let me tell you where I took them. He said, I took them to Burger King. And he began to munch chili cheese fries in my ear. And he said, oh, yeah, and by the way, you need to eat some chicken noodle soup.

The very last words my

dad said to me was, Sissy, you know daddy loves you. I never dreamed in a million years those would be the last words that I would ever hear my dad say to me.

I kept thinking for my dad to walk through the doors just any time as if we were playing hide and go seek like we did when I was a little girl. Daddy really enjoyed life. I remember one time when the Hecht's Department Store was still in business, my dad was telling jokes as we were walking into the store through the doors and his false teeth fell out on the floor, and they started scooting across the floor. My dad did a belly flopper on the floor and went chasing after his teeth. They went under the ladies clothing rack, and he dives right underneath and gets them. And he looks up at the lady looking through the clothes, and he says, excuse me, ma'am, I lost my teeth. He spits on them and wipes them off and then puts

them back in his mouth and just goes on like nothing ever happened.

Good times like that will always be in my heart, but my dad should also still be here with us having more of those good times. When we were told that the miners were found alive and would be coming over to the church with their loved ones, I went up the road --- I went up that road to see and be as close to the opening of that mine when they brought them men out, because I knew my dad would be coming out of there. And I knew the final words I would --- or the first words he would say, would be praise the Lord, we're all out alive.

But I was heartbroken once again and never got to hear my dad say those words. When my husband and I arrived at the Sago Baptist Church that morning of the accident, I was going there to face my fears, but instead got nothing but one big nightmare. You don't realize just how hard it was to

have to go back and tell our five children that grandpa won't be coming home, grandpa is in heaven now.

And I don't think you all has realized just what was harder, having our loved ones jerked away from us again, after being told they were alive and then being told later we had a minor miscommunication, or having to tell our five children.

You know, it was actually a pretty close race there. I miss my dad very much and he will be greatly missed by family and friends alike. And the reason that I'm here today is to get some answers to some of the questions that I have. For example, what caused --- what really caused the explosion, and why did it take so long for the rescue crews to be called? And where are the notes from the pre-shift examination that Fred Jamison said that he had done?

And I also want to make sure that this doesn't happen again,

that no other families have to experience the pain and the heartache of losing good loved ones to a mining accident, like us 12 families have endured.

And at this time, I have something I want you guys to hear. It's a song. And it means a lot to me because it captures some of the confusion, the heartache, the anger and a tremendous loss that I and these other families have had to experience.

SONG PLAYED

CHAIR:

Thank you. We'll take a break and set up for the next panel. Thank you.

SHORT BREAK TAKEN

CHAIR:

The panel we're going to hear from now is the MSHA and the West Virginia Miners' Health, Safety & Training group, on the activities prior to January 2nd. And we're going to try to ask you to ask questions of this

panel on that topic, prior to January 2nd. But first, let me ask Miranda Elkins, the court reporter, to swear the panel in, please. If you all would stand.

WITNESSES SWORN EN MASSE

CHAIR:

The procedure calls for Kevin Stricklin, the district manager for MSHA, to make a presentation, followed by Brian Mills, the inspector at large for West Virginia, will make a presentation. And they --- we will then ask questions. Kevin.

MR. STRICKLIN:

Thank you, John. My name is Kevin Stricklin. I'm the district manager in Morgantown, West Virginia for the MSHA District Three office. I'm a mining engineer. I've been with MSHA 25 years. In my time with MSHA I've been involved in a large number of mine emergencies, both explosions and

mine fires. I've done everything from monitor the gases at the mine site, to be part of the investigation teams, to be part of internal reviews, as well as being the senior MSHA official on site.

I don't want to disrespect any family member by saying I know the pain you're going through, because I don't. I'm still alive here. I understand that. But what I can tell you is, it's changed my life, and it's changed the life of everybody that works within MSHA and my district, and I think it's changed the mining industry.

I think coal miners are bonded, and I want to let you know that the date of the accident, when we were at the site, there were many good things said about your relatives that died there. Not only from mine management, but from my inspectors who worked with your folks, worked with your brothers, and who had a lot of

admiration for what they did. So what happened here, I can't say, and I don't want to disrespect you by saying I know what you're going through, because I don't. But I can say that there's very few moments in my life that I don't think back in time and think about the 12 miners that died at Sago.

What I'd like to do during this presentation is just go through MSHA's enforcement actions and comply to assistant actions at the mine.

A little background on Sago. Sago began operation in 1999, and the mine changed ownerships from BJM Coal Company to Anker and was recently acquired by ICG in 2005. The mine was idle for an extended period of time between September 2003 and December 2004. Our first initial meeting with ICG was in May of 2005, and it was a meeting that ICG requested of MSHA. ICG was taking over Anker properties, and they asked for a

meeting with not only me, but the supervisors within the district to discuss all of ICG properties, wanting to know our honest opinion of each of the mines, what the conditions were at the mine and some of the things that they felt they wanted to address in the future.

Our major concerns at that time was the accumulation of water, and the roof conditions in the mine. And we expressed that pretty openly with the mine, the mine folks that came in to meet with us on that day. I believe that first meeting was May the 2nd of 2005.

Some of the information that we're going to talk about today deals with this mine map, and I know some of you are very intimate with the mine map, but I just want to show a picture of it and show you some of the areas that we're going to talk about. The mine portal or where the men would enter the mine. The One North sealed

area, which is a larger sealed area than what we have in the Two North main sealed area. The One Left section, the Two Left section, and again the Two North main seals. You may hear some of the people talking today about the old Two Left seals. That's synonymous with the Two North main seals.

And in yellow, it shows the highlighted area where the mine had been developed to when ICG took over operation of the mine. This is a pretty busy chart here, but basically it kind of tells a little bit of a story of our enforcement activities at the mine. There's three different colors that's shown. The bottom one that you may see in green is the national total incident rate. And what that is, it's an average of all the different mines in the United States and what the incident --- or injury rate is for the national average.

In pink above that is the Sago Mine total incident rate. Above

that in blue is the enforcement action that MSHA, District Three took into effect or used at the Sago Mine. As you can see, our numbers --- and it typically is the way we do our business here in District Three, we monitor trends, we look to see if accidents and injuries are occurring, and we basically use our enforcement as a tool to try to decrease the number of accidents and injuries as well as decrease the hazards that we see associated with the mines.

You can see in the second quarter of 2005, the accident --- or the injury rate rose, as did the number of violations that we issued. And our violation total increased. And as you can see in the last quarter of 2005, our numbers began to decrease. And it also falls in line with the incident rate that also began to increase.

This shows the primary enforcement action that we took as an

agency at the Sago Mine. You can see the second quarter of 2005 our violation totals increased, and it increased a little bit higher, about 25 more violations were issued in the third quarter of 2005, and then it decreased. There's three different types of violations shown on this chart. One --- and the majority of them are in blue. It's 104(a) citation. The second one is a 104(d) order, in which it's a stronger enforcement action, and it basically would shut down an affected area of the mine until the miner operator corrected the conditions, and then the violation would be terminated. And the third is a 104(b) order, and there was only one of those issued where a mine operator did not take corrective action in the required amount of time, and a (b) order was issued, shutting down that area.

One of the questions that we've been asked in the past, and I

think this might be a good time to address it, is why didn't you shut down the mine for good? Well, we don't have the authority to totally shut a mine down. What we have the authority to do is shut down the affected area of a violation that existed until the mine operator would correct that condition. And we issued 18 orders, and that's a pretty good, strong enforcement. And each time the mine operator did correct that condition, and we terminated that order, allowing them to go back to mining coal.

Besides our enforcement activities at the mine, we also tried to meet and use different areas of MSHA to assist the mine operator in making the mine a safer place. We had five top level meetings. And by top level meetings, I mean myself and the vice president of operation of ICG attending together. So while we were enforcing the law and will continue to enforce the law, we also wanted to have

meetings --- have an open dialogue. I think we gave the mine operator an opportunity to tell us some of his concerns and vice versa. We talked to them some of our concerns.

We made 18 supervisory visits to the mine. Two people down from me is Ken Tenney. Ken is the field office supervisor in the Bridgeport field office. We made a number of mine visits here with supervisory people, we just didn't send enforcement inspectors to the mine. I, myself, visited the mine, as did both my assisting district managers during the timeframe that ICG took over.

So the point I want to make is, we were engaged at the mine. We were looking at numbers, we were talking with mine management, and we were working to try to come up with solutions to make this a safer mine.

In addition, technical support had been working at the ICG properties to reduce injuries and

illnesses. That was something that was requested at our first meeting in May. To utilize tech support to come in and look at the injuries and accidents that were occurring there, and how they could be better reduced. The technical support people talked not only to mine management, but they made a point of talking to all the miners that worked at the mine.

In addition, toward the middle of December we had a meeting with ICG, and one of our concerns was the examination process that was taking place at the mine. And we had issued a number of violations and orders on the examination. And we offered a class on examinations so hazardous conditions could be observed and recorded in a book. And ICG was receptive to that idea, and unfortunately we didn't get to actually put that in place before the explosion occurred. But it was another tool that we were using besides enforcement to try to increase the

safety at the Sago Mine.

What do we think that we got out of working with ICG? Well, I do think the mine, as you can see by our number trends did seem to be improving in the fourth quarter of 2005. There were less violations that were issued. It wasn't a perfect mine, but we were working to try to make it a better mine than what it was. We saw a better system in place to remove water, which was one of our big concerns. And we had a screened route of the primary escapeway, the track and the belt. And what that did was help hold up the roof better, help kept it from sloping off into the walkways, allowing people to have a better chance of getting out of the mine if that primary escapeway was needed.

In addition, we saw better rock dusting applications. One of the things I want to mention, and it doesn't bring back the 12 miners that died. But one of the things that was

done here was, 1,000 pounds of rock dust being put in front of each of the seals at the Two North main seals. We think that had a large effect on allowing the people that was at the One Left switch to be able to evacuate from the mine.

I mentioned earlier, I've been associated with a number of explosions in the past. Some of them traveled the whole way out of the mine, the whole way out of the portals and blow buildings off the sides of a hillside. We didn't have that here. We had the ability for 12 miners who were at the One Left switch to come out of the mine. That doesn't bring back the 12 that died, but that did allow the 12 miners that were there to come out of the mine.

And the other thing we were working on were better mine examinations. We really --- examinations are your first tool that you should use to make for a safe

working environment. A good examination and a good recording of those examinations allows a lot of mistakes to be corrected before miners would get into the area.

And ICG was willing to work toward better examinations. I think this is an appropriate time to mention our relationship with the State of West Virginia. We have a really good working relationship with the state inspectors, and that's --- because I think their heart and our heart is both in the same place, and that's to try to protect the miners. There were times when our inspectors would not be at the mine. We had other things going on, that we would make a phone call to the State of West Virginia, and they did the same thing with us, just say, hey, we're not going to be at the mines for a few days, could you have one of your state inspectors go over to the mine, just so we have some coverage of the mine.

And I want to compliment the State of West Virginia on the way that we work together. With that, Davitt, I'll turn it back to you.

CHAIR:

All right. Thank you, Kevin. Next we'll hear from Brian Mills, who's the inspector at large for the West Virginia Miners' Health, Safety & Training. Brian.

MR. MILLS:

Mr. Chairman, panel members, Sago Mine families and other guests. I'm Brian Mills, inspector at large, Region I of the West Virginia Office of Miners' Health, Safety & Training. With me are John Collins, district inspector, John Scott, electrical inspector, and Doug Conaway, former director.

CHAIR:

Brian, can you speak closer into the mic, please?

MR. MILLS:

Better? The Region I

offices, which is located in Fairmont is responsible for mining activity and are assigned 32 counties, this includes Upshur County, which Sago Mine is located.

Mining in our region alone consists of 45 underground mines, 56 surface mines, 19 low NOx preparation plants and 41 underground and surface boards. Our office staff consists of nine underground inspectors, three surface inspectors, three electrical inspectors, three safety instructors, one roof control inspector, two office assistants, one assistant inspector at large and myself.

The West Virginia Office of Miners' Health, Safety & Training's purpose is supervisor of the execution and enforcement of the provisions of West Virginia code, Chapter 22(a), which deals with mining to see that the provisions are carried out.

Our office is to give

prime consideration to protection of the safety and health of the persons employed within or at the mines of this state and to protect and preserve property and connecting properties. Chapter 22(a) of the West Virginia code requires that each underground mine be inspected four times annually. Surface mines, preparation, plants and quarries are to be inspected twice annually. Once a year an electrical inspection is to be made of each mine. Other inspections that we conduct are those dealing with independent contractors, shackle/slope operations, roof control and accident investigations. We also devote time to safety training, testing and certification. I'll now focus my comments on our activities at the Anker West Virginia Mining Company, Sago Mine, during 2005. Four regular inspections were conducted in 2005. The first regular inspection concluded

on March the 2nd, 21 notices of violations were issued during 11 inspection shifts. The second regular inspection was concluded on April 22nd, 36 violations were issued during ten inspection shifts. The third regular inspection was concluded on August 26th with 50 violations issued during 16 inspection shifts. The fourth regular inspection was conducted on November the 2nd with 23 notices and violations issued during ten inspection shifts. A total of four inspections --- for the total of these four inspections, 130 violations were issued during 47 inspector shifts. The annual electrical inspection was concluded on March the 17th of 2005 with three violations being issued during five inspection shifts. Also, during 2005, 19 inspection reports were completed for accident investigations at the Sago Mine. These investigations were roof falls and injury-type accidents. Our

records show that of the 41 accident injury reports submitted by Anker West Virginia for the Sago Mine, 21 were roof falls and 20 were injury-type accidents. Our roof control inspector submitted six inspection reports. Three were roof control-type inspections and three were roof fall inspections. One inspection report is also completed as part of an investigation into a complaint. Four inspection reports were also completed by safety instructors of such activities at the Sago Mine. Our records show that from 2005, a total of 95 inspection shifts were dedicated to the mine.

UNIDENTIFIED SPEAKER:

Davitt, I can't understand him. I can't hear him.

MR. MILLS:

Also, during 2005 ---.

CHAIR:

I'm sorry, if you could

try to --- we're having trouble on this side hearing you. So stay right on that mic.

MR. MILLS:

Also during 2005 five inspection reports were completed showing inspection of GMS mine repair and maintenance and independent contractor performing work at the Sago Mine. And I would like to discuss the roof control plan for the Sago Mine, submitted revisions and established testing areas. A review of the roof control plan for each mine is to be made at least every six months by an authorized representative. This review takes into consideration any falls of roof, face and ribs and the adequacy of support systems used at the mine. Our records also show that this type of roof review was conducted four times in 2005. Submittals for a revision to the roof control plan are forwarded

to our office in a variety of ways. Either by e-mail, mail hard copies and delivered copies or by telefax. The conversation or discussion with the representatives of the operator usually occurs if there are questions or clarifications needed of the submittals. Usually a review of the request for revision is made with the roof control inspector, the district inspector and MSHA roof control personnel before such submittals are approved.

During 2005 approval was granted for ten such submittals by Anker West Virginia for the Sago Mine. These ten approvals were either for revisions to the plant or to establish test areas for lower bench mining. Submittals for a revision to the mine ventilation plan usually followed the same procedure as with the roof control plan, as far as submittal, review and approval. However, with the ventilation plan revisions, the

district inspector and the MSHA mine ventilation personnel are contacted.

A revised up-to-date ventilation for the Sago Mine was approved on February 22nd, 2005. After this date, seven revisions to the plan were approved. One of these revisions, on October 14th, 2005, was the approval issued to add Omega block type seals to their plan. The sealing plan for the old Two Left mains was approved on October 18th, 2005.

In the fall of 2003 Anker West Virginia Mining Company submitted to our office to change the name of the mine from Spruce Number Two Mine to the Sago Mine. The name change was approved and issued on November the 12th, 2003.

Included in this submittal was one for the name change at the mines was a mine emergency evacuation of firefighting program of instruction and a letter stating that mine rescue coverage at the mines would

be provided by Barbour County Mine Rescue Association.

I would like to introduce John Collins, district inspector, and John Scott for further comments.

MR. COLLINS:

Hello. I'm John Collins. I'm a district inspector with the West Virginia Office of Miners' Health, Safety & Training. I've been employed by the state for 24 years. I live in Buckhannon. And I was --- I'm the inspector that was assigned to inspect the Sago Mine.

I inspected it for nine months prior to the explosion, but I hadn't inspected the mine prior to that, and also Spruce Fork. Of the 12 miners, 10 of these miners I knew very well.

I was assigned the Sago Mine on April the 1st, 2005. Mr. Jeff Bennett has conducted the first regular inspection for 2005, so my first inspection I made there this year would

have been the second regular.

As Mr. Mills mentioned, I issued 36 violations during 10 days of inspection. The mine was basically a one section coal mine then with the Two Right section just attempting to start. And for those of you that know the history of the mine, that section failed to make it and was stopped.

I conducted the third regular inspection and issued 50 violations there in 16 days of inspection, and in my opinion, this was a rough inspection, and the mine was not being properly maintained. However, halfway through this inspection Anker West Virginia changed the management of the mine foreman and superintendent and hired some new safety people, and in my opinion, the mine started turning around.

My fourth regular inspection, I issued 23 violations during 10 days, which definitely shows a decline. I also investigated three

serious accidents during 2005 at the Sago Mine. Daniel Westfall (phonetic) on January the 18th, 2005 was struck by a piece of falling roof. I investigated a serious accident of a Mr. Ralph Mitchell on August the 10th, 2005. He was struck with a piece of falling roof. And I investigated an accident of Charles Bunigi (phonetic) on November the 7th, 2005, who was struck with a rib roll.

All three of these accidents were very serious, and only Daniel Westfall returned back to work. I also conducted inspections of other --- two less reported accidents, roof falls reported and check inspections. A total of 144 violations was issued at the mine during the year 2005, 116 of those was issued by me.

I worked a total of 52 inspection days during 2005 at the Sago Mine. The violation rate --- our inspection day of 2.12 for me. The dates of the inspections, the type of

inspections conducted and the area traveled are listed on an attachment that I'll submit to the committee. Four violations had not yet been abated on January the 2nd, 2006.

Three were located in the intake escapeway, which had been corrected, but I had not abated, because I had not been back to the area to examine them. In the meantime, MSHA had issued a control order, an order on the intake escapeway, and Anker had changed it to a different entry and screened it. So I knew it had been abated, but I had not been back to the mine to abate those.

The other non-abated violation was on the First Left section for the track not being maintained close enough to the face. The last day that I was in the mine, which was December the 9th when I checked the seals, I also went to the First Left to abate the violation on the track, and it wasn't installed close enough. They

had provided a battery paragraph, but I did not abate the violation.

The mine finished the year with a state frequency rate of 9.75, based on 200,000 man hours worked, which is higher than the state average for 2005 of 4.21 for 2005, that had reduced from 17.28 in the year 2004. So even though we were still high, the company was high, they had cut that in half over the last year.

Again, I've been the inspector there for the last three quarters, and --- thank you very much.

CHAIR:

Thank you, John. Are there any other statements? If not, we have an opportunity now to ask questions. Let me start with Ray McKinney from MSHA.

QUESTIONS OF PANEL

MR. MCKINNEY:

Thank you, Davitt. Mr. Tenney, there's been some discussion about a roof drilled hole that was

bored into the mine roof and was liberating methane, some process that was addressed to take care of that. Is that something that's addressed in the roof control plan?

MR. TENNEY:

The drilling of test holes into the mine roofs are required by the roof control plan, and this coal seam is a methane liberating coal seam in some areas in the coal mines. And the roof and the floor, both are occasionally porous, and some of the methane liberates into the rock strata. And occasionally when we drill into it, we do encounter methane. It's unusual, but not rare. Typically, we encourage the roof bolter operator to just put an extra stick of glue in the hole as they install the roof bolt. This forces the glue out into the porous area and seals the methane from being liberated in the coal mines. Typically, it's a pretty high percentage of methane, but it's a real

low volume. So the threat's very small. And it's still better just to see what back off though.
MR. MCKINNEY:
Thank you.
CHAIR:
Any questions?
MR. CLAIR:
Mr. Tenney, there's been a lot of discussion about the construction of the Omega block seals. Could you tell us about the plan for the construction and if any of your inspectors had any opportunity to either see or inspect the actual construction of the seals?
MR. TENNEY:
Yes. The Omega block seals are an alternate type of seals that's approved by the district manager. The company put a plan together and gave it to the district manager for approval, and it was approved. As far as the inspection of the seals go, I had an inspector, who

had a trainee with him, that was at the seal construction area. And they had four seals completed and was building the fifth seal.
He used the opportunity to do two things. Number one, to train the trainee that was with him as to the seal construction requirements and to review the process. The seal plan is incorporated in the ventilation plan, which he had with him. He took that ventilation plan, the seal part of it, and discussed with the crew that was building the seals, he opened the ventilation plan up and reviewed it both with the crew that was building the seals and with the trainee inspector as a training aid.
At that time, he's testified that they were following the plan at a snapshot a time, what he could see. What he could see when he was there was a seal that was half constructed. They had one layer exposed. He reviewed the plan with the

workers, then he observed them start to lay another block, and the joints didn't offset far enough to suit him, so he pointed it out to the workers, and they actually cut a block with the saw, moved it over, offset the joints like they were supposed to, and everything seemed to be kosher.
He looked at the four completed seals, and when you look at a completed seal, the only thing you can --- the only thing you can see is a wall. It's plastered, it's covered. Those seals appeared to be effectively sealed.
And after that period of time, after the seals were complete, I had another journeyman/inspector, the inspector's been inspecting coal mines for 20-plus years. He looked at the finished product, but there, again, you're looking at just --- it's just a wall. And he did say that those seals appeared to be properly sealed to

separate the air currents from the two sides.
He also commented that the area around there was rock dusted better than any set of seals he had ever seen. The company had put bags of rock dust in front of them, and you know, I really believe that's the reason that the explosion did not propagate any further than there, was the efforts that was made there for the rock dusting after the fact.
MR. MCKINNEY:
Mr. Tenney, what type of training is required for the miners or the contractors that build or erect seals?
MR. TENNEY:
The training of the construction of the seals, that's the responsibility of the mine operator. He has to develop the plan --- there's two types of training. There's a plan --- there's a training for the annual refresher-type training where they

cover the ventilation plan, roof control plan and all the numerous other plans. But in this instance there's also a task training that the mine operator's required to give very specific instructions as to the construction of the seals. And this was done by the mine operator totally.

MR. MCKINNEY:

Thank you.

MR. DEAN:

I had a question for Kevin Stricklin. I know you presented a total incident rate in the second quarter of 2005. It was about 55. What's your explanation for that? And I guess, did you look at the number of man hours worked during that quarter? Was there a low man hours worked, or was it a regular trend?

MR. STRICKLIN:

Well, in smaller mines, sometimes one accident will cause your incident rate to go higher. In this case, the hours seem to be pretty

consistent, and there was a couple, as I heard John Collins mention earlier, a couple of group accidents, as well as slips, trips and falls, and that was a concern of ours with the amount of water that we saw in the mine. So we felt that was the reason for the increase in accidents at the mine.

MR. DEAN:

One other question.

John, I know you've been interviewed, John Collins, and talked about your inspection of the seals, but perhaps you can describe that for us a little here today?

MR. COLLINS:

Okay. I was notified by the office to check the seals that had been installed across the Two Northeast mains, that the operator had completed those to a point where we could look at them, because we have to go behind them. So on December the 9th, I met Kenny Tenney, the MSHA supervisor at the mine, and we talked to another

individual about an accident that I was investigating, and Kenny was helping another federal man investigate. So I had quite a bit to do that day, so we got in the mine real early, and I was accompanied by Marty Conrad, who is an employee of Anker West Virginia Mining Company. He was a mine foreman, I think, at Spruce Fork. And when it shut down, he came over and was working at the Sago Mine, and had been working on the seals.

So we traveled to the end of Four track, went through a man door and went over up to the seals and started checking the front of the seals, went to the Number Nine entry, which is the Number Ten seal. The Number Ten seal was constructed up to about where the --- chest height or so. I can remember, because I had to bounce up on it to roll across. It was 40 inches thick. It was not completed, because we had to look at the back side. There was a 20 feet of two-inch

pipe that had been installed through the seal, and another 20-foot section was lying on the ground there to be connected to that. The first joint was --- had been supported by cribs. What this is for is for a gas pipe, which would be installed later on so that if you were ever going to breach the seals, you would check behind that before you breached the seals.

Our law does not require that that valve be opened or that you check or monitor behind those seals. The two cribs that's required inby the seals by the requirements of the director were installed. We crossed over, turned left through the crosscut toward the Number Nine seal and the Number Eight entry. I observed that the roof screen had been cut away at all ten seals. I observed that the seals to have been mortared adequately.

I came down behind the seals, and there had been Omega block stoppings built across --- behind each

one of those prior, because the mains was ventilated by inducting air on the left-hand side, crossing the waters edge and on Two Left and coming back down the right-hand side return. So once these seals were completed, these stoppings were no longer needed. And one of our requirements is that they remove the inby line of stoppings so that if we ever decide to breach those seals, our sample will give us a true sample of what's behind those seals.

Some of those stoppings only had a hole in them. And while I was checking the seals, I would ask Marty to knock a few of those Omega blocks, which wasn't a big task, and he did that. We traveled all the way across. There was one seal, either in the Four or Five entry that did not have both cribs. One of them was built and one of them was partially built. I asked Marty --- there was cribs in there, and I asked Marty to be sure and complete that.

We traveled on across to where the seals turned inby one break, and we had to go up to a man door to go through. I told Marty to be sure and take that stopping out once the seals were completed. We came back down to the Number One seal. There was a water trap in that seal, and it was also approximately not quite chest high. I stepped up --- I got up on it and sat down, and Marty and I sat there and actually ate a package of crackers, and we talked about the water trap, and to make sure that he would put something over the inby side so that one of the cribs that was laying on the ground would not float away.

I then came back across the front of the seals, which some of the cribs had not been completed. The front of them had been mortared and the seals appeared to have been built in accordance with the approved plan at the approved location.

I did ask them to perform some housekeeping outby the seals, because there was a lot of extra blocks, and such. Paper bags. And I mentioned to Marty that, you know, someone would be coming looking at these seals forever. The ventilated change had not been completed yet. So when I got outside, I issued a check inspection cover sheet, giving the company permission to close the seals.

CHAIR:

Thank you, John. And if I might ask a follow-up question on that. Would you say that your recommendation to them was to --- that all of the screening had been pulled back and that the piping, the 30-foot length pipes had been installed in the seals, or did you suggest that?

MR. COLLINS:

No, I'm sorry. One of our requirements, requirements by the director for sealing is that 40 feet of pipe be installed in a seal with

actually a quarter inch copper pipe put on the inside. Anker used a half-inch, but I felt that was adequate. There was 20 feet of that pipe, which had already been installed through the seal, and about a foot of it was extending out on the outby side.

That section of pipe was also supported by cribs inby the seal. The other jointed pipe, which would make it 40 feet, was lying on the mine floor inby the seals. Before the seals would have been closed, this half-inch pipe would have been installed inside this 40-inch pipe, then the seal would be closed. Forty (40) foot pipe.

During the investigation it was clear that that did occur. Both joints of pipe were there and a half-inch pipe was inside.

CHAIR:

After the explosion and during the investigation following the explosion, where had those pipes been

joined, or were they found together or separated?
MR. COLLINS:
They were found separated. There was testimony that -- - this is just a protective pipe. The outer pipe is just a protective pipe. And there was testimony that as they attempted to twist those together, they didn't have a wrench or anything, and that just a few threads was used. That was testimony, of course, I was not there, but it appeared they were put together.
CHAIR:
And John, as to what the wire mesh for the screen, had you made a recommendation with regard to separating that ---?
MR. COLLINS:
No. I made an observation that they had. There's no metal, other than our required pipe passes through a seal. We take the track out to take the belt out. We

take the roof screen. And I seen no roof screen that continued through the seal. There was two or three of them that had been cut, and the roof screen was poured down inby, and as I crawled between the seal and cribs that were built, that screen was aggravating. Of course, you know the position I know, that the seals were built from the outby side, so it probably didn't cause them as much trouble as it did me. But there was no screen passing through a set of seals.
CHAIR:
Now, if I can read this question. How many occasions prior to the Sago Mine explosion have Omega blocks been used to seal closed areas of mines, any mines, not just Sago? And I direct that to Kevin and to Brian, please?
MR. STRICKLIN:
Davitt, I can't speak nationally. I know they're used throughout the country. In my

particular district, I think I have five areas that have been sealed off with Omega blocks that are in place today.
CHAIR:
Brian?
MR. MILLS:
Davitt, I recollect three mines.
CHAIR:
Three mines?
MR. MILLS:
Yes. Maybe more, but three for sure that I know of.
CHAIR:
And another question, should mine inspectors be re-assigned periodically to different mines to avoid a wetting system developing between mine inspectors and mine operators, why or why not? And I direct that to Mr. Stricklin and to Mr. Mills again.
MR. STRICKLIN:
We do do that, Davitt. We

typically rotate inspectors to different mines. I think the rule of thumb --- there's regulations that say how often you can do it, but in the Bridgeport field office, the rule of thumb, I believe that Ken uses is two quarters, then you move to another mine.
CHAIR:
Mr. Mills, if you can answer that, please?
MR. MILLS:
Okay. Our situation is probably a little bit different. Our inspectors leave their homes and go to their mines. We've got a region that's 32 counties, so the inspectors that live in the Wheeling area will basically inspect the area mines in the Wheeling area instead of driving two hours to get to a mine in the Upshur County. We do, though, try to rotate the local inspectors from mine to mine in normally a year max period.
CHAIR:

Okay. And a question for Mr. Stricklin. What system do you have in place to identify mines where problems or high numbers of violations are occurring?

MR. STRICKLIN:

I'm not sure I know what you mean by what system. And I know someone handed you that question, so it's going to be hard for you to answer that for me. But we basically monitor violations weekly in MSHA. We see how many violations we have issued in a mine, and we accumulate that total through the quarter.

And at that time, we basically decide what type of additional manpower or additional response we need to put to that place.

In other words, at Sago I mentioned that one of our major concerns was roof control. We focused some of our roof control specialists to assist in the inspection at that mine. In addition, when we saw our numbers increasing, or

when Ken saw his numbers increasing, that was the time that we would sit down with the mine operator and tell them we're having a problem here, we need to try to work through this and get these numbers going in the other direction.

CHAIR:

Again, for Mr. Stricklin.

That five top level meeting that took place with ICG management, could you describe who was there, and are there notes on the record of those meetings?

MR. STRICKLIN:

I'm sure there are notes.

In fact, I know on the internet there's information available about my schedule showing what the reason for the meetings were. The first meeting was held in May of 2005, the second meeting was held in August of 2005 at Anker's property, the second meeting was. The third and fourth meetings in October and November were in my office in Morgantown. And the last meeting, I

believe it was December 15th was at the Anker office in Buckhannon.

And there were --- at least two of those meetings Anker had each of their superintendents and their safety directors at the mines. And at each of the meetings that I had, I had my assistant district managers as well as the field office supervisors out of Bridgeport who had authority at the mines.

MR. CLAIR:

Excuse me, Davitt. I have one more question about the Omega seals.

CHAIR:

We got a question on the seals.

MR. CLAIR:

This question is for Mr. Stricklin and Mr. Mills. Were the ribs at the locations for the Omega block where the seals were built, were those ribs chipped out instead of inside of the rib lining?

MR. MILLS:

No. These were non-hitched. The approval for non-hitched 40-inch thick seals.

MR. CLAIR:

I'm sorry, could you repeat your first answer?

MR. MILLS:

I said, the approval for this type of seal to be added to the plan was for non-hitched Omega block seals.

MR. CLAIR:

Were the blocks mortared between the joints, or were they just stacked and plastered?

MR. STRICKLIN:

The plan required them to be mortared between the joints.

MR. DEAN:

I think the question is were they?

MR. STRICKLIN:

I would have to refer that one to the investigation team to

make --- to give us that information as far as what they found underground.
MR. MCKINNEY:
The question may go to Mr. Collins when he observed the seals being built. Could you tell us if the blocks were being mortared?
MR. COLLINS:
I'm sorry, you misunderstood that. But I never observed them building the seals. Two through Nine were sealed --- were completed and plastered the mine inby roof to bottom. One and Ten were up about chest high, and they had mortar across the 40-inch part that you slid across, it was dry. I noticed, because I never got it on my clothes.
You couldn't see the joints a lot, but I have been in on a lot of testimony, and I think there's a lot of testimony that a lot of the joints were mortared, but there's some testimony that some of those joints may be questionable. I can't recall who

did that, but I'm sure that's available on the internet.
MR. DEAN:
I have one here. Is there any history of Omega blocks failing in other parts of the country? And this particular question comes from the audience that there was a fire at Drummond Shoal Creek Mine because of failure of Omega blocks, and a problem with their blocks. And the question goes, there was nothing left of them at Sago, shouldn't MSHA revisit this issue? And I don't know who on the panel to ask that.
MR. STRICKLIN:
I know of an explosion at the Shoal Creek Mine in Alabama. I do not know if they were using Omega block or not, but I think our agency is looking at the whole testing process to see how these seals are actually tested, whether it's Omega or any other alternate seal.
CHAIR:

I have one other question. And what I would propose, since there seem to be a number of questions, and in order to accommodate the cafeteria staff here, that we, after the next two questions, adjourn for lunch, but then ask the panel to come back so that we can complete the questions after lunch. And if we could return about --- I'd say --- let's say 1:15 to 1:20, that would give us a chance to get this panel back.
The question I have, though, as to the meeting that was scheduled for 12/15/05 at Sago, with ICG training supervisors on how to do examinations weekly and on-shift examinations. Is this an indication of problems with supervisors' training or supervisors' background? Mr. Stricklin?
MR. STRICKLIN:
Could you repeat just the last part of that? I missed the last two words.

CHAIR:
I'm sorry. Does this indicate a problem with supervisory knowledge and/or training related to examinations?
MR. STRICKLIN:
Well, we had issued a number of citations and orders on the examinations at the mine. And we wanted to make clear what we felt needed to be addressed when an examination took place. We discussed what hazards we expected to be recorded in the book and corrected. And we felt that a training of that information, we offered that training to the company, and they agreed to do that with their certified people.
CHAIR:
Any other questions up here? Debbie, do you want to wait until after? So why don't we adjourn now, return at 1:15, please. Thank you.
LUNCH BREAK TAKEN

CHAIR:
During the lunch break, I had some queries from the --- from members of the media. We will try to make people available to the media during the breaks, because the media doesn't want to be out of the room when questions are being asked and so what we'll try to do is to --- for the media, during the breaks, we'll have persons up in the media room, the Governor was there and Cecil Roberts, President of the United Mine Workers, will be in the media room during the next break. And as we go, we'll have people made available to the media, so we can do that.
Now, we're finishing the questions for the Panel. I have been asked to also ask folks to pull that mic up because we're having trouble, a little bit of trouble, hearing.
The next question that I have is --- now, I'm making too much noise. Why did the annual training of

miners on escape and evacuation emphasize barricading more so than other methods of escape. Kevin, if you could try to do that?
MR. STRICKLIN:
Would it be okay for Mr. Tenney to answer that question?
CHAIR:
Certainly.
MR. TENNEY:
Well, if it emphasized barricading more than escaping the coal mines, I'd be very disappointed. The first action of a coal miner, and all coal miners are trained that, is to escape. That's a reason we put the SCSR units on. It's to don the SCSR and exhaust every attempt to exit the coal mines. That's our --- that's the only time we are safe is when we're on the surface. That's the end. The other action is --- you know, that's kind of a last stand. And it is not to be the first or the most predominant action taken.

MR. DEAN:
I had a question from a member here in the audience, and I think the best person to answer that is probably either Brian Mills or John Collins. It's been stated earlier that the violations were cut in half after International Coal Group took over the mine. Can you elaborate on the pre-ICG and post-ICG safety conditions at this mine?
MR. COLLINS:
Yes, it does appear that during the third quarter regular, I issued 50 violations and I was there 16 days. During the fourth quarter regular, I issued 23 violations, but I was only there 10 days. But the mine, in my opinion, had improved during the fourth quarter. And they had purchased new shuttle cars, new continuous miners. The rock dusting had improved. The relationship with this mine foreman was better as far as rock dusting outby, getting things done. We

had a new superintendent that was cooperative. The maintenance department is very cooperative and making an excellent attempt to reduce violations. So during the fourth quarter, my violations were less than the third quarter.
And also a factor that comes into that, I was inspecting at the same time with a Federal inspector, Marty Carver, who is a very good inspector. And of course when you follow him, then you don't find as many violations, particularly I don't think I issued a violation on the belt conveyors during the fourth quarter. But my opinion was that the mine had improved during that fourth quarter.
MR. DEAN:
Thank you.
CHAIR:
Mr. Stricklin, did you ever inspect to see if the electrical system was properly grounded?
MR. STRICKLIN:

That would be something --- that's something that our regular inspector would do as part of his regular inspection at the mine, yes.
CHAIR:
Was it an inspection for the electrical grounding?
MR. STRICKLIN:
I don't know if his notes would specifically say anything about it being grounded, but that's something that he would typically look at during his inspection.
CHAIR:
Could we make inquiry of that inspector to find out if he does have notes to that effect?
MR. STRICKLIN:
Yes. That's something that I'll forward to you when we get that information.
CHAIR:
That's fine. Thank you.
In the area where the explosions occurred --- the explosion occurred

when active mining was done ---?
During the time active mining was done, what was the quality and the quantity of the methane, CH4, of the air in the last open break-through? And the same question as to the other active sessions during the past year? Mr. Stricklin first and then Mr. Mills.
MR. STRICKLIN:
Typically, the concentration that in a review of the notes and in discussion with the MSHA inspectors was about one-tenth in the last open crosscut. There was one time in this last quarter that we found .5 percent methane in the area, but that was because curtains weren't in place to ventilate the face from methane. Even though .5 isn't a concern as far as an explosive limit of gas, it was a concern for us at this mine, because we typically have only one-tenth with our readings.
CHAIR:
Mr. Mills?

MR. MILLS:
I'm going to refer that to John Collins ---
CHAIR:
Okay.
MR. MILLS:
--- a District inspector.
MR. COLLINS:
Well, during the fourth quarter inspection, the fan was increased. And those amounts are available. I don't have them with me, but the fan was increased substantially to increase the air on the section. Normally at this mine, you did not have a problem providing air to the working face or the last open break, maintaining the minimum requirements of the ventilation plan. Methane liberation was a minimal amount in the faces while mining in the upper seam. However, when mining the bottom seam, retreating back, I did notice as much as seven-tenths methane while the continuous miner was in operation. The

mine liberated very little methane in a 24-hour period. I believe somewhere around 100,000 cubic feet of methane in 24 hours.
CHAIR:
Okay. The question is, why is the Federal agency asking questions of Federal officials and visa-versa for the State agency asking questions to the State --- to State employees to other State inspectors? I think it goes to the question of how do we conduct these Federal investigations and State investigations. Mr. Stricklin?
MR. STRICKLIN:
The transcripts I thought that I reviewed indicated that both the State and the Federal both asked questions. And as far as my District personnel in this interview process, I think there were only three or four of our MSHA personnel that were actually interviewed as part of the investigation. But from what I recall,

I believe the State and the MSHA official both asked the MSHA inspector questions.
CHAIR:
I think the question goes to this interview today, to this Panel today, as well as the questions as to the other individuals, or the witness, I'm sorry. The transcripts indicate the interviews. And the question here, I think, goes also to the process today.
MR. STRICKLIN:
I guess I'm unclear on what you're asking as far as who's ---.
UNIDENTIFIED SPEAKER:
Okay. Mr. Chairman, if I may? I think that any one of us here, the people representing the State and us, Ray and myself representing MSHA, feel that we can ask State or Federal employees any question. The overall format is a format that was agreed to between the Governor's Office and the Department of Labor. But certainly, I

personally and I know Mr. McKinney feels no constraint about asking a State employee questions, and I would hope that you and Mr. Dean have no restraint at all in asking any Federal employee a question.
CHAIR:
I think I've actually already done so. I don't have any questions.
UNIDENTIFIED SPEAKER:
The next question is, why did the self-contained self rescuer devices fail the miners in Two Left and were the SCSRs for the Two Left miners tested and weighed every 90 days by mine management? And lastly, when was the last inspection of the SCSRs at Sago prior to January the 2nd? Mr. Stricklin?
MR. STRICKLIN:
I'm going to defer to Mr. Tenney for that one?
MR. TENNEY:
The records indicate that

the SCSRs in question were, in fact, tested in the 90-day increments that they were required to. The exact date I do not know right off the top of my head what it was. The 90-day examination is the actual physical test where you shake --- use an instrument to shake the unit to see that it is still according to manufacturer's recommendation and passes that.
CHAIR:
The next question is what were the volume of area ventilating the seals, first at First Left and at Second Left? Let me repeat that. What were --- or what are the volume of area ventilating the seals in the First Left and Second Left?
MR. STRICKLIN:
I'll try to address it.
There are no seals in the One Left area.
CHAIR:
Right.
MR. STRICKLIN:

But in the Two Left area, I believe the air reading taken after the air had passed the last seal was approximately 8 to 9,000 cfm of air.
CHAIR:
And for Mr. Stricklin, why was the Sago Mine not issued a 104(c) pattern of violations' notice?
MR. STRICKLIN:
Well, we typically look at more than a couple of quarters when we look at a POV. We review that annually. Based on the fact that we saw a decrease in the number of violations in the fourth quarter, we still would have looked at it as one of our criteria's to look at, are the violations continuing to increase. I don't think that Sago at that time would have been considered for a POV based on what we have in place now.
CHAIR:
Any other ---? Any questions?
MS. HAMNER:

We're having difficulty hearing down on this end of the table, so if I ask a question you've already answered or if you've covered that in your speech, I do apologize. I did ask to have a copy of the Brian Mills' speech because I didn't hear any of it at all.
This question is for Kevin Stricklin. When was the last inspection by MSHA of the Sago Mines?
MR. STRICKLIN:
And I guess I'm having the same problem you had, I couldn't pick up your question.
MS. HAMNER:
Thank you. When was the last inspection by MSHA of the Sago Mine?
MR. STRICKLIN:
The last inspection prior to the explosion, I believe was in the last week of December. We had an inspector at the mine site as part of the EO-1 inspection.

MS. HAMNER:
And this was what you called a regular inspection where you did inspect the electrical system?
MR. STRICKLIN:
The electrical inspection would be part of that regular inspection, yes.
MS. HAMNER:
Okay. Can you elaborate on Denver Wilfong's testimony where he says that the 25-foot separation that's supposed to be in the electrical system was not in there?
MR. STRICKLIN:
I did not review Mr. Wilfong's testimony. That might be a question that the investigation team for MSHA may be better suited to answer.
MS. HAMNER:
You don't know the answer to that?
MR. STRICKLIN:
No, I don't.

MS. HAMNER:
Well, can you tell us, generally speaking, what that would mean if it's not in there?
MR. STRICKLIN:
I would think that that --- it would be needed to be included, and that our inspector would typically look for that during his inspection.
MS. HAMNER:
You feel that it would need to be included?
MR. STRICKLIN:
I'm having a very hard time hearing you.
MS. HAMNER:
I know. I understand that. But you said that that would need to be included?
MR. STRICKLIN:
Any electrical requirements in the log, and I don't know the exact distance of this separation, but basically whatever's in the regulation would be inspected by

our inspector during his regular visit. And if it wasn't in place, it would be his responsibility to issue a violation for that.
MS. HAMNER:
We understand that there were MSHA inspections in August that found inadequate ventilation. Five days later there was another inspection that found similar lack of fresh air. Can you tell us your major concerns about the ventilation system there at Sago? We know you had had prior meetings with ICG.
MR. STRICKLIN:
Well, our concerns over ventilation basically did with --- I think the violations were issued for how a stopping was built, the quantity of air that was delivered to the face, the locations of the curtains in the face area, as well as any examination in violation would be included under the quote, ventilation part of the regulations or the 300 series. So that

was some of our major concerns, especially the examination part of it.

MS. HAMNER:
Have they corrected everything that you had asked to be corrected? I mean, we understand that on December 20th, MSHA rejected the ventilation plan submitted by ICG.
MR. STRICKLIN:
I never rejected the entire plan. What I rejected was two submittals or addendums to the plan from the mine operator. They had requested to have three open crosscuts on the return side. And we denied both of those requests they submitted to us, because we didn't think that their request dealt with anything to do with safety for the miners at that time.
MS. HAMNER:
You thought ventilation was adequate?
MR. STRICKLIN:
The plan was adequate if

they followed it, yes. What wasn't --- what I didn't think was adequate was approving three open crosscuts instead of the two that they were --- they had in place.
MR. BENNETT:
My question is, why do you only require 20 psi rating on your seals when there's been explosions over 20 psis?
MR. STRICKLIN:
That's something that I think our agency is looking at right now to see if 20 psi is sufficient or not.
MR. BENNETT:
And when they blew the seals, they didn't hit it with direct force. I mean, why wouldn't you do that?
MR. STRICKLIN:
I'm not sure --- I'm not sure how the testing criteria was set up. That's something that NIOSH or another arm of the agency is involved

in. And apparently their discussion is that a static pressure would be the same whether it's hit head-on or in a crosscut. But I think that is also something that is being re-evaluated now.
MR. BENNETT:
Where did the 20 psis evolve from?
MR. STRICKLIN:
I think that question might be better suited for --- there's another Panel where an individual that was involved in that will be able to discuss that with you.
MR. BENNETT:
And in the plan it stated put the seals ten feet inby the crosscut, or inby, so you can build a permanent seal outby. Why would you put that in there if you know --- I mean, you're building a permanent seal anyway, why put that in there?
MR. STRICKLIN:
I'm sorry. I didn't hear

the total question there.
MR. BENNETT:
In the plan it states put the seal 20 feet inby a crosscut. Why would you build a permanent seal which you wouldn't have to build one outby? I mean, why have that in the plan? Unless you think the seal is going to fail one time or another.
MR. TENNEY:
Well, that's not necessarily expecting the seal to fail. You know, there's roof stresses in the coal mines and it's more apt that the roof, itself, would deteriorate to the point that we would have to go in and support and control. If we build it out to the very edge of the intersection and we had any type of roof control, we wouldn't have the opportunity to catch it. And the intersection is a weaker part of all roofs anyhow. So the further away from the intersection we require to be built the better --- the safer the seal would be. It's not to

prevent seal failure, it's to protect that particular seal.
MR. STRICKLIN:
If you're referring to the stoppings that are outby the seals, that's basically something that the company did to allow a separate split of air to ventilate those to direct the air into the return. That would not --- the outby set is not considered the seals, it would just be permanent stoppings.
MR. BENNETT:
That is not what I'm referring to. In the plans it says to build them so you can build a permanent seal outby the Omega seals.
MR. STRICKLIN:
I don't recall seeing that in the plan, but we'll get that information after we review it. But our understanding is there would just be one set of seals. There would not be two sets.
MR. BENNETT:

Well, you signed them. I mean, you should know.
MR. STRICKLIN:
I'll review that again.
MR. BENNETT:
Okay. And the rescue teams, when they went in, they traveled the track entry; is that correct? They didn't go down the intake in other words?
MR. STRICKLIN:
They went down the intake originally and then they started traveling into the track entry.
MR. BENNETT:
And you elaborated on --- a little bit on the rescuers not working. Who tested the rescuers?
MR. STRICKLIN:
The rescuers are tested with NIOSH and MSHA involvement in those tests.
MR. BENNETT:
And they all were activated?

MR. STRICKLIN:
Are you talking about the SCSRs after the explosion?
MR. BENNETT:
Right.
MR. STRICKLIN:
I think that might be a better question for tomorrow, because we have a presentation on that for the investigation.
MR. BENNETT:
Okay. And as far as response time and all that, would there be a better time to go over that ---
MS. HAMNER:
Yeah.
MR. BENNETT:
--- as far as the rescuer efforts?
MR. STRICKLIN:
I believe tomorrow when we talk about the investigation or the recovery, it would be more appropriate if --- CHAIR, is that something that ---?

CHAIR:
I think that's what we're trying to do.
MS. HAMNER:
The self-rescuers that Russell was speaking about, they are in your possession, the ones that you found in the mines?
MR. STRICKLIN:
They're in the possession of the investigation team.
MS. HAMNER:
And can we have the model numbers, the serial numbers and the date of manufacture off of that?
MR. STRICKLIN:
I guess that's something that someone will have to make a decision on, but I don't see any reason why not.
MS. HAMNER:
Okay. We would like to have that information. Mr. Stricklin, can you tell us who Mr. McKinney is?
MR. STRICKLIN:

Mr. McKinney is the administrator for Coal Mine Safety & Health in our headquarters' office in Arlington, Virginia.
MS. HAMNER:
Why was a meeting scheduled with Mr. McKinney and ICG that first week in January?
MR. STRICKLIN:
I wasn't involved in setting up the meeting or I wasn't to attend the meeting, but my understanding is Mr. McKinney does the same thing on a national basis that I do on a district basis. And he looked over the numbers and he decided to have a meeting with ICG to discuss their numbers. Not Sago in particular, but all of ICG mines as a whole.
MS. HAMNER:
So he was seeing inadequacies there with ICG, the same as you'd seen them on the district level?
MR. STRICKLIN:

I can't speak of inadequacies, but I would think that he saw some trends that concerned him and he wanted to sit down with company officials at their level and talk about it.
CHAIR:
Since we have Mr. McKinney here, maybe he could answer the rest of that question.
MR. MCKINNEY:
Yes, it may be more appropriate for me to answer that question. Just as Kevin said, we're constantly looking at coal companies across the United States and in multiple, we're looking at safety, health, performance. And we're trying to draw profiles and see if we see a decline in safety and health in any area. As we profiled ICG mines, we saw some near misses; we saw some other things that had caused some concerns. I had contacted the company, spoke with their corporate safety director and

asked if he could broker a meeting between their top officials and myself and my staff to look nationwide at their mines to talk about their safety and health performance and what mechanisms they had in place to address some of the perception --- or the perceived concerns that I had. And that was the purpose of the meeting.
I spoke with Kevin along with the other district managers that had ICG operations in their district to get feedback from them about any particular concerns they may have also had.
MS. HAMNER:
I can't understand.
Trouble hearing. Mr. Stricklin, you said MSHA inspected the mines the last week of December. And we know you've had ventilation concerns. Did you do a monitoring for methane at that time?
MR. STRICKLIN:
Any time our inspector would go underground, they're expected

to take methane readings wherever they go. If they go to a section, we do what we call an imminent danger run across all the faces and we check each of the faces for gas. If we're in an outby area, such as the belt entry, we would be expected to use our methane detector in that area as well to assure that we don't have a buildup of any methane in any area of the coal mine. So, yes, we would have done --- used our methane monitors to check during not only the last week of December, but any day of the week, go into the mine, we will use that detector.
MS. HAMNER:
Did you detect methane?
MR. STRICKLIN:
I don't recall any exact numbers, but typically we saw one-tenth of methane when we visited the mine. And I told you the one thing that stood out in my mind, there was one day when an inspector measured five-tenths of methane. Typically other than that,

all I saw was one-tenth. If you don't mind, I would refer the question --- I'll let Ken Tenney respond to that as well, because he was a lot closer and there a lot more than I was.

MR. TENNEY:

The Sago Mine is a methane-liberating mine, and all of our inspectors check for methane constantly. As to your ventilation question and methane concerns, none of my inspectors indicated that it was a concern that we had excessive methane buildup or inadequate ventilation. The citations you're talking about, we do cite when the curtain's not close enough to the face, when the volume of required air is not great enough in a place that's being mined, that's a citation for ventilation. And like Kevin said earlier, some of the --- if a stopping has a hole in it, that's a ventilation citation, too. But the ventilation system was not of great concern. It was deemed to be adequate

by my guys.

MS. HAMNER:

I have trouble understanding that, you know. You say the ventilation is adequate and yet we have this explosion and we have all these ventilation concerns, you know, clear back to August. When one checks for methane, where is the monitor placed to check the methane levels?

MR. TENNEY:

The regulations require us to be at least 12 inches from the roof rib or floor when we take a legal methane test. Typically our guys will check for methane at every face on any working section and also in the immediate return on a working section. Our meters are constant monitor type that we don't turn them on and off, so in essence, we're checking for methane continuously, regardless of where we are. At the seals would be another place that we would specifically test for methane. It's a requirement.

MS. HAMNER:

Do you wear these monitors on your body or ---?

MR. TENNEY:

Yes, we wear them on our belts.

MS. HAMNER:

They're on your belts?

MR. TENNEY:

And when we test for methane, we take them out and hold them up 12 inches away from the roof or in that area and test there.

MS. HAMNER:

Mr. Stricklin, were any of your inspectors there watching during the construction of the sealed area?

MR. STRICKLIN:

Yes. I believe we discussed that a little earlier. We were there during the building of --- I believe it was the fifth seal.

MS. HAMNER:

What percentage of time

do you feel that you had a inspector there during the construction of the seals?

MR. STRICKLIN:

It would have been a small percentage.

MS. HAMNER:

One percent?

MR. STRICKLIN:

If we looked at the entire time of his inspection, we'd have to account maybe for 30 minutes of that, so it may be less than one percent even.

MS. HAMNER:

Less than one percent? So those seals were actually constructed with no inspector watching 99 percent of the time? Ninety-nine (99) point plus percent of the time?

MR. STRICKLIN:

That is correct.

MS. HAMNER:

And same question for Mr. Collins. How much time was an

inspector there watching the construction of the seals?
MR. COLLINS:
There is no requirement by State law for us to examine or check those seals while they are being installed. It's the responsibility of the operator to install those seals in accordance with an approved plan. I personally never went by the seals while they were being constructed.
MS. HAMNER:
Maybe I misunderstood you. But you never were there while they were being constructed?
MR. COLLINS:
That's true, ma'am.
MS. HAMNER:
So ---.
MR. COLLINS:
I did inspect the seals prior to them closing the last two.
MS. HAMNER:
So if you were never there during the construction, you

couldn't really see if the seals were mortared correctly?
MR. COLLINS:
That's true, ma'am.
MS. HAMNER:
Yes, that's true. And we understand from reading some of these transcripts that mortar was actually a soupy mix and that some of the mortar had just been thrown in.
MR. COLLINS:
Yes, as a matter of fact, I've heard that.
MS. HAMNER:
But you can't elaborate on that, because you didn't inspect them while they were being constructed?
MR. COLLINS:
No, ma'am. I did not. Perhaps we need a law to require that. We do not have a law to require that.
MS. HAMNER:
And maybe the law needs changed. Can you tell me if the seal --- well, maybe I'll ask Kevin, because

he's had an inspector there less than one percent of the time.
Can you tell me if the seals were built into the rib cage and what did the plan require?
MR. STRICKLIN:
The seals were not hitched into the rib, and the plan did not require them to be hitched into the rib.
MS. HAMNER:
So the plan didn't require them to be extended into the rib and if the mortar wasn't applied properly, can I not go up and just push that over?
MR. STRICKLIN:
No. It would be a lot more substantial than you pushing it over. If the seals were installed as the plan required, they would match the test that was done in our Lakeland facility that was acted upon by the 20 psi pressure. It's not something that you would just be able to push a seal

over with.
MS. HAMNER:
Do you know who --- and this may be a question for another Panel, but do you know who at ICG was responsible for inspecting the construction of the seals?
MR. STRICKLIN:
I do not know that.
MS. HAMNER:
Do not know. Mr. Collins, you say the law didn't require you to check the seals, but did you not feel that you should be obligated to check those seals?
MR. COLLINS:
Ma'am, our law requires us to check them prior to close. For me to be able to check everything in a mine that an operator does --- and I had no particular concern about these seals, because I knew the men that were building them --- and I'm not so sure that we have determined that these seals weren't proper either. That

investigation is still being conducted.
MS. HAMNER:
Russell, did you have any questions? We need just a few minutes to collect our thoughts. Is that okay?
OFF RECORD DISCUSSION
MS. HAMNER:
We pass. Go ahead.
CHAIR:
Thank you, gentlemen.
That concludes the questions for this Panel. We appreciate your answers and if you would give me those bits of information, that would be nice of you.
UNIDENTIFIED SPEAKER:
Davitt?
CHAIR:
Yes, sir?
UNIDENTIFIED SPEAKER:
Can we have a copy of their ---?
CHAIR:
Yes. Do we have the Power Point --- a copy of the fire plan?

MR. STRICKLIN:
Yes, sir.
CHAIR:
Yes. Okay.
OFF RECORD DISCUSSION
CHAIR:
Now, we'd like to ask for the ICG Panel, that is Panel Number Two, to discuss the explosion and the mine rescue --- I'm sorry, Panel Number Three, to discuss the explosion and mine rescue. If they would come forward, please.
We'd like to begin now with Panel Number Three, and that is the presentation by the International Coal Group on the explosion of January the 2nd and the mine rescue efforts. We thank you gentlemen for coming, for appearing here today. We appreciate that. And I'll ask that you make your presentations and we'll hold questions until the end of the presentations. Let me begin by introducing Ben Hatfield. Ben Hatfield, who is ICG

President and Chief Executive Officer. And before we start, I would ask that the witnesses be sworn by the court reporter. If you would stand to let the ---.

WITNESSES SWORN EN MASSE

CHAIR:
Mr. Hatfield?
MR. HATFIELD:
Mr. Chairman, Panel members, miners and family members, I am Ben Hatfield, President and CEO of International Coal Group. I've agreed to appear today to address issues surrounding the tragic accident at our Sago Mine on January 2, 2006. Many of the people in this room are miners, their fathers were miners, their grandfathers were miners. It should be the goal of this forum, the mining industry, the State and Federal governments and International Coal Group to determine how the Sago

accident happened, learn valuable lessons from it and implement the best available technology capable of minimizing and, indeed, preventing a similar recurrence and protecting future generations of miners.
We are here today to present what we know about the events of January 2 through 4 and respond to questions. Unfortunately, as we all should know, some questions may never be fully answered. Other ICG managers joining me on the Panel today that will also be making brief statements include Jeff Toler, Sago Mine superintendent, Sam Kitts, Senior --- I'm sorry, Sam Kitts, our Senior Vice-president of Operations for the West Virginia/Maryland Region, and Charles Snavely, our Vice-president of Planning and Acquisitions.
Other ICG managers on the Panel today that are here primarily to address questions include Chuck Dunbar, General Manager of our Buckhannon

Division, Tyrone Coleman, Manager of Safety for the West Virginia/Maryland Region, John Stemple, Assistant Director of Safety and Employee Development, Carl Crumrine, mine foreman at Sago Mine and Fred Jamison, Fire boss at the Sago Mine. We will remain mindful of our time constraints and will be respectful of the time allotted for questions.

Even before ICG completed its merger with Anker Coal Group that consummated the acquisition of the Sago Mine on November 18, 2005, we assumed management oversight through a consulting agreement effective June 1, 2005. Since that time, our company has worked closely with Federal and State regulators in an effort to make the Sago Mine as safe as possible. One example of this cooperation was our June 2005 decision to invite MSHA's Technical Support Group on Incident Reduction to help implement a new program to improve mine safety. We

were told that ICG was the first coal company to voluntarily work with MSHA under the agency's Incident Reduction Program. These efforts helped us to dramatically reduce the loss-time injury rate at the Sago Mine by nearly 60 percent from the first half of 2005 to the second half.

Much has been reported in the press about the number of citations at the Sago Mine in 2005. Numbers do not tell the whole story. ICG did not acquire full control of the Anker operations until late in the year. In the meantime, clear safety initiatives were implemented, all citations were promptly addressed and, most importantly, none of the citations played any part whatsoever in the accident.

We believe that Sago's miners know that ICG immediately took steps to ensure that safety had its rightful priority and that significant expenditures were made to make their

mine a better place to work.

I would like to briefly summarize what we know about the events of January 2, 3 and 4, 2006. At approximately 6:00 a.m. on Monday morning, January 2nd, after their travel route and worksites had been reported safe by the mine's fire bosses, including Terry Helms, who would later perish, two production crews and mine support staff totaling 27 miners entered the mine.

Each production crew needed to travel about two miles to reach the two working sections, First Left and Second Left where they were scheduled to work. The Second Left crew entered the mine on a rail manbus that departed roughly ten minutes ahead of a similar manbus carrying the First Left crew. One of the certified safety examiners had remained underground and traveled to his normal workstation. Therefore, a total of 28 miners were underground.

At 6:26 a.m. during a violent storm with unusually strong lightning strikes, the audible alarm of the mine monitoring system signaled the presence of carbon monoxide underground and the mine conveyor belts went down. As you may recall, we initially reported that the mine's alarm sounded at 6:31 a.m. based upon the mine's computer clock. However, during the post-accident investigation, State inspectors did a precision time correlation with an atomic clock and found that the mine's computer was four minutes and 56 seconds fast.

Shortly after the alarm sounded, the supervisor of the First Left production crew reported, via mine phone, that his crew had just experienced a very strong rush of air with smoke and dust emanating from deeper in the mine. Mine management directed the First Left supervisor to bring his crew out of the mine through one of the primary escape ways.

Repeated efforts by mine management and the First Left crew to contact the Second Left Crew via mine phone and underground walkie-talkie were unsuccessful.

At this time, Jeff Toler will describe in more detail his efforts and the efforts of others to enter the mine and find the Second Left crew.

MR. J.TOLER:

My name is Jeff Toler, and I'm the mine superintendent at the Sago Mine. I've been a miner all my life. First at Brooks Run, where I worked with my uncle Martin Toler, Jr., for 18 years. I continued at that mine after it was purchased by Alpha Natural Resources. I came to work at the Sago Mine in August of 2005 with the knowledge that ICG would be acquiring the Anker operation.

CHAIR:

Mr. Toler, if I can interrupt one second?

MR. J.TOLER:

Sure.

CHAIR:

The audience has indicated that there's a little trouble hearing. Perhaps you could use Mr. Hatfield's mic, which appears to be a little better.

MR. J.TOLER:

I'll begin again. My name is Jeff Toler, and I'm the mine superintendent at the Sago Mine. I've been a miner all my life. First at Brooks Run, where I worked with my uncle, Martin Toler, Jr., for 18 years. I continued at that mine after it was purchased by Alpha Natural Resources. I came to work at the Sago Mine in August of 2005 with the knowledge that ICG would be acquiring the Anker operations.

Having worked with Sam Kitts at Brooks Run, I looked forward to participating in ICG's projected growth in this area. At that time, ICG

was in the process of making numerous upgrades to the mine, such as upgrading the primary and secondary escape ways, investing in new mining equipment and implementing programs that Sam and I had seen used to good effect at Brooks Run, such as our performance group initiatives, which is an employment --- employee-involvement initiative. I was excited to be a part of that effort and to work with the miners there who were skilled and experienced men. It also gave me the opportunity to again work with my uncle, who died in this tragic accident.

Junior Toler was a supervisor of the 12 miners on the Two Left Crew. That loss has been felt deeply by his family, which includes me. To the families of the men who died with my uncle, I extend my deepest sympathy. And I wish Randal McCloy the best in his continued recovery.

At Sago, we operate two production shifts Monday through

Thursday and conduct maintenance on the third shift. On Friday, Saturday and Sunday, we work one 13-hour production shift and a 13-hour maintenance shift. At the time of the accident, there were 148 people employed at the mines. We produce coal in two sections with eight entries. We ventilate the mine using a blowing ventilation system. The roof is bolted typically using six-foot resin bolts, cable bolts and screens, depending on the condition of the roof. There are roof screens in the intake belt and track entries. We had focused on rock dusting since August. And in hindsight, I believe this effort helped keep the explosion from propagating throughout the mines.

On the morning of January the 2nd, I arrived at the mine at my usual time, around 5:35 a.m. I was on the mine phone with the dispatcher when I heard the CO alarm sounding at his station. The CO system is an early fire detection system set to alarm at

ten parts per million of carbon monoxide. Sometimes the system may alarm when there's a defect in the sensor that needs attending. At exactly the same time the alarm sounded, the dispatcher told me that he had seen a serious lightning strike through his window. My office has no windows, but I did hear a very loud thunder clap. My first thought was that fuses had blown in the alarms. And I told the dispatcher to radio the crews that were in or out to the sections and have them check the alarms. Only the One Left crew responded through its foreman, Owen Jones. Owie's brother was also on the Two Left crew.

Owie explained that something had happened because a rush of air had came from inby or further into the mines and that there was smoke in the air. I directed Owie to take his crew immediately into the intake, or fresh air, and to exit the mines.

Maintenance --- my maintenance foreman, Dick Wilfong, safety director, Al Schoonover and assistance maintenance chief, Vernon Hofer and I started underground in a manbus perhaps ten minutes after we talked to Owen. We first met Fred Jamison walking out of the mines. He was not hurt and I told him to continue on outside. We continued into the mine where we also encountered John Boni, a mine examiner, near the old First Right panel. He was also headed out of the mines as well on foot and he also was not hurt.

As we continued down the track, we passed the mine phone somewhere around 25 or 30 block of Number Four belt. And we stopped at that phone to call to see whether anyone had made contact with the Two Left crew. As we were stopped, the One Left crew had heard us coming up the track and met up with us. We gave them our manbus to continue out. We were still not certain of what had happened.

So I called Johnny Stemple, our safety person, and we agreed we may need to start contacting mine rescue. Owen Jones was not with the One Left crew at this time, but rather further inby at 41 block at another mine phone, still attempting to contact Two Left crew. He was directed to join us.

Dick Wilfong and Vernon Hofer took the One Left crew on our manbus and took them outside. And Owen Jones stayed with Al Schoonover and me underground. I asked Owie to stay put at the phone we were at and Al and I walked up to 42 block to assess damage. We observed stopping damage that the One Left crew had told us about. I went to the phone at 41 block and called outside to ask Dick Wilfong and Vernon Hofer to come back with materials to repair ventilation controls as we proceeded into the mines. Al and I walked back to where Owie was waiting by the phone. And Dick and Vernon returned with the

ventilation material. We installed curtains and trammed up to 42 block where we started picking up carbon monoxide with our alarms. We de-energized the jeep and unplugged the batteries and we proceeded on foot in the intake air, keeping fresh air at our backs.

At the 49 wall, the stopping was blown down. And that is the location where the belt breaks off to the One Left section. Knowing there was a telephone in the track entry at this point, I stepped into the track entry and moved the phone into the intake and also moved the EMT supplies from our station at that location into the intake.

We proceeded up the intake to the location where the belt heads off to the Two Left section, repairing damaged ventilation controls as we went. As we installed the ventilation curtains, we would wait until the CO levels dropped and then

move further into the mines.
At this point, we started to notice it was taking longer for the CO levels to drop or for the fresh air to dissipate. And we observed that the velocity of the air behind us appeared to be dropping. This could indicate the ventilation controls behind us were damaged and perhaps we had missed something. I asked Owie and Vern Hofer to go outby and retrieve curtain and check to see if other ventilation controls were damaged and needed repaired. Dick, Al and I continued into the mines to about 57 block and put up a curtain.
We walked to 58 block and observed that that stopping was also damaged. At this point, the smoke was dense and swirling. It appeared to me that it was not dissipating. We decided that if there was a fire inby, we should not direct further air to it. It was a difficult decision and we talked about it for a while before

deciding the best course of action. I yelled toward any noise we heard, hoping to make contact. We gathered --- we decided that the safest course for the Two Left crew was for us to exit the mine and try to gather more information and consult with those more experienced in mine rescue than the three of us. Time throughout this day is a blur to me, but I believe we exited the mines at around 10:30 a.m.
Again, I offer my deepest sympathies to the families. And I regret that mine conditions forced us to exit that day. I relive this nightmare in my mind many times over every day. Only in my mind, we saved them every time. Regrettably on January the 2nd, we did not. Ben?
MR. HATFIELD:
Meanwhile, on the mine surface, at about 7:00 a.m., the dispatcher called Johnny Stemple, who then contacted numerous parties, including rescue personnel, State and

Federal --- State and Federal regulators and company safety managers not already onsite. These individuals were briefed on events at the mine. Following various communications between those safety managers and mine management onsite regarding immediate emergency procedures required, we began calling MSHA and State safety officials to report the accident at about 7:40 a.m.
Both MSHA and State safety officials were reached between 7:56 and 8:28 a.m., and began arriving onsite soon thereafter. At 8:32 a.m., MSHA inspector Jim Satterfield orally implemented an emergency mine closure order, also called the 103k order, prohibiting further entry to the mine.
At about the same time, State mine inspectors began monitoring the air quality at the mine portal. High concentrations of carbon monoxide were found, indicating a significant risk of an active underground mine fire

that could ignite an explosion. So State and mine --- State and Federal mine regulators onsite determined it was not safe for mine rescue teams to enter. This agonizing process of monitoring the carbon monoxide and methane levels in the mine air to confirm that it was safe to enter would continue throughout the day. Indeed, at various times in the morning and early afternoon, governmental officials seriously considered evacuating the mine office, because CO levels in the building itself were measurably high.
After reaching a State official and while still trying to reach Federal authorities, at 8:04 a.m., mine management began calling for rescue teams, with the first call being made to the Barbour County Mine Rescue Team. That team arrived onsite at approximately 10:40 a.m., and waited for State and Federal authorities to approve their entry into the mine. Other mine rescue teams were also

contacted and continued to arrive at the mine throughout the course of the day, with eventual deployment of 13 to 15 mine rescue teams by late afternoon on January 2nd.

At this point, Sam Kitts will provide further detail on the rescue efforts.

MR. KITTS:

Thank you, Ben. Can you hear me?

MR. HATFIELD:

No.

MR. KITTS:

Hello?

MR. HATFIELD:

Try this one.

MR. KITTS:

Can you hear me? First I, too, would like to offer my condolences to the families that were affected by this terrible tragedy. I'm Sam Kitts, Senior Vice-president of Operations for West Virginia and Maryland Regions of ICG. And I've held

this position for nearly a year. I have worked in the mining industry for 20 years in various technical and operational positions. Immediately prior to joining ICG, I was president of Brooks Run Mining Company, as Jeff just alluded to.

I am here to discuss with you what I know and what I have learned about the rescue effort, which consisted of advancing mine rescue teams into the mine and drilling boreholes from the surface in an effort to locate the missing miners. I will answer questions you may have regarding these efforts. Some of the information I am providing to you was learned from ICG personnel and other sources, as I cannot be directly involved in every aspect of the rescue operation. The times provided are approximations.

The ICG personnel assigned to the following included Chuck Dunbar on my right, ICG Buckhannon General Manager. Chuck was

involved in rescue coordination and command center operations. Tim Martin, who's not with us today, but is the ICG Corporate Director of Safety, who was involved in mine rescue team staging and coordination. Ty Coleman, who is on the Panel today, is the ICG Manager of Safety for West Virginia and Maryland areas, was involved in the command center and mine rescue team advancement. And also Joe Myers, ICG Buckhannon Chief Engineer, who is responsible for engineering support for creating the drill --- for the drilling rigs and producing mine maps for the rescue teams and the agencies. Many other ICG employees worked diligently throughout the rescue effort along with the regulatory agencies.

I'm going to talk about the effort in two phases, the mine rescue team advancement into the mine and the drilling operations. First, the mine rescue team and agency notifications.

On January 2, 2006, I received a call from Chuck Dunbar, ICG General Manager of the Buckhannon Business Unit, at approximately 8:30 a.m., notifying me of a problem at the Sago Mine. The 103k order and equivalent State orders were in place when I arrived at approximately 11:45 a.m. MSHA and State personnel were onsite. Family members were also present at the site when I arrived. I was in the command center and periodically participated in giving the families and friends updates on the status of the rescue operation. The first update being given at a Sago Baptist Church between 1:00 and 2:00 p.m. on Monday afternoon.

Johnny Stemple, who is on our Panel, was called at about 7:00 a.m. and was briefed by the Sago Mine dispatcher about what he knew from communications he had had with those underground. He began calling for mine rescue teams about 8:00 a.m. in the

morning of January 2nd. Stemple called for Chuck Dunbar, Raymond Coleman and Ty Coleman from the company. He also attempted to call the West Virginia State Mine Inspectors' Office in Fairmont, which was closed due to the holiday.

He called the homes of State inspectors, Mark Wilfong, Brian Mills and John Collins. He also called Kenny Tenney of MSHA, MSHA's District Office in Bridgeport and Jeff Rice, as the Barbour County Mine Rescue Team between approximately 7:25 a.m. and 8:05 a.m. Stemple then called the cell phone numbers for MSHA representatives Carlos Mosley, Bill Ponceroff and Kevin Stricklin between approximately 8:09 and 8:13 a.m.

John Collins, State inspector, returned the call at about 7:56 a.m. Stemple called the MSHA Bridgeport office at about 8:25, obtained Jim Satterfield's number from the answering machine and called him at

approximately 8:28. Mr. Satterfield issued a verbal 103k order at 8:32 a.m., preventing anyone from entering the mine.

Now staging of the mine rescue teams. Tim Martin coordinated the staging of the mine rescue teams for ICG. He developed a working rotation schedule to provide a constant supply of teams, a forward-moving team for exploration, and underground backup team positioned at the fresh air base, and also an outside backup team to support the fresh air base team that was underground, per established mine rescue procedure.

The Barbour County Mine Rescue Team A arrived at the site at approximately 10:40 a.m. Ron White from MSHA contacted Consol's Mine Rescue Teams and ICG chartered a plane to bring ICG's Viper Mine Rescue Team from Illinois. They arrived at approximately 2:30 Monday afternoon. So two mine rescue teams, Barbour

County, A and B, were at the mine and ready to enter at about noon on January 2. Other teams would continue to arrive throughout.

Air sampling at the mine portal was being done to establish a trend in the methane and carbon monoxide content of the air exiting the mine. Mine rescue team members, under apparatus, were assisting. The CO readings at the portal continued to rise throughout the morning and afternoon, eventually exceeding 2,300 parts per million. At about 4:15 p.m., the CO levels began trending downward. At approximately 5:10, the 103k order was modified, and the first mine rescue team entered the mine at 5:25.

Okay. While this was going on, there was an effort to mobilize a drill rig in order to access the mine from the surface. Concurrent to the mine rescue team operations, drill rigs were being mobilized to the area overlying the mine beginning

Monday morning around 11:00 a.m. The decision to drill from the surface near the face of Two Left was based on several factors. The estimated location of the Two Left crew at the time of the explosion, the need to determine the atmosphere ahead of the mine rescue teams, and the need to determine the extent of the explosion damage, which at this point was unknown.

On the morning of January 2nd, Chuck Dunbar contacted Mike Ross regarding obtaining drilling rigs as quickly as possible. Mr. Ross was able to mobilize three drills from Hyre Water well in Buckhannon, United Drilling from Jane Lew and Phoenix Drilling in Buckhannon. The Hyre Water Well drill was ultimately used to drill the first borehole into the Two Left face area.

A V6 size dozer was delivered to the site at around 5:00 p.m. The dozer constructed 1,600 feet

of road down a hillside to reach the proposed drill site. It then excavated a pad 200 feet long and 90 feet wide in order to set up the drill. While the road and pad were being constructed, a survey had to be run for over two miles away. Heavy cloud cover hindered use of GPS surveying instruments. A combination of conventional and GPS surveying methods had to be improvised to get the borehole locations staked on the ground.

The surveyors arrived at approximately 2:00 p.m. and after overcoming several technical obstacles, finished locating the borehole at 11:30 p.m. on Monday. It took another two-and-one-half hours to modify the drill pad to allow the drill to set up exactly on the coordinate that it would allow the borehole to penetrate a mine opening and not a solid coal pillar.

The drill began sinking the hole at 2:50 a.m. Tuesday morning and penetrated the mine at 5:35 a.m.

The drill steel was sounded in hopes of a response, but none came. Air samples indicated 1,300 parts per million CO, .04 percent methane and 20.7 percent oxygen. Images from a down-hole camera indicated no blast damage in the vicinity of the section feeder.

Now, going back to the mine rescue team advancement. As I last mentioned, they had been cleared to enter the mine, and did enter the mine at 5:20 --- 5:25, excuse me, p.m. on January 2nd. By 2:45 a.m. Tuesday morning, the teams had advanced to crosscut 34 of Number Four belt, or 9,400 feet from the portal, before encountering an energized CO monitor and being ordered to evacuate the mine so the CO monitor battery backup could be de-energized. Arriving outside at 3:40 a.m.

Now, there's a lot more detail as to what the teams encountered in this first push, but to be concise, let's just say that the first team

entered the mine at 5:25 and were able to go 9,400 feet into the mine due to the CO monitor being de-energized at 3:57 a.m.

The teams were held outside until the borehole penetrated the mine at 5:35 a.m. The mine rescue teams re-entered the mine at 6:20 a.m., along with the V2 search robot. The teams advanced 2,000 feet to the mouth of Two Left section by 4:21 p.m. Tuesday afternoon.

At approximately 5:18, a body was found, but not identified, between 58 and 57 crosscut in the track entry. It was later determined to be Terry Helms.

Establishing the fresh air base at the mouth of Two Left, the teams advanced 400 feet to examine the seals where they thought the seals --- where they found the seals to be destroyed, literally walking through the seals without knowing it. Upon closer inspection, it was determined

the seals were blown out from the force originating in the previously-sealed area. This was the first indication of where the explosion originated. The teams then advanced 1,900 feet between 7:12 p.m. and 11:46 p.m. up to Left heading, extending the mine rescue team communication chain well beyond normal distances in order to expedite reaching the face area where they found the barricade.

The message heard in the command center was that all 12 miners were alive. The medical personnel were immediately sent inside to assist the mine rescue teams. At about 12:18 a.m. on January 4, the mine command center received a report that the mine rescue team and survivors were leaving the face. Then at 12:30 a.m., when the team reached the fresh air base and were no longer under breathing apparatus, the command center was informed that there appeared to be only one survivor and the other 11 miners

showed no vital signs.
Randal McCloy's identity was not confirmed prior to being rushed to medical treatment from the site at 1:00 a.m.
CHAIR:
Mr. Hatfield, if I might interrupt for one moment. The court stenographer needs to change her paper. If we could wait for her to do that, please?
MR. HATFIELD:
We'll certainly do that.
BRIEF INTERRUPTION
CHAIR:
You can proceed.
MR. HATFIELD:
Thank you. As Sam Kitts described, just before midnight on the evening of January 3, a remaining 12 missing miners were found. As a result of the extreme difficulties in communications hundreds of feet below the surface, while wearing special breathing apparatus, the now well-known

miscommunication about the number of survivors occurred. As we all now know, at approximately 11:46 p.m., the command center received a message over the mine phone that 12 are alive. Cheers and joyful pandemonium erupted throughout the mine office. Rescue workers and company officials who had heretofore begun to lose hope sprang into a flurry of activity in preparation for bringing the miners to the surface. We knew that they would need immediate medical attention. No authorized company spokesman authorized --- no authorized company spokesperson announced what we had all heard, but the news still spread like wildfire.
At 12:18 a.m., the command center received word that the mine rescue team and survivors were leaving the face. At 12:30 a.m., when the mine rescue team reached fresh air and was no longer operating with breathing apparatus, the mine command center was informed that there appeared

to be only one survivor and the other 11 miners showed no vital signs and appeared to be deceased. The elapsed time since the first call was roughly 45 minutes. The immediate reaction in the command center was that this report of only one survivor may be erroneous. Many participants in the command center clung to the fervent hope that the other 11 miners may be in some sort of comatose state. We continued to believe that there was still hope.
Another unfortunate circumstance that prevented quicker communication with the families was the simple fact that rescue workers had not checked the identity of the survivor before he was placed in the ambulance and rushed to the hospital. As Sam noted, we didn't learn Randal McCloy's identity until after 2:00 a.m.
In short, we had learned that the information was probably not as hoped, but we were uncertain. We knew that one person was alive, but we

didn't know who. We frankly didn't know what message to deliver to the families. We feared the pain and hurt that incomplete or incorrect information would have caused, and we searched for the right means to settle and communicate with the exuberant crowd.
Somewhere around 1:45 a.m., as we continued to search for answers, we attempted to send message to the families at the church through the State Police radio system. And officer was asked to relay word to the clergy that we have conflicting reports on survivors and the initial reports may have been too optimistic. As we now know, the State Police officers did relay that message, but it did not get communicated to the families.
As soon as we learned the identify of the survivor and debriefed the mine rescue team members, who convinced the command center members that the others were, in fact,

deceased, we immediately prepared a brief statement and headed to the church to deliver the terrible news to the families. That message was delivered around 2:30 a.m. on January 4th.

Those of us involved in the rescue effort suffered from the same fatigue and range of emotions that everyone in the church did. Everyone in the mine office was fully committed physically and emotional --- physically and emotionally to the rescue effort. Throughout this plus-40 hour ordeal, we sought to provide meaningful information on a timely basis to the families. Unfortunately, during the final stages, the combination of cell phone communications and lack of verified information to pass on to the families, converged to make the tragedy even worse.

At this point, Charles Snavely will provide further detail regarding the events in the command

center.

MR. SNAVELY:

Can you hear this all right?

MR. HATFIELD:

That's okay.

MR. SNAVELY:

My name's Charles Snavely. I'm the Vice-president of Planning and Acquisitions for International Coal Group. I joined ICG in June 2005 after having been a President of Bell County Coal Corporation for ten years. I was present in the command center at the Sago Mine from about eight o'clock on January the 3rd, Tuesday, until the conclusion of the rescue operation. Until then, I had been keeping up to date on the situation, and I came to Sago as the rescue drew on to relieve people who would be exhausted.

The process of advancement of the teams was basically to move the fresh air base up so the

teams could advance more quickly. There were 14 plans submitted by the company and approved over this 40-hour period for the rescue advancement. Any change in the plans required the approval of the company, MSHA and the State. And all the changes in the plans had to be requested in writing.

All efforts were focused on the most important thing on Tuesday and that was getting the teams to Two Left section and rescuing the crew, while at the same time not endangering the rescue workers. The company, the State and MSHA had to balance these concerns because there have been situations in which the rescue teams have perished in the process of rescue when they encountered methane which ignited. We all knew that time was of the essence, but also recognized that the progress of the teams had to be methodical.

The confusion over whether the men in the barricade were

alive started underground. The persons who got to the barricade were relaying the information via walkie-talkie and orally to the fresh air base. As the word passed from person to person to be relayed to the command center, the message apparently was not understood. As has been mentioned, it was first believed that all were alive because that was what was called out from underground quite clearly. With all the people coming in and out of the command center, evidently people overheard this communication and reported that to the families at the church. There were also people, apparently, listening to the mine phone communication who were not in the command center.

When you have that many people in a confined environment traveling in and out, it makes it difficult to control the disbursal of information. Besides, everyone wants to convey --- convey good news and

that's simply what happened. It was not an intentional act of dispensing misinformation. No one would do that to these people who had waited and prayed for 41 hours. However, once the word was out, emotions ran high as one might expect.

I spoke later with a rescue team member who had been to the fresh air base when Randal McCloy was brought out. He also was expecting the other 11 men to come out with the rescue team at that time. And he was surprised to learn that they were not alive.

But as has been mentioned, we did not know Mr. McCloy's identity at the time; we just knew there was one survivor. I was also present when the rescue team captain was debriefed after Randal McCloy was brought outside. At the time, we still didn't know Randal's identity because he was rushed to the hospital when he was brought out.

There was still uncertainty among the command center personnel as to whether the remaining men may yet be alive. The team captain who reached the barricaded area in Two Left explained, after he had exited the mine and was debriefed, that they had diligently examined the other men for vital signs and found none.

Because ICG did not want to report any misinformation to the families, we insisted on talking firsthand with the person who had reached the barricade at Two Left before reporting any official word with the families at the church. We, as they, were devastated by the confirmation. We could not begin to imagine how the families would feel.

MR. HATFIELD:

Mr. Chairman, that concludes our prepared statements for this Panel. We will now take your questions.

QUESTIONS OF PANEL

CHAIR:

What I propose to do is ask a few questions now, then take a break and then come back, accept questions after a break, if that's all right.

Mr. Toler, my question for you is, after you exited the mine, after the rescue effort, who did you speak to in the command center and what did you do to convey the information that you had with regard to the situation underground?

MR. J.TOLER:

As I said earlier, everything is kind of a blur to me throughout that day, specifically once I reached the surface. I don't recall exactly who was in the command center when I was debriefed. All the men that were with me, we all went in the command center, we were all debriefed together. And we just conveyed the --- what information we had on to the --- I can't tell you who was actually in

there at that time.

CHAIR:

If you could tell--- and I do appreciate the difficulty you're having. But did you talk to the other mine rescue teams or was there more than one conversation? I guess that was the question?

MR. COLEMAN:

Can you hear me?

CHAIR:

I can't hear you.

MR. COLEMAN:

Can you hear me now?

CHAIR:

Not quite.

MR. COLEMAN:

If I may interject? During --- when, he came out with the others, myself, along with other --- other State and Federal officials. He basically gave us information as to what he encountered. And we got first-person information from Owen Jones who was inside at the time of the

explosion.
CHAIR:
Since we are having a little trouble with the mic, if we could take a break now, perhaps we'll try to fix those mics and we'll get better answers. We'll take a short recess.
SHORT BREAK TAKEN
CHAIR:
All right. If we can begin. What I'd like to do, is I'd like to get ten minutes of questions from the State and from MSHA and then turn it over to the Legislative body and to the families for questions, so that we can do it in that orderly kind of way. Ray?
MR. MCKINNEY:
Mr. Toler, can you hear me?
MR. J.TOLER:
Yes, sir.
MR. MCKINNEY:
Was a pre-shift

examination called out from underground the morning of the explosion?
CHAIR:
They can't hear you.
MR. HATFIELD:
I'm sorry, we can't hear Ray now. Try it again.
MR. MCKINNEY:
Mr. Toler, was a pre-shift examination called outside the morning of the explosion?
MR. J.TOLER:
Yes, sir.
MR. MCKINNEY:
What were the results of that examination?
MR. J.TOLER:
I'm sorry, sir, I don't --- I'm not aware right now.
MR. MCKINNEY:
Is there anybody on the Panel who does have that information?
MR. J.TOLER:
Mr. Crumrine may. No, I'm sorry, you weren't scheduled to

work that day; were you, sir?
MR. MCKINNEY:
Would you be able to furnish us that information?
MR. J.TOLER:
Yes, sir.
MR. MCKINNEY:
As I understood your testimony ---
MR. J.TOLER:
If you could ---.
MR. MCKINNEY:
As I understood your testimony, you got some information again --- to go underground. Who did you speak with underground before you entered the coal mine?
MR. J.TOLER:
Owen Jones.
MR. MCKINNEY:
And could you tell me what that conversation was?
MR. J.TOLER:
It was just basically --- we were trying to notify the crews, you

know, we heard --- we can tell the CO alarms was going off. And we were trying to notify the crews to check the alarms. And Owen was the first person, and only person, to get on a phone from underground. He just indicated --- he said something to the effect of, I'm not sure, but something from towards Two Left section, we had a big rush of air, don't know what's happened up there. I didn't drill him on questions because in --- my response to that was to get in there and investigate.
MR. MCKINNEY:
During the conversation with Mr. Jones, did he mention the word smoke to you?
MR. J.TOLER:
It's possible, though I don't recall.
MR. MCKINNEY:
I think I read the transcript and in that ---.
MR. J.TOLER:
He may have. I'm not

going to say he didn't. I just don't recall.
MR. MCKINNEY:
If he did say the word smoke and you had CO sensors going on at that point in time, was it a concern to try to get assistance to the mine?
MR. J.TOLER:
The first thought in my mind was to get inside, ascertain what had happened, and to try to ascertain the condition of all of my men. I had 28 men in harm's way at this point. That was the only thought I had.
MR. MCKINNEY:
Did you leave directions for anyone on the surface to make phone calls to particular individuals?
MR. J.TOLER:
Not that I recall. I'm not sure.
MR. MCKINNEY:
Do you know if phone calls were made to other company

officials while you were underground to make them aware?
MR. J.TOLER:
I'm not aware of any of that. My first conversation with any company official was --- while I was underground, I didn't speak to Johnny Stemple.
MR. HATFIELD:
I believe Johnny Stemple may be able to help you with respect to call sequence if you're interested in that. MR. MCKINNEY:
Can Mr. Stemple answer the question; please.
MR. STEMPLE:
Yes, I made several phone calls that morning in a matter of three-and-a-half hours, I either made or received 47 phone calls in a three-and-a-half hour period.
MR. MCKINNEY:
At what point in time, Mr. Stemple, did you believe an explosion had occurred underground?

MR. STEMPLE:
When the mine rescue team went to the Number Ten seal and saw no evidence of the seal, that's when I knew that we had an explosion.
MR. MCKINNEY:
So when you called the authorities, the State and Federal agencies, what information were you sharing with them?
MR. STEMPLE:
I told them the exact same thing that Bill Chisolm told me when he phoned me. That we've had an incident underground, I don't know what has happened. The One Left crew called out and said that they've noticed some stopping damage and smoke and dust in the air. There was a tremendous lightning storm at the same time. We had lost power in certain areas of the mine. He didn't know what was going on for sure. I asked where was Jeff Toler? He said, underground. I asked where was Al Schoonover, the safety

director. He said underground. I said where was the maintenance foreman? They all went underground.
MR. MCKINNEY:
Mr. Toler, as you traveled through the mine, at what point in time did you think a significant event had occurred underground, such as an explosion or a mine fire?
MR. J.TOLER:
I would say the first indication that I had was when I first --- when I saw the first damage to ventilation controls, which I think was roughly at Number 32 wall of Number Four belt.
MR. MCKINNEY:
Did you have any contact with people on the surface by the mine telephone after you made that determination?
MR. J.TOLER:
Yes, sir.
MR. MCKINNEY:

What did you relay to the people on the surface?
MR. J.TOLER:
I don't recall. That may have even been around the time that I talked to Johnny, I'm not sure.
MR. STEMPLE:
Yes. At that time, Bill Chisolm patched the mine phone in to the land-line phone. I was currently at home. It was a holiday and I was on a day off. And he patched the land-line phone together with the mine phone. And I asked Jeff, I said, what do you have? He said I really don't know. He said, I talked to the One Left crew and there is some ventilation control damage, some stoppings that have been damaged. I said, have you been able to contact the Two Left crew yet? He said, no, I have not, but we have been trying to contact the Two Left crew. I said, is all of the One Left crew accounted for? He said, yes, and I've sent them toward the outside.

I said, well, until we get ahold of the Two Left crew, you need to get in the intake, get what curtain and material that you can gather to replace any damaged stoppings, to re-establish the ventilation in the mine and work your way toward the Two Left section in an effort to communicate with them. As you get to different mine phones, try and continue to make communication with them. Keep the fresh air with you. Don't endanger your lives. If you get into any high concentrations of CO, you need to stop. Don't endanger your lives, but we do need to make an effort to communicate with the Two Left crew.
MR. MCKINNEY:
So based on that information, you're talking about high levels of CO, then smoke, things of that nature, did you think an explosion occurred underground?
MR. STEMPLE:
My personal opinion was

that we may have --- since we had a large lightning strike outside that we may have had the high-voltage cable or a high-voltage cable plug or a power center that may have blew up or exploded. That was my opinion at the time with the information that I had.
MR. MCKINNEY:
Mr. Toler, I understand from your conversation with Mr. Stemple at that time, you felt like there may have been an explosion underground?
MR. J.TOLER:
No, sir. At that point in time when I talked to Mr. Stemple, I did not have a detector with me, so I couldn't --- I can't say that we were detecting carbon monoxide at that point. All I can tell you, at that point when I talked to Johnny, all I can tell you is we had damage to ventilation controls.
MR. MCKINNEY:
Did you get any type of carbon monoxide or methane readings as

you entered the coal mine?
MR. J.TOLER:
Initially when I entered the coal mines? As I said, I did not have a detector. When Mr. Wilfong and Mr. Hofer took the One Left crew outside via our manbus, Mr. Schoonover and I and Owen Jones stayed together. They got back --- when they got back, they brought ventilation supplies to repair the damage controls, plus several detectors with them. And it was at that point that we started repairing the controls and advancing into the mines.
MR. MCKINNEY:
So your conversation with Mr. Stemple was prior to you getting a detector?
MR. J.TOLER:
Yes, sir.
MR. MCKINNEY:
What were the readings that you obtained on your detector as you went underground?

MR. J.TOLER:
I don't know that I ever held a detector to take a reading. I was more concerned about hanging the curtains, Ray.
MR. MCKINNEY:
Were the detectors going off, sounding alarm?
MR. J.TOLER:
We repaired --- the first damaged control that we found was at --- I think at 32 wall. And we repaired it and we advanced on in on the track, which is in the neutral split. And on a blowing system, the airflow on a neutral split will course toward the outside. When we got to 42 wall, was the next stopping that was damaged. And when we repaired it, I think that's when we initially started getting some CO --- started getting some alarms on our CO detectors. At that point, we de-energized the machine and unplugged the batteries and put our ventilation --- our supplies in the

intake and started to advance on foot in the intake, keeping fresh air to our backs.
MR. MCKINNEY:
I think you indicated that at some point in time, maybe 48 or 49 block, you stopped the exploration.
MR. J.TOLER:
At 49 block, I knew there was a functioning telephone at that point, because when Owen Jones called outside immediately after the event, that was the phone he was using. So I was aware there was a functioning telephone there. And so I stopped there and I stepped over into that air course to move that phone into the intake, so that we would have some form of communication in fresh air with us.
As I was doing that, it dawned on me that our EMT station was right at that location as well, so I went ahead and put it in the intake as well. I had no idea what or if we would need anything. So I did all of

that at that point right there.
MR. MCKINNEY:
At what time --- point in time during your exploration, did you feel there had been an explosion underground?
MR. J.TOLER:
Probably after we advanced inby, that point right there. I think we started noticing some soot on the ribs, a lot of soot and that was probably our first indication that it was an explosion.
MR. MCKINNEY:
Can you recall what time that would have been?
MR. J.TOLER:
I was not keeping any kind of timeline at all at this point.
MR. MCKINNEY:
A range?
MR. J.TOLER:
A range? Probably somewhere between eight and nine o'clock, probably closer to the nine

o'clock area.
MR. MCKINNEY:
And did you communicate that to the surface once ---?
MR. J.TOLER:
No. We had already advanced inby where we put that phone in fresh air.
MR. MCKINNEY:
Did you communicate with the surface at all before you returned to the outside?
MR. J.TOLER:
I think as we started outside, I stopped and called and told them that we were exiting the mines.
MR. MCKINNEY:
Did you share any other information with them about what you saw or thought had happened?
MR. J.TOLER:
I don't recall. I don't recall. I'm not sure exactly who I even talked to.
MR. CLAIR:

I just have one follow-up question for Mr. Stemple. And that is, you made, I believe you said, 27 phone calls. Were other people in the company making phone calls as well to either the State authorities or the Federal authorities? Had any of that been delegated?

MR. STEMPLE:

I stated that I made or received 47 phone calls. Number four. And to my knowledge, I wasn't aware of anybody else making any phone calls. Some of my phone calls, I asked others to make phone calls for me in an effort to help me. Many of my phone calls were made to answering machines and there was nobody on the other end to talk to.

MR. CLAIR:

And you were receiving updated information from the mine from the period from seven o'clock, when you were notified, until the time you left for the mine?

MR. STEMPLE:

Occasionally some of those phone calls were to the mine and some of those phone calls were from the mine, yes.

MR. CLAIR:

Okay.

CHAIR:

Mr. Toler, at 49 break or 50 when you began to see the dust and the smoke, can you describe the color and density of it or the nature of it?

MR. J.TOLER:

At 49 and 50 wall, it wasn't a lot of smoke, but you did see some evidence of the soot. I would imagine as we were repairing the controls, we were probably pushing the smoke. The smoke that we really encountered was up around 57 to 58 wall. At that point, the smoke was extremely dense ceiling to floor. It would be like trying to look through the curtain there in front of your table.

CHAIR:

Now, if we might, the families --- give the opportunity for the families to ask questions and then the Legislators.

MS. COHEN:

Mr. Jamison, what time did you arrive at work at the mine on January 2nd?

MR. JAMISON:

What was that?

MS. COHEN:

What time did you arrive at work on January 2nd?

MR. JAMISON:

2:30 a.m.

MS. COHEN:

Was Mr. Chisolm already there?

MR. JAMISON:

Was what?

MS. COHEN:

Was the dispatcher, Mr. Chisolm, already present?

MR. JAMISON:

Yes.

MS. COHEN:

Do fire bosses typically go underground without the dispatcher being present?

MR. JAMISON:

No, we don't do that.

MR. COHEN:

What time did you enter the mine?

MR. JAMISON:

What time did I get in or out?

MS. COHEN:

What time did you enter the mine to do your fire bossing?

MR. JAMISON:

It was --- I arrived at 2:30 and it was a little bit after that Terry Helms, the other fire boss, arrived. We got dressed. And I asked him how he was going to do it. He said, you do your regular run, Two Left, I'll do mine in One Left. So we signed off on the books, got our lights

and went down there underground. So it was probably around --- it was close to three o'clock.
MS. COHEN:
What was considered your regular run, because in your transcript you said this was the --- only the second time you had done the fire boss?
MR. JAMISON:
His regular run was from Four head in.
MS. COHEN:
What was your regular run?
MR. JAMISON:
From the outside into Three or Four head.
MS. COHEN:
And how long does it typically take to fire boss the section?
MR. JAMISON:
What, Two Left?
MS. COHEN:
Uh-huh (yes).

MR. JAMISON:
It took about 25 minutes.
MS. COHEN:
Is that normal time to do a fire boss of the whole section?
MR. JAMISON:
Yeah. Across the face, yeah.
MS. COHEN:
Why were your notes lost? Where did you lay them down?
MR. JAMISON:
Well, they wasn't --- I had them in my shirt when we come outside. And there was a lot of confusion going on, the rescue squad was there, the mine rescue. So we was going up to the tipple where we took our clothes off and changed because I didn't want to get in my truck. And my clothes probably ended up in the hamper there, where they put them in and wash them.
MS. COHEN:
So your notes were never

found?
MR. JAMISON:
No. They're probably in the laundry.
MS. COHEN:
Did you call your fire boss report out to anybody or give it to anybody?
MR. JAMISON:
I carried it out.
MS. COHEN:
So no one received your fire boss report from the Two Left section?
MR. COHEN:
Yeah, I carried it out, because I had to bring the mantrip out so dayshift would have a ride in.
MS. COHEN:
But you're saying your notes were lost?
MR. JAMISON:
Yeah. Where I keep notes in a book. I keep notes in a book in my shirt pocket.

MS. COHEN:
On page 27 of your transcript --- Mr. Jamison, on page 27 of your transcript, you said you were afraid of getting off the track by yourself. Why was that?
MR. JAMISON:
Well, if you get a mantrip off the track, you can't get it back on.
MS. COHEN:
When was the last time, prior to January 2nd, that you fire bossed at Sago?
MR. JAMISON:
At Two Left?
MS. COHEN:
Just any fire bossing in general. When was the last time ---?
MR. JAMISON:
Well, I fire boss every day. But the last time I was on Two Left was after Christmas.
MS. COHEN:
Can you tell me what you

did in your pre-shift examination, and what you reported out to the surface from Two Left?
MR. JAMISON:
Well, I didn't write anything down because the section looked good, but I checked the pocks, depth, and make sure all the curtains were up and the air was good.
MS. COHEN:
So did you initial the things you're supposed to initial?
MR. JAMISON:
Do what?
MS. COHEN:
Did you initial things? And I understand there is things throughout the section that ---?
MR. JAMISON:
Oh, yeah, I initialed them. My name is all over that section.
MS. COHEN:
Where is your report? Is that something you guys turned over?

MR. HATFIELD:
There is a lot of reverberation on your mic. He's having a little trouble understanding your words. Where was your report?
MR. JAMISON:
It's in the fire boss book.
MR. HATFIELD:
You entered it?
MR. JAMISON:
Yeah, it's in the fire boss book.
MS. COHEN:
Okay. The 25 minutes it took you to fire boss the face, did that include getting in and out of the mine from outside of the face?
MR. JAMISON:
No, that's not from outside.
MS. COHEN:
So you actually spent the 25 minutes on the section?
MR. JAMISON:

Just on the section.
MS. COHEN:
Can you describe to me what you mean by it looked good?
MR. JAMISON:
Well, if it's scooped and dusted and all the curtains were hung.
MS. COHEN:
And at one point in your transcript, you stated that we came out. Who were you referring to? Did Terry come out with you?
MR. JAMISON:
No. I didn't say we came out. I came out.
MS. COHEN:
In the transcript it says we came out.
MR. JAMISON:
Well, I was the only one that came out.
MS. COHEN:
Why didn't you keep your notes on you? You said you had to --- you changed clothes. But why didn't

you just keep your notes with you?
MR. JAMISON:
I always leave them in my shirt. I couldn't get in my locker, because they had tables set up there for the guys when they brought them out. At that time, they was planning the rescue. So we just laid our clothes down. I mean, it's nothing out of the ordinary.
MS. COHEN:
When was the last day that you worked prior to January 2nd?
MR. JAMISON:
I couldn't tell you. I was off on --- I really don't know. I had three or four days off before.
MS. COHEN:
You mentioned talking to Runyon, and I --- on page 45 of your transcript. When and where was this? Was this after you come out of the mine?
MR. JAMISON:
Yeah.

MS. CAMPBELL:
I have a question for Mr. Kitts. Why were some of the blocks, the Omega blocks that were used in the seal, according to James Scott's testimony, why were they green? Why were they ---?
MR. KITTS:
I'm sorry? Why were they what?
MS. CAMPBELL:
Why were the blocks, the Omega blocks, that were used in the seals --- according to the testimony of James Scott, he reported that he had placed green blocks in the seal?
MR. KITTS:
I don't know the answer to that. I had no firsthand involvement in the construction of those seals. But if Jeff Toler has any knowledge, I could pass it to him. I don't know.
MR. J.TOLER:
I can only assume that

what Mr. Scott is saying when he uses the term green at this point, is they are new.
MS. CAMPBELL:
Are the Omega blocks anything like concrete? You know how when concrete cures, it shrinks and it expands? Do they --- since you're the expert on the Omega blocks, because you had used them in other mines --- you and Joe Myers, I believe, had previous experience with that?
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL:
In your opinion, can you give me ---?
MR. J.TOLER:
I'm not aware of any instance where a block would, say, shrink when it cures, if that's what you're asking. I don't ---.
MS. CAMPBELL:
Well, I mean, in Mr. Scott's testimony, he said that he used

green blocks. They were heavier and they were easier to cut.
MR. J.TOLER:
Again, as I say, when he's referring to green, he's --- they are relatively new. Why they're easier --- why he says they're easier to cut, I don't know.
MS. CAMPBELL:
This is another question for Mr. Toler. You and Dick Wilfong and Vern Hofer and Al Schoonover made it to the Two Left switch?
MR. J.TOLER:
We made it to --- at that point in time, it was me, Dick Wilfong and Al Schoonover. Vernon and Owen had headed outby to assess if we had any damage up there, but the three of us made it to 57, between 57 and 58 block.
MS. CAMPBELL:
And how far is that from the Two Left switch?
MR. J.TOLER:
That is parallel to the

Two Left switch, ---
MS. CAMPBELL:
Okay.
MR. J.TOLER:
--- 60 feet away.
MS. CAMPBELL:
Do you --- do you feel that the mine rescue could have started there since you and the other men safely got in there without --- or let me put it this way, were you under apparatus?
MR. J.TOLER:
No, ma'am. I was air based. We actually never felt that we were in an environment that would require apparatus. To answer your question, I can only --- I can only speculate, as this is my first go-around with any incident like this. Not knowing what mine rescue --- if there is a mine rescue protocol in an instance like this, in my mind, yes, they could have, but I'm not --- I've never been involved in any kind of

rescue effort, so I don't know.
MS. CAMPBELL:
Is it possible that you can show me where you got to up there? I mean, is that possible or not?
MR. J.TOLER:
I think they're putting a pointer right there now. If you can see the mouth?
MS. CAMPBELL:
Uh-huh (yes). Right here on the map?
MR. J.TOLER:
Yeah.
MS. CAMPBELL:
Okay.
MR. J.TOLER:
Right there, yeah.
MS. CAMPBELL:
All of you got right there, you still had pretty good air?
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL:
And you were not under

apparatus?
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL:
And that is approximately how many feet from where the miners were found?
MR. J.TOLER:
Roughly about 2,000 feet.
MS. CAMPBELL:
2,000 feet? Mr. Toler, when you found out --- found that there were stoppings out, why did you decide not to call MSHA once you found those stoppings were out?
MR. J.TOLER:
When I found the stoppings were out, I had had my conversation with Johnny Stemple. Johnny's more than capable of notifying the authorities. I felt my efforts would be better served doing what I was doing, which was making an effort to --- a rescue effort.
MS. CAMPBELL:

What were the violations that Mr. Helms reported on his fire boss ---?
MR. J.TOLER:
I'm sorry, ma'am. I'm not aware of what they were. They are --- those records have been turned over though.
MS. CAMPBELL:
Does anyone on the Panel know what Mr. Helms called out on his fire boss report?
MR. HATFIELD:
It's my understanding that the fire boss books are in the possession of Mine Safety & Health Administration, so I don't think we have them to use as a reference.
MS. COHEN:
But you didn't review them before you turned them over?
MR. HATFIELD:
Pardon?
MS. COHEN:
You guys didn't review

your fire boss reports before turning the books over?
MR. HATFIELD:
Again, I don't --- perhaps the MSHA people could speak to that. I don't know.
MR. MCKINNEY:
I would think that you have a copy. Normally when we take those books, there's copies made and you keep a copy on hand.
MR. HATFIELD:
Sam, do we have a copy? I don't know anything about that.
MR. KITTS:
Yes, I do think we have a copy, but we don't have it up here with us. We can get you an answer to that question.
MR. HATFIELD:
Apparently, we do have a copy and we'll get you a response on that. We just don't have it at this time.
MS. CAMPBELL:

Mr. Toler, I guess this is your day for me, so I'm still with you. Since you had the responsibility of the seal plan, of showing the men how to build the seals, why were the First, Second and Third seals recessed? Why not straight across?
MR. J.TOLER:
It was a ventilation issue. The One, Two and Three seals were constructed in the places they were to allow us to sweep a separate split of air around the seals and thus take them off of what is our intake or fresh air split going into the mines.
MS. CAMPBELL:
So would that recessed area have been an area for gas to accumulate?
MR. J.TOLER:
No, ma'am. All the seals were properly ventilated on the outby side.
MS. COHEN:
I have a question then.

You sent the miners in there and no one reviewed the fire boss reports before you sent my dad in that mine, to make sure it was safe? Is that what you guys are telling me?
MR. J.TOLER:
Both foremen, Martin Toler and Owen Jones, reviewed the fire boss reports before they went underground.
MS. COHEN:
But you didn't? You were there?
MR. J.TOLER:
No, ma'am, I did not. No, ma'am.
MS. COHEN:
As the superintendent, that's not part of your job to make sure your mines are safe before you send workers in?
MR. J.TOLER:
I have people that examine the mines and tell us that it is safe.

MS. COHEN:
Mr. Jamison, I have a question for you. On page 90 of your transcript, you said --- you refer to the seal as a bomb. What did you mean by that?
MR. JAMISON:
What did you say?
MS. COHEN:
On page 90 of your transcript, ---
MR. JAMISON:
Uh-huh (yes).
MS. COHEN:
--- you guys were having a discussion about the seals. You referred to the seals as a bomb. What did you mean by that? I'd be glad to bring a transcript tomorrow.
MR. JAMISON:
The seals?
MS. COHEN:
Uh-huh (yes).
MR. JAMISON:
They are like a bomb.

MS. COHEN:
Can you elaborate on that for me, please?
MR. JAMISON:
Well, I mean, that's what they built --- the way they're built. They hold gas, but that don't mean they're going to explode.
MS. CAMPBELL:
Mr. Hatfield, could you bring those documents or those copies tomorrow with you that we ---
MR. HATFIELD:
Copies of the ---?
MS. CAMPBELL:
--- previously talked about before?
MR. HATFIELD:
You're talking about the fire boss ---?
MS. CAMPBELL:
The fire boss, yes.
MR. HATFIELD:
If we have a copy, I don't have a problem sharing that. I

didn't know we had a copy, but if we do, I will bring it tomorrow.
MS. CAMPBELL:
Mr. Toler, how far were you from Mr. Helms when you stopped?
MR. J.TOLER:
Probably about 50 to 60 feet away.
MS. CAMPBELL:
Fifty (50) feet?
MR. J.TOLER:
Sixty (60), 60 feet away. I had no idea he was there.
MS. CAMPBELL:
This question's for Mr. Crumrine. John Boni testified that he detected methane in the area of the seals on Wednesday before the explosion, and that he reported that finding to you. Was that the first time methane had been detected in the area after the seals had been completed?
MR. CRUMRINE:
Yes, it was. And the

methane content was two-tenths of one percent, which is well within the allowable range.
MS. CAMPBELL:
When did John Boni make that report to you?
MR. J.TOLER:
He called me and told me Wednesday evening.
MS. CAMPBELL:
Were there any records made of his findings? Is there ---?
MR. J.TOLER:
Yeah. He would have put it in the fire boss book.
MS. CAMPBELL:
Were those records provided to MSHA and the State?
MR. J.TOLER:
Yeah. They locked up the records that day and then they took the records on Friday, I believe it was.
MS. CAMPBELL:
You also testified in your interview that you also found

methane in an area of the seals the following day, the Thursday before the explosion?
MR. J.TOLER:
Yes, ma'am. Since he had reported this and it was the first time we had received any report of any methane around the seals at all, I walked the intake escapeway all the way into the Two Left section. And on my way in, I went by the seals and checked the seals. And I also had two-tenths, but it was not --- you know, it was well within acceptable levels and --- it was within acceptable levels.
MS. CAMPBELL:
Did you check --- you checked all the seals?
MR. J.TOLER:
Yes, I did.
MS. CAMPBELL:
Did you report that to anyone?
MR. J.TOLER:
Well, I told Jeff, I

believe, when I come out that I just had two-tenths there. You're required to --- you're required by the State to check those weekly.
MS. COHEN:
Why, when you all found out that the miners were really deceased, why did you wait so long to tell us and why was the rescue workers debriefed before the families?
MR. HATFIELD:
As I noted in my written statement, we did not know which information to believe. We had conflicting information, two different reports 45 minutes apart. And we continued to believe that there was a strong possibility that the 11 miners were in a comatose state and may not be dead.
MS. COHEN:
What was done to monitor the methane through the weekend, from Thursday to Monday? Was there any crews working?

MR. J.TOLER:
There were --- we produced coal on the Friday. We did not produce coal on Saturday or Sunday. But my recollection is, I had men working --- I think I had men working both days, Saturday and Sunday.
MS. COHEN:
Okay. Because in your testimony, Mr. Toler, you said that you usually started your shift outby reviewing timesheets and you think you had men working over the weekend. Were their timesheets on your desk from the weekend crew?
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL
Mr. Stemple, I have a question for you. Did you ever submit a plan to store any rescuers underground?
MR. STEMPLE:
I did not submit ---.
MS. CAMPBELL:

At Spruce. I'm sorry.
MR. STEMPLE:
I did not submit a plan. I discussed it.
MS. CAMPBELL:
So you did not submit it, you suggested it?
MR. STEMPLE:
I discussed it in meetings with MSHA representatives.
MS. CAMPBELL:
And what kind --- what are they storing now underground? Are they storing those rescuers underground now?
MR. STEMPLE:
At the time I had those meetings with MSHA, a person-wearable self-contained self rescuer was not allowed to be stored underground. There was no provisions, a person-wearable self-contained self-rescuer to be stored underground. At that time, the technology was new and MSHA would not allow cached plans in seam heights

of over 48 inches. So I could not get a storage plan so I didn't waste my time typing it up after the meeting. And then --- that was in 1997. And then in the year 2002, I had a discussion again with an MSHA representative and asked again to store person wearable self-contained self-rescuers underground and was told that I was wasting my time.
MS. CAMPBELL:
Mr. Toler, when the CO monitor showed 26 parts per million at 6:10 a.m. on January 2nd, what was ICG required to do pursuant to the Mine Act and regulations? Or whoever's in charge of that.
MR. COLEMAN:
Ty Coleman. I'm the Manager of Safety.
MS. CAMPBELL:
I'm sorry, I can't hear --- I can't hear you.
MR. COLEMAN:
Ty Coleman, Manager of

Safety, ICG West Virginia and Maryland. Pursuant to our program of instruction, 2,600 parts per million, you would --- that is an alert symbol and you verify the alert and initiate an evacuation once you've verified it.
MS. CAMPBELL:
I'm back to you now, Mr. Crumrine again. So you detected methane at the seals. And I believe you testified in your interview that you felt that methane was coming from the sealed area; correct?
MR. CRUMRINE:
That would be my guess, that would be where it was ---.
MS. CAMPBELL:
Did you check the seals on Thursday?
MR. CRUMRINE:
Excuse me?
MS. CAMPBELL:
Did you check those seals on Thursday?
MR. CRUMRINE:

Yes, it was Thursday I checked those seals.
MS. CAMPBELL:
You checked them on Thursday?
MR. CRUMRINE:
Yes.
MS. CAMPBELL:
Okay. And did you check them on Friday?
MR. CRUMRINE:
No, ma'am. I'm only --- I don't --- I wouldn't even had to have checked them on Thursday. We're required to check the seals once a week. That is a weekly check made by John Boni. However, I did go in and I checked the seals on Thursday, because I wanted to make sure, number one, that John's meter wasn't off. And number two, that there wasn't anything breached around the seal. And I, you know, examined the seals and didn't find anything, you know, a crack in the --- the roof or anything like that.

MS. CAMPBELL:
So the last time the seals were checked would have been on Thursday? So they would not have been checked Friday, Saturday or Sunday, ---
MR. CRUMRINE:
No, ma'am, they would not.
MS. CAMPBELL:
--- by anyone, other than yourself?
MR. CRUMRINE:
No, ma'am, they wouldn't have been.
MS. CAMPBELL:
And I'm not sure who gets this question, but I'll just put it out there and somebody take it, whoever's responsible for it. Have all the electrical inspection records been produced to MSHA and the State?
MR. STEMPLE:
The records that they've asked for have been produced, yes.
MS. CAMPBELL:

Just the ones they've asked for, not all of them?
MR. STEMPLE:
That is correct. The ones they've asked for have been produced.
MS. CAMPBELL:
We're back on the CO monitoring, so it's probably going to be you, Mr. Toler. Was it appropriate for the company to use the CO monitor system as a paging system for the miners? Do you know what I'm talking about?
MR. J.TOLER:
I think I know what you're talking about, but personally I'm not aware that it was being done. It's possible that it was being done, but I'm not aware of it.
MR. KITTS:
Let me follow-up to that. There was reporting in the testimony that that was a past practice. And, no, we do not feel that is an

appropriate use of the CO monitor system. And subsequently ICG performed a daylong dispatcher training session with all of our dispatchers to make sure that that didn't happen again.
MS. CAMPBELL:
I was just going to get to Mr. Chisolm's testimony, that there was no way for miners inside the mine to tell the difference between a real alarm and an alarm sounded to notify miners of a call, such as an example Mr. Chisolm gave about someone's mother calling that they used the CO monitoring system to alert the miners in the mine.
MR. KITTS:
Yes. And we do not condone that practice. I'll say it again. And in order to address the problem, the mine phones were changed out so that there is a visual signal on the mine phone now that would serve the same purpose as they were improvising with, with the CO monitoring system.

So we think we have it corrected now.
MS. CAMPBELL:
What was happening at 6:10 a.m. when the CO alarm went off at 26 parts per million, Mr. ---?
MR. KITTS:
Let me speak to that, Jeff.
MR. J.TOLER:
Go ahead, Sam.
MR. KITTS:
You're referring to the article in the paper and the testimony. The mine --- let me be clear, first of all, that when a CO monitor alarms, it is not required to evacuate the mine. The procedure is that someone goes to the next outby location of a CO sensor and checks it. Then they advance up to where the faulty alarm is with a gas tester and they do a gas check. If there's no problem, in other words, if there's no fire or anything --- any other problem, they are required by procedure to stay there and monitor the

situation until an electrician can come repair the sensor.
Contrary to what was reported in the press, what happened Monday morning was the dispatcher saw an error flag on the computer, a malfunction flag, that then went to CO alarm. He did what he was supposed to do. He notified the electrician on the One Left crew that there was a sensor showing a fault. So then when the One Left crew went inside, the electrician obviously never made it up there to the section on that day due to the explosion.
But what was reported in the press is not correct. The dispatcher did what he was supposed to do. He notified a maintenance person who was then able to go up and check the sensor before they would have advanced onto the section. So again, every time you get a fault on a CO monitor, it's not necessary to evacuate the entire mine.

MS. CAMPBELL:
Where were those CO sensors located?
MR. KITTS:
The particular one that faulted --- Chuck, if you'll point it out, was at the tailpiece of Number One Left. So it was all the way up in the face. There would have been, I believe, three additional sensors between that point and the mouth of that section. So that was completely removed from the area of the seals. Back to that detail.
MS. CAMPBELL:
Who would have been inby the sensor at 6:10 a.m.?
MR. KITTS:
No one.
MR. J.TOLER:
No one at that time.
MS. CAMPBELL:
No one? So if I understood you correctly, when a CO monitor goes off, a miner has to go

check to make sure that it is working properly, that there's not a fire or not --- did I understand that correctly?
MR. KITTS:
Yes.
MS. CAMPBELL:
Okay. So when a mother or somebody calls you in and somebody sets the CO monitor off, a miner still has to go check that CO monitor; correct?
MR. KITTS:
Yes.
MS. CAMPBELL:
Why did the dispatcher keep turning the CO monitor off?
MR. KITTS:
Because it was showing a fault. It was showing a malfunction.
MS. CAMPBELL:
Well, obviously it wasn't malfunctioning. There was an explosion in the mine.
MR. KITTS:

The explosion hadn't occurred at this time.
MS. CAMPBELL:
Well, it was about to occur because it was telling you that something was wrong in the mine; correct?
MR. KITTS:
The other sensors were not showing any kind of an alarm at this point. This is 6:10. In rough time, we're talking 20 minutes until the explosion occurred. So as he was going through his checks, he had one sensor malfunctioning. All the other ones were good.
MS. CAMPBELL:
Well, how did he know that it was a malfunction?
MR. KITTS:
He testified that the sensor on his computer screen would flash malfunction and then go to alarm. Just for a second, it would flash malfunction and then it would show an

alarm, which is the typical response that you get through the computer system when you have a sensor that's gone bad.
MR. STEMPLE:
Can I clarify something on that? The CO monitor system is never turned off. It's not turned off. What the dispatcher will do is on his keyboard is he'll push a button so that it doesn't alarm right there in his face, as far as the siren going off. It's very shrill, very loud siren so that it gets his attention. He never turns that off. Whenever he would use that system to get ahold of the section, it's called a visual and audible alarm system. It's a very loud siren and it's a set of strobe lights that flash off and on at the same time. That way if there's someone in the area, they will hear it and they will come to it. It is never turned off, it's still activating. It's still checking for carbon monoxide 16 times a

second, which is considered a continuous check for carbon monoxide.
This system is the best on the market. It's like your cell phone. At times you gain signal, at times you lose signal. This particular sensor lost signal. He silenced the alarm so he didn't have to listen to the alarm. It showed malfunction and then it cleared itself. He still went ahead and notified the crew, when you get up there, check that sensor just to make sure that everything is okay.
The belt line for that section had not been operating, I'm going to say, for probably two days. So there was no --- there was nothing there that could have caused a fire, nothing there that could have caused any heat. That was the section belt, which was turned off at the section tailpiece. So there was nothing there to show or signal any type of an alarm or anything that would make you want to investigate really any further.

However, he did go ahead and notify the crew, when they got up there, to go ahead and check that sensor to make sure everything was okay. Have the electrician open the box, check the fuses. Sometimes a fuse will be loose, it causes a sensor to loose signal for just a split second. And if that sensor looses the signal for a split second, it goes into malfunction mode. He silenced it, cleared the alarm and it was back to zero. That let's you know that everything is okay.
The other sensors that's in line with that sensor outby with the way the air flows, had there been a true problem, those other sensors would have alerted and would have picked up the CO as well. And by having experience with the system, the dispatcher learns that. Anytime they're doing any welding or cutting in the mine, they will call him prior to doing any welding or cutting, and say,

we're at the One Left tailpiece, we're going to cut some flights out of the feeder. That way when it goes off, when the alarm --- I'm saying goes off, it doesn't turn off. When the alarm alarms and signals, he knows what's going on in that area, because they've alerted him. And then you can physically watch the CO levels on the other sensors outby raised. And when they call out that they're done, you can watch them fall. So that he doesn't have to sit there and listen to that system alarm and that siren alarm in his ear, he goes ahead and pushes the silencer button.

MS. CAMPBELL:

So do you guys have a lot of faulty CO alarms?

MR. STEMPLE:

It happens, yes.

MS. CAMPBELL:

A lot?

MR. STEMPLE:

It happens.

MS. CAMPBELL:

A lot?

MR. STEMPLE:

I don't know what a lot is, but it happens.

MS. CAMPBELL:

Maybe you should look into your CO alarm system and maybe it needs replaced or something. And Mr. Stemple, what kind of rescuers did you say that you were storing underground now?

MR. STEMPLE:

We wear a person-wearable self-contained self-rescuer. Right now we're storing those rescuers underground.

MS. CAMPBELL:

The same ones that ---

MR. STEMPLE:

Yes.

MS. CAMPBELL:

--- these men ---

MR. STEMPLE:

--- relied on to save

their lives?

MR. STEMPLE:

Yes, ma'am.

MS. CAMPBELL:

So you haven't upgraded to maybe a three-hour or a four-hour supply? It's still the same one that malfunctioned, according to Randal McCloy? Four of them did not work.

MR. STEMPLE:

If there's a three-hour or a four-hour that's available, I'm not aware of it, ma'am.

MS. CAMPBELL:

Well, I mean, this is the 21st Century, I'm sure somebody can make one. Randal McCloy, in the family letter, stated that one-third of the rescuers did not work.

MR. STEMPLE:

Yes, I read that also.

MS. CAMPBELL:

And how do you --- what do you feel about that? Would you want to rely on one of those rescuers if you

were underground?

MR. STEMPLE:

The rescuers will provide oxygen at a certain rate. And you can overbreathe those rescuers. You can breathe faster than they can provide oxygen. If you're in a mode where you're moving very fastly, very quickly, you can overbreathe those units. You have to slow your breathing rate down or slow your pace down to allow those units to produce oxygen at --- or to allow your body to take in the oxygen as fast as a unit is producing the oxygen. It's not a unit that provides pressure, so when you activate the unit, there's not oxygen coming out of it. You have to breathe into it and breathe out of it, or suck out of it, to get oxygen. And you can outbreathe those units.

MS. CAMPBELL:

So in your opinion, are you --- or not in your opinion, but are you trying to tell me that 100 years of

experience amongst these miners, that they didn't know how to use those rescuers?

MR. STEMPLE:

They knew how to use those rescuers, ma'am. Yes, they did.

MS. CAMPBELL:

So Randal McCloy has nothing to gain by telling us that one-third of those rescuers didn't work underground and that they had to share while they were beating their brains out on the bolts and trying to get somebody on the surface to listen --- to hear them, to put up flags, so that they would know that somebody was looking for them. I mean, does anybody have an opinion on that, other than myself? Because I think that's not very ---.

MR. HATFIELD:

I can share an opinion. Again, the truth is we don't know the answer. I think all of us at this table believe that Randy McCloy has

described accurately what he believes to have happened. We don't know the rest of the story. But Johnny was simply describing to you what is sometimes a common problem, even with experienced miners. In a traumatic emotional situation, sometimes people overbreathe, and that's just what he was describing as something that sometimes makes people think that it's not working.

MS. CAMPBELL:

Well, Mr. Hatfield, this is the 21st Century, and you should not have to worry about whether you're breathing too hard, too slow, too fast or whatever you're doing. You should have a rescuer that you push a button and it gives you air if you're trapped in a coal mine.

MR. HATFIELD:

I would be the first to agree with you that we can do better, the industry can do better. That technology hasn't advanced in over a

decade, and I fully believe that as a result of what we've learned in this tragic accident that it will improve.

MS. COHEN:

Some of the SCSRs have been recalled for defects. Are you guys aware of that?

MR. HATFIELD:

I don't think we have any information on that that pertains to the units we've received.

MS. COHEN:

Mr. Kitts, I read your testimony, or your transcript, I should say. Do you think the seals failed?

MR. KITTS:

Do I think the seals what?

MS. COHEN:

Failed.

MR. KITTS:

Failed?

MS. COHEN:

Uh-huh (yes).

MR. KITTS:

Well clearly, the seals failed in the sense that they're demolished. The question is, for this investigation, we have to determine what forces were applied to those seals.

MS. COHEN:

Okay. And then in your transcript, you said your perspective that time went by very quickly when the miscommunication happened and it was corrected. Was that quickly for you? Because when I was sitting there waiting to hear whether my dad was dead or alive, it wasn't quickly for me.

MR. KITTS:

That was from my personal perspective, yes.

MS. COHEN:

What is the model number and serial numbers and the manufacture dates of the self-rescuers that you guys currently have? Do you know or can you provide that to us?

MR. KITTS:

I think Johnny could describe the model number. I don't think we have the serial number information. Could you describe it, Johnny?
MR. STEMPLE:
The model is the CSCSR 100. And each individual unit has its own serial number, and we have over 300 of them at the mine.
MS. COHEN:
Okay. Mr. Toler, in your transcript, you were talking about walkie-talkies that the miner operators carry. Well, my dad was the miner operator for Two Left. Did he have a walkie-talkie and did you guys ever try to contact them on that walkie-talkie?
MR. J.TOLER:
To the best of my knowledge, there would have been five of those units with that crew. The range is probably limited to 300 to 500 feet. Sadly, I did not even --- I didn't even think to take a radio with

me. I'm not sure that --- I have no reason to believe that given the distance we were apart, that we would have communicated. But it's another part of my nightmare that I didn't have it to try. I apologize to you for that.
MS. COHEN:
But you ---.
MR. HATFIELD:
I believe it's true, though, that Owie Jones tried repeatedly on his walkie-talkie to reach the crew.
MR. J.TOLER:
That was --- yeah, that was when we were farther outby, yes.
MS. COHEN:
Mr. Jamison, what time did you come out and find your fire boss book?
MR. JAMISON:
Probably around 5:30.
MS. COHEN:
And you said you --- when

you came out, it was chaotic and you came in contact with rescue workers. The accident hadn't happened yet.
MR. JAMISON:
No.
MR. HATFIELD:
I think he's describing that he went out and then went back in. Do you want to explain that better?
MR. JAMISON:
I really couldn't hardly understand. What did she say?
MR. HATFIELD:
She was asking what time you came out?
MR. JAMISON:
Oh, it was around 5:30, and then I went back in.
MR. HATFIELD:
That's the point that she was missing.
MR. JAMISON:
Yeah, I went back in at six o'clock.
MS. COHEN:

Okay. And then you came back out when? After six o'clock when you re-entered --- I mean, when you re-entered, what time did you come back out for the second time?
MR. JAMISON:
Well, it was probably about 7:30. It was after it blowed.
MS. COHEN:
Where did you meet Mr. Toler and them coming into the mines?
MR. JAMISON:
They was coming in the track.
MS. COHEN:
How far out were you?
MR. J.TOLER:
Fred --- I encountered Fred, he was probably just two or three breaks underground in a --- doing a mental timeline, if the explosion happened at 6:30, I think we were ready to go --- we had started underground within 10 to 15 minutes after that. And it probably wasn't two minutes

after we started underground that I passed Fred. So Fred's probably looking between 7:40 --- 6:45 and --- excuse me, 6:50, in that range that I passed Fred.
MS. COHEN:
What were you doing when you were in there prior to --- obviously you weren't on Two Left. So where were you during this time between when you re-entered at six o'clock and the explosion?
MR. JAMISON:
I was at Two head waiting on them to run coal.
MR. KITTS:
Just a minute, I'll see if I can get you a location.
MS. COHEN:
So how did you make it out?
MR. JAMISON:
Do what?
MS. COHEN:
If you were --- how close

--- so you're saying you were on Two Left waiting for them to run coal or One Left?
MR. JAMISON:
No, I was just ---.
MR. KITTS:
He said Two head. If you'll look at the pointer.
MS. COHEN:
Okay. I'm sorry.
MR. KITTS:
Look at the pointer, it's on the map.
MS. CAMPBELL:
I'm back to you, Mr. Toler.
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL:
Let me find my notes. Sorry. In your testimony, you and Joe Myers --- do I have that correct?
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL:

You said you had experience at another mine with the Omega block seals?
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL:
And the plan that Joe Myers submitted, I know I kind of hit on this before, but I wanted to bring it up because I didn't have my notes in front of me. Joe Myers submitted a plan. Basically, it's a plan you and he had used at another mine; is that correct? Is that ---?
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL:
How does the mine that you and Joe worked at before compare to Sago Mine conditions? Not all mines are alike. How do you know that the Omega blocks could withstand the Sago conditions?
MR. J.TOLER:
Any seal that is approved

is approved to withstand --- it's approved by MSHA and it's just a matter of what type of seal you want to --- you know, you want to construct. With my experience with the Omega seal in the past, I was very comfortable with that seal.
MS. CAMPBELL:
And you personally have constructed Omega block seals?
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL:
Did you ever use green blocks?
MR. J.TOLER:
Well, going by Mr. Scott's definition, if a load of block was just delivered today and I took them inside and used them today, I could probably use that terminology.
MS. CAMPBELL:
From what I got from Mr. Scott, and this is just my opinion, the blocks were wet, they hadn't cured,

they hadn't set up. That's my opinion of a green block. What is your opinion of a green block?
MR. J.TOLER:
My opinion wouldn't be that it's wet to the effect that it wouldn't --- that it wasn't set up. They couldn't deliver this block to us if it wasn't --- if it hadn't been cured enough to --- if it hadn't been cured to use.
MS. CAMPBELL:
So if you got a load of block that you felt were green blocks, would you construct them in a seal, or would you reject those?
MR. J.TOLER:
I have no reason not to use them.
MR. STEMPLE:
Can I interject here? Green --- what James Scott's referring to as a green block is a new block, as opposed to a used block. A lot of times stoppings will be knocked down

and hand-carried or use a wheelbarrow to carry them up to move them to a different location, and they're re-used. That would not be a green block. That would be a block that had been previously used or a used block. The Omega blocks were all constructed out of brand new blocks, meaning green.
MS. COHEN:
Okay. Talking about the Omega blocks, Mr. Toler, when did the construction begin on the seals? And were the blocks left outside for any period of time before they were taken into the mine?
MR. J.TOLER:
As best I can recall, the blocks were delivered somewhere around October the 25th or 26th. And the first load that came was immediately taken underground. And I think we started seal construction immediately after that, within the next day or so.

MS. COHEN:

So how did you guys choose the men who constructed these seals and why were there so many different people involved in the construction of these seals?
MR. J.TOLER:
At that time, we had several projects going on outby in the mines. And it was just these --- the men that were available to do this construction were the men that were doing it. That's the best answer I can give you on that, I'm sorry.
MS. COHEN:
Did all the men that were constructing the seals --- were they all trained properly on how to do it? And who did that training? I think at one point in your transcript, you weren't sure who did it. Then later on, I think I read that you said you thought you did it.
MR. J.TOLER:
I'm sure I reviewed the construction process to all the

supervisors that were working on that. All the supervisors that were working in that area were provided with a copy of the seal construction plan as well. All of them seemed to have a very good grasp on how they were to be constructed.
MS. COHEN:
And why did you never examine the seals? Page 140 of your transcript, you said that you never examined the seals.
MR. J.TOLER:
I never examined the seals after construction was complete, However, when --- during construction, if I was underground in the area, I went by to check on them to see how they were doing.
MS. COHEN:
Did you check to make sure that the mesh was removed from that sealed area, the wire mesh?
MR. J.TOLER:
I didn't actually check

every one of them to see if the mesh was removed, but I did instruct them to remove the mesh.
MS. COHEN:
So did anybody check that? Is it documented that the wire mesh was removed from the seal area?
MR. J.TOLER:
I think John Collins testified to that a little earlier, that the mesh had been removed.
MS. COHEN:
On page 131 of your transcript, you were talking about the BlocBond, ---
MR. J.TOLER:
Yes, ma'am.
MS. COHEN:
--- BBond. Do you check each bag or do you just go by the color of the bag? I understand there are some in two different color bags.
MR. J.TOLER:
Yes, ma'am. There's a green bag that is labeled as BBond, and

a blue bag labeled as BlocBond. The seal plan is specific to use the blue bag, BlocBond.
MS. COHEN:
And you signed the requisition, if I read your transcript correctly, when they ordered those?
MR. J.TOLER:
Yes, ma'am.
MS. COHEN:
Do you review what's on there, so you know what they're ordering? How did the confusion happen?
MR. J.TOLER:
The confusion --- I'm not sure how the confusion happened. I will sign the requisition. The order is placed from our purchasing department. I'm not sure how the confusion happened, but some --- there were a few pallets of the green bag delivered, and we do utilize the green bag in some places in the mine. It's okay to use on a stopping.

MS. COHEN:
Okay. Also in your transcript, you said you weren't familiar with the evacuation procedure and that you hadn't reviewed the fire and evacuation plan. Is there a reason why you hadn't?
MR. J.TOLER:
I had reviewed the plan. I don't recall --- I just was drawing a blank recalling details on it. Yes, ma'am, I ---.
MS. CAMPBELL:
Do you recall them now?
MR. J.TOLER:
Looking right at you, no, I don't. But ---.
MS. CAMPBELL:
So you're the superintendent of the mine; correct?
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL:
I would think you should know those, and I suggest that you

learn them.
MR. J.TOLER:
Ma'am, I know the procedures, but I apologize for being just a little nervous here.
MS. CAMPBELL:
Mr. Hatfield, you said that technology hadn't advanced in 20 years. I don't really think that's true. I think it's just become a little bit more expensive. Do you --- I mean, you're going to have to put out some money to update your equipment, so that this --- these men have better self-rescuers and that they don't have to rely on rescuers that are outdated.
MR. HATFIELD:
Yeah. Again, what I was saying there is that that is the state-of-the-art in the industry. And I believe the industry needs to raise the standard. But the CSC (sic) rescuers that were used in the barricade are the same ones that I carry on my belt, the same ones the

State mine inspectors and Federal mine inspectors carry on their belt when they come to the mine. That is the most commonly used self-rescuer in the industry. But I continue to believe that it can and should be significantly improved.

MS. COHEN:

Mr. Toler, how often do you go underground to check things out? Do you make routine trips underground every day?

MR. J.TOLER:

Not every day, no.

MS. COHEN:

So how often do you do it?

MR. J.TOLER:

It can vary week by week. Yeah. On a good week, I'll go under three or four times in the week. Obviously this week, I won't.

MS. COHEN:

And Mr. Jamison, did anyone inform you of the gas, the

methane gas, that had been leaking around the seal before you went to do your fire boss? Were you aware that they were finding levels of methane around the seal?

MR. JAMISON:

No.

MS. CAMPBELL:

Davitt, I have one more question, and this is for Ray McKinney. Mr. McKinney, how long does it take to fire boss the face of a section --- or the section?

MR. MCKINNEY:

I think that's depending upon the number of faces that you have in the section.

MS. CAMPBELL:

The section, how long would it take Mr. Jamison --- should it take Mr. Jamison to fire boss that section?

MR. MCKINNEY:

Again, it depends upon the heighth (sic) of the coal. You're

talking about the section in Sago that he made there? Me, personally, when I used to fire boss coal mines, to fire boss a section was about 40, 45 minutes. That's to make a six-entry section, to make all the faces, to check my ventilation and get my last open crosscut, area.

MS. CAMPBELL:

So would that --- 45 minutes, would that have been an area of about how much Mr. Jamison would have been fire bossing that day or more or less or ---?

MR. MCKINNEY:

I don't really know what Mr. Jamison did that day. I'm trying to give you a ---.

MS. CAMPBELL:

We don't either. Sorry.

MR. MCKINNEY:

I'm trying to give you an answer of personal experience that I had when I fire bossed and that's about what it was for an average section for

me.

CHAIR:

If I could ask for a break just a moment? We'll take a five-minute break, and then come back to ask more questions. Thank you.

SHORT BREAK TAKEN

UNIDENTIFIED SPEAKER:

Mr. Chairman, before we begin, may I enter two documents into the record? We have the pre-shift examination report from Mr. Jamison and from Mr. Helms. And I'd just like to enter those into the record. And also note that I have given a copy to the Groves family and they are available for inspection.

CHAIR:

It is my opinion that the ICG has also made a copy available for --- has made a copy available today.

UNIDENTIFIED SPEAKER:

Yeah. As a matter of fact, Mr. Chairman, I would just send that over to the family members. What

I have in front of me are copies of the pre-shift mine examiner's report from both One Left and Two Left on the morning of January 2nd, as well as the outby or belt report and the weekly examination for the prior week. So we'll make those available, all four of them, to the family. These are from our copies.

CHAIR:

Thank you very much, sir.

Now I'd like to ask the legislators for questions. We have about one microphone, which we'll have to ask them to pass around. But let me turn to Senator Kessler to open with the questions. And since I can't see you from here, maybe you fellows can handle it.

SENATOR KESSLER:

Mr. Chairman, we spent a lot of time talking about the amount of time required for a fire boss run. Could I ask that Fred Jamison be given the opportunity to explain what his

view of how long it should take? It will just take a moment to clarify that point.

CHAIR:

Certainly. Mr. Jamison, if you'd like to speak to the time it takes to make a fire boss. Speak into the microphone.

MR. JAMISON:

On that 25 minutes, if you don't have a violation, a curtain to hang, everything's in good shape, it don't take long to run a face.

CHAIR:

Bill Hamilton?

MS. CAMPBELL:

I have one comment.

CHAIR:

You go ahead.

MS. CAMPBELL:

Fred, what about that pump that you were messing with in there, trying to get it restarted, was that included in your ---?

MR. JAMISON:

That what?

MS. CAMPBELL:

The pump that you were working with, you said that there was a pump down and that you couldn't get it to kick on.

MR. JAMISON:

Oh, that wasn't at the face. That was out by the face.

MS. CAMPBELL:

So you were already on your way out by then?

MR. JAMISON:

Yes.

MS. CAMPBELL:

So that wasn't included in the 25 minutes?

MR. JAMISON:

No. No.

MS. CAMPBELL:

Thank you.

SENATOR KESSLER:

Mr. Stemple, what was the time span between the explosion and the initial call to the Upshur County

Communication Center?

MR. STEMPLE:

The call that was made to the Upshur County Communication Center was made at 7:54.

SENATOR KESSLER:

And why was that --- that was roughly --- the explosion was 6:30?

MR. STEMPLE:

Yes, sir.

SENATOR KESSLER:

Okay. Why was that time an hour and some minutes between the initial --- the explosion and the call that was made to the com center? Why did it take that long?

MR. STEMPLE:

We had no clue that we had an explosion at that time.

SENATOR KESSLER:

There's been --- I don't know if I want to call it substantiated information, but the mine was --- my knowledge is the mine was shut down for four days. You were not producing

coal, but you did have some people in there working, doing repairs. Is that --- I don't know who wants to take that, but ---.

MR. J.TOLER:

That is not entirely correct. We produced coal on Friday. We did not produce coal on Saturday and Sunday. But there were individuals working on Saturday and Sunday.

SENATOR KESSLER:

On Saturday and Sunday you did have men --- people in the mine?

MR. STEMPLE:

Yes, sir.

SENATOR KESSLER:

On days of inactivity, no production, who fire bosses the mine? Is it a fire boss or a pump man?

MR. J.TOLER:

The guys that are working there, there would be a certified foreman there that would be required to examine the mines. On Saturday, I

think I did have fire bosses that worked Saturday, and they should have been --- there should have been somebody there on Sunday fire bossing as well.

SENATOR KESSLER:

Presently, has the sealed area that --- where the explosion occurred, has that been resealed?

MR. J.TOLER:

No, sir, it has not.

SENATOR KESSLER:

How are we liberating that methane?

MR. J.TOLER:

We are --- currently, we're ventilating that panel with fresh air.

SENATOR KESSLER:

And where is that ventilation coming from?

MR. J.TOLER:

The inlet is coming off of a split of air off of our main intake, and we are ventilating through

a series of boreholes that were drilled down from the surface to points of deepest penetration in that panel, and it's returning out those holes.

SENATOR KESSLER:

How many boreholes were installed after the explosion in the sealed area?

MR. STEMPLE:

Three.

DELEGATE HAMILTON:

Excuse me. It's five. There are three boreholes up on the head end.

SENATOR KESSLER:

Could you point with the --- please?

DELEGATE HAMILTON:

I'll try. There are three boreholes in that area. One of them is 24 inches. We were concerned, along with the regulatory agencies, that you could have a methane buildup in the face of these old mains here that wouldn't get flushed out, so two

additional holes were drilled in the face of the old mains. So there's a total of five.

SENATOR KESSLER:

Okay. Are these boreholes working properly? Are they ventilating the methane and we don't have a problem in that ---?

DELEGATE HAMILTON:

Yes, that's correct.

SENATOR KESSLER:

Why were these boreholes not installed prior to the explosion?

DELEGATE HAMILTON:

Because it was sealed. The plan was to seal the area and not ventilate it. But then subsequently, the explosion occurred. And there were several reasons --- ongoing investigations required people to still travel that area. So the decision was made to drill a borehole, pump the water down. On the exhibit here, you can see the bluish color represents water at the time of the explosion. So

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before we could ventilate the area, we first had to pump it down. And we'll get into that in detail tomorrow during the investigation panel.
SENATOR KESSLER:
So there was no discussion that you would --- after the explosion, that you would reseal that area? That was out of the question?
DELEGATE HAMILTON:
Well, it just wasn't practical in order to complete the investigation. So the decision was to ventilate it.
MR. HATFIELD:
More to the point, frankly, our comfort level with sealed areas at Sago simply wasn't such that we were comfortable sealing that area. We made the determination we would permanently ventilate it until we knew exactly what had happened.
SENATOR KESSLER:
Can you all show me on the map where the --- where all the

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battery charging stations are in the mine?
MR. KITTS:
I don't have that level of familiarity. Jeff, could you come over and point them out, or at least some of them?
MR. J.TOLER:
Carl will do that.
MR. CRUMRINE:
All right. There's one charging station right here at Four tail. We had a charger down on One Left, but it wasn't hooked up yet at that time. There's a charging station at First Right. A charging station right there at First Right. And then the rest of the charges are outside, with the exception of in the motor barn itself, which is right in that area right there.
SENATOR KESSLER:
Thank you. Why was there no signal from outside of the mine to answer the trapped miners who were

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pounding on a roof bolt to signal where they were?
DELEGATE HAMILTON:
I'll let Ty Coleman answer that question.
MR. COLEMAN:
During the mine emergency operations, we did ask for the --- what we call the seismograph truck, the truck, on two different occasions.
MR. STEMPLE:
You have to talk into the mic.
MR. COLEMAN:
We had asked for the seismograph truck from MSHA on two different occasions, and not only myself but other panel members, who I'll let interject as they wish.
SENATOR KESSLER:
And where was that truck?
MR. COLEMAN:
I do not know, sir.
SENATOR KESSLER:
Who would have that

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answer?
MR. COLEMAN:
That would be an MSHA question.
SENATOR KESSLER:
Oh, and I'm not allowed to ask that.
AUDIENCE APPLAUDS
SENATOR KESSLER:
If it's proper procedure, and that's to signal on the inside, if you're a trapped miner, and then you answer on the outside, why was the procedure not followed on the outside? Our miners followed it on the inside.
MR. COLEMAN:
I can't answer your question, sir.
SENATOR KESSLER:
Pardon me?
MR. COLEMAN:
I can't answer your question because we didn't have the truck which to do that with.
SENATOR LOVE:

I'll direct this question to Mr. Jamison, the fire boss, or any of you. It's long been a principle of investigations to sort of look where the people activity is taking place. Ninety-nine (99) percent of the time the activity will either directly or indirectly lead to the cause of the accident. And the closest --- or the closest activity to that sealed area was the belt attendant, the fire boss, Jerry Helms. That's where his body was located. And his body was found at the beginning of the mouth of Two Left. I understand he went into the mines early; fire bossed One Left, then went to the coal belt transfer point at Two Left. And this is where the coal belt from Two Left dumps the coal into the main belt. I think his regular job was attendant at Two Left. But this would have --- this would have --- he would have checked probably and cleaned up the area, then started the belts and maybe some other

equipment. There was a shop under construction in this area, in the old crack entry that used to go to the sealed area. And in that shop was a 575-volt portable welder that was not recovered by investigators during the beginning of the investigation. And the welder would have been powered from the belt drive in Helms' location. My question is, would Terry Helms have been starting the equipment and belts at the mouth of the Two Left section shortly after that section crew arrived?

MR. J.TOLER:

Are you asking would Terry have been energizing that belt?

SENATOR LOVE:

Yes. Would he have been starting equipment in that area?

MR. J.TOLER:

No.

SENATOR LOVE:

Would his activity have taken place at the same time maybe as

the lightning strike?

MR. J.TOLER:

No. It would be unlikely that Terry would have been starting --- .

SENATOR LOVE:

I understand in the previous closed interview statements, in the mine, if I read that mine map properly, the electrical source now known to be closest to the seals was a portable welder in the shop area under construction. Did state or federal investigators examine the portable welder? And where is the welder now?

MR. J.TOLER:

That's --- as far as whether they examined that, you would have to direct that question to them.

CHAIR:

Did you examine it as part of your investigation?

MR. J.TOLER:

Me, personally, no.

CHAIR:

But ICG examined it?

UNIDENTIFIED SPEAKER:

I'm not clear on what we're examining. What's the question?

MR. HATFIELD:

He's asking you about a welder near the mouth of Two Left. Did we --- was it there and was it focused on during the investigation, Sam.

MR. KITTS:

I'm not aware of a welder, but there was a battery charger there that was displaced some distance that got a lot of attention from the investigation. Is it possible that it was a battery charger that you're referring to?

SENATOR LOVE:

I'm talking about a welder. I'm talking about a welder. It's my understanding that the welder was in that shop area, that the welder undoubtedly was moved. I just wonder if anybody --- if the federal investigators examined the portable

welder. It's known the welder was there.
MR. KITTS:
If it was there after the explosion, it would have been documented on the mapping, the mapping effort. The mapping effort documented everything in the mine from the portal all the way to the --- all the faces. So if there would have been some object there, it should be in the document.
SENATOR LOVE:
Let me ask you another question then. Why did the mine, the state and the federal personnel miss the absence of lightning arresters? I understand there were no lightning arresters.
MR. HATFIELD:
Your question is why did they miss the absence? I didn't understand that question. Could you repeat it? I did not hear your question.

SENATOR LOVE:
Why did the mine company, the state and the federal personnel, miss the absence of lightning arresters?
MR. KITTS:
Miss the absence of lightning arresters?
SENATOR LOVE:
Arresters. Lightning arresters. Lightning arresters. It's my understanding that possibly this explosion caused from lightning.
MR. HATFIELD:
With respect to the lightning arrester issue, I don't think they missed it. It was actually cited on the occasions where the lightning arresters were not in place. And that --- from --- in all instances, that was determined to not be connected to the accident. It was not identified as being a contributor. It was simply recognized as an electrical deficiency. I don't think it was missed.

SENATOR LOVE:
In May of 2001, the National Institute of Safety and Health, I guess it's called NIOSH, issued a technology news bulletin entitled, Reducing the Danger of Explosions in Sealed Areas. Now, this bulletin was the result of a study of a sealed area in a coal mine in Alabama where the seals were blown out or damaged on three different occasions, once in 1994, once in 1996 and again in 1997. These explosions were all believed to have been methane explosions ignited by lightning. Now, for these explosions to occur, the methane had to be in the explosive range of 5 to 15 percent. Methane will not explode above 15 percent.
NIOSH found that if the ventilation pressures were balanced at the seal location, the methane levels would rise to above 15 percent and be maintained above the explosive range. And in 1997, after building new seals,

the ventilation was balanced, minimizing the pressure differential across seals in that Alabama mine, which is similar to Sago. At the time of the issuance of May 2001, no further explosions have occurred in that sealed area even though there were dozens and dozens of lightning storms that passed through that area. Why did the Sago Mine not --- did you ever know about this pressurizing the balance in the seals? Could this have been implemented at this mine, possibly, if lightning caused that?
MR. HATFIELD:
I can only speak to a very general and brief familiarity with that NIOSH report. But I believe if you'll reference the details of that report on those particular explosions in Alabama, there was a vertical conduit from the surface to the sealed area, indeed a cased porthole, as I recall. And that was thought to be the means by which lightning was

transmitted into the sealed area. So on occasions where we didn't have a clear conduit from the surface into the sealed area, we didn't think it was a risk. I think that's generally true of the industry in general.

SENATOR LOVE:

Can I ask you one final question? Why was the methane allowed to accumulate in that mine to the 5 to 15 percent level, unmonitored? It seems that it wasn't --- it was unmonitored.

MR. HATFIELD:

With respect to why the methane was allowed to accumulate in a sealed area, indeed, by design that's what's supposed to happen. That is the means by which a sealed area becomes safe. The methane increases from the day that you close off the seal, the oxygen decreases, and you achieve an inert and stable environment. And that's what has been very successful in this industry for many years. So the

fact that methane was rising behind the seals is not only expected, it's indeed the plan, if you will, and that's how you get the safety.

The problem at Sago is we weren't in a safe zone yet. Clearly, we had an explosive mixture that came in contact with an ignition source before the methane had accumulated to the point of making it an inert environment.

SENATOR LOVE:

Thank you, sir.

SENATOR KESSLER:

I just have a few questions, and it might deal with the process in the sealed area, number one. It's my understanding, at least from some of our discussions and meetings, that area had been taken out of production due to roof falls; is that correct?

MR. KITTS:

Yes.

SENATOR KESSLER:

And do you know approximately when that occurred then?

MR. KITTS:

My recollection is in the fall. Jeff might have a more specific date.

MR. J.TOLER:

It was late September or early October, I think, is when we pulled off that section.

SENATOR KESSLER:

Okay. And when then were the seals in place?

MR. J.TOLER:

Well, construction began the end of October and continued through the middle of December.

SENATOR KESSLER:

And what I'm trying to get at is the condition of the sealed area prior to the time it being completely sealed. Were there any type of photos, testing or other documentations on any type of gas levels or anything else concerning the

condition of that area?

MR. KITTS:

That area would have been pre-shifted. And that's one of the primary reasons for constructing the seals, is you actually improve the safety of the miners because they don't have to go into those areas that have the very bad top conditions. So during the time the seals were being constructed, it would have had to have been pre-shifted on a daily basis, so there is a record of those conditions.

SENATOR KESSLER:

Have those been reviewed or turned over to the appropriate state and federal officials so we can get a good picture of what the conditions were like in that area immediately prior to January 2nd?

MR. KITTS:

I'm not sure, but we can get you an answer on that.

MR. HATFIELD:

All of those records have been turned over.
SENATOR KESSLER:
And there's a question made earlier by some of the family members when the seal was installed and the Omega blocks used. You contracted that out; is that correct?
MR. KITTS:
The question was, was the construction of the seals contracted out?
SENATOR KESSLER:
Was that done?
MR. KITTS:
No. It was all ICG employees that constructed the seals, plus --- I'll let Jeff Toler answer the question.
MR. J.TOLER:
The construction was done primarily by ICG employees. But I also had a few employees there that were employees of Garrett Mine Service that worked on it as well.

SENATOR KESSLER:
Okay. Well, that's what I thought I heard the family saying, that there may have been some folks that were actually involved in the construction of the seals that may not have been certified. Is there a certification process that individuals go through in order to be able to be trained to ---?
MR. J.TOLER:
No one can work in an underground coal mine without having either a miner certification or an apprentice miner certification.
SENATOR KESSLER:
But there was some suggestion that the folks that may have been involved in the laying of these particular blocks or seals were not properly certified. You would deny those allegations?
MR. COLEMAN:
I'd like to interject.
There is no certification --- there is

no certification requirement, either by the State of West Virginia, 22 Code, or the CFR 30, pursuant to seal construction.
SENATOR KESSLER:
Or properly trained.
Were the individuals --- were they properly trained? Had individuals who put --- who constructed these seals, had they been experienced in laying Omega block?
MR. COLEMAN:
That would come under the gamut of task training.
SENATOR KESSLER:
Pardon?
MR. COLEMAN:
That would come under the gamut of task training.
SENATOR KESSLER:
I just got another question. I think it probably goes to Mr. Jamison. Mr. Jamison, you've talked and advised that you arrived at about 2:30, is that correct, in the

morning?
MR. JAMISON:
Yes.
SENATOR KESSLER:
Do you want to just lead us through what you actually did once you arrived there that day up until the time of the explosion?
MR. JAMISON:
I arrived at approximately 2:30, and Terry Helms arrived a little after. We got dressed. And I asked him how he wanted to do it, and he said, you get your regular run on Two Left and I'll do mine and get One Left. So I said, all right. So we signed off the books, got our lights and went down the hill to go in the mine. We got a mantrip and I started up the belt. I heard him coming. I opened the man door for him, and he was headed for Four head. That's where I was supposed to pick the jeep up. I rode up to Three drive with him, started walking Three belt. Went

in to 22 block. I had a pump sitting in the return. So I went in and it wasn't running. So I made a note of it and come back and went to Four head, picked up the mantrip, went up to the mouth of One Left --- or Two Left. Walked up and done the face and come back. And when I got back to the jeep, I seen he'd left his bucket and thermos on the jeep. I told the dispatcher that I'd leave it at One Left so he could get it. So I proceeded to come back outside. And I come back to Three head, checked Three head out, see if it had any rock, there are any posts in it, went down the belt line, come back up and got on the Jeep, went down to Two head and done the same thing. And then I proceeded to come on outside.

SENATOR KESSLER:

And you indicated that you then went back in; is that right?

MR. JAMISON:

At six o'clock I went back in to Two head, and I was going to

wait until they started running coal. Because sometimes they run a lot of rock, posts and cribs and you got to clean them out of the head.

SENATOR KESSLER:

So you went back in then at 6:00. And how --- what actually did you do at that point? How much activity did you engage in prior to the explosion?

MR. JAMISON:

Well, I wasn't that long. Probably about 15 minutes until it blew up, when the mine blew.

SENATOR KESSLER:

You had indicated that as part of your --- you going in and did your fire boss, that you put your notes in your shirt pocket; is that right?

MR. JAMISON:

Yeah, in a book.

SENATOR KESSLER:

And that's what you did in this particular instance as well?

MR. JAMISON:

Yeah. I carry a Nine Central book. It's a little tablet.

SENATOR KESSLER:

And did you take any notes?

MR. JAMISON:

I did write in there that that pump was down. And then when I got outside, I looked at it and told John Boni that that pump was down. He was to go check it.

SENATOR KESSLER:

And then you put it back in your shirt and ---?

MR. JAMISON:

Right.

SENATOR KESSLER:

And was that the only thing that you remember writing in your notes that day?

MR. JAMISON:

I didn't have any violation or nothing to write.

SENATOR KESSLER:

Because I thought I heard

you say, and I could be wrong, that the section looked good and that you did not write anything down in your ---.

MR. JAMISON:

It looked good. That's why ---.

SENATOR KESSLER:

I'm just trying to --- I'm not trying to confuse you, but I just --- at one --- I thought I heard you say that you did not write anything down, and I wasn't sure. Did you write something down in your missing book or not?

MR. JAMISON:

No violation or anything.

SENATOR KESSLER:

And the book you think is maybe put in a laundry somewhere?

MR. JAMISON:

I would say with my clothes. I never did even get my clothes back.

SENATOR KESSLER:

Did you make any attempt

to try to locate it after you knew that an explosion had occurred?
MR. JAMISON:
No. I never been back to that mine.
SENATOR KESSLER:
When was the first time that you notified anybody that your notes and field notes as a fire boss may have been left in the laundry before today? I mean, when was the first time that ---?
MR. JAMISON:
I think Greg Nestor called me, and I --- I think I mentioned it to him that my clothes were there.
SENATOR KESSLER:
And when was that?
MR. JAMISON:
That was --- I believe it was that evening.
SENATOR KESSLER:
You never made an attempt to go back to try to find your notes?

MR. JAMISON:
Usually they send your -- - send our clothes on over to the other mine.
SENATOR KESSLER:
But you never made any further attempt, I take it, to try to recover your shirt which had your fire boss notes in it, I take it?
MR. JAMISON:
No. I ain't worried about no clothes.
SENATOR KESSLER:
Were the belts turned on that day?
MR. JAMISON:
They was turned on after it had been pre-shift, for start-up from outside.
SENATOR KESSLER:
Would Terry have turned them on, or who else?
MR. JAMISON:
The dispatcher turns the belts on.

SENATOR KESSLER:
And that would have been turned on by the dispatcher, not by Terry?
MR. JAMISON:
No, the dispatcher outside. They start them up and let them run so they get wet.
SENATOR KESSLER:
Had you worked --- how long had you been a fire boss prior to January 2nd?
MR. JAMISON:
'81.
SENATOR KESSLER:
Since 1981?
MR. JAMISON:
Right.
SENATOR KESSLER:
And had you worked continuously at the Sago Mine or at predecessors or ---?
MR. JAMISON:
I've worked --- I've worked Sago and Spruce and --- I've

worked all of them.
SENATOR KESSLER:
How about at the Sago Mine, how long have you been fire bossing prior to January 2nd?
MR. JAMISON:
Where at? At Sago?
SENATOR KESSLER:
At Sago Mine, yes, sir.
MR. JAMISON:
I believe I come over in July.
SENATOR KESSLER:
Pardon? July?
MR. JAMISON:
July of '05.
SENATOR KESSLER:
And how many times had you --- actually, you had been doing that on a daily basis, since July of '05?
MR. JAMISON:
Yeah.
SENATOR KESSLER:
Every time you went out

to pre-shift, to check the conditions of the mine?
MR. JAMISON:
Yeah, that's my job. I mean, I --- that's what I do.
SENATOR KESSLER:
Did you do any type of checking for any type of methane as a fire boss on the morning of January 2nd?
MR. JAMISON:
Yes.
SENATOR KESSLER:
And would you just describe what you did for the ---?
MR. JAMISON:
Well, I carry a spotter, and it checked all the time for you. All you got to do is just look at it. And if you don't look at it and you run into gas, it sets an alarm off.
SENATOR KESSLER:
And did you make any --- and I take it you made no notations that there were --- did you get any

type of reading?
MR. JAMISON:
.1 usually.
SENATOR KESSLER:
Would that have been --- I take it you'd note that in your missing book. Would that have been the type of information you would have customarily kept in your ---?
MR. JAMISON:
Sometimes I'll write it down. Other times I don't. Because it's not a violation. .1 is not a violation.
SENATOR KESSLER:
I understand that. But did you not --- was it your practice to only note in your fire boss book that you kept violations that occurred, or did you routinely monitor and document safe conditions?
MR. JAMISON:
If I'd see him, I'd document them, yeah.
SENATOR KESSLER:

I just have just a couple more. And it probably deals with a map I was provided early on in the investigation behind the sealed area. And I'm not sure who --- maybe you may know, but there appears to be a --- at least on the map I'm looking at, a well that's behind a sealed area. Is that a methane well; do you know? Would anybody ---?
MR. KITTS:
You're referring to this one?
SENATOR KESSLER:
Yes, it appears to be. Was that in operation?
MR. KITTS:
Yes. That's a natural gas well.
SENATOR KESSLER:
Methane gas?
MR. KITTS:
Yes.
SENATOR KESSLER:
Natural gas. And how far

was that from your operation? Is that a --- I'm trying to look at the scale.
MR. KITTS:
It was 108 feet from the nearest --- or the nearest workings.
SENATOR KESSLER:
And was that a metal casing?
MR. KITTS:
Yes, I believe that's true.
SENATOR KESSLER:
And was there any type -- - was there any type of laterals coming out of that well that ---?
MR. KITTS:
I'm sorry, any type of what?
SENATOR KESSLER:
Any type of laterals that may have ---
MR. KITTS:
No, sir.
SENATOR KESSLER:
--- come over into the

abandoned mine section area?
MR. KITTS:
No, sir.
SENATOR KESSLER:
I was just trying to determine if there was any type of thing that may have served as a conductor over into that area. Are you folks satisfied that there was nothing in that well that could have been a conduit for the alleged lightning strike in that area?
MR. KITTS:
There have been numerous parties that have inspected that entire area adjacent to that well. And to date, we have not been able to find any indication that it was related.
SENATOR KESSLER:
That's all I have.
DELEGATE CAPUTO:
Thank you. This morning, one of the panels was talking about that you all, I didn't pick it up exactly, had either changed the fan,

changed the speed, changed the blades or did something that improved the overall quantity of air and ventilation. Could you talk about that and when it was?
MR. KITTS:
Yes, sir. I can talk in generalities, but these fellows down here on the end of the table are the ones who actually did the work. So I would ask Jeff and Carl to address how you improved the ventilation system.
MR. J.TOLER:
Well, one thing we did, we made an adjustment on the main fan that increased the airflow into and out of the mines.
DELEGATE CAPUTO:
How much? How much was it before? How much after?
MR. KITTS:
The short answer to that question is 15,000 to 20,000 CFM was going through the intakes at each section. And after they made their

corrects, and correct me if I'm wrong, Jeff, but I think it doubled to 40,000 to 50,000 CFM.
MR. J.TOLER:
Yes, sir, that's correct.
DELEGATE CAPUTO:
I was wondering, could you find --- or maybe you've already done it, quantities at the fan, how much they went up also, before and after?
MR. J.TOLER:
The fan itself --- Carl, correct me if I'm wrong. It went from probably around 100,000 up to 160,000 on this air change.
DELEGATE CAPUTO:
I'm sorry?
MR. J.TOLER:
The fan itself --- immediately in by the fan the air quantity probably jumped from around 90,000 to 100,000 CFMs up to 160,000, so an increase of 60,000 to 70,000 CFM at the fan.

DELEGATE CAPUTO:
How did you do that? Was it a blade speed or a new fan? How did you do that?
MR. J.TOLER:
It's blade pitch.
DELEGATE CAPUTO:
Blade pitch, okay. I notice you pointed out on the map where the explosion occurred that you talked about five holes now that you have.
MR. J.TOLER:
Yes, sir.
DELGATE CAPUTO:
When did that water get in there that you talk about you had to pump out?
MR. J.TOLER:
The water accumulates naturally in that --- in several areas of the mine, water accumulates naturally. But in a sealed area like that, it --- if it's in an area that we're working, we de-water and pump the water. But in a sealed environment

like that, it will naturally accumulate and naturally fill up.
DELEGATE CAPUTO:
Do you know if it was filled up before the explosion?
MR. KITTS:
Yes, we do. After the explosion, the boreholes penetrated the water, and we were able to determine the elevation of it.
DELEGATE CAPUTO:
All right. Now, you had five holes, if I heard you correctly. Somebody was talking about three, but I think now you said it's five.
MR. KITTS:
I believe there's five boreholes right there.
MR. J.TOLER:
Yes, there are five.
DELEGATE CAPUTO:
Do you know what's roughly the total quantity of air when you're using a blowing system that you're blowing through that section,

now blowing to the outside? What's the total quantity out of those five holes?
MR. J.TOLER:
Do you have that answer?
MR. CRUMRINE:
I believe it's been 8,000 and 9,000 going into the intake.
DELEGATE CAPUTO:
What's the methane content going out now?
MR. CRUMRINE:
All of our holes are reading zero, with the exception of one jumped up to eight-tenths for some reason. I went up and checked it the very next day. And that was the same hole when we were drilling and drilled into it that it had methane in the hole itself, not in the mines, but the methane was coming out of the hole.
DELEGATE CAPUTO:
Eight-tenths is the highest reading that you've had? Is that what you said?
MR. CRUMRINE:

Eight-tenths is what I have noticed up there. I believe it was reported that I had one percent coming out of that hole. And I went the very next morning to check it, and I had eight-tenths because my methane spotter had just been calibrated and I wanted to see what I had coming out of there.
DELEGATE CAPUTO:
How often do you check those holes?
MR. CRUMRINE:
They're checked daily.
DELEGATE CAPUTO:
That answers all my questions. Thank you.
SENATOR CARUTH:
Thank you. I have several questions. I'd like to start out with you, Mr. Jamison, if I might. What areas of the mine --- and forgive me if some of this sounds repetitive, but I've had a little trouble hearing up here. What area of the mine were

you responsible for on the fire boss run that January 2nd? The Two Left section; is that correct?
MR. JAMISON:
Yes.
SENATOR CARUTH:
How about the seal areas?
MR. JAMISON:
No.
SENATOR CARUTH:
You didn't do any spot checks ---
MR. JAMISON:
I don't ---.
SENATOR CARUTH:
--- at the intakes of the seals or anything like that?
MR. JAMISON:
No.
MR. KITTS:
Excuse me. Mr. Chairman, it might be helpful if we can help Fred point out what areas he did fire boss on the map, right here on the computer.
CHAIR:

If you could do that, Mr. Jamison, with Mr. Kitts. Point out on the map with the cursor what areas you did fire boss that day. If you would step up, Mr. Jamison, to go over there.
MR. JAMISON:
All right. I done One, Two and Three belts. Right there is One, there's Two and there's Three up at the Four head. All right. I come out of Four head, got on the mantrip and went up to the mouth of Two Left. Went up the belt line to the face, across the face, back down the track, got on my mantrip, came back outside. Up the road out there on the --- yeah, right about there on Three track. And then I came down to Three head, checked it out. Come down to Two head, checked it out. And then I came back down the track to the outside and put the jeep on charge.
SENATOR CARUTH:
Thank you, Mr. Jamison. You said that you carried a spotter to

check for methane; is that correct?
MR. JAMISON:
Right here.
SENATOR CARUTH:
And could you show us how you checked for the methane at the face areas?
MR. JAMISON:
(Indicating). All right. This is the part that tells you your oxygen, your CH4 and your toxic. You put it on your hand, carry it just like that, and you look at it. You keep glancing at it. I mean, you just don't stare.
SENATOR CARUTH:
You just carry it in your hand through the whole fire boss run?
MR. JAMISON:
Yeah, you can carry it. Or if you're doing something, you can put it in your pouch and it will still work. And if you run into methane or any kind of bad gas or air ---.
SENATOR CARUTH:

Did you just carry it in your hand or in your pouch and walk those faces to determine if CH4 was present?
MR. JAMISON:
I carry it and sometimes I put it in my pouch.
SENATOR CARUTH:
You don't do the ---?
MR. JAMISON:
When you're at the face, yes, 12 inch ---.
SENATOR CARUTH:
Did you conduct tests like that at the face areas? You did?
MR. JAMISON:
Yes, I did. And I'll tell you what it does if you're in any kind of gas.
SENATOR CARUTH:
Did you detect any abnormal conditions in your fire boss run that morning?
MR. JAMISON:
No. No, I didn't.

SENATOR CARUTH:
Is there any areas that you fire bossed that has potted-out areas where the top had fell previously?
MR. JAMISON:
No. Mine I can usually reach. I don't need a probe.
SENATOR CARUTH:
You can reach everything without a probe. Did you call your fire boss report out or did you carry it outside?
MR. JAMISON:
I carried it out.
SENATOR CARUTH:
You said the belts were running when you left that area of the mine; is that correct?
MR. JAMISON:
No. Them belts wasn't running until after I okayed it and Terry okays it, and then they start the belt.
SENATOR CARUTH:

So you're saying you carried your fire boss report outside and give them the green light, so to speak, and then the dispatcher started the belts? Them belts were not running before you got out of that mine, is that what you're telling me?
MR. JAMISON:
No. The belt wasn't running when we got there, and it wasn't running until after the fire boss was done.
SENATOR CARUTH:
Okay. Who did you turn in your fire boss report to, Mr. Jamison?
MR. JAMISON:
I filled the Two Left section book out, and Junior Toler, that's the boss coming on, then he looked at it and then he co-signed it.
SENATOR CARUTH:
Thank you. I just have some questions --- and I just want to ask management, in general. Mr.

Hatfield, you might want to take some of these. You talked about earlier the intent of sealing an area is basically to let the area you're sealing build the CHR level above the explosive range, I think is what I heard you say earlier.
MR. HATFIELD:
The intent is to establish an inert environment, a nonexplosive environment, which usually happens by the methane increasing and oxygen decreasing.
SENATOR CARUTH:
But it's been brought out in testimony that some methane was found around the seals. Did that lead you guys to believe that the seals were leaking, or did you just kind of write it off as ---?
MR. HATFIELD:
I'll let Mr. Toler speak to that. I think the quantity found was two-tenths, and I believe --- well, I'll let him respond to that.

SENATOR CARUTH:
That's fine.
MR. J.TOLER:
I think he summed it up right there. The quantity is two-tenths of a percent. And again, that is well within the legal limits of what can be there.
SENATOR CARUTH:
I understand that it's well within the legal limits, Mr. Toler. But did that give you an indication that those seals may have been leaking was the question.
MR. J.TOLER:
I can't answer that. I mean, it's ---.
SENATOR CARUTH:
So there was no discussion in management meetings that maybe the seals were leaking?
MR. J.TOLER:
I think that's why Mr. Crumrine went back the next day to do a follow-up inspection on it, just to see

if there was any indication that it was leaking out of the seals.
SENATOR CARUTH:
Well, what were the results of that follow-up?
MR. CRUMRINE:
Two-tenths.
SENATOR CARUTH:
So at that point, did you ---?
MR. CRUMRINE:
I had the same as John had.
SENATOR CARUTH:
I'm sorry?
MR. CRUMRINE:
I had the same as John Boni had 24 hours before.
SENATOR CARUTH:
I'm sorry, I still didn't ---.
MR. CRUMRINE:
I had the same reading as John Boni 24 hours before.
SENATOR CARUTH:

I understand that. Did you assume at that point in time that the seals were leaking?
MR. CRUMRINE:
No. As far as I'm concerned, you cannot build a complete seal that won't --- gas will not push out of. That's what they do. They push --- some gas pushes out of seals and stuff. And I look for any big cracks or anything, wondering if something had happened there. And no, I did not find anything.
SENATOR CARUTH:
Did you do much testing through the sampling height that went into the old area?
MR. CRUMRINE:
No, sir. My knowledge of that sampling height is as if you are going to go breach the seal and go behind there for some reason. That is why you use the sampling pipe. If I open that sampling pipe, then I let pressure out into the area that I want

to keep clear.
SENATOR CARUTH:
So you didn't think it was worth testing that area to see if the atmosphere was getting inundated to above the explosive range once you found the two-tenths outside the seals?
MR. CRUMRINE:
What I thought was that sampling tube is not for me to be correct, unless I'm going to breach that seal. And John had told me that he had opened that and had gotten 1.2. To my recollection, that's what he told me. Which, you know, indicated to me that what was happening behind the seals, what we expected to happen behind the seals was happening behind the seals, that it was gaining methane.
SENATOR CARUTH:
Did you instruct anyone to continue to monitor the methane levels at those seals?
MR. CRUMRINE:
No. They were within a

legal range and they were to be checked the very next week. And that's --- and we would check it on a weekly.
SENATOR CARUTH:
So you wasn't concerned too much about the two-tenths and one percent that you found outside the seals?
MR. CRUMRINE:
No, sir. No, sir, I wasn't concerned about the two-tenths of one percent. I went --- now, had I gotten four or five-tenths, then I would have been alarmed that it was --- that maybe I had a breach in a seal someplace.
SENATOR CARUTH:
Were you involved with the construction of the seals? Which one of you folks maybe would have been closely involved to the construction of the seals?
MR. CRUMRINE:
Probably both of us to an extent.

SENATOR CARUTH:
The question was asked and I never did get a clear answer on it, was the Omega blocks mortared between blocks or were they laid up and then plastered?
MR. J.TOLER:
The plan requires that there be mortar between ---.
SENATOR CARUTH:
I know what the plan said. I know exactly what the plan said.
MR. J.TOLER:
To the best of my knowledge, they were mortared --- they were built, constructed according to the plan.
SENATOR CARUTH:
Did you actually see the mortar between the seals ---
MR. J.TOLER:
When I was ---.
SENATOR CARUTH:
--- or between the

blocks? I'm sorry.
MR. J.TOLER:
The times that I was at the seals, and I was watching very little of the construction while I was there, but they appeared to be constructing them the way they were supposed to.
SENATOR CARUTH:
And you mentioned that Garrett Mine Service was also involved in the construction of these seals. Did I hear you say that?
MR. J.TOLER:
Yes, sir.
SENATOR CARUTH:
Was there a contract with Garrett Mine Service on this or was this done basically in house?
MR. J.TOLER:
Garrett Mine Service, we routinely used them to do some work at our mines. And I think of all the individuals that worked on the construction of the seals, three of

them were with Garrett Mine Supply.
SENATOR CARUTH:
So you had a contract with Garrett Mine Supply to build the three seals?
MR. J.TOLER:
No. No, sir. They assisted.
SENATOR CARUTH:
They just assisted?
MR. HATFIELD:
I believe what he's describing is we have a contract with Garrett Mine Services to periodically supply supplemental labor. They're used on different tasks at different times.
SENATOR CARUTH:
I understand. After the seals were completed, did anybody from your management team inspect them and verify that they were built according to the plan or constructed well enough to seal the old area of the mine?
MR. J.TOLER:

There were certified foremen in a manager capacity present during the construction of the seal. My foremen would be part of my management structure. And they were present during the --- after the construction was completed, I think Mr. Crumrine made a run by those seals and looked at them.
MR. CRUMRINE:
Yes. I went by there with the federal inspector, and he complimented me on the appearance of the seals, of the roof control around the seals, the ventilation of the seals themselves, the rock dusting around the seals and just the general appearance and clean-up of them.
SENATOR CARUTH:
Was it determined --- I know there was some talk earlier when regulatory agencies were testifying. Was it determined if the rib was chipped out for the seals to go back into the rib, or was it just kind of

cut and mortared around the edges?
MR. J.TOLER:
It's not required that they be cut into the ribs like that.
SENATOR CARUTH:
So it was not done there?
MR. J.TOLER:
No, sir.
SENATOR CARUTH:
Okay. One thing I'm not clear on, Mr. Toler. Maybe you can help me. You said that --- what time did you first enter the mine after you found out there was --- or found out there was some type of problem?
MR. J.TOLER:
I would say approximately 6:40 to 6:45.
SENATOR CARUTH:
And at that point in time --- well, let me back up. A news report says, and we talked about this earlier, that the CO monitor went off at 6:10. Was there anybody --- were you aware of that? Let me ask you that

first.
MR. J.TOLER:
Was I aware that the alarm went off at 6:10? No, sir, I was not.
SENATOR CARUTH:
Okay. So you were first made aware that there was a problem at what time?
MR. J.TOLER:
At 6:31, when the event happened.
SENATOR CARUTH:
And you entered the mine at about 6:45?
MR. J.TOLER:
Yes, sir.
SENATOR CARUTH:
Now, you said you were trying to establish some ventilation as you went into the mine. I assume that seals were blown out; is that correct?
MR. J.TOLER:
We know now that the seals were blown out.

SENATOR CARUTH:
Well, when you was --- what was you repairing as you went in?
MR. J.TOLER:
What we call a permanent stopping, a permanent ventilation control that directs the air deeper and deeper into the mine.
SENATOR CARUTH:
Now, were they blown out as well?
MR. J.TOLER:
Yes, sir.
SENATOR CARUTH:
Totally blown out or partially blown ---?
MR. J.TOLER:
Varying degrees, but anywhere from a third destroyed to completely destroyed.
SENATOR CARUTH:
And what did you try to patch those stoppings with?
MR. J.TOLER:
We used brattice cloth or

curtain, as we typically call it.
SENATOR CARUTH:
Did you load up supplies that you would need? Would you take them in on a mantrip, or how did you ---?
MR. J.TOLER:
On the --- when we went inside the mines, no, sir, I wasn't aware of what I would need or anything. I was wanting to get in there and assess what had happened. When Dick Wilfong and Vernon Hofer exited the mines with the One Left crew, Mr. Schoonover and myself were able to get to a point that we could --- we were --- we saw that we had some damage to ventilation controls. At that point, I called back out and I told Mr. Wilfong and Mr. Hofer to get the necessary supplies to make those repairs and get it back in to us as quick as they could.
SENATOR CARUTH:
And what were the

necessary supplies? What did he bring in?
MR. J.TOLER:
They brought curtain. They brought boards. They brought nails. They brought detectors. Owen Jones' hard hat was lost during this, and I had them bring Owen another hard hat.
SENATOR CARUTH:
Did they bring in any extra SCSRs?
MR. J.TOLER:
Yes, sir, I think they did. Yes, sir.
SENATOR CARUTH:
Your ventilation plan, tell me what it would require in the event of a CO2 monitor going off, showing, what is it, 26 parts per million.
MR. J.TOLER:
The CO alarm will initially alarm --- it will give you an alert at ten parts per million. And at

that point we're required to go and check that sensor. And at 15 parts per million, we are to --- I believe we are to evacuate to that point --- to a point outby that and then check that.

SENATOR CARUTH:

So the alarm at 6:10 indicated 26 parts per million; is that correct?

MR. J.TOLER:

The alarm at 6:10 I think indicated that there was --- it also indicated a malfunction.

SENATOR CARUTH:

Was anybody close by the alarm when it went off at 6:10?

MR. J.TOLER:

The alarm in the mine itself?

SENATOR CARUTH:

Yes.

MR. J.TOLER:

No, sir. That alarm that signaled, I believe, was at the section loading point on the One Left section.

SENATOR CARUTH:

Okay. Mr. Crumrine, you were not working that day; is that correct?

MR. CRUMRINE:

I was scheduled off, yes, sir.

SENATOR CARUTH:

And how did you first find out about the incident?

MR. CRUMRINE:

Bill Chisholm or somebody from the mines called my house.

SENATOR CARUTH:

And about what time was that?

MR. CRUMRINE:

I'm not sure what time they called the house. My daughter --- or my granddaughter brought me the phone and said that the mines had called. I'm thinking it was about quarter 'till 8:00 or so.

SENATOR CARUTH:

What time, Mr. Toler, did

you finally determine that it was more than an incident, it was an explosion?

MR. J.TOLER:

As I said earlier, I can't say --- I couldn't determine that it was an explosion until we got to the area that we were actually --- that I saw the soot accumulate on a rib, which would have placed me probably 8:45 to 9:15, something like that.

SENATOR CARUTH:

But you obviously knew it was a pretty serious incident prior to that, I would assume?

MR. J.TOLER:

Yes, sir.

SENATOR CARUTH:

And at what point did you feel that --- or what time was the --- I know you said this, but for clarification, what time was the mine rescue teams called?

MR. J.TOLER:

I did not place a call to the mine rescue team. I had a

conversation with Johnny Stemple when the One Left crew --- when we were getting them to exit the mines. I was able to talk to Johnny Stemple at that point. I have no idea what time that was.

SENATOR CARUTH:

And there is not a mine rescue team in place at the Sago operation; is that correct?

MR. J.TOLER:

Not at this moment, no.

SENATOR CARUTH:

Still not at this moment?

MR. J.TOLER:

Still not at this moment, but ---.

SENATOR CARUTH:

Thank you, Mr. Toler. That's all I have right now, Mr. Chairman.

DELEGATE HAMILTON:

Mr. Jamison, you had testified that you had fire bossed Two Left; is that correct?

MR. JAMISON:
Yes.
DELEGATE HAMILTON:
And that was only the second time that you had fire bossed that section; is that correct?
MR. JAMISON:
Yes. Yes. I had done it after Christmas vacation.
DELEGATE HAMILTON:
The first time after Christmas and then the second time, January 2nd. Why the change in where you fire bossed? Who --- where did you fire boss at --- what sections of the mine had you fire bossed prior to December 26th?
MR. JAMISON:
I'd just do the belts and the track. And we have section bosses on One Left and Two Left that does that.
DELEGATE HAMILTON:
So why would you be fire bossing Two Left on those two

particular days?
MR. JAMISON:
Because the section boss wasn't there yet.
DELEGATE HAMILTON:
And who would have been the section boss on Two Left that day?
MR. JAMISON:
Well, it would have been a midnight guy who would have really got it. But since he wasn't there, I picked it up. Because he was off on New Year's break.
DELEGATE HAMILTON:
So this wasn't like a change in --- you were just covering for somebody else because they were absent that day; correct?
MR. JAMISON:
Right.
CHAIR:
Mr. Kitts?
MR. KITTS:
Just as a follow-up to that ---

DELEGATE HAMILTON:
Yes.
MR. KITTS:
--- question, let me clarify that the mine had been idle, so there was no third shift or midnight shift. So it wasn't like Fred was covering for somebody or changing out with someone. The mine was idle, and his ordinary routine was interrupted to go up and fire boss that production section because the mine had been idle. And that's the reason, right after Christmas, after a Christmas vacation, the mine had been idle. That's the reason for the interruption in his normal routine.
DELEGATE HAMILTON:
Thank you, Mr. Kitts. Mr. Stemple, you had told me earlier when I asked the question about that time element between the explosion and the call that went into the Upshur County Com Center that you had no knowledge that there had been an

explosion; is that correct?
MR. STEMPLE:
Yes. That's correct, yes.
DELEGATE HAMILTON:
In reading some of the testimonies that's posted on the Gazette's web site, is it true that John Boni testified that he told Mr. Toler there was an explosion an hour earlier?
MR. STEMPLE:
I don't have any recollection or idea what John Boni told Jeff Toler.
DELEGATE HAMILTON:
Could you address that, Mr. Toler?
MR. J.TOLER:
The only conversation that Mr. Boni and I had was when we passed on the track. I encountered John at a track switch around the One Right section. My main concern at that time was that John appeared --- I

wanted to make sure he was okay and I wanted him to exit the mines. He did comment that he felt that it could have been an explosion that we had experienced. An explosion is not necessarily the only thing that would cause a rush of air.

DELEGATE HAMILTON:

And was Mr. Boni on his way out of the mine when you passed ---?

MR. J.TOLER:

Yes, sir. Yes, sir. He continued to exit the mine.

DELEGATE HAMILTON:

Do you know about what time that was?

MR. J.TOLER:

It's after I started into the mines and before I got to the One Left crew.

DELEGATE HAMILTON:

Could somebody explain to me what kind of an effect a barometer would have on the seals? I mean, would

anybody like to take ---?

MR. COLEMAN:

During the times of a low barometric pressure, the volume of gas within a sealed area will expand.

DELEGATE HAMILTON:

And what about that day? Do you have any readings or ---?

MR. COLEMAN:

I don't have any readings, but there was a storm front that come through there.

DELEGATE HAMILTON:

What evidence do any of you have that the explosion came from inside of the sealed area?

MR. KITTS:

Well, the first evidence was collected by the mine rescue teams. When they encountered the seals during their exploration, it was clear to them that the seals had been blown outward. So at that point, it pretty much established that the explosion had

occurred inby the seals, in the previously-sealed area.

DELEGATE HAMILTON:

Is there any possibility that it could have came from directly outside the seals or that there was more than one explosion?

MR. KITTS:

Well, anything is likely. The investigation is ongoing. But the documentation up to this point overwhelmingly indicates that one event occurred and that the --- not only the seals but other pieces of material, including a battery charger, were picked up and pushed outby by a force. So at this point, I firmly believe that the explosion originated inby the seals.

DELEGATE HAMILTON:

Thank you.

MS. CAMPBELL:

Are you ready for me, Davitt? Mr. Jamison, did you fire boss every heading from the feeder to the

face? Did you fire boss every header -- every heading from the feeder to the face?

MR. JAMISON:

Yes.

MS. CAMPBELL:

Mr. McKinney, is that protocol to do that?

MR. MCKINNEY:

Sorry?

MS. CAMPBELL:

I asked Mr. Jamison if he fire bossed every heading from the feeder to the face, and he said, yes, he did. Is it protocol to do that?

MR. MCKINNEY:

Yes. That's the working section.

MS. CAMPBELL:

I'm back to you, Mr. Stemple. What happens to a self-rescuer when it goes bad while on the miner's belt? Would it test the same as if it had been used?

MR. STEMPLE:

I have tested many, as we do that every 90 days. And normally, in a 90-day period, I would remove six from service that tested bad. And in the course of training, I usually open one of those up. And 99 percent of those that I opened up worked, although they tested bad. Ninety-nine (99) out of a possible hundred worked for me.

MS. CAMPBELL:

Did you actually test the rescuers prior to the explosion?

MR. STEMPLE:

I did not test the rescuers, no. I was not located at the mine.

MS. CAMPBELL:

Were you working for ICG at that time?

MR. STEMPLE:

At that time, I was working for ICG out of a division office, not at the mine site.

MS. CAMPBELL:

Do you know who did the

testing of the rescuers 90 days prior to the explosion?

MR. STEMPLE:

No, ma'am, I do not.

MS. CAMPBELL:

Does anybody on the panel know the answer to that question, who would have done the testing on the rescuers prior to the explosion?

MR. HATFIELD:

We'll have to confirm that and get back to you. I'm not sure which individual had that responsibility.

MS. CAMPBELL:

All right. Mr. Stemple, when the indicator light changes color from blue to pink or white or whatever it does, is it possible that it can turn back to blue?

MR. STEMPLE:

Not to my knowledge, no.

MS. CAMPBELL:

Not that you're aware of?

MR. STEMPLE:

Not that I'm aware of, no.

MS. CAMPBELL:

Okay. In your testimony you said that when you called mine rescue, that the answering machine had been turned off. Is that normal procedure for an emergency mine rescue team to turn off their answering machine?

MR. STEMPLE:

That's the first time I've ever called mine rescue.

MS. CAMPBELL:

But I'm asking --- anyone on the panel, mine rescue teams should know that they are of the utmost importance when they join that team. Is that --- does anybody want to comment on that?

MR. HATFIELD:

I don't think anybody would suggest that it's perfectly normal for an answering machine to be turned off for a rescue service.

Something clearly had malfunctioned or gone wrong on that day. We're just not sure what the rest of the story is.

MS. CAMPBELL:

So don't you think that maybe the mine rescue team should be on --- I mean, 24-hour call and have pagers or, you know, something in order to get ahold of them? You know, there were 13 men in that mine and an answering machine kept Mr. Stemple from getting ahold of a mine rescue team.

MR. HATFIELD:

I believe it delayed him for about 30 minutes for talking to them, but that's still unacceptable and I don't disagree with your point. To this point, that mine has relied on a contract providing of mine rescue services. That's commonly done in the industry, particularly with smaller mines. From ICG's perspective, we've determined that's not acceptable anymore, so that's why Mr. Toler was just explaining or referenced a few

minutes ago that we're now in the position of where we're putting our own teams in. We don't have them in place today, but we will have our own team at Sago and the other major mines.
MS. CAMPBELL:
It's a little too late for us now, Mr. Hatfield.
MR. HATFIELD:
I don't disagree.
MS. CAMPBELL:
Are there maps of the mine on site every day?
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL:
Like when the explosion occurred, did you have maps on site of the underground tunnels from the surface that you knew where your tunnels were underground? Did you have those maps?
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL:

And they were on site?
MR. J.TOLER:
Yes, ma'am.
MS. CAMPBELL:
Yet you guys didn't know where to drill? Whoever wants to take it can.
MR. HATFIELD:
It's a lot more complicated than that. What they're referring to is GPS precision surveying. It's not a matter of knowing where the mine is and where the surface is. There's a much higher level of accuracy required when you're putting a drill hole down 300 feet. That's what Mr. Kitts was making reference to in his statement.
MS. CAMPBELL:
So you have the maps, surface and underneath; correct? But yet you can't take those maps and pinpoint a section or approximately where a section is to set up a seismic to listen for your miners that are

beating theirselves out of air, beating on those roof bolts?
MR. HATFIELD:
As I believe has been explained before, the seismic equipment isn't owned by us. It's owned by MSHA and it's under their control as to where it goes. And I don't know where it was that day. But we weren't waiting on a location to get the seismic truck in. We were actually doing precision surveying to get a drill hole down. That was the priority that we were referencing in the statement. And it is a complicated process. They had to bring the controlled survey in from about two miles away.
MS. CAMPBELL:
Mr. Stemple, what happened to the notes that you were taking --- you said you were standing around, just like everyone else was doing. Do you recall saying that in your testimony?

MR. STEMPLE:
Yes, I recall saying that.
MS. CAMPBELL:
So was everyone just standing around that morning, as you said in your testimony?
MR. STEMPLE:
When I arrived at the mine, it was very confusing. There were at least 80 people at the mine, many of who I've never seen before in my life. I didn't know who was in charge or where to report to or what to do. It was very confusing.
MS. CAMPBELL:
Who was in charge? Can anyone tell me that?
MR. COLEMAN:
The command structure within a mine emergency operation is within a three-part input, which consists of MSHA, the State of West Virginia Office of Miners' Health, Safety and Training and ICG.

MS. CAMPBELL:
Who was in charge before MSHA or the state got there?
MR. KITTS:
It would have been local mine management.
MS. CAMPBELL:
Pardon me?
MR. KITTS:
It would have been Jeff Toler. Jeff was in charge of the mine. And then Raymond Coleman and Chuck Dunbar and other folks were arriving to address the problem. Eventually, on the ICG side, it was me. And then eventually Ben Hatfield came on site.
MS. CAMPBELL:
Mr. Toler, Mr. Wilfong, Mr. Schoonover and Mr. Hofer were underground trying to rescue these miners. So who would have been in charge, since these men were busy trying to save their lives?
MR. KITTS:
Who would have been in

charge on the surface?
MS. CAMPBELL:
That's correct. Who would have been in charge --- had Mr. Toler --- since Mr. Toler was underground, and I'm sure the dispatcher knew that --- okay? You follow me so far?
MR. KITTS:
Yes.
MS. CAMPBELL:
Mr. Toler was underground. He was trying to rescue these mean, which I appreciate that, Mr. Toler, I do, that you and those men tried to do that for us. What I'm asking you is, somebody, the dispatcher or somebody should have gotten someone else there who would have been in charge, since Mr. Toler was trying to save these men's lives.
MR. KITTS:
Well, we had --- the dispatcher was performing his duties. He was on the phone with Mr. Stemple,

making the notifications. Early on the process, the K Order was issued. So the K Order specifically states that no one goes into the mine. It basically freezes the activities there. And I think the MSHA and the state people were coming on site, and at that point there was a collection of people there on the surface. And I think that's what Johnny is referring to, was it probably took some time to get organized as to who is doing what. But all during this time the K Order is in place.
MS. CAMPBELL:
So once Mr. Toler and those other gentlemen were already underground, then they had no communication, good communication, to the outside because they were trying to do this rescue, they were trying to hang curtains to give these men air. Who would have been --- would Mr. Stemple have been the man that should have come in instead of staying home

and making all those phone calls or who? That's all I'm asking.
MR. KITTS:
Mr. Crumrine. He was the mine foreman.
MS. CAMPBELL:
Pardon me?
MR. KITTS:
Mr. Crumrine.
MS. CAMPBELL:
And where were you, Mr. Crumrine?
MR. CRUMRINE:
Once I received the word, I came to the mine. I talked to Jeff briefly. He wanted me to check the ventilation. I put my belt on and was heading in the mines. Mr. Collins come in, asked me what had happened. I said that I don't know. There's been an incident. We haven't had any contact with the Two Left crew. He said, I'm issuing a control order that I am --- you know, I'm now in control basically. You're not to go in the coal mines.

Then he started calling people.
MS. CAMPBELL:
Mr. Coleman, I never did get --- understand what your duties were that day. Could you explain that to me?
MR. COLEMAN:
I was the ICG representative in the command center concerning mine emergency operations.
MS. CAMPBELL:
So you were there that morning, too?
MR. COLEMAN:
Yes, ma'am. I arrived on site approximately 8:15, 8:30.
MS. CAMPBELL:
This one is a little difficult for me, so --- this comes from Mr. McCloy's letter; okay? Mr. McCloy reported that he and Martin Toler hit a methane pocket while they were in --- drilling in the roof. Who was that reported to and where was it at?

MR. J.TOLER:
That would have been on the working section, on the Two Left section. It happened a couple weeks before the incident. Junior called out and told me what he had found. I asked him what he had done, and he told me what --- that he had --- or now he'd de-energize the equipment. I notified Ty Coleman and discussed it with Ty. And after a discussion with Ty, it was determined that at the --- it was a liberation of methane. That it was never allowed to accumulate. The ventilating current was sweeping the air --- the gas out of there. And we initially --- we plugged the hole, so to speak. We stopped it.
MS. CAMPBELL:
You plugged it with what?
MR. J.TOLER:
A stick of resin that typically goes into a roof bolt hole.
MS. CAMPBELL:

Do you have any idea what readings they got out of that methane pocket?
MR. J.TOLER:
Excuse me?
MS. CAMPBELL:
Do you have any idea how much methane that was that registered?
MR. J.TOLER:
I think they reported --- right at the hole, coming out of the hole I think they reported five percent.
MS. CAMPBELL:
And I'm not sure which one of them said that if they had gotten a four-percent reading, they would have been alarmed. And you had a five-percent reading there. Was that not cause for alarm?
MR. COLEMAN:
If I may?
MR. J.TOLER:
Go ahead.
MR. COLEMAN:

That was a liberation.
And his answer was that the test was taken right against the hole, the base of the hole, within --- taking it within 12 inches of the roof face of rib, which included the hole. It was significantly less. Correct me if I'm wrong, Jeff. I believe it was less than two-tenths.
MR. J.TOLER:
Yes. That's correct.
MS. CAMPBELL:
I'm sorry. Maybe I don't understand liberated methane. Could you explain that to me?
MR. J.TOLER:
Right at the --- where the hole was actually being drilled within --- right at the roof level, that is where the high concentration of CH4 was detected. But if you moved your detector away from the hole to within 12 inches of the hole, the concentration was dissipated down to a .2 percent. So the ventilating current

was doing what it was supposed to do. It was dissipating the gas.
MR. CRUMRINE:
That 12 inches is considered a diffusion area, so that will allow the methane to be diluted and rendered harmless.
MS. CAMPBELL:
Well, is that normal practice to plug the hole with glue or resin or whatever you ---?
MR. J.TOLER:
Yes, ma'am, it is.
MS. CAMPBELL:
Could the bolter have ignited that pocket and slowly gotten into the seal through a crack or something?
MR. J.TOLER:
No.
MS. CAMPBELL:
And how do you know that?
MR. J.TOLER:
There wouldn't have been enough oxygen.

MS. CAMPBELL:
Not enough oxygen?
MR. J.TOLER:
Not in the hole, no.
MS. CAMPBELL:
Thank you.
MS. COHEN:
Can one of you describe the areas of the mine where the seals were built? Was it a wet area, a dry area? I understand that the roof was bad. That's why you determined to seal that area; is that correct?
MR. J.TOLER:
I'm sorry. I only heard about half of what you're saying.
MS. COHEN:
I said can you describe the conditions around the sealed area before you sealed it?
MR. J.TOLER:
Where the seals were constructed themselves, it was --- there was some --- very little wet conditions there, mostly dry. But the

reason we decided to seal the area was the condition of the area deeper into the sealed area.
MS. COHEN:
And that was the roof, from my understanding?
MR. J.TOLER:
Roof and water.
MS. COHEN:
Okay. Prior to the explosion, were the fans operated continuously, without interruption?
MR. J.TOLER:
Yes, ma'am.
MS. COHEN:
The walkie-talkies that the Two Left crew have, where are they?
MR. J.TOLER:
They'd be in possession of MSHA right now.
MS. COHEN:
And Mr. Hatfield, the rescue team workers got debriefed before the families. You were comfortable with that. Why did that

happen?
MR. HATFIELD:
I didn't feel like we had a choice. It wasn't a matter of being comfortable with it. I didn't feel like we had information that we could feel was valid to carry to the families.
MS. COHEN:
Do you think that by putting up the curtains to re-establish the air, that it pushed the bad air back to the Two Left section?
MR. J.TOLER:
No, ma'am. I have no reason to believe that would have caused that.
MS. COHEN:
And when were the belts started, Mr. Jamison? Could you answer that, please?
MR. JAMISON:
I don't know exactly what time he started them. But he didn't start them until we come out. MR.

HATFIELD:
I believe we reported to you earlier in a previous written correspondence that they started around 6:00 a.m. sequentially from outside moving in, and all the main line belts were running by approximately 6:10.
MS. COHEN:
Is there a written emergency manual or procedure manual that describes everybody's responsibilities at the mine? Like when you have a disaster like this, do you guys have a manual that you can pull out and look and see who's responsible for what?
MR. J.TOLER:
Yes.
MS. COHEN:
Did you guys pull that manual on January 2nd?
MR. STEMPLE:
I can answer that. Yes, I did. We call it our crisis management plan. It's not a required

plan. It's something that we developed on our own, and it tells you what to do as far as patrolling the gate, assigning an area for the families to assemble, assigning an area for the mine rescue teams to assemble, an area for the media to assemble, where to get food, phone numbers of restaurants in the area and motels in the area, that type of thing.
MS. COHEN:
And where is it generally kept?
MR. STEMPLE:
I keep a copy with me. We keep a copy in the safety department.
MS. COHEN:
And that would be at the mines, on the grounds of the mine itself?
MR. STEMPLE:
Yes, ma'am.
MS. COHEN:
Is it accessible to everybody? Does everybody have access

to that?
MR. STEMPLE:
Yes, ma'am. It's posted.
MS. COHEN:
Is there any way we can get a copy of that manual to review?
MR. STEMPLE:
Yes, ma'am.
MS. COHEN:
Are all the fire bosses certified in that they have taken their gas test?
MR. STEMPLE:
Yes, ma'am.
MS. COHEN:
Mr. Kitts, did you say the first rescue teams entered the mine at 5:25 on 1/2, p.m.?
MR. KITTS:
Did the first rescue teams enter the mine at 5:25 p.m.?
Yes.
MS. COHEN:
Because the time line indicates that it was 5:51 p.m. that

we've seen.
MR. KITTS:
Yes, ma'am. We're still seeing the same sorts of discrepancies. People have different recollections. And as part of the investigation process, we're trying to resolve those discrepancies. So it's common for us to have several different times for the same event, and we're trying to get those resolved.
MS. COHEN:
Can one of you tell me how long it took to drill those five boreholes over the sealed section? Did it take as long as it did to drill the hole to get to the Two Left section?
MR. KITTS:
I'm having a hard time hearing you. Could you repeat it?
MS. COHEN:
The five boreholes that you drilled over the sealed area now, how long did it take you guys to map those out and drill them? Did it take

as long as it did to drill the one to try to save my dad and the other miners?
MR. KITTS:
No. It took much longer.
MS. COHEN:
Because they --- go ahead. I'm sorry.
MR. KITTS:
Well, the effort that those people made to get the hole down in the time that they did, despite the delays and the unfortunate outcome, was exceptional. And I know that doesn't make you all feel any better. But compared to how long it normally takes to set a drill and hit a place that's only 20 feet wide and do it successfully on the first try was a remarkable effort. But ordinarily you can take four to five days to drill a hole in that manner. And the holes that we drilled were different diameters. One hole was a 24-inch diameter, so it took considerably

longer than the hole we put down into the Two Left face.
MS. COHEN:
Do you guys know when the SCSRs that you have were manufactured?
MR. STEMPLE:
Yes.
MS. COHEN:
And what year is that?
MR. STEMPLE:
They were manufactured in different months and different years. Each one has that stamped on the side of it, and MSHA has those in their possession at this time.
MS. COHEN:
And who is usually responsible for testing those? Is that something you do, Mr. Stemple?
MR. STEMPLE:
We do that in the safety department. We will train certain people to test those, and then we keep a record of that in the safety department. And those records were

turned over to MSHA, the testing, these 90-day checks.
MS. COHEN:
And can someone --- I have copies of the citations from March. Can someone explain to me where the number four and number eight charger are?
MR. KITTS:
I'm sorry. Number four and number eight charger?
MS. COHEN:
Uh-huh (yes).
MR. KITTS:
Carl, can you speak to that?
MR. CRUMRINE:
I am not familiar with the numbers, just the location.
MR. KITTS:
Is that a particular citation?
MS. COHEN:
Uh-huh (yes). Right here.

MR. KITTS:
If you'll give me the citation numbers, we can ---.
MS. COHEN:
They were given to Dick Wilfong on March 31st.
MR. KITTS:
If we could just get a copy of those citations, we can follow up with you. Or we can look at it right now. Both these chargers were on the surface outside the mine.
MS. COHEN:
They're on the surface?
MR. KITTS:
Yes, ma'am.
MS. COHEN:
Where at on the surface?
MR. KITTS:
I'm going to assume that --- well, you probably know, Jeff.
MR. J.TOLER:
They would have been in the building we have constructed to park our mantrips in. Those were

obviously mantrip chargers.
MR. KITTS:
It would have been done in the pit.
MR. J.TOLER:
Down in the pit, yes.
MS. COHEN:
Mr. Jamison, if you didn't take any notes --- at some point you said you did document some notes. And when I originally asked you the question you said you didn't document anything because everything looked good. Then how does anyone know what the velocity of the air was in that section, in Two Left?
MR. JAMISON:
It's in the book.
MS. COHEN:
And can I ask why the families were not contacted and informed --- be informed about the explosion? I know we've heard over and over that we were. But I personally know that there was nothing on my

caller ID and several families ---
MS. CAMPBELL:
Mike told us that he didn't even have a phone number four my sister, but yet they called him to work.
MS. COHEN:
Whose responsibility was that, according to your manual, to contact the families?
MR. STEMPLE:
To notify the families, it would be the human resource department.
MS. COHEN:
And do they have the numbers accessible to them to be able to contact us?
MR. STEMPLE:
When you begin work, you fill out forms for emergency notification, and you put that emergency notification number on the form that you fill out when you begin work.

MS. COHEN:
Okay. And that still doesn't explain why none of us were called. I had to find out from a friend that works on EMS that my dad was --- there was an explosion at his mine. Do you consider that good protocol?
MR. HATFIELD:
There's nothing good about failing to call the families in a crisis of that situation, so we don't suggest that it's good. But all the information I've received confirms that our people made a good-faith effort to reach the families. In some cases, they did not have phone numbers. But we can follow up with specifics. You've asked a reasonable question. I'll get you a written explanation as to who was called and what numbers they were relying on.
MS. COHEN:
Well, Mr. Heims

(phonetic), when I had to go into the classroom to find out if my dad truly was one of the miners trapped, said --- he told me what number he called, and that was my father's house, and I was there. And he said he left a message, and there was no message.
MR. HATFIELD:
I cannot explain that. I don't know. I don't know what the situation was.
MS. COHEN:
That's understandable. But I think that that's something you guys need to check into because I think it's pretty inhumane for me to have to find out about my father through a friend that works on EMS.
MR. HATFIELD:
Again, I don't disagree. But I'm told that we tried to contact everyone, and I'm not sure where the failures were, but we'll look into it.
MS. COHEN:
Is it true that the

company undermined the sealed area to produce additional coal before they sealed it?
MR. J.TOLER:
I'm sorry, could you repeat that?
MS. COHEN:
Is it true that the company undermined the sealed area to produce additional coal before sealing that area?
MR. J.TOLER:
Yes, ma'am, we did.
MS. COHEN:
And there were several metal objects, such as roof bolts, pipe hands and even a pump left in the sealed area?
MR. HATFIELD:
Let's back up and clarify that point. You're asking about the second mining that was done within the sealed area?
MS. COHEN:
Yes.

MR. HATFIELD:
Yes, there was retreat mining done in the sealed area where they mined the bottom bench, but they stopped short of where the seals were constructed.
MS. COHEN:
Okay. And then the roof bolts and the pipe hands and the pump that was left back in that sealed area, if there was a roof fall back in that sealed area, could those have sparked?
MR. HATFIELD:
I don't think anyone in the industry removes roof bolts and pipe hands. Retrieval of roof bolts stopped three decades ago because it's not safe for the men. But with respect to the pump, I am told that that pump was under 12 feet of water and three feet of mud and was impossible to salvage, so they simply cut the cable and abandoned the pump.
MS. COHEN:
Do you know, Mr.

Hatfield, why this mine was closed for a year or two before re-opening in 2004?
MR. HATFIELD:
That predates my knowledge of anything at this point. One can only assume that if the mine wasn't cost effective, they couldn't make any money there, and they closed it. But I didn't have any involvement with the mine at that time.
MS. COHEN:
Does any of you know why it was closed? And is it a cost-effective mine now?
MR. HATFIELD:
Actually, no, it continues to lose money. But we believe that it can be made a profitable mine and a safe mine.
MS. CAMPBELL:
What was your reasoning for drilling the holes, you know, to begin with? What reason did you drill the holes for? Because that took a lot

of time.
MR. KITTS:
We knew from Jeff Toler's testimony that we had a problem at the mouth of Two Left.
MS. CAMPBELL:
I'm sorry, you had what?
MR. KITTS:
We had a problem. We had smoke and something happened at the mouth of Two Left. At this point, early Monday morning, that's all that we knew. So the thought process was that, hopefully, the Two Left crew was on the other side of that, and that if we could establish a data point, if you will, up there in the face of Two Left and check the mine atmosphere, drop a camera into the hole and be able to see what's there and also give anybody in there an opportunity to sound the still, then we would have a much better idea of how to direct the mine rescue teams as they advanced.
MS. CAMPBELL:

So you drilled the holes in order to drop a camera, is that what you just said? Because maybe I just spaced out on that. I'm sorry.
MR. KITTS:
Well, there were three reasons. One was the camera, so that you can get an image of what's there. Is it covered in soot? Is there explosion damage all over? Maybe the explosion originated in those spaces. At that time, we didn't know. So that's one reason. The other reason was to check the atmosphere. Do you have a lot of methane there? Do you have a lot of CO? Are you dealing with a mine fire? Do you have a methane issue, some sort of methane buildup that could be explosive? Again, at this point, we are trying to assess the safety of the mine rescue teams, along with the rescue effort. So we're struggling with the decision to send the team in. And if we could know if there was an explosive range there or

not, then that would have a direct bearing on the rate of advance of the mine rescue teams. But ---.
MS. CAMPBELL:
And did you --- I'm sorry, go ahead.
MR. KITTS:
But the third reason, and the most important reason, and let me be clear about that, is if you get that hold down and you get a response, then the whole game changes and the whole complexion changes. Because at that point you can communicate. You can pump air down the hole. Without any communication, you could be pumping air into an area, and that is something you alluded to earlier, that you could actually be pushing bad air on top of that crew. So the prime reason for drilling that hole was hoping that we could establish a line of communication.
MS. CAMPBELL:
So when you drilled the

hole and you didn't hear anything from underground, did you just assume that they were dead?
MR. KITTS:
No, ma'am. We assumed they weren't there.
MS. CAMPBELL:
You assumed they were not at the face? Is that where you drilled the hole? You drilled ---.
MR. KITTS:
They were not in an area --- they were not able to get to that borehole when it penetrated the mine.
MS. CAMPBELL:
What was your methane reading that came out of that hole?
MR. KITTS:
It was low. It was less than one ---.
MS. CAMPBELL:
It was very low, which means it wasn't explosive; right?
MR. KITTS:
That's correct.

MS. CAMPBELL:
So since you didn't get an explosive reading on methane, why did you not --- why was mine rescue not sent in there from Two Left, where Mr. Toler and the rest of those gentlemen had made it, 2,000 feet from these men?
MR. KITTS:
It was. The mine rescue protocol was modified and stretched, and the communication lines were stretched beyond protocol in order to expedite the team to get up there.
MS. CAMPBELL:
I guess you misunderstood me, Mr. Kitts. Mr. Toler testified that he was 2,000 feet from where those men were found. He was never under apparatus.
MR. KITTS:
That was 23 hours before the hole penetrated the mine.
MS. CAMPBELL:
But Barbour County was on site at 9:30.

MR. KITTS:
About that, yes.
MS. CAMPBELL:
Then why couldn't they go in?
MR. KITTS:
Well, that gets back to the K Order. That gets back to the heart of this issue in that ---.
MS. CAMPBELL:
You have human life underground and you have a K Order, and Mr. Toler tells us that he was 2,000 feet from where they found those men and they were never under apparatus, and yet you let a K Order keep somebody from going in and rescuing 12 men. That is just unacceptable in my book.

MR. KITTS:
I don't blame you.
MS. COHEN:
Mr. Hatfield, is there a reason why you tried to call the State Police and the clergy, to have them

communicate? Was that the reason? Were you going to have them do your job to tell us that there was a miscommunication?
MR. HATFIELD:
It was on the advice of many people around me that we elected to try to get that word over quickly to the families. There was no phone. To actually leave the command center and drive over there through that huge crowd of people that had gathered would have consumed about an hour. In hindsight, yes, that's exactly what I would do if I had it to do over again. But at that point, we had new information coming in. We were trying to debrief the rescue team on exactly who was alive, who was not alive. We didn't know the identity of our survivor. We didn't know much of anything. So we were trying to get information. And it was thought that we could simply get word to the families that we have conflicting

information. The earlier reports may have been too optimistic. That's all we know at this point. We tried to do that and it did not work well. I don't disagree with you.
MS. COHEN:
And you talked about the crowd. You guys made it through the crowd. Every briefing that you gave us for the 41 hours, we sat in the church.
MR. HATFIELD:
At that hour of the evening, as you'll recall, the crowd probably doubled from what we were dealing with most of the day.
MS. COHEN:
Yeah, I'm quite aware of the crowd. But you had troopers. People move for troopers. There was no reason you couldn't have got through the crowd or someone. If people were standing around, there is no reason someone could not have come over there to tell us the truth.
MR. HATFIELD:

As I have said many times, if I had it to do over again, I would do exactly that. But at the time we made the decision, we didn't know how soon we would have answers. I was trying to get answers for the family. That was what our focus was 100 percent of the time.
MS. COHEN:
And how much attempt was made to try to contact the Two Left crew, because according to the transcript, their trolley phone on their manbus was not even working when they went in.
MR. J.TOLER:
The Two Left crew, we attempted to call them through the mine phone throughout the day. All day long we were trying to page inside to get them. As we now know, the antenna wire for the trolley phones and the cable that carries signal on the mine phones, all that was destroyed in the explosion.

MS. COHEN:
Speaking of the explosion, all the briefings that we have we hear minor damage. I have sat and cried over these transcripts and read the transcripts, including some of the One Left crew saying how they lost their hats, how they were blown off their manbus. Can you explain to me why we were told there was minor damage? Reading these transcripts, it sounds like there was a whole lot of damage, because the One Left crew couldn't even take their manbus back out because it was blocked from debris, according to the transcripts.
MR. J.TOLER:
I can't answer why that is in their transcripts. What I can, from my perspective, I only talked to one man that morning. I'm sorry I didn't talk to all of them. But once I was aware that there was a situation, my focus was getting in there and trying to assess what had happened.

MR. HATFIELD:
Your reference to minor damage probably comes from some of my comments to the family during our briefings. I think it's all a matter of context. The debris that stopped the Second Left crew from coming out was not widespread debris. It was an overcast essentially that collapsed on the track, a single structure. We didn't even get to that point until late on the second day. So what we were seeing as the mine rescue teams were advancing throughout Monday evening and Tuesday was what we would generally characterize as relatively minor damage to stoppings, some partially damaged, some blown completely over. But we didn't see extensive damage until we got all the way to the mouth of the Second Left. And then it was specifically focused on ventilation structures that were damaged.
MS. COHEN:

Mr. Toler, when you were --- in your testimony you said that you guys heard something. Can you describe what you heard?
MR. J.TOLER:
It could have been a noise like a piece of rock that maybe just fell from the roof to the floor and, you know, it --- I might have heard something off in one direction and, you know, holding onto hope that that's what --- that it might have been them, I would go as far as I could in that direction and just yell for them. And then we may have sat there for a few more minutes and hear another piece of debris fall in another direction, and I would again go in that direction and yell for them.
MS. COHEN:
Mr. Hatfield, when the rescue --- well, I guess this could go to any of you. When the rescue process started, did you guys think that the men were already dead? Is that why you

took so long to get the rescue workers in there to find our men?
MR. KITTS:
Absolutely not.
MR. HATFIELD:
No.
MR. J.TOLER:
Absolutely not.
MS. COHEN:
That's all I have.
CHAIR:
The panel --- we would like to ask a few questions from here. What I propose is that we continue with the questions, to finish some clarifying questions and complete this panel today, but ask that you would come back tomorrow if there are additional questions, but we try to get closure of this panel. And then if there are other questions that arise, that we would have an opportunity to submit those. But now I'd ask Mr. Clair and Mr. McKinney to submit questions.

MR. MCKINNEY:
I'd just like to clarify the notification process and exactly when people determined there was an explosion underground, because I'm struggling a little bit with that right now. Mr. Coleman, at what point in time did you know that there was an explosion underground?
MR. COLEMAN:
After Mr. Toler came outside.
MR. MCKINNEY:
And approximately what time was that?
MR. J.TOLER:
I think I exited the mines at approximately 10:30 a.m.
MR. MCKINNEY:
Mr. Stemple indicated he did not know it until the mine rescue team went into the sealed area. So was there a briefing, a communication between company personnel to share information and have an understanding

of what occurred underground by the people that were on the property?
MR. COLEMAN:
I mean, during the briefing we took the information and we ascertained or determined from it as best we could. I mean, we figured that due to the stoppings, that we had had some type of event that had produced pressure, either from a large roof fall or from an explosion, which both could produce the same type of characteristics.
MR. MCKINNEY:
I don't think you'll have smoke, as a rule, from a roof fall. I don't think the stoppings that we talked about losing, those type of things --- I'm not --- I'm just pointing, as I listened to everyone talk, at what point in time we truly knew we had an explosion, how we began that process and started assessing the situation and assigning roles and identities to people doing things. I'm

trying to get to that point as a basis before I move on to the next step. I guess, Mr. Toler, you indicated you came out at 10:30 a.m.?
MR. J.TOLER:
That's correct.
MR. MCKINNEY:
Mr. Kitts, you indicated that there was a K Order issued at 8:30, and everything froze at the mine?
MR. KITTS:
Yes.
MR. MCKINNEY:
What froze?
MR. KITTS:
Any additional activity. The K Order was not --- Jeff Toler and his men were not aware of the K, but any additional entry into the mine was what I meant, that no one else was allowed inside after that point.
MR. MCKINNEY:
But there was work ongoing underground during that period of time? I wanted to clarify that.

MR. KITTS:
Yes. The efforts of Jeff Toler were ongoing after the 8:30 and K.
MR. MCKINNEY:
Mr. Toler, you indicated that at some point in time, when you got to 49 block or some location there, that you had dense smoke and you had ventilation controls that were out and you had concerns about outby controls. And I thought you said earlier that you had a concern about a potential fire and you didn't want to continue to try to push air into that area.
MR. J.TOLER:
You have to understand that we're running every possible scenario through our minds. And that was one scenario, that if the place were on fire or if there was still an explosive level of methane in an area and we pushed the fresh air into it, we created the potential for another explosive atmosphere.

MR. MCKINNEY:
Did you have the same concerns about moving smoke through areas you had not been in?
MR. J.TOLER:
Initially, I would have to say --- I would have to answer no because we continued to push in. But as I said, you know, when we reached this --- when we reached this point, that's when we really got into a significant amount of smoke. And that's when we started running the what-ifs through our mind.
MR. MCKINNEY:
I think you also indicated that you were in fresh air. Did anybody that was on your initial rescue team have to seek medical attention?
MR. J.TOLER:
No one that entered the mine with me that morning had to seek medical attention, to my knowledge.
MR. MCKINNEY:

I was thinking I read in a transcript where there was a person that went to the doctor due to high CO concentrations.
MR. J.TOLER:
That's --- possibly that might have been Owen Jones, and that might have been a result of his being in the mines when the explosion happened.
MR. MCKINNEY:
Mr. Coleman, you indicated that on at least two occasions you made a request for the seismic equipment at the mine. Could you tell me who you made that request to and about what time it was?
MR. COLEMAN:
I'm doing this from memory. And it was on two different occasions. It was around 10:30. One was Jeff Kravitz. And the other one I had spoken to was Virgil Brown. And that's when --- and there were some other federal officials there. I don't

remember who it was, but they basically said, you know, we've got stuff coming towards you. We've got the package coming to you.
MR. MCKINNEY:
Did you do that by telephone or did you do that in person?
MR. COLEMAN:
In person.
MR. MCKINNEY:
So you spoke to Jeff Kravitz at about 10:30 that morning?
MR. COLEMAN:
That may have been Tim Satter. But I did speak to Mr. Kravitz later on, when he arrived, as well as with --- spoke to Mr. Virgil Brown.
MR. MCKINNEY:
What time did you speak with Virgil Brown?
MR. COLEMAN:
I don't remember specifically, sir.
MR. MCKINNEY:
Would it have been the

afternoon, in the morning?
MR. COLEMAN:
I believe it would be the afternoon, sir.
MR. MCKINNEY:
When you spoke to Mr. Kravitz, was that by telephone or was that in person?
MR. COLEMAN:
That was in person, sir.
MR. MCKINNEY:
Do you know what time that was?
MR. COLEMAN:
It was in the evening.
MR. MCKINNEY:
After the mine rescue teams went underground or before; do you know?
MR. COLEMAN:
I believe it was a little after.
MR. MCKINNEY:
Mr. Stemple, you indicated that maybe not at this mine,

but at a particular mine you had checked some SCSRs that had expired.

MR. STEMPLE:

Yes, sir.

MR. MCKINNEY:

Or maybe they failed the shake test. Which one did you say?

MR. STEMPLE:

They tested bad. Either the indicator on the top or bottom was pink or they failed the shake test, yes, sir.

MR. MCKINNEY:

As you understand that particular type of SCSR, what does it mean when the shake test --- when it fails the shake test? What part of the SCSR doesn't work?

MR. STEMPLE:

I'm not --- I don't know. I've never opened one up.

MR. MCKINNEY:

What are you basing your opinion on then that you opened that SCSR up and it was a functional SCSR?

MR. STEMPLE:

That I activated it. I didn't physically open the unit to see the internal components, but I did activate it, put it on and use it, put the mouthpiece in my mouth and breathe through it.

MR. MCKINNEY:

For what period of time?

MR. STEMPLE:

As I said, I put on a hundred of them. Each of them were different amounts of time. The longest one, I believe, was 45 minutes.

MR. MCKINNEY:

Would it be proper to ask for a demonstration of a CSC (sic)? And I understood you came prepared to do that?

MR. STEMPLE:

Yes, sir, I can give you a demonstration.

MR. MCKINNEY:

If that please the Chair.

CHAIR:

That would be fine. If you can demonstrate that for us, Mr. Stemple, that would be fine. If you can stand out here so that you could get it for the audience, please.

MR. STEMPLE:

This is the unit that the men carry with them. It has to be within arm's reach at all times. We provide a holster that they carry on their belt so that it is within arm's reach at all times. This is a training unit, so you can see the similarities in them.

Each day, before the men enter the mine, they're trained to do a visual check on the unit. On the top of the unit is an indicator, as they were talking about earlier, whether that indicator is blue or pink. So you check the top indicator. There's also one on the front, on the bottom side. And with this unit in your pouch, you can just physically do that check, easy, every day to make sure those

indicators are blue. When I train everyone, I train them to check those indicators and to also check the physical condition of the unit. And if anyone has a unit that does not look good or the indicators are pink, they don't go underground. We keep them at the mine site, and they're to change them out.

Every 90 days, I will put up a notice on the bulletin board for these to be turned in. When they're turned in, we do the same visual check, plus we also do an indicator check that Mr. McKinney was discussing, where we put the noise meter on the unit. We shake the unit several times up and down. If the indicator flashes red off and on, then that unit is removed from service. And as I said earlier, normally in a 90-day period, I would remove six units from service that tested bad. But when I've opened those units up, they still functioned. Although they tested bad, they still

functioned, which gave me a little better feeling about the unit.
To operate the unit, when do you use this unit? In cases of fire and explosion in the mine or you've been notified there's a fire and explosion in the mine, that's when you operate the unit. It's not a rescue unit. You don't use it to rescue people. You use it to evacuate the mine.
The unit is on your pouch. You're to remove the pouch --- remove the Velcro cover, take it out of the pouch, you get on the mine floor, on your knees, remove your hard hat, put your hard hat on the floor by you to shine your light on the unit and onto yourself so you can see what you're doing. On the top is a release tab. You pull up the release tab. The bands will spring free. You remove the top and discard it, because you don't need the top. I train everyone that there's a set of goggles in here, to

put the goggles on your wrist so you don't drop them in the mud and the water that's on the mine floor. You remove the bottom cannister. You don't need it. Take the neck strap out and put it over your neck. And I've put the unit on backwards, so I train everyone to be aware that the actuator tab goes on your right, not your left. So I would need to remove the unit and turn it around. If I don't turn it around, I'm going to have to take my nose clips up around my mouthpiece. That's the only function of having it forward or backward, is the nose clips would have to be stretched to bring them up to your nose. And you would realize that once you went to put your nose clips on. At that point, you activate the oxygen by pulling down on the tab. The bag will start to fill up with oxygen. While it's filling up with oxygen, you remove the plug from the mouthpiece. You insert the mouthpiece, wrap your lips around, bit

down on the bit lugs. You put your nose clips on to isolate your lungs from the atmosphere so that you're only breathing through the mouthpiece. There's a waist strap in here that you wrap around your body. There, I dropped my goggles in the mud. You would snap the waist strap in. It can be detached very easily or reattached. If you've got a lot of strain on your hose, you can adjust the neck strap by pulling up on the silver ring. There's a black faceted clip to hold it in place. If you're bent over or crawling and the unit is swaying, there's a strap --- or a ring on here you can pull to tighten up the unit to your chest. And you have basically 60 minutes of oxygen to use. And at rest, this unit will provide up to four hours of oxygen. You can outbreathe the unit, though. When I've worn this unit, I've tested it by pushing myself and pushing my limits by walking fast and running, and it feels like you're

breathing through a straw as opposed to breathing through a hose. When I slowed myself down and went to a normal pace or a slower pace, it just feels like the hose is opening back up and I'm getting good oxygen.
CHAIR:
Thank you.
MR. MCKINNEY:
Thank you, Mr. Stemple.
Who does the SCSR training at the mine?
MR. STEMPLE:
When an individual is hired at the mine, prior to going in, it's part of their newly-employed training that they receive hands-on training with the SCSR. It's done by the safety director.
MR. MCKINNEY:
So would you be doing that training at certain times?
MR. STEMPLE:
Yes. When I was at the mine in June and July I would say that I probably did some of that training,

yes.
MR. MCKINNEY:
How about Mr. Coleman?
MR. COLEMAN:
No. I've only --- I come out with ICG July the 27th. And within my capacity, I oversee the safety program and the safety directors.
MR. MCKINNEY:
Mr. Stemple, you indicated that you had donned the SCSR. Begin that process when you're notified of a fire or an explosion. During the interview process and looking at some of the transcripts, it's apparent that some of the miners were in smoke or went into smoke and didn't done the SCSRs. Would there be a time during your training process you'd make them aware that they should wear an SCSR?
MR. STEMPLE:
Yes, sir.
MR. MCKINNEY:
Do you have any idea why

that process would not have been followed?
MR. STEMPLE:
No, I do not. That was their individual decision.
MR. MCKINNEY:
Do you believe that most people respond to the training they received?
MR. STEMPLE:
Yes, sir.
MR. MCKINNEY:
Mr. Hatfield, I pose this question to you, and you can delegate it to whom you want to. We talked a little bit about building the seals and the process of training people to build those seals. And I would wonder who on your team could answer the question what type of training those people would have.
MR. HATFIELD:
I believe Jeff Toler is probably the most qualified to address that. But he may want to ask Ty

Coleman to help him.
MR. J.TOLER:
Typically, the training, Ray, is going to be --- I would verbally go over the seal construction process. And then beyond that, it would be a hands-on type.
MR. MCKINNEY:
What would you use as a reference document for the training that you were going to do?
MR. J.TOLER:
A copy of the approved seal construction plan.
MR. MCKINNEY:
And how is that transferred to the contractors that came on your property and did contract work on the seals?
MR. J.TOLER:
Those gentlemen were already on the property, working with our men on some of the other various outby improvements we were making. And they all just kind of filtered into the

process as the construction went along.
MR. MCKINNEY:
So did you do that training for those individuals?
MR. J.TOLER:
No, sir, I did not.
MR. MCKINNEY:
Would someone in the company have done that?
MR. J.TOLER:
Somebody at the seal site would have done that.
MR. MCKINNEY:
Would that have been a company person?
MR. J.TOLER:
Yes, sir.
MR. MCKINNEY:
You indicated earlier that you felt like the seals were properly constructed.
MR. J.TOLER:
Yes, sir.
MR. MCKINNEY:
What did you do as the

person being responsible for the building of the seals and the construction process to provide oversight to see that they were constructed properly?
MR. J.TOLER:
As I said, when I was in the mines during the construction of the seals, I would --- I made a few stops by, checked on their construction, see how it was going. They appeared to be following the plan as it was approved.
MR. COLEMAN:
Jeff, if I may interject. You had earlier stated that you had reviewed the plan with supervisors that was going to oversee the seals installation; is that correct?
MR. J.TOLER:
Yes, sir. And I also think that each of these supervisors had a copy of that seal construction plan with them.
MR. MCKINNEY:

We had an interview process, a statement where the first row of blocks were placed down and then there was a bag of BBond poured over that as a footer. Would that be the proper way to construct the seal?
MR. J.TOLER:
No, sir. I don't think that --- that's not the way they would have done that, I don't think.
MR. MCKINNEY:
You don't think or you're sure?
MR. J.TOLER:
I don't think they would have done it that way.
MR. MCKINNEY:
And what would you base that opinion on?
MR. J.TOLER:
Just verbal descriptions of how they built the seals. Are you indicating that they just laid a little row of blocks down and dumped ---
MR. MCKINNEY:

Yes.
MR. J.TOLER:
--- BBond on top of that?
MR. MCKINNEY:
The BBond was not mixed.

MR. J.TOLER:
It was not mixed?
MR. MCKINNEY:
It was dumped on the floor.
MR. J.TOLER:
No, sir. I think the only instance that they would use a dry mix is if the bottom conditions were damp, wet, they would maybe pour dry mix down. Or if there was a big, uneven area there, they may put it down in there for a leveling purpose. But it would have been on the footer below the first row of blocks.
MR. MCKINNEY:
If you did what you just described, you used dry BBond and poured it out of the bag and set the

block on top of it, does that comply with the seal plan?
MR. J.TOLER:
If the conditions were damp, I would --- yes, I think they would.
MR. MCKINNEY:
So you would not, in your opinion, be mixing a mortar to lay that block in?
MR. J.TOLER:
If it's drawing --- if it can draw its moisture from the ground, no, sir.
MR. MCKINNEY:
There was also some statements about the number of flyboards that were placed on top of the seals that were being built, the 40-inch thick seals. If there were three flyboards, would that comply with the plan?
MR. J.TOLER:
Three flyboards would comply with the plan.

MR. MCKINNEY:
Would or would not?
MR. J.TOLER:
It would.
MR. MCKINNEY:
Would anything less than three comply with the plan?
MR. J.TOLER:
No, sir, it would not.
MR. MCKINNEY:
Who is responsible for the annual refresher training and the newly-employed and experienced mining training at the mine, for conducting that training?
MR. COLEMAN:
The safety director at that site and/or a certified instructor.
MR. MCKINNEY:
Can you tell me how that is handled administratively --- or how was it handled administratively at the Sago Mine? Did you bring all your miners into a training class once a

year?
MR. COLEMAN:
I can't comment prior to.
Subsequent to the event, we have brought all miners in to conduct the annual retraining.
MR. MCKINNEY:
Who can comment prior to?
MR. STEMPLE:
Based on the anniversary date of their hire date was how we were doing the training previously. And if there were eight men in the month of August that were due for annual refresher training, those eight men would be posted on the mine door to report for annual refresher training.
MR. MCKINNEY:
So that it could be if one person was due, it would be a one-on-one training session?
MR. STEMPLE:
What I would do is I would bring one person into a group with others. If I had eight in October

and two in November, I would bring the two in November into October.
MR. MCKINNEY:
But to your knowledge, there would never be a one-on-one training session?
MR. STEMPLE:
To my knowledge, I have done several of those in the past. It's not very convenient to do a one-on-one.
MR. MCKINNEY:
Who tracks the expiration dates on your SCSRs?
MR. STEMPLE:
Those are tracked mostly through the department.
MR. MCKINNEY:
Is that logged in electronically or how do you track that?
MR. STEMPLE:
Well, initially it's done by hand and then logged in electronically.

CHAIR:
Mr. Stemple, if I may follow up on that question. Earlier a question was asked as to the logs or as to the dates of these SCSRs. Could you provide us with a copy of those dates, when they were purchased?
MR. STEMPLE:
I don't know when they were purchased. They do have the manufacturer's date stamped on them when they were made, but I don't know when they were purchased.
CHAIR:
And it was asked if we could get copies of those manufacturer dates.
MR. STEMPLE:
Yes. MSHA has those.
CHAIR:
Okay.
MR. MCKINNEY:
Mr. Coleman, I think you indicated that you were at the mine somewhere a little after eight o'clock

and also that you were working in the command center. Can you tell me how -- - the functionality of that operation, what your input was as you represented the company in this process?

MR. COLEMAN:

Yes, sir. We took and used the incident command structure so that --- we set a place for engineering, surface critical support, along with, you know, securing access to the gate, and started working with logistics as far as taking into account what resources we had at the mines. And in conjunction with this, MSHA and the state was also assisting with resources as well.

MR. MCKINNEY:

You debriefed, as you understood, Mr. Toler when he came outside?

MR. COLEMAN:

Yes, sir.

MR. MCKINNEY:

Based on that debriefing,

what did you gain from that as far as the conditions underground?

MR. COLEMAN:

I felt that we had had a significant event.

MR. MCKINNEY:

Could you tell me what significant event you felt you had?

MR. COLEMAN:

Some type of maybe an explosion or mine fire or --- I mean, there was even talk that, you know, possibly even a major roof fall.

MR. MCKINNEY:

I think we've all been in the mining industry quite sometime. As you debriefed Mr. Toler, who's already told us that I think when he saw soot deposits on the mine roof, ---

MR. COLEMAN:

Yes.

MR. MCKINNEY:

--- he saw stoppings destroyed, he saw smoke, and at that point in time, underground, looking at

the conditions, he felt there had been an explosion. You still had not decided that after debriefing him?

MR. COLEMAN:

After debriefing him, yes. But pursuant to --- we got bits and pieces of information. I mean, the firsthand information come from Mr. Toler and the others that went underground to assist, what the conditions were and what was going on.

MR. MCKINNEY:

Can you tell me a little bit about the operation as far as what the plan was? As Mr. Kitts indicated, a K Order was issued, which now the company puts forth a plan of what you want to do. What was the first plan that you brought forth as your plan of action?

MR. COLEMAN:

The first plan that was approved is that once that we was assured that we didn't have a mine fire or excessive levels of methane, the

plan was submitted and signed off on by state and the federal and ICG to systematically explore the mines once we did the portals and to advance up the track with the secondary back-up team following at approximately 500 feet and advancing that way. And we was tied into the returns I believe every 500 feet.

MR. MCKINNEY:

You're pretty well into the operation now. I guess I'm talking about the first window when you debriefed Mr. Toler and you thought you had an explosion underground. A decision has to be made about whether you're going to send people underground at this point in time, once the teams were mobilized. What was your position, as the company official at that time? Did you want to send teams underground?

MR. COLEMAN:

We had approached MSHA with that, and that was not accepted

because they wanted to get a trending analysis to ensure the safety of the team, that we didn't have a mine fire.

MR. MCKINNEY:

You indicated this was a joint discussion process. So when you say approached MSHA, did you have meetings between yourself, MSHA and the state to make decisions on this?

MR. COLEMAN:

Yes, sir.

MR. MCKINNEY:

Did you have any concerns as the person in charge of the mine that there might be a second explosion?

MR. COLEMAN:

Yes, sir.

MR. MCKINNEY:

And you still wanted to send people underground?

MR. COLEMAN:

We was speaking of several different aspects. You have to realize we was acquiring information. We were monitoring the returns. We was

getting additional information from the people we was --- we had a lot of different information that we was --- we, as the command center, was trying to assimilate this.

MR. MCKINNEY:

Once you did compile the information, you understood the concentrations were coming outside. And I think Mr. Kitts and Mr. Hatfield, one, indicated that, you know, you were up to over 2,000 parts per million. You're in the mine office. Once you knew that and you knew what had transpired before that, did that cause you concern about sending people underground?

MR. COLEMAN:

Yes. Once we seen the upward trend of the CO, I was apprehensive.

MS. CAMPBELL:

Excuse me, Davitt. I'm sorry. There's a lot of families that

really need to get home to their children. Can I make a motion that we adjourn and have this panel come back tomorrow? I'm sorry. If that's all right with you guys.

CHAIR:

I think the questioning is finished. We would ask the panel, and we want to thank you for answering these questions, but we would ask for you to return tomorrow. And I know most of you are, but we would request that Mr. Crumrine, Mr. Toler and Mr. Jamison join you tomorrow. We will look tomorrow morning to see if we have to finish any questions here. But I think we're done with this panel, and we can begin with the additional, the next panel, which would be panel number four. And then if we had questions for you, follow-up questions, we might ask them at the latter panel.

MR. MCKINNEY:

With the Chair's indulgence, we have one question for

Mr. Jamison since he is not coming back.

CHAIR:

Is Mr. Jamison coming back tomorrow?

MR. MCKINNEY:

We'd just ask one question. It's a very simple question. The notes that you kept underground, Mr. Jamison, I know you have to record an air reading and you record your methane concentrations, was that recorded in the notebook that you lost?

MR. JAMISON:

Yeah. Yeah.

MR. MCKINNEY:

So you filled the book out before you lost the notebook?

MR. JAMISON:

All right. I come out and filled the books out, put it back in my shirt, went back inside, the mine blew up, come out.

MR. MCKINNEY:

Thank you. I appreciate

that.
CHAIR:
Thank you very much. And thank you to the families for being here today and for --- to all of you, this panel and the other panels, we will convene again tomorrow morning at nine o'clock. Thank you.

* *MEETING CONTINUED* *

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