

01                   STATEMENT UNDER OATH  
02                                   OF  
03                   HARLEY JOE RYAN  
04  
05  
06    Taken pursuant to Notice by Miranda  
07    D. Elkins, a Court Reporter and  
08    Notary Public in and for the State of  
09    West Virginia, at United States  
10    District Court, 500 West Pike Street,  
11    Clarksburg, West Virginia, on  
12    Thursday, January 26, 2006, at 12:44  
13    p.m.

14

15

16

17

18

19

20

21

22

23    Any reproduction of this transcript  
24    is prohibited without authorization  
25                   by the certifying agency.

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

02  
03 DOUG CONAWAY, DIRECTOR  
04 Office of Miners' Health, Safety &  
05 Training  
06 1615 Washington Street, East  
07 Charleston, WV 25311

08  
09 J. DAVITT MCATEER, ESQUIRE  
10 Wheeling Jesuit University  
11 Vice President, Sponsored Programs  
12 316 Washington Avenue  
13 Wheeling, WV 26003

14  
15 JAMES BROOKS CRAWFORD, ESQUIRE  
16 Senior Trial Attorney  
17 Mine Safety and Health Division  
18 U.S. Department of Labor  
19 Office of the Solicitor  
20 1100 Wilson Boulevard  
21 Suite 2231  
22 Arlington, VA 22209-2296

23  
24  
25

3

01 A P P E A R A N C E S (cont.)  
02  
03 RICHARD A. GATES  
04 District Manager, District 11

05 U.S. Department of Labor  
06 Mine Safety & Health Administration  
07 135 Gemini Circle, Suite 213  
08 Birmingham, AL 35209

09

10 JOSEPH R. O'DONNELL, JR.  
11 Supervisory Coal Mine S&H Inspector  
12 U.S. Department of labor

13 Mine Safety & Health Administration  
14 District 11  
15 3667 Pine Lane, Suite 205

16 Bessemer, AL 35022

17

18 R. HENRY MOORE, ESQUIRE  
19 Jackson Kelly, PLLC  
20 Three Gateway Center  
21 401 Liberty Avenue - Suite 1340  
22 Pittsburgh, PA 15222

23 COUNSEL FOR ICG

24

25

4

01 A P P E A R A N C E S (cont.)

02

03 SAM KITTS  
04 6002 Pinnacle View Road  
05 Hurricane, WV 25526

06

07 DENNIS J. SWENTOSKY  
08 Supv. MS&H Specialist (Ventilation)  
09 U.S. Department of Labor  
10 Mine Safety & Health Administration  
11 CMS&H, District 2  
12 Paintersville Road  
13 R.R. #1, Box 736  
14 Hunker, PA 15639

15

16 BRIAN MILLS  
17 Inspector at Large, Region One  
18 West Virginia Miners' Health, Safety  
19 & Training  
20 205 Marion Square  
21 Fairmont, WV 26554

22

23 DAVE STUART  
24 1507 Stonehenge Road  
25 Charleston, WV 25214

5

01 A P P E A R A N C E S (cont.)

02

03 ROBERT S. WILSON, ESQUIRE  
04 TIMOTHY S. WILLIAMS, ESQUIRE  
05 U.S. Department of Labor  
06 Office of the Regional Solicitor  
07 1100 Wilson Boulevard  
08 22nd Floor West  
09 Arlington, VA 22209

10 COUNSEL FOR MSHA  
11  
12 JOSEPH YUHAS, ESQUIRE  
13 P.O. Box 1025  
14 Northern Cambria, PA 15714

15  
16 MARCO M. RAJKOVICH, JR., ESQUIRE  
17 Rajkovich, Williams, Kilpatrick &  
18 True, PLLC  
19 2333 Alumni Park Plaza  
20 Suite 310  
21 Lexington, KY 40517

22  
23  
24  
25

01 I N D E X

02  
03 INTRODUCTION 8 - 16  
04 WITNESS: HARLEY JOE RYAN  
05 QUESTIONS  
06 By Mr. Swentosky 16 - 102  
07 By Mr. Mills 102 - 108  
08 By Mr. Swentosky 109 - 128  
09 By Attorney Wilson 128  
10 By Mr. Swentosky 128 - 131  
11 CERTIFICATE 132

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

7

01	EXHIBIT PAGE		
02			PAGE
03	NUMBER	DESCRIPTION	IDENTIFIED
04			
05			
06	NONE OFFERED		
07			
08			
09			
10			
11			
12			
13			
14			

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

8

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

02   -----

03           MR. SWENTOSKY:

04           My name is Dennis  
05   Swentosky. I am an accident  
06   investigator with the Mine  
07   Safety & Health  
08   Administration, an agency of  
09   the United States Department  
10   of Labor. With me is Bob  
11   Wilson, from the Solicitor's  
12   Office, and Brian Mills with  
13   the West Virginia Office of  
14   Miners' Health, Safety &  
15   Training. I've been assigned  
16   to conduct an investigation

17 into the accident that  
18 occurred at the Sago Mine on  
19 January 2nd, 2006, in which 12  
20 miners died and one was  
21 injured.

22 The investigation is  
23 being conducted by MSHA and  
24 the West Virginia Office of  
25 Miners' Health, Safety &

9

01 Training to gather the  
02 information to determine the  
03 cause of the accident, and  
04 these interviews are an  
05 important part of that  
06 investigation.

07 At this time, the  
08 accident investigation team  
09 intends to interview a number  
10 of people to discuss anything  
11 that may be relevant to the  
12 cause of the accident. After  
13 the investigation is  
14 completed, MSHA will issue a  
15 written report, detailing the  
16 nature and the causes of the  
17 accident.

18 MSHA accident reports  
19 are made available to the

20 public in the hope that a  
21 greater awareness about the  
22 causes of accidents can reduce  
23 their occurrence in the  
24 future. Information obtained  
25 through these witness

10

01 interviews is frequently  
02 included in these reports.  
03 Your statement may also be  
04 used in other enforcement  
05 proceedings.

06 I would like to thank  
07 you in advance for your  
08 appearance here today. We  
09 appreciate your assistance in  
10 this investigation. The  
11 willingness of miners and mine  
12 operators to work with us is  
13 critical to our goal of making  
14 the nation's mines safer.

15 We understand the  
16 difficulty for you in  
17 discussing the events that  
18 took place, and we greatly  
19 appreciate your efforts to  
20 help us understand what  
21 happened.

22           This interview with Mr.  
23           Joe Ryan is being conducted  
24           under Section 103(a) of the  
25           Federal Mine Health & Health

11

01           Act of 1977 as part of an  
02           investigation by the Mine  
03           Safety & Health Administration  
04           and the West Virginia Office  
05           of Miners' Health, Safety &  
06           Training into the conditions,  
07           events and circumstances  
08           surrounding the fatalities  
09           that occurred at the Sago  
10           Mine, owned by the  
11           International Coal Group, in  
12           Buckhannon, West Virginia, on  
13           January 2nd, 2006.

14           This interview is being  
15           conducted at the Federal  
16           District Courthouse in  
17           Clarksburg, West Virginia, on  
18           January 26th, 2006.

19           Questioning will be  
20           conducted by representatives  
21           of MSHA and the Office of  
22           Miners' Health, Safety &  
23           Training.

24           Mr. Ryan, the interview

25 will begin by my asking you a

12

01 series of questions. If you  
02 do not understand a question,  
03 please ask me to rephrase it.  
04 Feel free at any time to  
05 clarify any statements that  
06 you make in response to these  
07 questions.

08 After we have finished  
09 asking questions, you will  
10 also have an opportunity to  
11 make a statement. And if at  
12 any time after the interview  
13 you recall any additional  
14 information that you believe  
15 may be useful in the  
16 investigation, please contact  
17 Richard Gates at the phone  
18 number or e-mail address  
19 provided to you. And here's a  
20 business card with Mr. Gates'  
21 phone number and e-mail  
22 address.

23 Your statement is  
24 completely voluntary. You may  
25 refuse to answer any question,

13

01 and you may terminate your  
02 interview at any time. If you  
03 need a break for any reason,  
04 just ask me.

05 A court reporter will  
06 record your interview and will  
07 later produce a written  
08 transcript of the interview.  
09 Please try to respond to all  
10 questions verbally since the  
11 court reporter cannot record  
12 nonverbal responses. Also,  
13 please try to keep your voice  
14 up. Copies of the written  
15 transcripts will be made  
16 available at a later date.  
17 And that would be upon the  
18 completion of the  
19 investigation.

20 If any part of your  
21 statement is based not on your  
22 own first-hand knowledge but  
23 on information that you  
24 learned from someone else,  
25 please let us know. Please

14

01 answer each question as fully  
02 as you can, including any  
03 information you have learned

04 from someone else.

05 We may not ask you the  
06 right questions to learn the  
07 information you have, so do  
08 not feel limited by the  
09 precise question that we ask.  
10 If you have any information  
11 about the subject area of the  
12 question, please provide us  
13 with that information.

14 At this time, Mr.  
15 Mills, do you have anything  
16 that you would like to add on  
17 behalf of the West Virginia  
18 Office of Health Safety &  
19 Training?

20 MR. MILLS:

21 Mr. Ryan, the West  
22 Virginia Office of Miners'  
23 Health, Safety & Training is  
24 conducting this interview  
25 session jointly with MSHA and

15

01 are in agreement with the  
02 procedures outlined by Mr.  
03 Swentosky for these interviews  
04 that will be conducted here  
05 today.

06 But the Director  
07 reserves the right, if  
08 necessary, to call or subpoena  
09 witnesses or require the  
10 production of any record,  
11 document, photograph or other  
12 relevant materials necessary  
13 to conduct this investigation.

14 MR. SWENTOSKY:

15 Mr. Ryan, you are  
16 permitted to have a  
17 representative with you during  
18 the interview, and you may  
19 consult with your  
20 representative at any time.  
21 You may designate any person  
22 to be your representative. Do  
23 you have a representative with  
24 you today?

25 MR. RYAN:

01 No.

02 MR. SWENTOSKY:

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

07 MR. RYAN:

08 No.

09 MR. SWENTOSKY:

10 Could you swear the

11 witness in, please?

12 -----

13 HARLEY JOE RYAN, HAVING FIRST BEEN

14 DULY SWORN, TESTIFIED AS FOLLOWS:

15 -----

16 BY MR. SWENTOSKY:

17 Q. Mr. Ryan, could you state your

18 full name and spell your last name

19 for us, please?

20 A. Harley Joe Ryan, R-Y-A-N.

21 Q. Could you provide us with your

22 address and telephone number, please?

23 A. [REDACTED]

24 [REDACTED]

25 Q. Are you appearing here today

17

01 voluntarily?

02 A. Yes, sir.

03 Q. Could you provide us with your

04 phone number?

05 A. [REDACTED]

06 Q. How many years of mining

07 experience do you have?

08 A. Thirty-three (33).

09 Q. Could you give us a brief

10 description of that experience?

11 A. I went to work for Peabody  
12 Coal Company in 1974. Worked for  
13 them for five to six years, then I  
14 went to Badger Coal Company. Worked  
15 for them for five or six years. And  
16 then the rest of the time I've been  
17 with small non-union mines scattered  
18 all over northeastern West Virginia,  
19 mostly as a roof bolter.

20 Q. How much time have you spent  
21 at the Sago Mine?

22 A. Two years, this time. When  
23 Paul Tenney owned it before, I was  
24 there with him for six months.

25 Q. And approximately what

18

01 timetable was that in?

02 A. That I can't answer. I  
03 couldn't --- if I tried to figure it,  
04 I couldn't figure it up in my head.  
05 Had to be --- 2006, 4. 2002 would be  
06 close. Six months in 2002, and I've  
07 been with this company since they  
08 opened it up in 2004.

09 Q. What is your present position?

10 A. Roof bolter.

11 Q. Roof bolter. And did you hold  
12 the same position on the day of the  
13 accident?

14 A. Yes, sir.

15 Q. What would your duties have  
16 been on that day of the accident?

17 A. If we had made it to the  
18 section, I would have been roof  
19 bolting all day.

20 Q. And how long have you worked  
21 in the same position as a roof  
22 bolter?

23 A. All the time with this  
24 company.

25 Q. All the time with this

19

01 company, okay. So then you haven't  
02 held any other positions during that  
03 period of time?

04 A. No.

05 Q. Did you ever help out on  
06 anything or differently than ---?

07 A. Yes, sir. I've helped handle  
08 the miner cable. I've helped set the  
09 feeders, put in part of the belt  
10 line, put in part of the track, built  
11 stoppings, set pumps and pumped  
12 water. Just a little bit of  
13 everything.

14 Q. Do you have any mining  
15 certification?

16 A. Just a belt examiner's card.  
17 Q. Belt examiner. What do you  
18 examine, just the belts or ---?  
19 A. That's my understanding is  
20 what it would be. The company I  
21 worked for several years ago wanted  
22 everybody to get different cards.  
23 And we went in and took the class and  
24 I got the belt examiner's card. I  
25 have never used it. I've got it, but

20

01 I've never used it.  
02 Q. So at Sago Mine here, you  
03 haven't examined any belts ---  
04 A. No, sir.  
05 Q. --- or returns or anything  
06 like that?  
07 A. No. Uh-uh (no).  
08 Q. And who is your immediate  
09 supervisor?  
10 A. Owen Jones.  
11 Q. How long has he been your  
12 supervisor?  
13 A. I'd say a year and a half,  
14 approximately a year and a half.  
15 Q. And who was it before that?  
16 A. That I can't tell you. I  
17 don't remember his name.  
18 Q. What time do you usually ---

19 or do you normally start your shift?

20 A. We'll start down off the hill

21 anywhere from ten minutes 'till 6:00

22 to five minutes 'till 6:00 to get on

23 the mantrip.

24 Q. Approximately what time do you

25 arrive at the mine?

21

01 A. Oh, I'm usually at the mines

02 anywhere from five o'clock to five,

03 ten after 5:00.

04 Q. Could you just from the time

05 you arrived at the mine, just kind of

06 go through the whole process during

07 that day and tell me what happened?

08 And I'll just not say anything to you

09 and you just kind of give me a

10 description of the day's events that

11 took place.

12 A. I'd say I got there at the

13 same time I always do, anywhere from

14 five to ten after 5:00. Got dressed,

15 went over to the dispatcher's office.

16 And I usually stayed over there until

17 we got ready to go underground, drank

18 a cup of coffee, talked with several

19 different people. And this is

20 approximately, because I didn't look

21 at my watch. Usually the guys ---  
22 somebody would holler, let's go, and  
23 we walked down over the hill to get  
24 on the mantrip. And the boss had got  
25 a mantrip that wouldn't hold all of

22

01 us, so he went back and switched it  
02 out, brought it up, and then we all  
03 got on the mantrip. And what time  
04 that would have been, like I say, I  
05 do not know. I didn't really pay any  
06 attention because nothing was --- you  
07 just don't pay no attention.

08 We went up and we hit First  
09 Left switch, and the gentleman got  
10 out of the mantrip. He throwed the  
11 switch, he sat back down, and that's  
12 when the blast hit us. I said the  
13 blast lasted from 10 to 15 seconds,  
14 maybe 20 seconds at the most. Some  
15 people said it was longer. When the  
16 blast was over with, then we all got  
17 out of the mantrip. What the boys  
18 done in the front, I have no idea in  
19 the world. I'm not even going to  
20 venture a guess. When I got out of  
21 my mantrip, I kept my back against  
22 the mantrip. As them guys got out of  
23 the mantrip, they just kind of eased

24 around me and got against the  
25 mantrip. And there was one boy left,

23

01 and he couldn't see, and I stayed  
02 there with him. And once I got him  
03 to where he thought he could see real  
04 good, then me and him went around the  
05 edge of the mantrip and I got him  
06 between the tracks and told him to  
07 keep your feet down, shuffle your  
08 feet stay between the track, and  
09 we're going to go down the track.  
10 And we went approximately two blocks  
11 towards the outside, and I met two  
12 other boys, and we stopped and we put  
13 on our self-rescuers. They had  
14 theirs on. And they started down  
15 through, and I was the last one to go  
16 down through because I knowed I was  
17 the last one and I knowed what I was  
18 going to do. And this is because of  
19 other experiences. I went down to  
20 where they said, here's a doorway  
21 into the intake. And again, I was  
22 the last one. Everybody come through  
23 the doorway until I come through the  
24 doorway. Then we closed it. We had  
25 one gentleman that was having

01 problems. And while we was talking  
02 with him and we was talking with our  
03 boss, the boss wanted to go back on  
04 the section to get his brother. We  
05 had maybe two or three minutes, four  
06 minutes, five minutes. I don't know.  
07 That's what --- I'm going by what  
08 other people said. We talked him  
09 into staying at the phone, which was  
10 out on the track. We told him if he  
11 wouldn't go no further, we'd allow  
12 it. And he said he would stay there.  
13 Then we started to go down out of  
14 there, and the one gentleman that was  
15 having problems, because I'm old and  
16 I'm --- I'm basically a little older.  
17 I'm not as strong as a younger man.  
18 I knowed that a buddy of mine didn't  
19 have his light and he didn't have his  
20 hat, so I went down with the boy that  
21 was there, he's a younger fellow,  
22 he's taller than me, stronger than  
23 me, and I told him I'll stay with  
24 this boy, you go back up with them,  
25 they're having problems with him.

01 And as I led that boy down out of  
02 there, I watched them. And when they

03     come a block, I took him a block.  
04     When they come a block, I took him  
05     another block.  And as we were coming  
06     down out of there, I was watching to  
07     the right-hand side of me because  
08     that's where the intake stoppings  
09     were at, and I was watching them,  
10     looking to find at least two  
11     stoppings that weren't blowed.  I  
12     figured if we hit two stoppings that  
13     weren't blowed, that's where the  
14     blast stopped.  I hit one stopping  
15     that had part of it blowed out and  
16     another stopping that was all blowed  
17     out, another stopping that was good,  
18     another stopping that had the center  
19     part of it blowed out, another  
20     stopping that had anywhere from two  
21     to four to six blocks blowed out,  
22     another stopping that probably had  
23     half of it blowed out, another  
24     stopping.  And this is not --- this  
25     is just me trying to recollect.  This

26

01     is not perfect.  I hit a place where  
02     I counted one stopping that was  
03     solid, hit the next place, the  
04     stopping was solid, and from there on

05 down to where the charger was, where  
06 we knowed the scoop was. And the  
07 reason we knowed the scoop was there  
08 is because me and my buddy was  
09 bolting that weekend in that intake  
10 and that's where we left the scoop.  
11 Our idea was, when we got to that  
12 scoop, if there was no gas, we was  
13 going to unplug it, put the two  
14 people in it that we was having  
15 problems with, and we was going to  
16 take it as far as we could go. While  
17 they were discussing that, somebody  
18 hollered, which now I know who it  
19 was, that we heard a mantrip. And  
20 they told me, go over and open the  
21 door. I went over and opened the  
22 door and hollered out to stop the  
23 mantrip. We got everybody out on the  
24 track, got in the mantrip, and we  
25 come outside. After we were outside

27

01 maybe --- again, I'm guessing, 5, 10,  
02 15 minutes, because as soon as I got  
03 outside, I called my wife. And I  
04 gave the phone to another boy and I  
05 said, as soon as you call your wife,  
06 you give it to another guy and have  
07 him call his wife. Get all of us get

08 our families notified. Don't tell  
09 them what happened, just tell them,  
10 okay, we're outside, we got a  
11 problem, and let it go at that.  
12 Because I knowed --- and again, from  
13 a little bit different experiences,  
14 but close to it, that when all this  
15 started, the phones was dead to us.  
16 We couldn't talk to our families.  
17 And I didn't want any of the families  
18 to find this out over the scanner.  
19 Unfortunately, it did. You don't  
20 hide nothing from people. How these  
21 people found it out, I don't know,  
22 but they did.

23 I went back and I talked to my  
24 boss. He had come outside. They had  
25 went and got him and they had done

28

01 some work in there and had come back  
02 outside. And I went to him and I  
03 said to him, now, one or two or three  
04 of us is ready to go back in right  
05 now. I said, get us permission and  
06 let's go back in and do what we can  
07 do. And he said, I'll come and get  
08 you if I need you. From there on,  
09 it's kind of hectic. But that's

10 basically all of it. That's just in  
11 a nutshell.

12 Q. Okay. What I'd like to do  
13 now, Mr. Ryan, is just kind of go  
14 back to the beginning and we'll kind  
15 of go through this step by step, if  
16 you would, please, and we'll kind of  
17 fill in some of the blanks, if there  
18 are any blanks to fill in. Okay?

19 And again, I know you'll be repeating  
20 it, but we want to make sure we get  
21 everything down. Did you begin your  
22 shift at the normal time that day?

23 A. As close as I can guess it,  
24 yes, that's what I'm saying. It was  
25 five to eight minutes 'till 6:00.

29

01 That's normally when we walk down  
02 over the hill and get on the mantrip.

03 Q. And what time did you arrive  
04 at the mine that day, approximately?

05 A. I'm going between five and ten  
06 after 5:00 because that's normally  
07 what time I get there every day. I  
08 drive basically at the same speed.

09 Q. Okay. And after you got to  
10 the mine, you just kind of --- you  
11 say you got dressed and ---?

12 A. I got dressed and talked with

13 some of the other guys, joked with  
14 some of the other boys. The one boy  
15 that's in the hospital now, I talked  
16 to him, because he was --- he was a  
17 real good friend of mine. I trained  
18 him in the mines as a roof bolter.  
19 And normally, in the mornings, we  
20 would --- we went in and got a cup of  
21 coffee and got our lights and stuff  
22 on, me and him would normally talk a  
23 while, which that morning I also  
24 talked with him. How long, I don't  
25 know. I couldn't tell you.

30

01 Q. Then after that discussion,  
02 then did you go get your light or  
03 ---?

04 A. No, we had our lights on. He  
05 left and --- which was basically  
06 normal, too, because those boys  
07 usually went down a minute or two  
08 minutes before we did. I'm guessing  
09 the times because I don't know.

10 Q. I understand that. Sure.  
11 That's fine. Did you take a detector  
12 with you underground?

13 A. No, I did not. My buddy did.  
14 I didn't --- I'm a helper on the

15 bolter and my buddy is the operator,  
16 and the operator always carried a  
17 detector with him. He had it in his  
18 pocket.

19 Q. So you didn't have a detector  
20 and there was no need?

21 A. No, I did not. No.

22 Q. He was the one who made the  
23 examination?

24 A. Yes.

25 Q. And your assignment again was

31

01 the roof bolter, helped work on the  
02 roof bolter?

03 A. Yes.

04 Q. And did you have any other  
05 discussions on the surface before  
06 going underground or anything that  
07 you can recall that might be helpful

08 ---

09 A. No.

10 Q. --- that you did?

11 A. No, because I was talking to  
12 this boy and we was just talking  
13 about hunting. He just bought him a  
14 new bow, and that's what --- mostly  
15 that's what we talked about every  
16 morning.

17 Q. Okay. You didn't have any

18 discussion with any management people  
19 or anything?

20 A. No.

21 Q. And where was your destination  
22 for that day?

23 A. First Left section.

24 Q. And once you went down over  
25 the hill around 6:00 or a little bit

32

01 after, whatever, what did you do down  
02 there again?

03 A. We realized that the boss  
04 didn't have a Jeep big enough to  
05 carry us in. We had two extra  
06 gentlemen that was going in with us  
07 that works the belts.

08 Q. And who might have those  
09 people been?

10 A. Ain't no way I can even tell  
11 you their names. One boy works on  
12 Number Three belt, and his dad runs  
13 the pumps, checks the intake, the  
14 return, walks the intake, walks the  
15 return. They're outby us. And we  
16 realized that all of us couldn't fit  
17 on the mantrip. The boss backed the  
18 mantrip back outside and got a bigger  
19 mantrip so that all of us could get

20 in it and sit down in the seats.

21 Q. And that boss was who?

22 A. Owen Jones.

23 Q. Okay. Go ahead.

24 A. And then we took off and went  
25 underground.

33

01 Q. Did the Two Left mantrip, did  
02 they leave before you?

03 A. Yes, they did. They were gone  
04 by the time we got down there,  
05 because I didn't see their lights.

06 So the had to leave, I don't know,  
07 two minutes ahead. There's a long  
08 slope that you can look down.

09 Q. I see. But they were gone and  
10 you didn't actually observe them?

11 A. No, I did not.

12 Q. So you don't really know how  
13 long ahead ---?

14 A. No.

15 Q. The mantrip that you used, is  
16 that an open-type mantrip?

17 A. No. It's got a canopy over  
18 it. Eight people can sit in the  
19 front. Eight people or ten. You can  
20 crowd ten in each end. There was  
21 seven of us in the front and I'm not  
22 going to venture how many was in the

23 back because I didn't see. I got in  
24 the front and sat down.

25 Q. And when you sat down in the

34

01 front, you were facing inby?

02 A. Yes.

03 Q. And were you like the second

04 person, third person in?

05 A. I was against the door. I was  
06 against this door on this part of it.

07 There was a boy sitting here. There

08 was a boy sitting beside me. There

09 was a boy sitting here. There was a

10 boy sitting here. And some of them,

11 their names I can give you and some

12 of them I can't.

13 Q. That's okay. So you sit

14 across the mantrip and you have ---

15 you face each other?

16 A. Yes.

17 Q. And you were sitting facing

18 inby?

19 A. I was facing inby, my right

20 shoulder against the door.

21 Q. And who was sitting directly

22 across from you?

23 A. Roger Perry.

24 Q. Roger Perry. And he's the one

25 who ---?

35

01 A. Just left.

02 Q. Okay. And he was the one that  
03 threw the switch?

04 A. He threw the switch.

05 Q. Approximately how many people  
06 were in the mantrip with you?

07 A. There was seven on my end, and  
08 I can't tell you how many was on the  
09 other end because I didn't --- if I  
10 even looked, I didn't even pay no  
11 attention because we normally just  
12 done it. We just --- whichever side  
13 you get in, you get in and sit down  
14 and that's who you talk with as  
15 you're going in.

16 Q. Do you recollect who --- you  
17 said you don't know who all was on  
18 it.

19 A. Not on the back side. My side  
20 I do.

21 Q. Was this more than normal  
22 people in your mantrip?

23 A. No.

24 Q. No.

25 A. I'm going to say average.

36

01 Some days we would have just the

02 crew. Other days we might have one  
03 or two like we did that morning, pick  
04 them up, take them in, drop them off  
05 wherever they were going.

06 Q. Did all the people travel with  
07 you? All the people in the mantrip,  
08 did they all travel with you to the  
09 First Left switch?

10 A. No. One got off --- this is a  
11 guess. I'm thinking he got off at  
12 either Three Head or Four Head,  
13 because we stopped once and let one  
14 off, then we stopped again and let  
15 the second person off.

16 Q. Who got off first?

17 A. I'm going to say the belt boy  
18 did.

19 Q. The belt boy. Do you know his  
20 name?

21 A. No.

22 Q. Would that have been Pat Boni  
23 or John Boni?

24 A. Pat Boni.

25 Q. Pat Boni.

37

01 A. You name them and then I can  
02 tell you.

03 Q. Okay.

04 A. Right now, ---  
05 Q. Yes, I understand. Sure.  
06 A. --- after this accident, ---  
07 Q. Sure.  
08 A. --- I can't remember names.  
09 It's killing me right now.  
10 Q. That's not a problem with me.  
11 That's not a problem. You're doing  
12 real well.  
13 A. Where John got off, I do not  
14 --- I didn't pay no attention.  
15 That's something that nobody would.  
16 Q. Just the normal thing and ---?  
17 A. Yeah.  
18 Q. Yes. Okay. I understand.  
19 But then you --- so you did let Pat  
20 and John off at different places?  
21 A. Yes, sir.  
22 Q. Do you have any idea maybe  
23 what time they exited the trip?  
24 A. No, sir.  
25 Q. When was the next time that  
  
01 you had contact with Pat and John  
02 Boni or one or the other?  
03 A. I'm going to say outside.  
04 Q. Outside.  
05 A. I'm pretty sure it was  
06 outside.

07 Q. Okay. What was the furthest  
08 point of travel that you went  
09 underground?

10 A. The First Left switch.

11 Q. The First Left switch. And  
12 you traveled the track entry the  
13 whole ---?

14 A. The whole distance.

15 Q. The whole distance, okay. To  
16 that point, okay. And you left Pat  
17 and John off, and then there was ---  
18 was there any other stops after you  
19 had made that second stop to let one  
20 of them off?

21 A. No, sir.

22 Q. Then when you stopped at the  
23 One Left switch --- and I believe you  
24 said that Mr. Perry is the one who  
25 exited the mantrip to throw the

39

01 switch; am I correct?

02 A. Yes, sir.

03 Q. Okay. But during your travel  
04 underground, did anybody speak on the  
05 --- is there a phone on the ---

06 A. Yes, sir.

07 Q. --- mantrip?

08 A. Yes.

09 Q. What do they call that?  
10 A. Just a phone is all we call  
11 it.  
12 Q. Did anyone call it a trolley  
13 phone? Does that ring a bell at all?  
14 A. No. We just called it a  
15 phone. Well, a track phone is what  
16 we call it. It's a track phone.  
17 Q. That's the phone that's on the  
18 mantrip?  
19 A. Right, goes out to the  
20 dispatcher.  
21 Q. Did anybody have any  
22 conversation on that phone, that  
23 mantrip phone?  
24 A. If they did, I didn't hear it.  
25 Q. Who drove the mantrip?

40

01 A. Owen Jones.  
02 Q. And when Mr. Perry exited, did  
03 he actually get the switch thrown or  
04 ---?  
05 A. Yes, sir. He got out. He  
06 throwed the switch. He got back in  
07 the mantrip and he sat down, and  
08 within a second and a half the blast  
09 hit us. Two seconds, at the absolute  
10 most, it hit us.  
11 Q. Just describe that, if you

12 could, please.

13 A. I'll tell you just exactly  
14 like I told the senators and I told  
15 my son. If I put you in the bed of a  
16 pickup truck and I put that truck on  
17 the interstate, just everything that  
18 truck had in it, you couldn't get  
19 nothing more out of it, and then some  
20 way or another to fix it up so that  
21 somebody could get in front and throw  
22 sand, gravel, rock, blocks, mud, any  
23 and everything they could throw as  
24 hard as they could throw it in your  
25 face, that's close. That may be just

41

01 a hair less, but it's close, for 10  
02 --- I said 8 to 10 to 12 seconds,  
03 some of them said it's 30 to 40, but  
04 ---. And then it cut off, it ---  
05 when it stopped, it stopped. There  
06 wasn't no gradual going down or  
07 nothing. It was one second, me and  
08 you are talking, the next second it's  
09 hitting you for everything it's  
10 worth, and then it's over with.

11 Q. Did you feel any heat with it?

12 A. I did not. Some people said  
13 they did.

14 Q. How about any smoke? Did you  
15 recognize any smoke or anything like  
16 that?

17 A. At the initial blast, I'm  
18 going to say I didn't recognize  
19 anything. I done what I was trained  
20 to do in a longwall blast.

21 Q. Okay. And what was that?

22 A. Close your eyes as hard as you  
23 could get them, cup your hands and  
24 put them over your nose and your  
25 mouth and hold them.

42

01 Q. When you speak about a  
02 longwall blast, are you speaking like  
03 when they had a roof fall?

04 A. When they had the major roof  
05 fall when we first started. We  
06 called it a longwall blast. That's  
07 how we were taught to do, close your  
08 eyes as tight as we could, put the  
09 gloves of our fingers in our eyes to  
10 hold our eyes closed, and then cup  
11 your hands like this over your nose  
12 and you can breathe. You breathe  
13 through your gloves. It will stop a  
14 lot of dust. And that's --- as soon  
15 as it hit me, that's what I initially  
16 thought it was, was a major fall

17 somewhere, and that's what I done.

18 Q. Did you hear anything?

19 A. No noise.

20 Q. No noise?

21 A. No noise.

22 Q. Did you smell anything? When  
23 that came through there, did it ---

24 A. No.

25 Q. --- did it smell like anything

43

01 or ---?

02 A. Not until after I got out of  
03 the mantrip.

04 Q. Okay. Did you feel any second  
05 rush of air? After that stopped, was  
06 there any ---?

07 A. No back draft at all.

08 Q. Okay. So then you covered  
09 your eyes and your nose and --- okay.

10 And did you wait until all the dust  
11 had --- or the air rush had stopped  
12 to get out?

13 A. Yes. Yeah, it was completely  
14 over with before I would say anybody  
15 got out of the mantrip.

16 Q. And when you got out of the  
17 mantrip, did you feel any heat at  
18 that time or ---?

19 A. No, sir.

20 Q. What was the air like? Was

21 there any air reversals or anything

22 like that?

23 A. No, sir. It was basically ---

24 and then this is going back with what

25 I experienced on the longwall. Any

44

01 longwall fall I had ever been in, you

02 always get a back draft. There was

03 no back draft to this, so there was

04 no fire. Now, that's --- I'm basing

05 that on my opinion.

06 Q. Yes. That just kind of like

07 went dead then?

08 A. It was dead. Everything was

09 completely dead. There was no sound.

10 There was no wind. The dust and

11 everything was just --- you couldn't

12 see a light two foot from you. And

13 it just hung there. There was no

14 air, no nothing. It had pushed

15 however far it pushed against that

16 fan and then it stopped. And then

17 the fan started pushing it back.

18 Q. Did your ears pop or anything

19 like that?

20 A. No. My ears wouldn't have

21 because I had my mouth open to

22 equalize it as it was coming through,  
23 also from when I had been in the  
24 longwall blast. That's what they  
25 told us to do.

45

01 Q. Sure.

02 A. You open your mouth, your ears  
03 will equalize. That's what I did.  
04 Now, what some of the other boys did,  
05 I don't know.

06 Q. Do you know if anybody was  
07 knocked down? Of course, I realize  
08 that everybody was in the mantrip,  
09 but did anybody get knocked out of  
10 the mantrip do you know of or  
11 anything like that?

12 A. Owen Jones got knocked off the  
13 mantrip. The blast picked me up and  
14 it started taking me out of the  
15 mantrip. But one boy went down over  
16 my legs, and I'm sure that's what  
17 helped keep me in it. I was coming  
18 out of it. Now, whether it could  
19 have got me clear out, I doubt it.  
20 But it picked me up. I was up off  
21 the seat for, I don't know, two or  
22 three seconds maybe. And then one  
23 boy dropped down over my legs, and I

24 put my foot against Roger.

25 Q. Did you lose your hat or your

46

01 ---

02 A. Yes, I did.

03 Q. --- safety glasses or ---?

04 A. Yes, I did. I lost my glasses

05 and my hat and my light, but it

06 stayed --- the cords held together.

07 When the blast was over with, I just

08 reached up behind me and put my hat

09 back on. My glasses, I don't know

10 where they went to.

11 Q. They're still in there?

12 A. Someplace. I'm going to go

13 looking for them.

14 Q. Was the mantrip damaged in any

15 way? Did you happen to notice

16 or ---?

17 A. To my knowledge, I don't think

18 the mantrip moved at all. I'm sure

19 it shook a little bit, but if it did,

20 I didn't notice it. There was no

21 damage to it outside of, like I say,

22 the dust and stuff that hit it. I

23 don't think it moved an inch. I

24 really do not.

25 Q. Do you recall anybody being

47

01 injured, I mean, other than ---?  
02 A. I had one place on my forehead  
03 that was cut. We took that to be  
04 Roger's light hitting me in the head.  
05 Now, this is our theory, because he's  
06 sitting over from me. Either his  
07 light or his hat hit me. I don't  
08 know which. One boy's arm was hurt.  
09 One boy's back was --- looked like  
10 you had shot him with a shotgun. It  
11 was --- it looked pretty bad. But as  
12 far as injuries to stop us from  
13 moving, no.  
14 Q. When you say his back was  
15 pretty bad, you mean this is  
16 something you saw outside?  
17 A. Yes, after we got outside. In  
18 there, no. There was nobody even  
19 mention that ---  
20 Q. They were hurt.  
21 A. --- they were hurt.  
22 Q. Do you recall hearing any  
23 methane detectors beeping or flashing  
24 at all?  
25 A. No, sir.

48

01 Q. Do you recall anyone saying or  
02 discussing, you know, we got this

03 much methane or we have this much  
04 carbon monoxide or anything like  
05 that?

06 A. No, sir.

07 Q. There was no discussion ---?

08 A. No, sir.

09 Q. Now, after the, as you called  
10 it, the blast, you got out of the  
11 mantrip and then what?

12 A. When I got out of my mantrip,  
13 I kept my back against it because you  
14 couldn't see.

15 Q. Okay.

16 A. As each person come out of  
17 there, they rubbed around me going  
18 and I made sure they went around me  
19 so that somebody wouldn't go inby  
20 instead of outby by being shook up.  
21 When I got outside the mantrip, and I  
22 hate to say this, when I stood up,  
23 somebody told me, you just calm down,  
24 you take it easy, you're going  
25 outside. Now, did I say it to

49

01 myself? Did somebody say it to me?  
02 Because everybody I have asked in  
03 that crew, nobody said it to me. So  
04 now I'll let everybody just use their  
05 own judgment as to what happened. I

06 don't know. I'm working on that.  
07 But as each boy got out, I just kind  
08 of made sure that they went around  
09 me, until the last boy got out, which  
10 was Doc, and he was complaining he  
11 couldn't see.

12 Q. And Doc, what's his name? Do  
13 you know his name?

14 A. That's all I ever knowed him  
15 by is Doc. He's a little bit shorter  
16 than me. And I told him, I knowed he  
17 wore glasses like I did. I said,  
18 reach up and wipe off your glasses  
19 and wipe off the top of your hat ---  
20 light so you can see. There's dust  
21 on it. And he said something else.  
22 And I said, well, I said, let's go.  
23 I said, we'll just ease down out of  
24 here nice and slow. I said, there's  
25 no great big hurry right now. We're

50

01 all right. And he said, well, don't  
02 leave me. And I said, I'm not going  
03 nowhere. I'm going to be right here  
04 with you, come on, and I started  
05 backing up real easy. I had my  
06 dinner bucket and my rescuer. The  
07 reason I grabbed my dinner bucket,

08 because I had the idea that we was  
09 going to walk out of there and  
10 somebody was going to need a drink of  
11 water. One other boy grabbed his  
12 water jug. And I eased Doc down  
13 around the side of the mantrip, and I  
14 told him when he got in to where his  
15 feet was inside that track, I said,  
16 you go down the track. Don't get out  
17 of the track, and I'm going to be  
18 right here with you.

19 Q. Was his light burning at the  
20 time?

21 A. Yes, it was. It was just so  
22 dusty you really couldn't see, and  
23 --- you could see, but you couldn't  
24 see because you knowed where you was  
25 putting your feet, and nobody was ---

51

01 me and him didn't stumble. And I'm  
02 going under the assumption from what  
03 I heard later, nobody else did. So I  
04 believe we could see our feet, not  
05 good, but enough to know where we  
06 were putting our feet.

07 Q. Okay.

08 A. When I got down --- and then  
09 they're telling me this,  
10 approximately two blocks, my buddy

11 and another boy was standing there  
12 and they helped us put our rescuers  
13 on, and ---.  
14 Q. How many people at that time  
15 put their rescuers on? Do you recall  
16 who was with you when ---?  
17 A. The four of us, the rest of  
18 them was gone. I never seen anybody  
19 else until we went through that door.  
20 Q. So other people left ahead of  
21 you?  
22 A. Yes.  
23 Q. And it was the four of you?  
24 A. It was the four of us.  
25 Q. And who was in that group, Doc

52

01 and who else?  
02 A. Doc, me, Alton Wamsley and  
03 Eric --- Eric. That was the four of  
04 us.  
05 Q. Eric Hess?  
06 A. That's him.  
07 Q. So the four of you were  
08 together?  
09 A. Right.  
10 Q. And you walked down  
11 approximately a block or so ---  
12 A. A block or two blocks.

13 Q. --- outby? And the dust was  
14 the same inby as outby, or did you  
15 ever look back?  
16 A. The further down the track we  
17 went, it kind of got to me that I  
18 could see a little bit better as far  
19 as looking down at my feet. Now, did  
20 I look up and look down the track, I  
21 honestly don't know. I'm sure I did.  
22 But if I did, I do not remember it.  
23 I was watching my feet.  
24 Q. So you got to the first ---  
25 what you figured was the first block

53

01 outby?  
02 A. Right, either one or two  
03 blocks below where we met these two  
04 boys, there was a door, because they  
05 hollered out there --- they were  
06 ahead of me and Doc, and they  
07 hollered out there and said, here's a  
08 door, come through here into the  
09 intake.  
10 Q. So when you got to that, you  
11 were walking up the track and you met  
12 then on the track or they were  
13 already over in the intake?  
14 A. No, they was --- Eric and  
15 Alton was two blocks below us on the

16 track. I met them right in the  
17 middle of the track.

18 Q. And that's when you decided to  
19 put the SCSRs on?

20 A. Yes. We all put ours on.

21 Q. Who made that decision?

22 A. Alton Wamsley.

23 Q. Did he say, hey, let's put  
24 the ---?

25 A. Yes, he did. He said, you

54

01 guys do need to put these on. And I  
02 said, yes, we do. And then he helped  
03 me put mine on, and Eric helped Doc  
04 put his on.

05 Q. When you say helped, what do  
06 you mean they helped you?

07 A. I had mine in my mind. And  
08 Alton pulled the tab, popped the top  
09 up.

10 Q. Did you have any trouble  
11 getting the bottom off at all?

12 A. Yes, sir. They were not worth  
13 a damn.

14 Q. Okay. All right. Let's just  
15 talk about that a little bit. And  
16 when you say that, how --- what makes  
17 you say that ---? Just kind of take

18 me through that, why you --- you  
19 know, when you started and ---.  
20 A. There's going to have to be  
21 some design changes for them. That's  
22 going to have to be taken up with a  
23 whole lot of people. In a panic  
24 situation, when you reach down to  
25 grab the tab, you cannot get ahold of

55

01 it. It's hard to get ahold of. It's  
02 not long enough or it's not wide  
03 enough or ---.

04 Q. When you talk about the tab,  
05 what ---?

06 A. That breaks the top of it,  
07 breaks the seal that goes around it.  
08 There's a tab that hooks to that ---.

09 Q. The band that goes around ---

10 A. Band that goes around.

11 Q. --- with a tab on top?

12 A. Right. You have to pull that  
13 and that lets the band come loose,  
14 and then that lets the top part come  
15 off. The top part of mine popped  
16 right off. I didn't have no trouble  
17 at all with it.

18 Q. Okay.

19 A. So then you put the strap  
20 around your neck and ---.

21 Q. Were you kneeling down at the  
22 time?  
23 A. No, sir. I was standing  
24 because I was holding mine in my hand  
25 while he was doing this for me.

56

01 Q. Did you attempt to do it  
02 yourself?  
03 A. No, sir, I did not.  
04 Q. Why didn't you do it yourself?  
05 A. Panicked. Scared. Scared to  
06 a point. More panicked I think than  
07 anything else due to the fact that I  
08 just thought everybody is leaving us,  
09 and I was trying to get Doc down out  
10 of there and he was --- Doc was a  
11 little worse off than I was.  
12 Q. Who put their SCSR on first?  
13 A. Either Alton or Eric. I don't  
14 know. I wasn't there. They put  
15 theirs on, then ---.  
16 Q. Did you think they had any  
17 trouble getting the tabs off or ---?  
18 A. I didn't ask them. I didn't  
19 ask them.  
20 Q. So they had theirs on?  
21 A. Right.  
22 Q. And that was Eric and Alton?

23 A. Right.

24 Q. And then they came over to you

25 or did you ask for help or ---?

57

01 A. No. They come over to us

02 because we was in the middle of the

03 track. They were off to my left side

04 as coming outside. They were off to

05 the left, and they come over to us

06 and they said, you need to put your

07 rescuers on, and I said, yeah, we do.

08 So we stopped right there, and then

09 that's when we went to putting them

10 on. We had a little problem with

11 both of them, getting them opened.

12 Q. And Eric pulled yours open?

13 A. No. He helped Doc.

14 Q. And Alton helped you?

15 A. Alton helped me, because he

16 was my bolting buddy.

17 Q. Okay.

18 A. The top part of it we didn't

19 have any trouble with. The bottom

20 part, yes, it didn't want to come

21 off.

22 Q. You had trouble getting the

23 tab?

24 A. Right. He had trouble getting

25 the tab open.

01 Q. Okay.

02 A. And I heard one or two other  
03 people say that they kind of thought  
04 they had trouble with theirs. Don't  
05 know. I haven't actually talked with  
06 them yet.

07 Q. When you say trouble, it just  
08 wouldn't come off?

09 A. You just couldn't get the tab  
10 off. You couldn't get ahold of it  
11 for one thing.

12 Q. And then you said the bottom  
13 part of it?

14 A. The bottom part of mine, we  
15 had to jerk on it two or three times  
16 to get it to unseal.

17 Q. Okay.

18 A. And then we put them on.

19 Q. When you put them on, tell me  
20 the procedure that you used to do it.  
21 Do you recall that procedure? You  
22 took the bottom off and then what?

23 A. Right. We took the top part  
24 of it --- we broke the band, took the  
25 top part off. I took my hat off. He

01 threw the band around my --- the

02 strap around my neck. I put my hat  
03 back on. He had the nose clips. And  
04 as he was putting the nose clips on,  
05 I made sure that the mouthpiece  
06 wasn't tangled, and I put it in my  
07 mouth. And then that's when either  
08 him or me, I don't know which,  
09 grabbed the bottom and jerked, and we  
10 had to jerk a couple, three times to  
11 get it to come loose. When it popped  
12 loose, he handed me the goggles, and  
13 he grabbed the cord and popped the  
14 rescuer open.

15 Q. When you say the cord ---?

16 A. That activates it. There's a  
17 cord drops out the bottom when you  
18 pull the bag out, and it activates.

19 Q. And Alton pulled on that?

20 A. He pulled on that and  
21 activated it.

22 Q. And then you already had it in  
23 your mouth?

24 A. I had it in my mouth.

25 Q. And you have your goggles on?

60

01 A. Yes, sir.

02 Q. Nose clip on?

03 A. I put the goggles on once we  
04 got all that done. I had them in my

05 hand. I was holding it.

06 Q. And then did you have trouble  
07 breathing with it in your mouth at  
08 all?

09 A. Yeah. Yes, I did. It's due  
10 to the fact I don't have any teeth.

11 Q. Okay.

12 A. You can't clamp that thing ---  
13 and that's another design flaw that  
14 later on is going to be brought up.  
15 I'm going to do some screaming about  
16 it, but not now. You can't hold  
17 something in your mouth if you don't  
18 have teeth that's designed for  
19 something to hold with your teeth.  
20 What they're going to do about that,  
21 I don't know. I kept it in my mouth.  
22 I had trouble keeping it in, but I  
23 kept it in. You had to clamp on it.

24 Q. Did you have a problem  
25 breathing. Were you able to go ahead

61

01 and breathe with it normally?

02 A. Yes.

03 Q. And what about the other  
04 gentlemen, did they seem to be all  
05 right with the SCSR, breathing when  
06 it's on?

07 A. As close as I can tell, yes,  
08 they weren't having any trouble at  
09 all.

10 Q. And Doc was okay, he got his  
11 on ---?

12 A. As far as I know, those two  
13 got theirs because they kind of left  
14 before we did. They was probably  
15 five to eight seconds ahead of us.

16 Q. The SCSR then, you had it on  
17 and it was working what you felt  
18 properly?

19 A. Yes.

20 Q. You were able to get oxygen  
21 and so on?

22 A. Yes.

23 Q. Were you able to get oxygen  
24 the whole time you had it in?

25 A. No. After we got in the

62

01 intake and I got down with Roger, the  
02 bottom part of my bag collapsed.

03 Q. When you say the intake, do  
04 you mean immediately across the track  
05 --- well, I better back up and let  
06 you tell me. All right. When you  
07 had them all donned and then you went  
08 over to the intake, from that point;  
09 is that correct?

10 A. Right, went through the door,  
11 into the intake.  
12 Q. Okay.  
13 A. And then ---.  
14 Q. Do you remember approximately  
15 what block that was in?  
16 A. No, sir. I've had two, three,  
17 four different people try to figure  
18 it out in their heads, and they would  
19 say this block or that block. I do  
20 not know, so I'm not going to answer.  
21 I don't know what block it was.  
22 Q. Okay. I understand. So you  
23 went over into the intake?  
24 A. We got in the intake and we  
25 had some problems there.

63

01 Q. With the SCSRs?  
02 A. No, with the boss wanting to  
03 go back.  
04 Q. Okay.  
05 A. So we got that straightened  
06 out. And Hoy, who is our mechanic,  
07 he was having some problems. So I  
08 told them, I'll go down and get Randy  
09 and bring Randy --- have Randy come  
10 up here and I'll go down with Roger.  
11 Q. Randy?

12 A. Helmick I believe is his last  
13 name.  
14 Q. Okay.  
15 A. Because like I say, I'm 60  
16 years old, and I'm not going to do a  
17 whole lot of physical effort when  
18 there's a 25 or 26-year-old boy  
19 there. I'm not going to try. I'm  
20 going to go get him. So I went down  
21 and I told Randy, I said, you go back  
22 up there with them. They're having  
23 trouble with Hoy. And I'll stay with  
24 Roger because he don't have a light  
25 and he don't have a hat. And then I

64

01 talked Roger then into putting his  
02 SCR on. He didn't have his on.  
03 Q. When you say you went down and  
04 back, now you went over to ---?  
05 A. There's a block difference.  
06 Q. So you went into the intake  
07 through the man door?  
08 A. Right.  
09 Q. And at that point there the  
10 four of you were still together?  
11 A. Yeah. All of us was right  
12 there together.  
13 Q. Did you see anybody else,  
14 lights or anything?

15 A. There was one, two lights way  
16 down ahead of them, towards the  
17 outside. Couldn't tell you who they  
18 were.

19 Q. And once the four of you are  
20 together there, you all four had your  
21 SCSRs on?

22 A. Yes.

23 Q. And then go ahead from there  
24 then?

25 A. Now, I'll back up to where we

65

01 was in there with Hoy. I know Hoy  
02 has had his on. It didn't work.  
03 Alton had his on. I don't remember  
04 if Randy had his on or not.

05 Q. But these are different  
06 people?

07 A. These are different people.

08 It was hectic there for a minute or  
09 two. Eric and Doc went down the  
10 intake. They was left by the time I  
11 got in there. They weren't standing  
12 with me.

13 Q. When you got into the intake,  
14 who all was there with you?

15 A. Alton was there. Robbie was  
16 there. Randy was down with Doc and

17 Hoy. Eric and Doc --- or Randy was  
18 down with Roger. Eric and Doc, once  
19 we talked to our boss, they left.

20 Q. Okay.

21 A. I could see Hoy was having  
22 some problems, so I went down to  
23 Randy and I told Randy, I said, you  
24 go back up and you stay with them.  
25 If he had his SCR on, I do not know.

66

01 I don't remember. I said, I'll stay  
02 with Roger. And when I got down with  
03 Roger, then I put his on --- helped  
04 him put his on.

05 Q. And did you have any problem  
06 with getting that one on?

07 A. No, didn't have a bit of  
08 trouble. Got it open, got the bag  
09 and everything out, he got it in his  
10 mouth, put his nose clips on, I  
11 activated it, the bag blew wide open.  
12 Within a block, the bag collapsed.  
13 He couldn't breathe. He had to take  
14 it out of his mouth. And I tried to  
15 get him to leave it in his mouth and  
16 just breathe with what he could get,  
17 but he said he couldn't breathe, so  
18 he took it off.

19 Q. So did you actually see the

20 bag that collapsed?

21 A. Yes, sir.

22 Q. And you had pulled the ---

23 A. I pulled the ---

24 Q. --- cord?

25 A. --- activation cord, and it

67

01 blew out full.

02 Q. But then how long was it

03 before it collapsed? I mean, I know

04 you guys were in a panic situation

05 and everything, but do you have any

06 idea?

07 A. Eighty (80), 90 feet. And

08 with him walking with my light, a

09 minute, two minutes.

10 Q. Well, when it collapsed then,

11 you saw it collapse?

12 A. Yeah. It was flat.

13 Q. It was flat. Then what did

14 you do with him? What happened?

15 A. He took it out of his mouth.

16 He couldn't breathe.

17 Q. Okay.

18 A. And then as me and him was

19 going down, he had to go with my

20 light because he couldn't see. I

21 would watch back and as them boys was

22 coming with Hoy, I would wait on  
23 them. When they got a full block,  
24 I'd take Roger a full block.

25 Q. And that's Roger (sic)

68

01 Helmick, he's the one that ---?

02 A. No, that's Roger Perry, the  
03 boy that was just in here.

04 Q. Roger Perry?

05 A. Yeah.

06 Q. And his is the one that  
07 collapsed?

08 A. Yes, it is, Roger Perry's.

09 Q. And he took it out?

10 A. He took it out of his mouth.

11 Q. Did he ever put it back in,  
12 did you notice?

13 A. I believe he did. But he said  
14 he couldn't breathe with it in his  
15 mouth, and then he took it out. I  
16 believe he did. Now, I'm not going  
17 to swear to that.

18 Q. I understand. Sure. Sure.

19 All the information you can provide  
20 us, it's really helpful. Getting  
21 back then to your --- when did yours  
22 collapse? I believe you said yours  
23 collapsed?

24 A. While I was with Roger. Now,

25 what time frame, I don't know. I

69

01 just know I was with him, walking  
02 with him when mine started getting to  
03 the point I couldn't breathe real  
04 good with it.

05 Q. Okay.

06 A. But I was going slow enough  
07 with Roger that I wasn't asking this  
08 thing for more than what I was  
09 getting out of it. If I would have  
10 been on my own and moving, no, I  
11 would have took it off and throwed  
12 the thing away because it would have  
13 just quit. It would start to get  
14 warm. So every time it would start  
15 to get warm, I'd slow me and Roger  
16 down. And the reason I done it is  
17 because the thing was getting warm.  
18 I knowed it was overriding what was  
19 left in it. And I would rather  
20 breathe what it was giving me than  
21 the air that was out there.

22 Q. So it never actually really  
23 quit?

24 A. No, it did not.

25 Q. And you never had to really

70

01 take it out of your mouth, you just  
02 slowed down?  
03 A. No, I never took it out of my  
04 mouth.  
05 Q. Okay. So go ahead from there.  
06 You were moving outby?  
07 A. Me and Roger would go a block  
08 and then I would stop him and I'd  
09 look behind me and I'd watch for Hoy  
10 and them boys to come down a block.  
11 When they would get down basically a  
12 block, then me and Roger, we'd go  
13 down another block.  
14 Q. Okay.  
15 A. Sometimes we'd go a little bit  
16 further. Sometimes we wouldn't.  
17 Q. Okay.  
18 A. I can't tell you the exact  
19 sequence. But I know when we started  
20 down through, as I was taking him  
21 down through, he was on my right-hand  
22 side, and when I would throw my light  
23 up towards him so he could see, I  
24 would throw my light over towards the  
25 stoppings to watch the stoppings.

71

01 Because I was trying to find two  
02 stoppings that was basically  
03 together. And I figured if we get to

04 that point, from there on out we're  
05 going to be all right because the fan  
06 is going to catch us, which it did.

07 Q. And during this process, did  
08 the ventilation seem to get better as  
09 you went?

10 A. Yes, it did.

11 Q. Could you feel any velocity in  
12 your face, air hitting you in the  
13 face, or was it ---?

14 A. I'm sure I did, but that's me  
15 thinking I did. The fan was --- I'm  
16 sure the fan was still putting out  
17 because it was clearing up. It was  
18 clearing up real fast.

19 Q. And you don't recall any of  
20 these blocks --- any of the  
21 stoppings, the numbers of the  
22 blocks ---

23 A. No, sir.

24 Q. --- where the stoppings were  
25 blown out or anything?

72

01 A. If I seen a number, it never  
02 registered. I wished it would have.  
03 I've been asked that so many times by  
04 a lot of different people.

05 Q. Well, you weren't worrying

06 about numbers at the time.  
07 A. I wasn't looking at numbers.  
08 I didn't look at my watch.  
09 Q. Okay.  
10 A. It wouldn't have done me any  
11 good anyhow because it was no good.  
12 Q. Go ahead. You guys were going  
13 one block and waiting for the other  
14 person to catch up, ---  
15 A. Right.  
16 Q. --- another block and waiting  
17 for them to catch up?  
18 A. The other boys, as far as I  
19 know, they were down at that charging  
20 station. When we basically got down  
21 to there, Alton and Eric was talking  
22 about getting Alton's detector out,  
23 checking the air, and we was going to  
24 unhook the batteries off the charger  
25 and hook them up, and we was going to

73

01 run the scoop out. We were going to  
02 put the two boys that was in pretty  
03 bad shape, which would have been  
04 Roger, because he's one-legged, and  
05 Hoy in the scoop bucket, and all the  
06 rest of us was going to get in it,  
07 too.  
08 Q. The rest of us was ---?

09 A. Every one of us there was  
10 going to get in it.

11 Q. That was the four of you?

12 A. That was the whole crew.

13 Q. Oh, the whole crew at that  
14 time?

15 A. The whole crew. We were all  
16 down to right there by then.  
17 Everybody just kind of got to that  
18 point and stopped.

19 Q. So you caught up to the other  
20 people?

21 A. Right. They stopped right  
22 there.

23 Q. At the charging station?

24 A. At the charging station.

25 Q. Is there a reference to that

74

01 charging station, they call it ---?

02 A. Not that I know of. They just  
03 --- as they clean up the intake and  
04 we was bolting, they'd just take that  
05 charger and move it down to the next  
06 box that they could plug it in.

07 Q. All right. So you got to the  
08 charger?

09 A. We were going to --- they were  
10 talking about it when I got there.

11 They were going to unhook it. And  
12 while they was talking about that,  
13 Alton hollered at me and he said, go  
14 over there and holler, there's a  
15 mantrip coming up the track.

16 Q. How did he know that?

17 A. We could hear it.

18 Q. Okay.

19 A. Luck was with us. Luck wasn't  
20 with us. It was with us because  
21 right there was the door. We were  
22 beside a door. We could hear it. If  
23 we had been in any of those five  
24 blocks down through there that there  
25 wasn't a door, we'd had to go at

75

01 least a block one way or the other,  
02 if we even knowed where the door was  
03 at.

04 Q. Okay.

05 A. I crawled halfway through the  
06 door and I started flagging my light  
07 and yelling. And inside the coal  
08 mines my voice carries pretty good.  
09 It really carries good. And those  
10 gentlemen heard me and they come to a  
11 screeching halt. And Dick Wilfong  
12 asked me, he said, how many of yours  
13 is here. I said, all of us. I said,

14 just wait a minute. And I crawled  
15 through the door and then stuck my  
16 head back inside and I told Alton and  
17 them, I said, the mantrip is here,  
18 everybody come out here on the track.

19 Q. Did everyone have the SCSR on?

20 A. No, sir.

21 Q. Did everyone don an SCR at one  
22 time and took it off or did some not  
23 ---?

24 A. No, sir. Some did not put  
25 them on at all.

76

01 Q. At all. Okay. When did you  
02 take your SCSR off?

03 A. When I got outside and brought  
04 my light out up at the bathhouse.

05 Q. So you had that SCSR on from  
06 the time you initially put it on  
07 until you got on the mantrip and  
08 exited the outside and up in the  
09 bathhouse?

10 A. Right. And I took it out ---  
11 I took it out of my mouth when I got  
12 inside the dispatcher's office so I  
13 could call my wife.

14 Q. Did others take their SCSRs  
15 --- the ones that were using the

16       SCSRs, did they take it out of their  
17       mouth at different times and ---?

18       A.   That I can't tell you.  I do  
19       not know.

20       Q.   Did anyone --- you know, after  
21       the initial rush of air, did anyone  
22       try and make any phone calls at that  
23       time; do you recall?

24       A.   There was a phone there, and  
25       some of them said that our boss went

77

01       over to the phone.

02       Q.   At the One Left switch?

03       A.   Right.  To my knowledge, I do  
04       not know.  If he went to that phone,  
05       I do not know.  If he talked on it, I  
06       do not know.

07       Q.   Okay.  And you never met up  
08       with either one, Pat or John Boni?  I  
09       think you already told me that.

10       A.   No, sir.  To my knowledge,  
11       they were both outside.

12       Q.   When you got to the mantrip to  
13       go outside, you said Mr. Wilfong was  
14       there.  Who else was with him; do you  
15       recall?

16       A.   The superintendent.

17       Q.   And that would be Mr. Toler?

18       A.   Yes, sir.

19 Q. Okay.  
20 A. The safety director. I think  
21 he --- an assistant electrician chief  
22 ---.  
23 Q. Hofer?  
24 A. No. He's underneath Dick  
25 Wilfong. I can't remember his name.

78

01 Q. Okay.  
02 A. I'm sorry I can't remember the  
03 names.  
04 Q. That's no problem.  
05 A. I just can't do it.  
06 Q. No problem at all. And what  
07 conversation do you recall at that  
08 mantrip? You got everyone over there  
09 and were any of those gentlemen  
10 making calls or anything?  
11 A. I believe Dick Wilfong went  
12 towards the outside to a phone,  
13 because I heard him talking. I  
14 didn't see him talking on one, but I  
15 could hear him talking to somebody.  
16 And I told the superintendent and the  
17 safety director, I said, our boss is  
18 up there on the telephone. Somebody  
19 either needs to get him out of there  
20 or go up there, whichever you can do.

21 And they said, we're going to go get  
22 him. And as far as I know, the two  
23 of them went up there to either get  
24 him or I don't know what they was  
25 going to do.

79

01 Q. When you say went up there,  
02 was that inby or outby?

03 A. Inby.

04 Q. Inby?

05 A. Inby. And at that time ---.

06 Q. That was at the charging  
07 station?

08 A. That was at that charging  
09 station.

10 Q. And he went inby to use the  
11 telephone, he meaning Mr. Jones?

12 A. Mr. Jones stayed there. He  
13 wouldn't leave with us. He stayed up  
14 there someplace right around where  
15 that mantrip was --- when we got off  
16 the mantrip originally, them guys,  
17 some of them said there was a  
18 telephone there.

19 Q. Yes.

20 A. Here's assumptions on my part.  
21 He was at that telephone. I told  
22 them he was up there and for somebody  
23 to go up to him, because his brother

24 was up there. And I said that if you  
25 don't get up there to him, after a

80

01 bit he's going to go or try to go to  
02 his brother, because that's what he  
03 told us he had in mind.

04 Q. Did you hear --- either the  
05 superintendent or any one of those  
06 people that came in on the mantrip,  
07 did they call outside?

08 A. I'm going on the assumption  
09 that Dick Wilfong was talking on the  
10 phone. I didn't see him on the phone  
11 because I just didn't see him. I had  
12 other things on my mind.

13 Q. Sure.

14 A. But he come back from --- he  
15 went towards the outside and then he  
16 come back. What he did down there  
17 --- and I heard him talking. And he  
18 may have been talking to somebody, I  
19 honestly don't know.

20 Q. So you're not aware of any of  
21 the conversations that ---

22 A. No.

23 Q. --- outside, if there were?

24 A. No, sir. If they was talking  
25 on the phones, I don't know. Because

01 I didn't see them. Like I say,  
02 that's an assumption on my part that  
03 they were. I do not know. I didn't  
04 see it.

05 Q. So then you all got on the  
06 mantrip?

07 A. Dick Wilfong was outby. I was  
08 on the assumption that he was on a  
09 phone, because I could hear him  
10 talking. And as far as I know, there  
11 was nobody down there because all of  
12 us was still inside the intake. And  
13 he come running back up there and he  
14 said something to me, which I don't  
15 even remember, and then we got  
16 everybody out of the intake. He  
17 opened the door and hollered in there  
18 and told them to get everybody out of  
19 here, there's a mantrip out here,  
20 they're going to take us outside.  
21 And everybody come over and four of  
22 us got in my end, and I'm going on  
23 the assumption that four or five got  
24 on the other end.

25 Q. And you were on the inby end

01 or the outby end?

02 A. Outby end, going towards the

03 outside.

04 Q. Outby end, going towards ---

05 you were sitting on the surface side?

06 A. Yeah, I'm sitting on the

07 surface side.

08 Q. And then what happened?

09 A. We went outside. How long it

10 took us, I don't know. It was --- it

11 took us a little longer than normal

12 because they went real slow. They

13 didn't go real fast.

14 Q. And who all went outside? I

15 mean, I know your crew went outside.

16 But of the people that came in with

17 the mantrip, Mr. Toler, Mr. Wilfong,

18 did all of those go out with you?

19 A. I can't tell you that. I do

20 not know. I got inside the mantrip

21 and sat down and my back was ---

22 everything that happened, happened

23 behind me. Who stayed, who got

24 outside, I do not know. I'm sure if

25 I would have --- when I got outside,

01 if I would have turned around and

02 looked, I would have seen. I had one

03 thing on my mind when I got outside,

04 and that was to get to that telephone

05 and call my wife.

06 Q. Sure.

07 A. That was the only thing I had

08 on my mind. Some of them said I just

09 about halfway run up over that hill.

10 I don't know. I couldn't tell you.

11 I just knowed I had to get to that

12 phone.

13 Q. And Mr. Jones stayed

14 underground, do you know that?

15 A. I was told later he did.

16 Q. But you didn't know that then?

17 A. I do not know.

18 Q. Whenever you got on the

19 surface, was there anyone out there

20 to meet you gentlemen?

21 A. Just the dispatcher. The

22 dispatcher was ---.

23 Q. Was he down in the pit?

24 A. No. He was up in his ---.

25 Q. Who was at the outside, down

84

01 in the pit? When you drove out in

02 the mantrip, do you recall who was

03 there to meet you or anything?

04 A. I'm sure there was somebody

05 there. By you mentioning it, I think

06 I can remember there was somebody

07 down there, but I don't know. When I

08 hit the outside and I got out of that  
09 mantrip, like I tell you, it's a  
10 complete blur until I got ahold of  
11 that telephone. That was the only  
12 thing --- the only thing I was  
13 thinking, the only thing I even can  
14 think was to get ahold of that  
15 telephone. I knowed what was going  
16 to happen within about five to eight  
17 minutes, and I didn't want it --- her  
18 to get it any other way.

19 Q. So you got out of the mantrip  
20 and went up over the hill?

21 A. Yes, sir.

22 Q. And you made a telephone call.  
23 And do you know if anybody went back  
24 underground?

25 A. I was told there was. I did

85

01 not see anybody go underground. If I  
02 had knowed they was going back  
03 underground when I made the phone  
04 call, I would have went with them,  
05 plain and simple. I wouldn't lie to  
06 you. I asked at least six to eight  
07 times to go back under.

08 Q. Who did you ask?

09 A. I asked everybody. You name

10 it and I asked them, from the head  
11 man all the way down from Monday to  
12 Tuesday afternoon.

13 Q. And who is the head man?

14 A. Mr. Hatfield.

15 Q. Mr. Hatfield.

16 A. Mr. Hatfield, Mr. Dunbar, and  
17 whoever else you can think of, I  
18 asked them all to go back under.

19 Q. And what did they say?

20 A. No.

21 Q. No.

22 A. And that's the answer I got  
23 starting Monday morning, no, go sit  
24 down. No, go sit down. No, go get a  
25 cup of coffee.

86

01 Q. Okay. And when you get off  
02 the phone with your wife, what did  
03 you do?

04 A. I took my light off, put it in  
05 the charger, took my name tag off the  
06 board and put it over onto the  
07 outside. Went over in the bathhouse,  
08 and that's when I took the rescuer  
09 off and laid it down by my basket. I  
10 kept that thing in my mouth until I  
11 was --- I think I took it off when I  
12 went --- took it out of my mouth when

13 I started up over the hill because it  
14 didn't give me what I had to have. I  
15 think that's when I took it off, out  
16 of my mouth, and quit using it. But  
17 that I'm not going to say. I don't  
18 know for sure. I really don't  
19 remember.

20 Q. So you would have kept it on  
21 until you got to the charger, right,  
22 because you would have had to take it  
23 out of your mouth to do a --- didn't  
24 you say you hollered at someone?

25 A. I talked to my wife.

87

01 Q. No. I mean, back underground.

02 A. No. It didn't come out of my  
03 mouth.

04 Q. You just hollered at him ---

05 A. Hollered at him with it in.

06 Q. --- with it in your mouth?

07 A. We're used to hollering back  
08 and forth, muffled, running the  
09 equipment. We understand. We can  
10 understand quite a bit. We wear  
11 earplugs when we're running on the  
12 bolting machine, so your voice  
13 doesn't come through real, real, real  
14 clear. But you half guess and half

15 talk. We get by pretty decent.  
16 Q. So you never took it out. You  
17 just ---  
18 A. No.  
19 Q. --- hollered while it was in  
20 your mouth?  
21 A. Yes.  
22 Q. Until going up over the hill,  
23 it gave you enough air to ---  
24 A. Do what I needed to do.  
25 Q. --- do what you needed to do?

88

01 Are you familiar with the --- let's  
02 back up. So during that day, you  
03 stayed at the mine?  
04 A. Up until noon, when several of  
05 us got to telling them that we could  
06 smell gas. And then they evacuated  
07 us.  
08 Q. Did any company personnel or  
09 anybody ever just like sit you down  
10 and say, tell me what happened, or  
11 kind of debriefed you of what you  
12 think might have happened and the  
13 occurrences that you experienced  
14 underground?  
15 A. No, sir, not to my knowledge.  
16 Q. When you say that some of them  
17 got to asking you and then you told

18 them you smelled gas, tell me a  
19 little bit about that.  
20 A. They was --- I don't know,  
21 three, four or five of us was talking  
22 back and forth, and one of them  
23 mentioned to me --- now, this is  
24 different people.

25 Q. When you say --- was that all

89

01 the One Left section people that ---

02 A. Yes.

03 Q. --- you guys were just ---?

04 There wasn't any management people  
05 around?

06 A. No, not at that time.

07 Q. Okay.

08 A. It was just us talking, and  
09 somebody said they could smell gas.

10 I said, yeah, I've smelled it a time  
11 or two out here, too. And I walked  
12 around the corner, and I was talking  
13 to a state inspector and I think a  
14 federal inspector.

15 Q. Do you recall their names?

16 A. No, sir.

17 Q. Go ahead.

18 A. Their detectors started going  
19 off. And then after ---.

20 Q. In the building that you were  
21 in?

22 A. No, outside. Standing outside

23 ---

24 Q. Standing outside?

25 A. --- the dispatcher's office up

90

01 on the hill. And then it was within  
02 probably five minutes after that that  
03 other inspectors' detectors starting  
04 going off, too.

05 Q. Okay.

06 A. And that's when they told all  
07 of us, you people is going to leave.

08 Q. They, meaning?

09 A. The inspectors. It was either  
10 the state or the federal, I couldn't  
11 tell you which. They come over and  
12 just said, everybody is evacuating.  
13 They want everybody out across ---  
14 outside the gate. And then when we  
15 got ready to go, they said, no. They  
16 sent our crew up to the Sago --- or  
17 Badger's dispatcher's office up  
18 there. Told us, you all wait up  
19 there, and we'll be up to talk to  
20 you. And then that's when we left  
21 there. We could smell gas. And that  
22 went along with the scenario that I

23 come up with. And boy, have I hit it  
24 dead right.

25 Q. And what's that?

91

01 A. It was a lightning strike.

02 The only reason I'm saying it was a  
03 lightning strike, it's just I'm just  
04 saying it's a lightning strike.

05 There ain't nothing told me that's  
06 what it was. I'm just --- in my own  
07 mind --- and every one of us was  
08 trying to figure out what happened.

09 Each one of us had a different  
10 scenario as to what happened, how it  
11 happened, what went on while it was  
12 happening. We went and talked this  
13 and talked and talked and talked and  
14 talked and talked and talked, and my  
15 idea was it was a lightning strike.

16 And I mentioned to management  
17 that I thought that's what it was. I  
18 told the state inspectors that's what  
19 it was. I told the federal  
20 inspectors that's what it was. I  
21 told any and everybody that would  
22 listen that's what it was. Right or  
23 wrong, that's my theory. And I think  
24 I'm a hell of a lot closer than most

25 of them. Whether I am or not, I

92

01 don't know.

02 Q. Okay. So after you left the  
03 property --- during the experience  
04 underground, that whole experience,  
05 did you hear anybody's detector going  
06 off underground at all?

07 A. No. Never heard a one of them  
08 go.

09 Q. Did anybody say to you that  
10 they --- oh, I see this much methane  
11 or ---

12 A. No, sir.

13 Q. --- talked about any carbon  
14 monoxide, parts per million or  
15 anything?

16 A. No. Wasn't a soul who said a  
17 word about it to me.

18 Q. Under ---.

19 A. Underground.

20 Q. Underground.

21 A. Or even outside, for that  
22 matter.

23 Q. Okay.

24 A. There was nobody said anything  
25 to me about it.

93

01 Q. Then after you --- you were

02 asked to leave the surface, and you  
03 left the surface --- you went out to  
04 the gate you said?

05 A. We was going to --- they told  
06 us to go to the gate at first, and  
07 then they come back in and somebody  
08 said no, said your whole crew is  
09 going up to the bathhouse at Badger's  
10 old mines.

11 Q. Okay.

12 A. And we went up there and we  
13 stayed up there two hours, two and a  
14 half hours. Then the safety people  
15 come to us and told us, now we're  
16 going to take all of you out of here,  
17 we're going to put you over in the  
18 tipple, and we're going to put all  
19 the television crews in here.

20 Q. And who would that have been  
21 who gave you those instructions?

22 A. The gentleman that's under Ty.  
23 I can't remember his name.

24 Q. Who's Ty?

25 A. He's the safety person up

94

01 there. He's supposed to be the head  
02 safety man over the whole company.

03 Q. Do you know his full name or

04 you just know him by Ty?  
05 A. Just Ty. He's a great, big,  
06 heavysset fellow.  
07 Q. So then he told you that  
08 they're going to take you up to the  
09 tipple?  
10 A. Yeah. And they would be up to  
11 inform us as to what was going on,  
12 and they wanted us to stay there.  
13 Q. And you did that?  
14 A. Yeah.  
15 Q. Did you drive up yourself or  
16 ---?  
17 A. Yeah, some of us did. Some of  
18 us rode in with other boys.  
19 Q. And then when you went up to  
20 the tipple, what happened?  
21 A. We went to the bathhouse ---  
22 or the dispatcher's office over there  
23 first, and we was over there two  
24 hours maybe when they come up and  
25 told us, okay, we're going to send  
95  
01 you guys over to the tipple. They're  
02 going to bring all the television  
03 crews and their cameras and all that  
04 up there. That's when they brought  
05 all those people over there and tried  
06 to get them set up over there. And

07 then we --- some of us stayed at the  
08 tipple, and some went down to the  
09 church. All of us didn't stay  
10 together.

11 Q. And you stayed at the tipple?

12 A. Yeah. I left the tipple at  
13 8:00 or 8:30 Monday night, and I come  
14 back the next morning at eight  
15 o'clock, and I stayed until 2:00, I  
16 think it was.

17 Q. While you were at the tipple  
18 during that --- until eight o'clock  
19 in the evening, did anybody speak to  
20 you about what you thought happened  
21 or was there any company personnel  
22 asked or you would just ---?

23 A. Mr. Dunbar come up and he was  
24 telling us what was going on up to  
25 that point. They tried to keep us as

96

01 informed as they possibly could. And  
02 I mentioned to him, I said, I still  
03 think if you'll get your geologist  
04 and start running that country up in  
05 there, you're going to find a  
06 lightning strike. And he informed me  
07 that they were going --- they were  
08 either getting people into it right

09 then and there or they were going to.

10 I don't remember which. My scenario

11 is this is still a lightning strike.

12 It was really bad.

13 Q. When you come back the next

14 day, you would just come back --- you

15 came back to the tipple?

16 A. Right, on Tuesday. And we

17 stayed there until about two o'clock.

18 And then Mr. Dunbar, when he was

19 talking to us, he told all of us, he

20 said, you boys might as well go home,

21 and then we'll call you at home and

22 tell you what's going on. It will be

23 easy for us to call you at the house

24 and then, you know, you'd be with

25 your families. He said, this is

97

01 shaking your families up and some of

02 them was --- they didn't even hear

03 that because some of them didn't come

04 up there. Some of them went ---

05 after we broke up the second time,

06 some of them went to the church. Two

07 or three of them stayed down at the

08 church most of the time.

09 Q. And you spent your time at the

10 tipple?

11 A. Yeah.

12 Q. Are you familiar with the Two  
13 Left seals? Do you know what I'm  
14 speaking about, the Two Left ---?  
15 A. The only way I'm familiar with  
16 them is, is in my mind. I know where  
17 they were at. I know where they  
18 drove by the maps that we watched ---  
19 because all of us go in and look at  
20 the maps as to where each section is.

21 Q. Sure.

22 A. I have never --- I have been  
23 within one block of them, but not  
24 over to them.

25 Q. Did you mine up in the old

98

01 mains or were you ---

02 A. No, sir.

03 Q. --- up there when they were  
04 mining or up in the old Two Left?

05 A. No. That was Two Left crew.  
06 One Left crew was --- I was on One  
07 Left crew, and we went down that way.

08 Q. When you say you were up near  
09 them, within one block, you mean  
10 after they were built or ---?

11 A. Yes, sir.

12 Q. What was your job up there?

13 A. During the week's vacation,

14 they had a fall-down on the main  
15 line.  
16 Q. Okay.  
17 A. And I come in off my vacation  
18 --- they called me in off my  
19 vacation, and we went up to Two Left  
20 and got a scoop and a charger, a  
21 bunch of roof bolts, some cable  
22 bolts, glue, just whatever we could  
23 get, and then we took that down to  
24 the fall. So I was within a block or  
25 two of the seals, but I didn't see

99

01 them. Never had no reason to even  
02 think about them.

03 Q. And were the seals installed  
04 at that time; do you recall?

05 A. As far as I know, they were,  
06 yes.

07 Q. When was your vacation?

08 A. November, deer season.

09 Q. Deer season.

10 A. The first week of deer season.  
11 I believe they were.

12 Q. But you were never over there  
13 ore anything?

14 A. No.

15 Q. Did you ever hear anybody  
16 talking about anyone detecting

17 methane over in that area or ---?

18 A. No, sir. Never even had no  
19 reason to talk to anybody about it,  
20 to be honest with you.

21 Q. Okay. I just thought maybe  
22 that you had overhead someone ---  
23 possibly overhead someone saying they  
24 had methane at the seals or detected  
25 any methane over there or ---.

100

01 A. No.

02 Q. No.

03 A. The one boy that fire bosses  
04 that, he's the one that fire bosses  
05 us on the weekends. And if they had  
06 been picking up any gas, I'm sure he  
07 would have mentioned something just  
08 in the normal conversations.

09 Q. Who is that that you're  
10 speaking of?

11 A. Terry Helms' buddy. The two  
12 of them done the fire bossing on the  
13 weekends.

14 Q. You don't know his name?

15 A. Fred I think is his name.

16 Q. Fred?

17 A. Yeah. Can't give you a last  
18 name. Fred I think is his name.

19 Q. Up in your --- when you were  
20 working in One Left, did you ever  
21 detect --- how much methane would you  
22 normally detect at the face?  
23 A. I think two-tenths at one  
24 time, and I can't swear to that.  
25 Q. On your hand-held detector?

101

01 A. Right. And then we use the  
02 hand-held detector, we stick it in a  
03 probe and push it out forward.  
04 Q. Probably two-tenths?  
05 A. Yeah.  
06 Q. Is that the most you ever  
07 detected?  
08 A. I think so. And there I'm  
09 guessing.  
10 Q. Sure.  
11 A. Normally, I keep the curtain  
12 up as tight to me as I can keep it.  
13 I just do. There's no reason because  
14 the state says I have to or the  
15 federal says I have to. That's just  
16 always been habit with me. I like a  
17 lot of air blowing over me just due  
18 to the fact that what little dust  
19 that machine is putting out, it's  
20 blowing away from us.  
21 Q. Did you ever hear anyone talk

22 about cutting through any boreholes  
23 of any sort, accident or uncharted  
24 boreholes, ---  
25 A. Not to my knowledge.

102

01 Q. --- water wells?

02 A. No. None of --- on ours, none  
03 of us every did. Or if Roger did, he  
04 never told one of us. I'd remember  
05 that pretty plain.

06 MR. SWENTOSKY:

07 Brian, do you have  
08 anything?

09 MR. MILLS:

10 Yes, Joe, just a couple  
11 quick ones.

12 BY MR. MILLS:

13 Q. You said you had some past  
14 experience?

15 A. Uh-huh (yes).

16 Q. Was that with explosions or  
17 fires?

18 A. Uh-huh (yes), fire and  
19 explosions. One of them --- and this  
20 has nothing to do with the mining  
21 industry. This was --- I was on a  
22 destroyer on the Navy.

23 Q. Okay. But nothing to do with

24 ---.

25 A. We had a five-inch gun mount

103

01 blow up. And I was on the mine ---  
02 or the --- I was on the rescue team  
03 on the ship. And I was supposed to  
04 go in and help with it. I didn't. I  
05 didn't make it. I'm not ashamed of  
06 it. I didn't make it. And anybody  
07 says you can throw up in them  
08 breathers and you can breathe,  
09 they're crazy. They're crazy as  
10 hell, because I never made it inside.  
11 I got part way and they had to take  
12 me out. I was as bad off as some of  
13 the boys that was in there. And that  
14 experience will put you --- I don't  
15 care, anything else that you ever  
16 want to get into, that'll put in with  
17 it.

18 Q. Have you ever been on a mine  
19 rescue team?

20 A. No, sir. I wouldn't go on it.  
21 My hat's off to those boys. There's  
22 no way. And now I'm too old to ---  
23 whether I would have the stamina at  
24 my age to do that, I doubt. I could  
25 try, but I doubt. Sixty-year-old man

104

01 is going to go down pretty soon. He's  
02 going to wear out. He's not going to  
03 come back as fast.

04 Q. You mentioned at the time of  
05 the blast you didn't smell anything?

06 A. No.

07 Q. And I thought maybe you were  
08 going to say after you got out of the  
09 mantrip you thought maybe you smelled  
10 something then?

11 A. Not so much that I thought I  
12 smelled it. And here again, this is  
13 going back to other experiences. I  
14 worked on gas rigs. I put testing  
15 units on gas rigs after they were  
16 drilled. The paraffin has got a ---  
17 when it's mixed with the gas and it  
18 blows, it's got a smell to it. I  
19 thought I smelled that.

20 Q. When you got out of the  
21 mantrip?

22 A. When I got out of the mantrip.  
23 But now that's --- I can't answer it  
24 because I really don't know. I  
25 thought I smelled it, but then with

105

01 everything else going, if I did, I  
02 really don't know. One or two of the

03 other boys said they thought they  
04 smelled something, too. And I said,  
05 well, if you worked around gas rigs  
06 --- and this is us talking, did you  
07 smell paraffin. Paraffin's in with  
08 natural gas. It plugs up the pipes  
09 all the time. And I'm calling it  
10 paraffin. It's not paraffin. It's  
11 the name we give it. It's a waxy  
12 stuff, get it all over you. I  
13 thought I smelled that. And I'm  
14 going on the assumption because I  
15 thought I smelled that that the whole  
16 scenario I come up with was a gas  
17 well blew. And that's been my  
18 scenario from the minute that I felt  
19 that blast until right now. I still  
20 say a gas well blew. A lightning  
21 strike hit it, and it went to the  
22 weakest point, a collar, a bad place  
23 in the pipe, a crack in the pipe,  
24 maybe it hit the edge of it, and it  
25 was leaking gas and it followed it

106

01 down and blew out. I don't know.  
02 That's just my theory. I'm sure I  
03 smelled it or I wouldn't have --- I  
04 don't think I would have remembered  
05 it. And then when I went home and

06 took a bath --- any boys that works  
07 on oil rigs and gas rigs will tell  
08 you the same thing, their clothes is  
09 oily. And when I took a bath, there  
10 was an oily scum around the shower,  
11 which just reinforced my same  
12 conclusion that it was a gas well  
13 blew. Why, I don't know. I'm just  
14 saying. Right or wrong, I'm saying.  
15 How that gas got inside there, I  
16 don't know. If it was that, I can't  
17 tell you. That's just my theory and  
18 it don't mean much.

19 Q. You also mentioned that you  
20 worked that weekend before?

21 A. Yeah.

22 Q. New Year's weekend?

23 A. Yes, sir. Worked over in the  
24 intake, cable bolting.

25 Q. And would that have been

107

01 Saturday and Sunday?

02 A. No, just Saturday.

03 Q. Just Saturday.

04 A. It was either Friday or  
05 Saturday. Now, I'm not going to tell  
06 you which. I don't remember. We  
07 worked our four-day shift and they

08 asked us to come in and cable bolt,  
09 and we said all right. I honestly  
10 don't --- it was either Friday or  
11 Saturday we were in there cable  
12 bolting.

13 Q. When would that have been,  
14 between One Left and Two Left or  
15 outby One left ---?

16 A. No, outby One Left. Where  
17 this charging station was setting,  
18 I'm going to --- and I'm guessing,  
19 I'm going to say two to three blocks  
20 below that charging station. I  
21 really don't remember.

22 Q. So it would have been between  
23 One Left and Two Right or Two right  
24 ---?

25 A. Yeah. Yes, it was probably

108

01 --- I'm going to take a wild guess,  
02 20, 25 blocks below the One Left  
03 switch.

04 Q. Did you work on day shift?

05 A. Right. They were cable  
06 bolting the whole intake all the way  
07 outside was my understanding.

08 Q. How many guys worked that  
09 shift; do you recall?

10 A. We went in at 6:00. There was

11 three of us, me and Alton and the  
12 boss. At seven o'clock there was  
13 supposed to have been some people  
14 come in. And what they were going to  
15 do, I do not know. They had crews  
16 come in there that worked different  
17 things all the time. But we were in  
18 there to cable bolt. They was  
19 putting up steel beams across part of  
20 the track at different times. I had  
21 worked a couple times on that on the  
22 weekends. But now where those boys  
23 was at and how many of them there  
24 was, I have no idea.

25 MR. SWENTOSKY:

109

01 We'll take just a short  
02 break and go off the record.

03 SHORT BREAK TAKEN

04 BY MR. SWENTOSKY:

05 Q. Just a couple follow-up here  
06 before we get into some training  
07 questions. You had mentioned that  
08 you built stoppings and did all kind  
09 of different things underground, kind  
10 of --- a lot of different things.  
11 Did you ever participate in the  
12 construction of seals?

13 A. Yes, sir.  
14 Q. What type of seals?  
15 A. Seals to seal up a section.  
16 We used 8-inch-by-8-inch-by-16 solid  
17 block.

18 Q. Solid concrete block?

19 A. Uh-huh (yes).

20 Q. With niching in the ribs and  
21 that type of thing?

22 A. Uh-huh (yes).

23 Q. When you were outside, before  
24 going underground, and you had  
25 mentioned you were over around the

110

01 dispatcher that morning, ---

02 A. Uh-huh (yes).

03 Q. --- did you --- was there  
04 anything unusual? Did you ever hear  
05 any alarms go off or anything that  
06 kind of caught your attention ---

07 A. No, sir.

08 Q. --- that occurred?

09 A. Not to my knowledge.

10 Q. Everything was normal?

11 A. As far as I know. Like I say,  
12 I was over there --- I was talking to  
13 those boys. If I heard anything, I  
14 didn't pay no attention to it.

15 Q. These solid concrete block

16 seals, where did you construct those?

17 A. What they call Mon River

18 Mining, down by Maysville at

19 Morgantown.

20 Q. Okay. Do you recall when the

21 last time you had attended an annual

22 refresher training or when you

23 participated in annual refresher

24 training?

25 A. January or February of last

111

01 year, I believe.

02 Q. It was in the wintertime?

03 A. Yeah.

04 Q. And where was that?

05 A. That was in the training ---

06 or their main office that ICG has

07 over at Mud Lick Road

08 Q. Mud Lick Road, is that ---

09 A. Right.

10 Q. --- is that near Buckhannon?

11 A. Yeah, that's just outside of

12 Buckhannon.

13 Q. Do you recall who conducted

14 that training?

15 A. Again, Ty was his name, and

16 then --- I can't remember his last

17 name.

18 Q. After you completed that  
19 training, was there a form that you  
20 had to sign of sorts, a paper form?

21 A. Don't even remember that.

22 Q. Okay. Do you recall, was the  
23 mine emergency and evacuation  
24 firefighting program discussed, in  
25 other words, a program for how you

112

01 would --- what you would do during a  
02 fire or explosion emergencies?

03 A. Yes, sir. Our boss talked  
04 about that every month.

05 Q. During that training, though,  
06 did anyone go over a plan or discuss  
07 those items?

08 A. I'm sure they did, but I don't  
09 remember it.

10 Q. Do you know who the  
11 responsible person is at the mine  
12 that is, in case of emergencies,  
13 fire, explosion, who directs the  
14 evacuation, who the responsible  
15 person is at the mine?

16 A. The only person that I would  
17 know would be the dispatcher. We  
18 would call --- if we was inside and  
19 we called out, we would get ahold of  
20 the dispatcher. Then it would be up

21 to him to --- whoever he would get  
22 ahold of. I don't know.

23 Q. But has anyone ever said that  
24 he is the responsible person for  
25 those conditions?

113

01 A. Not to my knowledge.

02 Q. Were you familiar with the  
03 location of the emergency materials,  
04 like --- I'm talking about a thousand  
05 feet of boards, brattice boards and  
06 rolls of curtain, nails, saws?

07 A. Yes, sir.

08 Q. Where is that?

09 A. We keep them within ---  
10 probably on the average day I'd say  
11 they're probably two blocks behind  
12 our power center in a section.

13 Q. Is there another location in  
14 the mine where those would be,  
15 supplies were located?

16 A. Yes, sir, there is. And I  
17 can't tell you where it's at. It's  
18 on the track. You see it every day  
19 going in and out. It's covered over  
20 with brattice cloth.

21 Q. Are you familiar with the  
22 evacuation procedures at the mine?

23 A. Yes, sir.

24 Q. Could you explain that to me a  
25 little bit?

114

01 A. If we're on a section and we  
02 have to evacuate, you're supposed to  
03 go --- everybody is supposed to go to  
04 the power center so that the boss can  
05 make sure all of us are there. And  
06 then we get in the intake and we  
07 follow the intake all the way  
08 outside. If the intake is  
09 nonpassable or you can't get through  
10 it, then you go to the track and you  
11 take the track outside.

12 Q. Okay. Did anyone ever --- you  
13 know, during that training or any  
14 other time, did anyone ever speak to  
15 you what you would do --- what  
16 procedure you would use in case of an  
17 explosion?

18 A. Not to my knowledge.

19 Q. Was the procedure for  
20 barricading discussed during your  
21 annual retraining or any other time?

22 A. Well, just what they normally  
23 tell us is that if you can't get  
24 outside, you barricade. You go get  
25 the stuff that's up there and you

01 make a barricade, which is pretty  
02 good. If we felt we had the time, we  
03 would go a whole lot better than  
04 that. We would knock a stopping and  
05 rebuild it and then mark on it that  
06 we were inside of it and how many  
07 people was inside. But we would try  
08 to --- if we had the time, that's  
09 what a lot of us has talked about at  
10 different times, that ---.

11 Q. This was prior to the  
12 explosion?

13 A. Oh, yeah. This is --- we've  
14 talked about this more times than I  
15 care to even think about.

16 Q. And that's covered in the  
17 training session?

18 A. Not knocking a stopping, no.  
19 That's our ---.

20 Q. Yes. Okay.

21 A. That's us. Yeah, you go and  
22 get the emergency materials that  
23 they've got up there and you build  
24 you a barricade. I would suppose  
25 that would be left up to the boss as

01 to where you would build it.

02 Q. Have you been qualified to  
03 make methane tests?

04 A. Yes, sir.

05 Q. Is that using the hands-on and  
06 using the detector?

07 A. Yes, sir, in the little box,  
08 where they turn the gas on.

09 Q. And who did that and when was  
10 that?

11 A. That's been probably two years  
12 ago, and I don't remember who done  
13 it, because I don't carry it now.  
14 The last time they done that without  
15 one of them, I didn't even go in and  
16 get tested, or I don't believe I did.  
17 If I did, I don't remember.

18 Q. Were the hazards of carbon  
19 monoxide ever discussed with you ---

20 A. No, not to my knowledge.

21 Q. --- during a training session?

22 A. It could have been, but I  
23 don't remember. I do not know.

24 Q. Was there a discussion about  
25 escapeways during the training?

117

01 A. Yes, sir. They pretty well  
02 discuss that about once a month even  
03 at the mines. The safety director  
04 will tell everybody --- they'll have

05 meetings usually about once a week,  
06 safety meetings, and they tell us  
07 what all is going on, and then  
08 they'll tell you, this is how you get  
09 out and these are the ribbons ---  
10 they have colored ribbons hanging on  
11 the roof, and you follow those  
12 ribbons out. And I can't even now  
13 tell you what the color of the  
14 ribbons are. They have the track,  
15 the belt, the intake and return  
16 marked with a different colored  
17 ribbon. I don't even remember what  
18 they are.

19 Q. Was it ribbons or would it be  
20 reflectors?

21 A. Reflectors. I say ribbons,  
22 but they're reflectors that you see  
23 people buy all the time and put along  
24 their driveways and stuff, the little  
25 round green ones.

118

01 Q. And what colors are used for  
02 the primary?

03 A. I can't tell you.

04 Q. Secondary?

05 A. I can't tell you none of them.

06 I know them all, but there's no way

07 I'm even going to try to tell you  
08 what they are. I just don't know.

09 Q. Did you ever participate in an  
10 escapeway drill? By that I mean did  
11 you ever walk out of the escapeway,  
12 out a section to the surface or ---?

13 A. No, sir, not --- not up here  
14 on these sections here. When we was  
15 down below, I come out a couple  
16 different times. But that's  
17 been ---.

18 Q. Down below, meaning ---?

19 A. First Right section. I walked  
20 out a couple times then.

21 Q. When you were in a different  
22 section of Sago Mine?

23 A. Right. It's the same part of  
24 the mine, but it's way back behind.

25 Q. Okay.

119

01 A. First Right was way back  
02 behind. That's been ---

03 Q. And you walked ---?

04 A. --- more than a year ago, a  
05 year and a half.

06 Q. And you walked out with your  
07 section foreman?

08 A. Yes.

09 Q. To the surface?

10 A. Yes, sir, up to the fan.

11 Q. And who did you walk with; do  
12 you remember?

13 A. No.

14 Q. And that was the primary that  
15 you walked out?

16 A. Right. That's air intake.

17 I've walked the track 50 times.

18 Q. Did you ever participate in a  
19 fire drill?

20 A. Yes, sir.

21 Q. Tell me a little bit about  
22 that. What did you do or how did  
23 that --- was that procedure ---?

24 A. The boss would come up and  
25 say, okay, we've got a fire. The

120

01 easiest thing to be was on the miner.

02 Normally they picked the easiest

03 thing. And that's the easiest thing

04 because there's already water there.

05 Each person has a different job. I

06 go get --- me and the bolter

07 operator, we go get bags of rock

08 dust, fire extinguishers. They're

09 supposed to get a hose. They got

10 certain guys to do that. Once we get

11 stuff, then we go help them, and they

12 roll out a hose. But if the miner's  
13 --- if you're up beside the miner,  
14 and that's normally what they use,  
15 you break the water line going into  
16 the miner, which is a two-inch line.  
17 You break it and use it. That way  
18 you don't --- it saves them a little  
19 time and us, too, because we just  
20 have to unroll the water line and run  
21 it up through the miner. So it's  
22 easier to just say, okay, break that  
23 line and that gives you your water.  
24 Their scenario is, is you take the  
25 axe and you cut the lining tube.

121

01 Q. Where was it? What section  
02 was that in? Was that in the One  
03 Left --- while you were in the One  
04 Left section?

05 A. The mains. We was driving the  
06 mains, and then we turned down One  
07 left. So I'm saying it's all the  
08 same to me, is One Left section.

09 Q. And how long ago was that; do  
10 you recall?

11 A. It's been a couple of months,  
12 three months.

13 Q. Since you had ---

14 A. Four months.

15 Q. --- this fire drill?

16 A. Yes. It's been quite a while.

17 Q. Did your whole crew

18 participate in that or ---?

19 A. Yes. They use the whole crew.

20 They tell each person, this is what

21 you're supposed to do. This is where

22 you go. This is what you do. One

23 person goes to the phone.

24 Q. And you actually did those

25 scenarios that you're giving me?

122

01 A. Yes.

02 Q. And would that have been Mr.

03 Jones who would have been ---

04 A. Yes, sir.

05 Q. --- your supervisor at that

06 time?

07 A. And like I say, that's ---

08 it's been so --- it would have to be

09 three or four months.

10 Q. SCSR training, do you recall

11 having SCSR training, self-rescuer

12 training?

13 A. Yes, sir. That's been quite a

14 while back, too. The safety director

15 would come out once in a while and

16 talk to us about how to don it. But

17 he would just talk to us. Most of us  
18 could --- we've heard it so many  
19 times, we could do it in our sleep.  
20 But then when you have to do it, it's  
21 a different --- it's really, really  
22 ---.

23 Q. During your annual refresher,  
24 did you have to actually show how  
25 you're going to put it on or simulate

123

01 how you would put it on?

02 A. Yes. Each person put it on.  
03 They stuck it back in the canister  
04 and they didn't seal it or nothing  
05 like that. They just tried to get it  
06 back in as well as you could. And  
07 once --- because it's not supposed to  
08 be put back in once it's popped out.  
09 And then you'd put it on.

10 Q. It's like a training model?

11 A. Yeah, it's a training model.  
12 Each person in the whole crew put it  
13 on, boss all the way down, every one  
14 of us.

15 Q. So you actually put it around  
16 your neck and ---?

17 A. Yeah, put the goggles on. The  
18 only thing we didn't do is we didn't  
19 put the breathing apparatus in our

20 mouth.

21 Q. Whenever you did that, do they  
22 teach you like to get down on your  
23 knees or anything like that and ---?

24 A. Yes, sir. That's how they  
25 wanted you to do it. But we didn't

124

01 get down on our knees. We just ---  
02 it was right there on the table, and  
03 then we just done it right off the  
04 table. It made it a little easier to  
05 slide back and forth.

06 Q. Was first-aid training  
07 provided during that retraining  
08 session?

09 A. That I can't tell you. I'm  
10 sure there was something, but I can't  
11 remember now what it was.

12 Q. But you don't know whether ---  
13 you don't recall whether or not they  
14 did or did not?

15 A. No, I can't.

16 Q. How about the roof control  
17 plan, do you recall it being reviewed  
18 with you ---

19 A. Yes, sir.

20 Q. --- and discussed?

21 A. Yeah. Yeah, I remember that.

22 Q. How about the ventilation  
23 plan?

24 A. Yeah.

25 Q. When changes are made in the

125

01 escapeway routes and that, do they  
02 --- do you recall anyone talking to  
03 you about those type things?

04 A. No. I would go on the  
05 assumption that if they made changes  
06 in that, that they would have the  
07 reflectors hung so that you would  
08 follow them out.

09 Q. Have you had an occasion  
10 whenever the safety director or  
11 someone else would say, hey, we  
12 changed the escapeway routes? Do you  
13 recall that at all? Do they tell you  
14 where they changed them to?

15 A. No, sir.

16 Q. Do you feel that the training  
17 you received was adequate?

18 A. Yes.

19 Q. Is there anything else that  
20 you think should be added to the  
21 training sessions that might help?

22 A. No, not that --- things that  
23 we might mention later on, when all  
24 this is over with that may help. But

25 until we can get it --- there's a

126

01 couple of us who got things in our  
02 mind. But until we can get it  
03 formulated, I'm not going to say.  
04 This eight-hour course they give us,  
05 I think it can be upped quite a bit  
06 more, and we're going to discuss  
07 that. That's two or three of us  
08 that's talked about that. But that's  
09 up to us. This is going to kind of  
10 be like an in-house training-type  
11 thing for us, nothing that the  
12 industry would --- maybe they would  
13 or wouldn't, I don't know. But until  
14 we can get what we want to talk to  
15 them about straightened out, I  
16 wouldn't want to mention it.

17 Q. Have you ever been searched  
18 for smoking articles?

19 A. Yes, sir.

20 Q. How do they do that?

21 A. They walk up and pat you on  
22 the --- pat you up here and they pat  
23 your pants and your legs.

24 Q. And your shirt?

25 A. Your shirt and your pants.

127

01 Sometimes they'll pat you on the  
02 bottom of your boots where your sock  
03 comes up. Some boys used to hide  
04 their cigarettes in their socks.  
05 I've worked in one or two mines that  
06 they did smoke in.

07 Q. How often do they conduct  
08 those searches?

09 A. It's been a couple, three  
10 months since the last time Owen come  
11 up to us and patted us on the back  
12 and walked us around.

13 Q. Is it always your section  
14 foreman that does that?

15 A. Yeah.

16 Q. And I guess you already said  
17 you observed --- have you ever  
18 observed someone smoking underground?

19 A. Not in the last 15 years, 10  
20 or 15 years. It used to be a common  
21 practice.

22 Q. Have you ever found any  
23 smoking articles underground?

24 A. No, sir, not in the last 10,  
25 15 years. No. That would cause a

128

01 lot of repercussions that somebody  
02 that smokes wouldn't want to get  
03 into. It probably wouldn't get

04 outside, I'll put it to you that way.

05 That would be an in-house issue at

06 the time.

07 ATTORNEY WILSON:

08 Just a point of

09 clarification.

10 BY ATTORNEY WILSON:

11 Q. You indicated earlier that the

12 fire boss on the weekend was Fred

13 somebody. Would that have been Mr.

14 Jamison; do you know?

15 A. Yeah, I think that's his last

16 name, Fred Jamison, and Terry Helms.

17 They normally run together. They was

18 the two that --- on the weekends.

19 When we'd come in on Sundays, they'd

20 normally come in and done all that

21 for us.

22 BY MR. SWENTOSKY:

23 Q. Has anyone offered you

24 anything or made any promise to you

25 in exchange for your appearing here

129

01 today?

02 A. No, sir.

03 Q. And again, do you have

04 anything else that you would like to

05 share with us before we close?

06 A. No, sir.

07 MR. SWENTOSKY:

08 On behalf of MSHA, I  
09 would like to thank you for  
10 appearing and answering the  
11 questions here today. Your  
12 cooperation is very important  
13 to the investigation, as we  
14 work to determine the cause of  
15 the accident.

16 We ask that you not  
17 discuss your testimony with  
18 any person who may have  
19 already been interviewed or  
20 who may be interviewed in the  
21 future. This will ensure that  
22 we obtain everyone's  
23 independent recollection of  
24 the events surrounding the  
25 accident. After questioning

130

01 other witnesses, we may call  
02 you if we have any follow-up  
03 questions that we feel we need  
04 to ask you. If at any time  
05 you have additional  
06 information regarding the  
07 accident that you would like  
08 to provide to us, please

09 contact us at the contact  
10 information that was  
11 previously provided to you.  
12 And that was that --- those  
13 business cards we provided  
14 you.

15 The Mine Act provides  
16 certain protections to miners  
17 who provide information to  
18 MSHA, and as a result, are  
19 treated adversely. If at any  
20 time you believe that you have  
21 been treated unfairly because  
22 of your cooperation in this  
23 investigation, you should  
24 immediately notify MSHA.

25 If you wish, you may

131

01 now go back over any answer  
02 you have given during this  
03 interview, and you may also  
04 make a statement that you  
05 would like to make at this  
06 time. Do you have anything?

07 A. No.

08 MR. SWENTOSKY:

09 All right. Again,  
10 thanks for your cooperation in

11 this matter, sir.

12 A. You're welcome, sir. You're

13 welcome.

14

15 \* \* \* \* \*

16 SWORN STATEMENT

17 CONCLUDED AT 2:33 P.M.

18 \* \* \* \* \*

19

20

21

22

23

24

25