

STATEMENT UNDER OATH

OF

PAUL AVINGTON

Taken pursuant to Notice by Miranda
D. Elkins, a Court Reporter and
Notary Public in and for the State of
West Virginia, at the U.S. Bankruptcy
Court, 324 West Main Street,
Clarksburg, West Virginia, on
Tuesday, February 14, 2006, at 8:59
a.m.

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1 A P P E A R A N C E S

2

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4 Supv. MS&H Specialist (Ventilation)

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6 Mine Safety & Health Administration

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

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I N D E X

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INTRODUCTION 6 - 17

10

WITNESS: PAUL AVINGTON

11

QUESTIONS

12

By Mr. Swentosky 17 - 49

13

By Mr. Mills 49

14

By Mr. Swentosky 49 - 64

15

By Mr. Mills 64 - 65

16

By Mr. Swentosky 65 - 72

17

By Mr. Mills 72 - 73

18

By Mr. Swentosky 73 - 80

19

CERTIFICATE 81

20

21

22

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EXHIBIT PAGE

PAGE

NUMBER DESCRIPTION IDENTIFIED

NONE OFFERED

1
2
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12
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P R O C E E D I N G S

MR. SWENTOSKY:

My name is Dennis
Swentosky. I'm an accident
investigator with the Mine
Safety and Health
Administration, an agency of
the United States Department
of Labor. With me is Bob

1 Wilson from the Solicitor's
2 Office, Brian Mills with the
3 West Virginia Office of
4 Miners' Health, Safety and
5 Training, and Mr. Dave Stuart,
6 with the West Virginia State.

7 I've been assigned to
8 conduct an investigation into
9 the accident that occurred at
10 the Sago Mine on January 2nd,
11 2006 in which 12 miners died
12 and one was injured. The
13 investigation is being
14 conducted by MSHA and the West
15 Virginia Office of Miners'
16 Health, Safety & Training to
17 gather information to
18 determine the cause of the
19 accident. And these
20 interviews are an important
21 part of the investigation.

22 At this time, the

1 accident investigation team
2 intends to interview a number
3 of people to discuss anything
4 that may be relevant to the
5 cause of the accident. After
6 the investigation is
7 completed, MSHA will issue a
8 written report detailing the
9 nature and the causes of the
10 accident.

11 MSHA accident reports
12 are made available to the
13 public in the hope that
14 greater awareness about the
15 causes of accidents can reduce
16 their occurrence in the
17 future. Information obtained
18 through witness interviews is
19 frequently included in these
20 reports. Your statement may
21 also be used in other
22 enforcement proceedings.

1 I would like to thank
2 you in advance for your
3 appearance here today. We
4 appreciate your assistance in
5 this investigation. The
6 willingness of miners and mine
7 operators to work with us is
8 critical to our goal in making
9 the nation's mines safer.

10 We understand the
11 difficulty for you in
12 discussing the events that
13 took place and we greatly
14 appreciate your efforts to
15 help us understand what
16 happened.

17 This interview with Mr.
18 Paul Avington is being
19 conducted under Section 103(a)
20 of the Federal Mine Safety and
21 Health Act of 1977 as a part
22 of an investigation by Mine

1 Safety and Health
2 Administration and the West
3 Virginia Office of Miners'
4 Health, Safety & Training into
5 the conditions, events and
6 circumstances surrounding the
7 fatalities that occurred at
8 the Sago Mine owned by
9 International Coal Group in
10 Buckhannon, West Virginia, on
11 January 2nd, 2006.

12 This interview is being
13 conducted at the U.S.
14 Bankruptcy Court in
15 Clarksburg, West Virginia on
16 February 14th, 2006.

17 Questioning will be
18 conducted by representatives
19 of MSHA and the Office of
20 Miners' Health, Safety &
21 Training. This is not an
22 adversarial proceeding,

1 therefore Cross Examination
2 will not be permitted.

3 Mr. Avington, this
4 interview will begin by my
5 asking you a series of
6 questions. If you do not
7 understand a question, please
8 ask me to rephrase it. Feel
9 free at any time to clarify
10 any statements that you make
11 in response to the questions.
12 And after we have finished
13 asking questions, you will
14 also have an opportunity to
15 make a statement and to
16 provide us with any other
17 information that you believe
18 may be important.

19 If at any time after
20 the interview, you recall any
21 additional information that
22 you believe may be useful in

1 the investigation, please
2 contact Richard Gates at the
3 phone number or e-mail address
4 provided to you. And this is
5 a business card for Mr. Gates.

6 Your statement is
7 completely voluntary. You may
8 refuse to answer any question
9 and you may terminate the
10 interview at any time. If you
11 need a break for any reason,
12 please just let me know.

13 A court reporter will
14 record your interview and will
15 later produce a written
16 transcript of the interview,
17 please try and respond to all
18 questions verbally since the
19 court reporter cannot record
20 non-verbal responses. Also
21 please try to keep your voice
22 up. Copies of the written

1 transcripts will be made
2 available at a later time.
3 And what would be upon
4 completion of the
5 investigation.

6 If any part of your
7 statement is based not on your
8 own first-hand knowledge, but
9 on information that you
10 learned from someone else,
11 please let us know.

12 Please answer each
13 question as fully as you can,
14 including any information you
15 have learned from someone
16 else. We may not ask the
17 right questions to learn the
18 information that you have, so
19 do not feel limited by the
20 precise questions that I may
21 ask. If you have information
22 about the subject area of a

1 question, please provide us
2 with that information.

3 At this time, Mr.
4 Mills, do you have anything
5 that you would like to add on
6 behalf of the Office of
7 Miners' Health, Safety &
8 Training?

9 MR. MILLS:

10 Here's our card, Paul.
11 Paul, the West Virginia Office
12 of Miners' Health, Safety &
13 Training is conducting this
14 interview session jointly with
15 MSHA and are in agreement with
16 the procedures outlined by Mr.
17 Swentosky for these interviews
18 that will be conducted here
19 today.

20 But the Director
21 reserves the right, if
22 necessary, to call or subpoena

1 witnesses or require the
2 production of any record,
3 document, photograph or other
4 relevant materials necessary
5 to conduct this investigation.

6 MR. SWENTOSKY:

7 Thank you. Are you
8 aware that you may have a
9 personal representative
10 present during the taking of
11 this statement?

12 MR. AVINGTON:

13 Yes.

14 MR. SWENTOSKY:

15 And who would that be?

16 MR. SWENTOSKY:

17 Who is your
18 representative?

19 MR. AVINGTON:

20 Joe. I don't know ---.

21 ATTORNEY YUHAS:

22 Yuhas.

1 MR. AVINGTON:

2 Pardon?

3 ATTORNEY YUHAS:

4 Yuhas.

5 MR. AVINGTON:

6 Yuhas.

7 MR. SWENTOSKY:

8 Has anyone suggested

9 that you use this

10 representative?

11 MR. AVINGTON:

12 No.

13 MR. SWENTOSKY:

14 Are you aware that your

15 representative may have a

16 conflict of interest in

17 representing you while being

18 provided by someone else, such

19 as the company?

20 MR. AVINGTON:

21 Say that again.

22 MR. SWENTOSKY:

1 Okay. Are you aware
2 that your representative may
3 have a conflict of interest in
4 representing you while being
5 provided by someone else, such
6 as the company?

7 MR. AVINGTON:

8 Yes.

9 MR. SWENTOSKY:

10 With this
11 understanding, do you still
12 want this person to be your
13 representative?

14 MR. AVINGTON:

15 Yes.

16 MR. SWENTOSKY:

17 Have you been pressured
18 in any way to accept this
19 person as your representative?

20 MR. AVINGTON:

21 No.

22 MR. STUART:

1 May I inquire and
2 clarify? Just for the record,
3 so we all understand each
4 other because of some inquiry
5 that was made, Mr. Yuhas
6 represents you here today; is
7 that correct?

8 MR. AVINGTON:

9 Yes.

10 MR. STUART:

11 And he does not
12 represent the company, nor
13 does he represent the United
14 Mine Workers, is that your
15 understanding?

16 MR. AVINGTON:

17 Yes.

18 MR. STUART:

19 And do you understand
20 you're also responsible for
21 whatever remuneration may be
22 due Mr. Yuhas?

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MR. AVINGTON:

Yes.

MR. STUART:

Thank you, sir.

MR. SWENTOSKY:

Do you have any questions regarding the manner in which this interview will be conducted? Do you have anything at this time?

MR. AVINGTON:

No.

MR. SWENTOSKY:

Will you please swear in Mr. Avington?

PAUL AVINGTON, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

BY MR. SWENTOSKY:

Q. Could you please state your full name and spell your last name

1 for us, Mr. Avington?

2 A. Paul Avington,

3 A-V-I-N-G-T-O-N.

4 Q. Could we have your address and
5 telephone number, please?

6 A. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q. Are you appearing here today
10 voluntarily?

11 A. Yes.

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

14 A. Twenty-eight (28).

15 Q. Could you kind of give us a
16 brief description of your mining
17 experience?

18 A. You mean like where I started
19 mining?

20 Q. Yes, that'd be fine.

21 A. 1977, I think '77, started at
22 Appalantic Coal in Lewis County. Do

1 you want to know other companies I
2 worked for?

3 Q. Yes. Yeah, just kind of give
4 us a brief description.

5 A. Well, let's see, Appalantic
6 six or seven years and then I went to
7 Continental Coal. I worked for
8 Bethlehem. I worked for Bass Energy.
9 Alton Coal, Anker and I guess that's
10 about all of them. I can't remember.
11 I've worked for quite a few different
12 companies.

13 Q. Okay. How much time have you
14 spent at the Sago Mine?

15 A. I started there in May.

16 Q. May of?

17 A. This year --- or past year,
18 May last year.

19 Q. 2005?

20 A. Right. Yeah.

21 Q. What is your present position?

22 A. Shuttle car operator.

1 Q. Did you hold the same position
2 on January 2nd, 2006, the day of the
3 accident?

4 A. Yes.

5 Q. Could you give me a --- just a
6 description of your job duties or
7 what they would have been on that
8 day?

9 A. Well, shuttle car operator
10 hauls the coal from the continuous
11 miner to the belt line.

12 Q. Okay. How long have you held
13 your present position, shuttle car
14 operator?

15 A. Oh, ever since I started
16 there.

17 Q. Okay. That would have been in
18 May of 2005?

19 A. Yeah.

20 Q. So you didn't hold any other
21 positions during that period of time?

22 A. No.

1 Q. Do you have any mining
2 certifications?

3 A. No.

4 Q. You have the miner's papers to
5 do general, but not any
6 certifications as far as
7 examinations?

8 A. No, I don't have no bossing
9 papers or anything like that, no.

10 Q. Who was your immediate
11 supervisor?

12 A. Owen Jones.

13 Q. And how long would Mr. Jones
14 have been your supervisor? That
15 whole time or how long has he been
16 your supervisor?

17 A. Well, when I first started at
18 Sago, I had a different supervisor.
19 I can't remember when I started
20 working for Owen.

21 Q. Okay. Who was the initial
22 supervisor?

1 A. I can't --- I don't remember
2 his name. I didn't work for him very
3 long. Then I started working for
4 Owie.

5 Q. What time do you normally
6 start your shift?

7 A. 6:00.

8 Q. That's the time that you go
9 underground?

10 A. Right.

11 Q. And you were working on the
12 day of the accident?

13 A. Yes.

14 Q. Can you kind of just --- if
15 you would just start whenever you
16 arrived at the mine and kind of go
17 through the entire day and give me a
18 description of what occurred that
19 day? And I'll not interrupt you.

20 A. You want me to start as soon
21 as I entered the parking lot or ---

22 Q. Yeah.

1 A. --- from the bathhouse or ---?

2 Q. Sure, that will be fine, as
3 soon as you got on the mine property.

4 A. Well, it was probably around
5 ten after 5:00, 15 after, somewhere
6 around there. Go in the bathhouse,
7 get dressed, get ready for my shift
8 and wait for starting time. Go down
9 to the pit mouth about six o'clock.
10 We was waiting for the boss to bring
11 in the mantrip. The mantrip he
12 brought in the pit mouth was too
13 small for all of us, so he took it
14 back and got a bigger mantrip for us.
15 Then we all got in the mantrip and
16 headed for the section.

17 We got up to First Left switch
18 and Roger Perry got out to throw the
19 switch. I don't know, it was about
20 6:25, 6:30, I don't know what time it
21 was when we got to the switch. Roger
22 got out and threw the switch, got

1 back in the mantrip, and the
2 explosion happened.

3 We all got out of the mantrip
4 and started headed down the track.
5 And I don't know how many blocks we
6 walked before we got over into the
7 intake, the fresh air. I don't know
8 how many blocks it was. And started
9 toward the outside.

10 Me and Ron Grall were ahead of
11 the other guys on the crew. I don't
12 know how many blocks we walked before
13 we got over onto the track. We heard
14 a mantrip coming in as we was
15 walking. I stopped three or four
16 different times and called back to
17 the other guys to come on. You know,
18 they was kind of waiting back there
19 for some reason. I don't know why.
20 But we went on down and got over onto
21 the track and we was over there maybe
22 three, four minutes and the mantrip

1 come by with --- everybody else was
2 already in the mantrip. And me and
3 Grall got in the mantrip and went
4 outside. And that's about it.

5 Q. What I wanted to do is --- and
6 I thank you for that description ---
7 is just kind of back up a little bit,
8 ---

9 A. Okay.

10 Q. --- and then we'll just kind
11 of start and we'll kind of fill in
12 some blanks ---

13 A. Okay.

14 Q. --- we may have. Again, what
15 time did you arrive at the mine?

16 A. Ten after 5:00, 15 after,
17 somewhere around there.

18 Q. Okay. When you got --- or
19 arrived at the mine, then you went
20 --- did you go --- what did you do
21 then?

22 A. I went in the bathhouse and

1 got dressed, got ready for work.

2 Q. Okay. And after that, where
3 did you go?

4 A. Well, I went into the lamp
5 room, into the dispatcher in the
6 trailer, got my light, put my light
7 on, had a cup of coffee.

8 Q. Okay. Do you recall any
9 conversations that you might have had
10 with anyone?

11 A. Well, yeah, I mean, I talked
12 to a lot of people that morning, I
13 can't remember any conversations we
14 had.

15 Q. Okay.

16 A. We talked.

17 Q. Anything unusual or --- that
18 you discussed?

19 A. No, nothing unusual.

20 Q. And approximately what time
21 did you enter the mine?

22 A. 6:00, a little after 6:00

1 because Owie had to get the other
2 mantrip, so it was like maybe ten
3 after, seven after, I don't know. It
4 wasn't right at 6:00, but ---.

5 Q. And why did you have to change
6 out mantrips?

7 A. Because the first one was too
8 small, all of us couldn't get in it.

9 Q. Did the Two Left section enter
10 the mine before you?

11 A. Yeah, they was ahead of us.

12 Q. And approximately how much
13 time was ---?

14 A. I don't know, maybe ten
15 minutes. I don't know for sure.
16 Maybe ten minutes ahead of us.

17 Q. The number of people --- you
18 said you had to change mantrips. Was
19 that number more than normal?

20 A. No. The mantrip was just too
21 small, the one he first brought. I
22 don't know why he brought the small

1 mantrip he did.

2 Q. Okay. So that's a regular
3 number of people?

4 A. Yeah. Yeah.

5 Q. After you entered the mine,
6 did you let anyone off on your way
7 in?

8 A. Well, John Boni and Pat was
9 --- I don't remember whether they
10 rode in with us or not. Sometimes
11 John would ride in and we'd let him
12 off before we got to the switch. I
13 don't remember that morning whether
14 they was with us or whether they
15 walked in. I don't remember.

16 Q. And your first point of travel
17 was the One Left switch; is that ---?

18 A. Yeah, One Left.

19 Q. And when you got to the --- or
20 was there any conversations over the
21 phone that's on the mantrip? Do you
22 recall any phone conversations or

1 anything like that on the way in?

2 A. No. No, we just called for
3 clearance and we went in, that's the
4 only thing.

5 Q. That was the only
6 conversation?

7 A. Yeah, I don't remember no
8 conversation on the way in.

9 Q. Okay. When you got to the One
10 Left switch, you said that Mr. Perry
11 got out of the switch (sic), can you
12 describe that?

13 A. Got out of the mantrip, throw
14 the switch into the section, yeah.

15 Q. Okay. And then what occurred?

16 A. Then he got in the trip and
17 then the explosion happened.

18 Q. Okay.

19 A. Yeah, he no sooner got in and,
20 you know, it happened.

21 Q. Okay. And whenever that
22 occurred, can you kind of describe

1 that a little bit?

2 A. The --- what?

3 Q. Yeah, the --- was there any
4 smoke?

5 A. Yeah, there was a lot of
6 smoke, debris and heat.

7 Q. Okay. What about --- you say
8 the heat, what kind of heat, burning
9 heat or just a light heat?

10 A. I would say a pretty strong
11 heat. Yeah, you know, I crouched
12 down in the trip, you know, and felt
13 the heat.

14 Q. Which end of the mantrip were
15 you in?

16 A. I was in the outby.

17 Q. Outby end of the mantrip. And
18 which way were you facing?

19 A. I was facing inby.

20 Q. Okay.

21 A. I was in the corner, left hand
22 corner of the trip.

1 Q. That would be the wide side or
2 the tight side? The door side?

3 A. No, the tight side.

4 Q. The tight side?

5 A. Yeah.

6 Q. Okay. When that occurred, did
7 it knock your hat off or your glasses
8 off?

9 A. No. No, it didn't knock my
10 hat off.

11 Q. Did your ears pop or anything
12 like that?

13 A. I don't remember. I just felt
14 the heat and we, you know, started
15 getting out of the trip.

16 Q. Okay. So the other guys had
17 to exit before you, though?

18 A. Yeah. They exited. I might
19 have been the last one out on that
20 side. I don't know.

21 Q. Okay. When you got out of the
22 mantrip, did you have a detector with

1 you?

2 A. No.

3 Q. Do you recall anyone that may
4 have had a detector and what was
5 happening with that detector or
6 anything?

7 A. Yeah, Ron Grall had one.

8 Q. Okay.

9 A. I heard it going off.

10 Q. What, that's the beeping
11 sound?

12 A. Yeah.

13 Q. Okay.

14 A. It either went off there or it
15 went off when we got down to the
16 stopping, where we went over into the
17 intake. I know it went off
18 somewhere. It might have been going
19 off all the way down through there.

20 Q. Did anyone take any readings
21 or discuss any readings or what ---?

22 A. No, I think everybody was just

1 ready to get out of there, you know.
2 We didn't want to --- you know, it
3 was really smoky, it was heavy,
4 couldn't see where we was going.

5 Q. When you get out of the
6 mantrip then, describe that to me a
7 little bit. Who may have --- was
8 there anyone that kind of took charge
9 or anything like that? Or just
10 describe that to me, if you would,
11 please.

12 A. Well, when I got out, Ron was
13 going down the track and I followed
14 him.

15 Q. Okay.

16 A. I followed Ron Grall down the
17 track. Ron is --- you know, has his
18 bossing papers and so I followed Ron
19 down the track.

20 Q. Okay. Did you just get out of
21 the mantrip and take off, or was
22 there any discussion amongst ---?

1 A. No, we all just got out and
2 took off. You know, too much smoke
3 and you know, just wanted to get out
4 of there, wanted to get to fresh air.

5 Q. Yeah. You say the smoke, what
6 did it smell like, if you can recall?

7 A. I don't know what it smelled
8 like. I can't describe the smell.

9 Q. Was there ever a second rush
10 of air?

11 A. No, I don't recall any second
12 rush of air.

13 Q. And how long did that last,
14 this blowing or rush of air with the
15 debris and so on?

16 A. I don't know.

17 Q. Okay.

18 A. I don't know how long it
19 lasted.

20 Q. So when you got out of the
21 mantrip and you say you just --- you
22 and Ron just took off?

1 A. Yeah. I followed Ron down the
2 track, yeah. And then we got down to
3 where we got over into the intake,
4 fresh air, went through a stopping
5 and Ron went back on the track and he
6 yelled at the rest of the guys, come
7 on down here, we found a way --- you
8 know, found fresh air. So we waited
9 down there for everyone to come over
10 into the intake.

11 Q. Okay. Before you guys took
12 off, there was no discussion or
13 anything with any of the others, you
14 just got out of the mantrip and ---?

15 A. Yeah, we just got out and took
16 off.

17 Q. Okay. What about the SCSR,
18 did you ---?

19 A. My rescuer?

20 Q. Your rescuer, did you put your
21 rescuer on?

22 A. No.

1 Q. Did Ron put his rescuer on?

2 A. No.

3 Q. No. Did any of the others put
4 their rescuers on?

5 A. Yeah, some of them put them
6 on, yeah.

7 Q. Okay. Right there at the
8 mantrip?

9 A. I don't know where they put
10 them on.

11 Q. Okay. Because you had taken
12 off?

13 A. Yeah.

14 Q. Okay. Why didn't you put the
15 SCSR on?

16 A. I just didn't think I needed
17 it.

18 Q. Why was that?

19 A. Well, I don't know. I just
20 --- I remember asking Ron, I said, do
21 you think we better stop and put our
22 rescuers on. And he said, no, let's

1 keep going. So I --- we just kept
2 going, didn't put it on.

3 Q. Do you recall where that might
4 have been, where you were at, at that
5 time?

6 A. It might have been three, four
7 breaks from the mantrip. I don't
8 know how many breaks, but ---.

9 Q. Before you went into the ---

10 A. Yeah.

11 Q. --- into the intake?

12 A. Yeah, before we went into ---
13 yeah.

14 Q. And you said some of the
15 others put theirs on. When did you
16 find that out?

17 A. When I was on the outside.
18 When we was outside, I found out some
19 of them put theirs on.

20 Q. Okay. Could you --- after you
21 left the mantrip and Ron, I guess,
22 you said found the door.

1 A. Yeah, found the way over into
2 the --- right.

3 Q. Okay.

4 A. Well, it wasn't doors, it was
5 a hole in the stopping.

6 Q. Yeah, right.

7 A. Yeah, it must have been blowed
8 out, I don't know.

9 Q. Okay. And at that point
10 there, you made some contact with the
11 people behind you?

12 A. Right. Yeah, Ron went back
13 out on the track, he yelled this way,
14 you know, we found a way over into
15 the --- yeah.

16 Q. Were you able to see their
17 lights at that time?

18 A. No, I didn't see their lights
19 until they come over into the intake.
20 That's when I seen them. I wasn't
21 out on the track. I waited in the
22 intake and Ron was out on the track.

1 Q. Okay. And then after he
2 yelled at the other individuals, then
3 what happens?

4 A. Well, they all come over into
5 the intake.

6 Q. At that point there, were you
7 all together at that point, all the
8 crew members?

9 A. Yeah, I think --- yeah, I
10 think so. Yeah.

11 Q. Okay. Let me --- just let me
12 ask you one other question. I know
13 you said you got out of the mantrip
14 and then you guys just took off. But
15 do you recall anyone talking on the
16 telephone or making any calls or
17 anything like that?

18 A. I made one over in the intake.
19 I had the walkie-talkie with me.

20 Q. Oh, you did?

21 A. Yes. And ---.

22 Q. Was the that first attempt

1 that you had made to use the
2 walkie-talkie?

3 A. Yeah, because the other buggy
4 runner had one with him, and they
5 was, like I say, kind of holding back
6 and I yelled at him on the radio, you
7 know, asking him, telling him, you
8 know, come on, let's go or whatever I
9 said. And ---.

10 Q. Did he --- was he able to hear
11 you, do you know?

12 A. Yeah, he heard me one time on
13 it.

14 Q. Okay. And ---.

15 A. Pardon?

16 Q. I was going to say, did he
17 speak back to you or anything?

18 A. Yeah. I don't recall what he
19 said though. We just used it the one
20 time, that's all.

21 Q. Okay. And what was when you
22 were ---?

1 A. Going down the intake, I'd
2 say, yeah.

3 Q. When you first got to the
4 intake or later on?

5 A. Later on, going down. Yeah,
6 walking down through there, I stopped
7 and called him on the radio.

8 Q. Okay. So Ron went over and
9 called the other individuals and the
10 entire crew come up there and you met
11 there in the intake?

12 A. Yeah.

13 Q. Okay. And you were all
14 together at that point?

15 A. Yeah.

16 Q. And then what happened?

17 A. Well, I started walking down
18 the intake, you know, it was fresh
19 air. I wanted to get into better
20 fresh air. I started walking.

21 Q. Okay. Were you all together
22 at that time, do you know?

1 A. No, we wasn't. I don't know
2 --- the other guys was --- I don't
3 know what they was doing, holding
4 back. I don't know, talking to Owen.
5 Someone said that Owen wanted to go
6 check on his brother. And I guess
7 they was trying to talk him --- you
8 know, tell him he can't do that, you
9 know. They was trying to talk him
10 out of it. I don't know what they was
11 doing.

12 Q. Okay. So you started walking
13 outby.

14 A. Yeah.

15 Q. And you and Mr. Grall, did you
16 say ---?

17 A. Yeah, me and Ron, yeah, Ron
18 Grall, started walking. He was ahead
19 of me, I was behind him.

20 Q. Okay. Did you have any
21 conversations about where the other
22 individuals were or anything like

1 that?

2 A. Yeah, I stopped three or four
3 times and looked back and hollered at
4 them.

5 Q. Okay. Could you see their
6 lights or anything?

7 A. Yeah.

8 Q. So they were within visual ---

9 A. Yeah.

10 Q. --- visual distance?

11 A. Yeah.

12 Q. Okay. And where --- and you
13 said you had this walkie-talkie and
14 you had a conversation or ---

15 A. Yeah, I talked ---.

16 Q. --- just a brief discussion.

17 A. Yeah, just a brief --- yeah,
18 just a brief --- yeah.

19 Q. On the way out?

20 A. Yeah.

21 Q. Okay. You started --- you and
22 Mr. Grall were ahead of the others

1 and ---

2 A. Right.

3 Q. --- and kind of take it from
4 there.

5 A. Yeah, we was ahead of the
6 others and as we was walking out, we
7 heard a trip come in. I don't know
8 how many breaks we walked 'til we got
9 back out on the track and the time we
10 got back on --- got on the track and
11 seen the trip coming, and they
12 stopped and picked us up.

13 Q. Okay. When you first heard
14 that trip, was that --- was that the
15 trip going in or ---?

16 A. Yeah, the trip going in.

17 Q. Okay. Then you --- where were
18 you at whenever you come out on the
19 track?

20 A. There's a mechanics shanty, we
21 keep spare parts and everything in,
22 along the track.

1 Q. Okay.

2 A. That's where we come out. I
3 don't know what block it was. I
4 don't know, but anywhere that's where
5 we come out.

6 Q. Okay. When you heard this
7 trip going by, did you then
8 immediately go to the track or what
9 happened?

10 A. No. We walked a few more
11 blocks and then went out on the
12 track.

13 Q. And did you have to wait a
14 period of time for the trip to come
15 back?

16 A. No, it was just a few minutes
17 and it was there beside of us. You
18 know, we got on the trip and headed
19 outside.

20 Q. And who was all on that trip?

21 A. Well, the whole crew.

22 Q. Was Mr. Owens (sic) on that?

1 A. I don't remember.

2 Q. Okay. Whenever you got on the
3 trip them, could you relate any
4 conversations that you might have
5 had?

6 A. No, I didn't talk to nobody.

7 Q. You just wanted to get out?

8 A. Yeah, I just --- yeah, I
9 didn't talk --- I know I didn't hear
10 anybody talk.

11 Q. And so then you never did don
12 your SCSR?

13 A. No.

14 Q. Okay. And on your way up
15 through the intake there, was --- Mr.
16 Grall's detector, was it still
17 beeping or did it discontinue beeping
18 at any point?

19 A. Yeah, I don't think it was
20 beeping going down the intake. Yeah,
21 it wasn't. The only time I believe I
22 heard it beeping when we was going

1 over into the intake and maybe there
2 at the mantrip when the explosion
3 happened.

4 Q. Okay.

5 A. I'm not real sure.

6 Q. Okay. And there was never ---
7 or was there ever any reading taken
8 or Mr. Grall relate to you any
9 readings of ---

10 A. No, he didn't.

11 Q. --- too much CO or anything?

12 A. No, he didn't relate any
13 readings to me.

14 Q. Okay. So then you got on the
15 mantrip and you didn't have any
16 conversations with anyone?

17 A. Not that I recall, no.

18 Q. Okay.

19 A. I don't recall talking to
20 anybody. I don't think anyone was
21 talking.

22 Q. Who was operating the mantrip?

1 A. Vern, the mechanic. Vern
2 Hofer? I don't know his last --- I
3 can't remember his last name. He's a
4 mechanic.

5 Q. Then you started to the
6 surface then?

7 A. Yeah, we stated outside.

8 Q. Did you make any stops on the
9 way out?

10 A. No.

11 Q. Okay. Do you recall --- would
12 you be able to identify any stoppings
13 that may have been knocked out or
14 anything like that? Or did you
15 notice any stoppings being --- that
16 were knocked out from the mantrip up?

17 A. From where we got onto the
18 mantrip?

19 Q. No. Let's back up a second.
20 From the mantrip where the explosion
21 --- where you were at, at One Left
22 switch, ---

1 A. Okay.

2 Q. --- outby?

3 A. Okay.

4 Q. Do you recall any of those
5 stoppings that might have been out?

6 A. Yeah, there was --- yeah,
7 there was some out. I don't know how
8 many.

9 Q. But you don't know which ones?

10 A. No.

11 Q. Okay. Whenever you --- and
12 then you went to the surface without
13 making any stops?

14 A. Right.

15 Q. Okay. And when you got to the
16 surface, who was there?

17 A. I don't --- you mean like
18 right on the outside?

19 Q. Yes.

20 A. I don't remember.

21 Q. Okay. When you go to the
22 surface then what did you do?

1 A. Walked up to the bathhouse.

2 Q. Okay. Did everyone walk up
3 there or ---?

4 A. Yeah.

5 Q. Were there some individuals
6 wearing SCSRs at that point?

7 A. I don't remember.

8 Q. Okay. When you walked up to
9 the bathhouse then what did you do?

10 A. Well, I just went in and put
11 my light up and --- you know, in the
12 dispatcher's trailer there where we
13 keep the lights, I put my light up
14 and walked over into the bathhouse
15 and stood around, you know, just
16 trying to figure out why it happened,
17 you know, and worrying about the
18 other guys inside, you know, yeah.

19 Q. Do you recall any
20 conversations that anyone --- did
21 anyone ask you what happened or
22 anybody, so-called, debrief you or

1 talk to you about what had occurred?

2 A. No. No. There was some
3 medics there, you know, from --- EMTs
4 whatever you are, from the ambulance.
5 I don't recall no boss coming up to
6 me.

7 Q. Okay. Did the medics examine
8 you at all?

9 A. Yeah.

10 Q. What was the extent of that
11 examination?

12 A. It was very brief, you know. I
13 wasn't hurt or nothing.

14 Q. Yeah.

15 A. Yeah, so they just looked at
16 me and they put a blood pressure or
17 whatever it is on your finger, yeah.
18 That was about it.

19 Q. Do you recall any
20 conversations that the company may
21 have had while you were outside
22 discussing what happened or anything

1 like that, maybe not to you but any
2 others?

3 A. Company?

4 Q. Anyone.

5 A. Talking to me about it?

6 Q. Or any others. You or any
7 other conversations?

8 A. No, I don't think so. No. We
9 was all talking to one another, but I
10 don't remember any company personnel
11 talking to me. Just the crew, you
12 know.

13 Q. And what were you guys talking
14 about?

15 A. Oh, what just happened.

16 Q. Yeah.

17 A. And you know, what just
18 happened.

19 Q. Did anyone go back underground
20 afterwards?

21 A. After we got out?

22 Q. Yeah.

1 A. I don't know.

2 Q. I know you said you didn't
3 have any conversation with company
4 personnel or anything, but did
5 anybody ask you to go down, take any
6 methane readings or CO levels or take
7 any examinations ---

8 A. No.

9 Q. --- down near the pit mouth or
10 anything?

11 A. No.

12 MR. SWENTOSKY:

13 Mr. Mills?

14 BY MR. MILLS:

15 Q. Paul, are you a certified
16 underground miner in West Virginia?

17 A. Right.

18 Q. You mentioned you saw smoke.
19 Do you remember the color of that
20 smoke?

21 A. No. I don't know what color
22 it was.

1 Q. You mentioned Vern was
2 operating the mantrip on the way out.
3 Vern, One Left crew was in there. Do
4 you remember anybody else being on
5 the mantrip besides One Left crew and
6 Vern?

7 A. No.

8 MR. MILLS:

9 That's all I got for
10 now, Denny.

11 BY MR. SWENTOSKY:

12 Q. The old, do you know what I
13 mean by the old Two Left Main seals?
14 That's the ones that I'm sure you
15 know about that?

16 A. Yeah. Yeah.

17 Q. Okay. Did you have any
18 occasion to assist in building those
19 seals or anything?

20 A. No.

21 Q. Were you ever up at them, at
22 those seals?

1 A. No.

2 Q. What kind of methane do you
3 recall seeing on the continuous miner
4 on the monitor?

5 A. Every now and then it'd have a
6 reading, a small reading, you know,
7 not very --- just every now and then.
8 We didn't have any methane that I
9 knew of, you know, on our section.

10 Q. And what type of readings did
11 they have in tenths?

12 A. Oh, I don't know. Every once
13 in a while you might have two, three.
14 I never seen much above that and like
15 I said, that wasn't very often.

16 Q. Did you do any mining up in
17 that old Two Left --- old Two Left
18 area inby the sealed area?

19 A. Yeah, when I first started
20 there. When I first started at Sago
21 I worked up in there a little bit.

22 Q. Okay. Was there any --- was

1 there any additional methane up
2 there, more than, say, the Two Left
3 or what type of methane did you have
4 up there?

5 A. I don't really remember. I
6 don't know. I don't think it was
7 much up there either that I recall.
8 You know, I was running the shuttle
9 car, and I wasn't taking no gas
10 readings. I don't know.

11 Q. Yeah, I understand. Did you
12 ever hear of anyone talk about on
13 occasion more methane than usual?

14 A. No.

15 Q. Do you ever recall anyone
16 talking about cutting into any gas
17 wells or boreholes of any sort,
18 uncharted boreholes, ---

19 A. No.

20 Q. --- chartered boreholes?

21 A. No. No.

22 Q. Any of those discussions?

1 A. No.

2 Q. Do you recall when the last
3 annual retraining class that you may
4 have had?

5 A. I had one over at Spruce, the
6 mine. I hadn't had one at Sago.

7 Q. Okay. When you came to Sago
8 Mine ---

9 A. Yeah, May.

10 Q. --- in May of 2005, ---

11 A. Yeah.

12 Q. --- did anyone --- was there
13 any training sessions held with you
14 on your initial day there?

15 A. Yeah, we had a company
16 meeting, one company meeting, when I
17 first started there.

18 Q. Okay.

19 A. It wasn't what you call annual
20 retraining or anything. It was ---.

21 Q. Can you describe that for me a
22 little bit and your first day?

1 A. My first day at work there?

2 Q. Yes.

3 A. Well, it was like any other
4 day.

5 Q. Well, what I mean is --- maybe
6 I didn't make myself clear. The
7 first day that you were at Sago Mine
8 ---

9 A. Yeah.

10 Q. --- in May of 2005.

11 A. Yeah.

12 Q. Okay. What I was alluding to
13 was the training that you may have
14 had on that first day, like you know,
15 going over escapeway maps or --- you
16 know, describe that.

17 A. Yeah, I don't remember having
18 any training.

19 Q. Did anyone talk to you about
20 escapeway or show you any escapeways
21 out of the mine or ---?

22 A. Well, I don't recall. They

1 might have went over escapeways on
2 the map with me. I don't recall.

3 Q. Your last training --- the
4 last annual refresher training would
5 have been while you were at --- well,
6 you tell me when.

7 A. I don't remember.

8 Q. Okay. Whenever you had
9 training, do you recall anyone
10 signing the paper, you signing a ---
11 they call them 5023s, signing the
12 paper?

13 A. Well, I had retraining since
14 I've been in Philippi, you know, just
15 a few weeks ago, but I haven't had
16 any at Sago, you know, annual
17 retraining. I had it for this year,
18 but I don't remember having it for
19 2005.

20 Q. Did you have any --- you
21 worked at Spruce prior to Sago;
22 right?

1 A. Yeah.

2 Q. Okay. Do you recall the
3 training that you had at Spruce Mine?

4 A. Well, the annual retraining,
5 that's all I had at Spruce.

6 Q. Do you know when that was?

7 A. No. I'd have to look and read
8 it. I don't know when it was.

9 Q. Okay. Was the --- do you
10 recall any time whenever the mine
11 emergency evacuation plan was
12 discussed with you, the plan that you
13 would follow in case of an emergency?

14 A. No. They probably went over
15 it with us. I don't remember, you
16 know, what date or nothing. Yeah, I
17 don't remember, but ---.

18 Q. Do you know who the
19 responsible person is on the surface?
20 In other words, the person who would
21 direct the emergency responses, you
22 know, getting the people out of the

1 mine and instructing the people what
2 to do? Do you know who that person
3 is?

4 A. Dispatcher.

5 Q. Dispatcher, okay. And who
6 told you that?

7 A. No one told me. I just know
8 it's the dispatcher.

9 Q. Okay. Are you familiar with
10 the --- do you know where those
11 emergency materials are located,
12 that's the thousand board feet of
13 cords and there's nails, saws ---?

14 A. The emergency shed?

15 Q. Yes.

16 A. On the section.

17 Q. Okay. Is that the only one in
18 the mine that you're aware of?

19 A. That the only one I'm ---
20 yeah. There might be more. I just
21 know where the one in the section is,
22 you know, where I work

1 Q. Are you familiar with the
2 evacuation procedures like if an
3 explosion occurs or anything?

4 A. Yeah.

5 Q. You're familiar with those.
6 Can you describe that to me a little
7 bit?

8 A. Well, the emergency escapeway,
9 if something happens, you head for
10 emergency escapeway. You know, if
11 it's --- if you can't go down it, you
12 use the secondary escapeway.

13 Q. Okay. Do you recall anyone
14 talking to you about the procedures
15 to follow in case of an explosion?

16 A. Well, my training is just, you
17 know, go until you get out and then
18 head for the fresh air and emergency
19 escapeway and ---.

20 Q. Is that something they
21 discussed during the training that
22 you did have?

1 A. Yeah. Yeah.

2 Q. Do you recall anyone talking
3 to you about --- during training
4 session about barricading, procedures
5 for barricading?

6 A. Yeah, I've heard that all my
7 years in the mines, you know,
8 barricading.

9 Q. During your training sessions?

10 A. Yeah. Sure, yeah.

11 Q. Are you certified for methane
12 and oxygen tests?

13 A. No.

14 Q. Do you recall any time
15 whenever the hazards of carbon
16 monoxide might have been discussed
17 with you?

18 A. My training, yeah, we go over
19 it.

20 Q. You go over the hazards of
21 carbon monoxide?

22 A. Yeah. Yeah.

1 Q. And I think you've already
2 mentioned, escapeways are discussed
3 as part of that training?

4 A. Sure. Yeah, they're always,
5 yeah.

6 Q. Have you participated in
7 escapeway drill?

8 A. Not at Sago, no.

9 Q. Do you know what I mean? What
10 I mean is where a boss or someone
11 walks with you the escapeway out to
12 the surface?

13 A. Yeah. I don't remember
14 walking the escapeway at Sago.

15 Q. Not at Sago but ---

16 A. At Spruce I did. But I
17 haven't walked it at Sago.

18 Q. Are you familiar with the
19 markings of the escapeway?

20 A. Yes.

21 Q. And how are they marked?

22 A. Green reflectors.

1 Q. Green for the intake?

2 A. Yeah.

3 Q. And what's the alternate's
4 markings?

5 A. Well, that's the track. I
6 don't remember. I don't know.

7 Q. Okay. Have you participated
8 in any fire drills? Have they had
9 any fire drills on the section?

10 A. Yeah, we had fire drills. You
11 know, Owen would go over the --- what
12 we supposed to do before we started
13 the shift.

14 Q. And kind of --- can you
15 describe that a little bit how
16 you ---?

17 A. Well, my job would be
18 communication.

19 Q. Okay. And others would have
20 other ---

21 A. Different, yeah.

22 Q. --- different jobs?

1 A. Yeah.

2 Q. Did you like simulate a fire
3 or something or anything like that?

4 A. No.

5 Q. Just more or less going over
6 the duties in case of ---

7 A. Right.

8 Q. --- a fire? Okay. How about
9 SCSRs. Was there any ever training
10 given to you on how to don an SCSR?

11 A. Yes.

12 Q. Can you describe that a little
13 bit to me, please?

14 A. The donning of the SC --- the
15 donning, just put it on ---.

16 Q. The training that you
17 received.

18 A. Well, in the annual
19 retraining, we'd have that. We'd
20 practice how to put it on.

21 Q. And how did they show you to
22 do that?

1 A. Well, you'd kneel, take your
2 hat off, put your light towards the
3 SCSR, break it apart, put your
4 mouthpiece in, your nosepiece, your
5 goggles, strap it on you and head
6 out.

7 Q. Okay. And what did they use
8 --- did you have to go through that
9 procedure?

10 A. Yes.

11 Q. And did they have like a ---?

12 A. The training thing, yes.

13 Q. --- the training model?

14 A. Yeah.

15 Q. And you used that?

16 A. Right.

17 Q. Okay. And during that
18 training, did they tell you like when
19 you should put your SCSR --- when to
20 don your SCSR? Did they tell you
21 anything about that?

22 A. Yes.

1 Q. Okay. What did they --- what
2 did they tell you about that?

3 A. Well, it was put it on when
4 you need it, you know.

5 Q. They didn't describe anything
6 else, just put it on when you need
7 it?

8 A. Well, yeah, fire, smoke,
9 whatever we had, yeah.

10 Q. Was first aid part of the
11 training?

12 A. Yeah, we had first-aid.

13 Q. Do you recall what was covered
14 in the first aid?

15 A. I don't know, a little bit of
16 everything on first aid, you know,
17 talk about your wounds and your burns
18 and shock.

19 Q. One other question on the ---
20 if I back up for a second here. The
21 SCSR, did you receive that hands-on
22 training while at Sago Mine at all?

1 A. No, just in my annual
2 retraining. You know, I hadn't had
3 the annual retraining yet at Sago.

4 Q. Okay. So you received that at
5 Spruce, am I correct in saying that?

6 A. Yeah, Spruce, yeah I had ---
7 yeah.

8 Q. Okay. Do you recall, was a
9 roof control plan reviewed with you
10 for the Sago Mine?

11 A. Yes.

12 Q. For the Sago Mine?

13 A. Yeah, we went over roof
14 control.

15 Q. And the ventilation plan?

16 A. Yeah.

17 Q. And you say that was done at
18 Sago?

19 A. Yeah, I'm pretty sure that was
20 done at Sago, yeah. I remember,
21 yeah.

22 Q. Do you recall when that might

1 have been?

2 A. No. It might have been some
3 time when I first started there,
4 yeah.

5 Q. The training that you did
6 receive, do you feel it was adequate?

7 A. Yes.

8 Q. Was there anything else that
9 you think should have been part of
10 the training?

11 A. No.

12 MR. SWENTOSKY:

13 Do you have anything,
14 Brian?

15 MR. MILLS:

16 Just a couple.

17 BY MR. MILLS:

18 Q. You talked about the
19 walkie-talkie. Did you bring it
20 outside with you?

21 A. Yeah.

22 Q. And there was only one

1 communication on the walkie-talkie,
2 and that was between you and the
3 other shuttle car operator?

4 A. Yeah, just the one.

5 Q. You didn't hear any other
6 conversations on it?

7 A. No.

8 Q. You mentioned that you worked
9 on the old Two Left section. Did you
10 do any roof bolting in that area?

11 A. I didn't work on the Two Left
12 section.

13 Q. The old Two Left, inby where
14 the seals were?

15 A. Inby the seals, yeah, I worked
16 there. Yeah.

17 Q. Did you do any roof bolting?

18 A. No.

19 Q. Did you do any work with
20 setting pumps, taking water pumps
21 out, hanging water pump cables, any
22 type of work in the old Two Left?

1 A. No.

2 MR. MILLS:

3 That's all I have
4 again.

5 MR. SWENTOSKY:

6 Can we take a
7 five-minute --- just like a
8 five-minute break real quick
9 here?

10 SHORT BREAK TAKEN

11 BY MR. SWENTOSKY:

12 Q. Mr. Avington, I just have some
13 follow-up questions and I'll try and
14 move on as quickly as possible for
15 you. The walkie-talkie that you were
16 using, where do you usually use that
17 walkie-talkie?

18 A. On the section.

19 Q. Okay. So inby the feeder?

20 A. Yeah. Inby the feeder, yeah.

21 Q. And use them up in the face
22 area?

1 A. Right.

2 Q. Okay. So you just carry it
3 with you on the shuttle car all the
4 time ---

5 A. Right.

6 Q. --- as you go back and forth?
7 And you use that to communicate
8 between the other shuttle car driver
9 I think you said; right?

10 A. Yeah, between the other
11 shuttle car and the miner operators,
12 the boss.

13 Q. Okay. When you were --- you
14 said you made that --- or had that
15 conversation with the other shuttle
16 car operator on your way out, was
17 there any attempt to contact the
18 Second Left crew ---

19 A. No.

20 Q. --- that you recall?

21 A. No, it was just too far away.

22 Q. Okay. So there was never any

1 attempt to do that?

2 A. No. It wouldn't have reached.

3 Q. Okay. After the explosion
4 occurred, was there any attempt to
5 use the mantrip that you came in on?
6 Did you attempt to use that to get
7 out at all? Was there any attempt?

8 A. No.

9 Q. And why was that?

10 A. I don't know.

11 Q. Okay. We spoke about the
12 training and talked about the
13 certificates that you have to sign or
14 you sign after you receive the
15 training. Where did you sign those
16 certificates that you spoke about?

17 A. Where did I take the training?

18 Q. Okay. You said you took it at
19 Spruce; is that correct?

20 A. Yeah.

21 Q. And is that where you signed
22 your certificate?

1 A. Yeah.

2 Q. Okay. And who else signed
3 that certificate?

4 A. The man teaching the class. I
5 don't know who it was. I don't
6 recall. I don't remember who had the
7 class.

8 Q. Okay. When you were up in the
9 old Two Left section, which ---
10 that's the area inby the seals we
11 spoke about earlier.

12 A. Right.

13 Q. Okay. When you were up there,
14 do you recall any unusual roof
15 conditions, such as --- maybe like
16 was there fossils or you know, any
17 unusual roof conditions, as far as
18 marks on the roof or anything like
19 that, do you recall?

20 A. No, I don't recall none, no.
21 I don't --- no.

22 Q. Nothing more than what you

1 usually see?

2 A. Right. Yeah.

3 Q. Did you ever have an
4 opportunity to assist in installing
5 belt at any time?

6 A. No.

7 Q. Like stretching belt out and
8 ---

9 A. Yeah.

10 Q. --- and hanging it?

11 A. No, I didn't do any of that
12 work.

13 Q. Okay. Did you ever observe
14 anybody else doing that job?

15 A. Well, no. You mean at the
16 Sago Mine?

17 Q. Yes.

18 A. No.

19 Q. Okay. The barricading we
20 spoke about earlier and you said you
21 had heard --- have been instructed on
22 barricading over the years actually

1 and during those training sessions,
2 was when and how to construct those
3 barricades, was that discussed?

4 A. Yes.

5 Q. And how --- do you recall
6 those instructions?

7 A. Well, find anything you can to
8 barricade, whether it be cement
9 blocks or Omega blocks or whatever,
10 you know, just try to make it the
11 best you can.

12 Q. Okay. And was there ever any
13 discussions on when not to --- not to
14 barricade?

15 A. Well, it's a last resort type
16 thing.

17 Q. Okay. You mentioned about the
18 SCSR training that you had and I
19 believe you said that they told you
20 whenever you have fire or smoke ---

21 A. Right.

22 Q. --- that that's when you ---.

1 And did they mention explosion at
2 all?

3 A. Yeah. Yeah.

4 Q. And why didn't you don your
5 SCSR?

6 A. I just didn't feel I needed
7 it.

8 Q. Okay. When was the last day
9 and shift that you worked at Sago
10 Mine?

11 A. Well, it would have been
12 Thursday, you know, before the New
13 Year's ---.

14 Q. Okay. The Thursday before the
15 1st?

16 A. Yeah, whatever date, yeah.

17 Q. Whatever date that was?

18 A. Yeah.

19 Q. Okay. And what shift would
20 that have been?

21 A. Day.

22 Q. Dayshift?

1 A. Yeah.

2 Q. Have you ever been searched
3 for smoking materials?

4 A. Yes.

5 Q. Okay. And how do they do
6 that?

7 A. They just pat you down, you
8 know.

9 Q. And was that at the Sago Mine?

10 A. Yes, I've had it at Sago.

11 Q. Okay. How often do they do
12 that?

13 A. I don't know.

14 Q. Have you ever observed anyone
15 smoking underground?

16 A. No.

17 Q. Have you ever found smoking
18 materials underground?

19 A. No.

20 MR. SWENTOSKY:

21 Do you have anything?

22 MR. MILLS:

1 helped build any seals with Omega
2 blocks?

3 A. No.

4 BY MR. SWENTOSKY:

5 Q. Okay. Has anyone offered you
6 anything or made any promise to you
7 in exchange for your appearing here
8 today?

9 A. No.

10 MR. SWENTOSKY:

11 Let's go off the record
12 for a minute.

13 OFF RECORD DISCUSSION

14 BY MR. SWENTOSKY:

15 Q. Mr. Mills had just spoken to
16 you about building Omega block
17 stoppings. Could you describe how you
18 built those stoppings --- or let me
19 ask you this first, I'm sorry. Where
20 did you build those stoppings? Do
21 you recall?

22 A. Well, I helped build them at

1 Spruce and Sago on the section.

2 Q. On the section at Sago Mine
3 what ---

4 A. Yeah.

5 Q. --- what section?

6 A. The One Left.

7 Q. One Left?

8 A. Yeah.

9 Q. Okay. And can you describe
10 how you built those stoppings? Just
11 the procedure you used.

12 A. We just laid down the blocks
13 and, you know, plaster and mortar and
14 wedge them in on the sides and the
15 top.

16 Q. Okay. Whenever you prepared
17 for a stopping, did you --- what did
18 you --- how did you prepare that, the
19 bottom, you know, to make it level
20 and ---?

21 A. Well, just shoveled out the
22 best you could to make it level and

1 --- .

2 Q. Do you sprinkle, like, dry
3 mortar?

4 A. Rock dust.

5 Q. Rock dust?

6 A. Yeah, I've used rock dust
7 before to try to make it level.

8 Q. To level it out?

9 A. Yeah.

10 Q. And how about like maybe
11 mortar?

12 A. Yeah, mortar, yeah.

13 Q. Dry, wet?

14 A. Wet.

15 Q. Okay. You ever use dry mortar
16 to level it up?

17 A. Oh, maybe. I don't remember.

18 Q. Okay. Whenever you --- and
19 how did you prepare the blocks? Did
20 you use mortar on the vertical ---
21 the vertical sides and the horizontal
22 ---?

1 A. Yeah, just the sides and the
2 top and then plastered the rest of
3 it.

4 Q. Okay. Did you wet the blocks
5 at all whenever you were doing that?

6 A. No.

7 Q. No. What type of mortar did
8 you use?

9 A. B-Bond I think it's called.

10 Q. BlocBond?

11 A. Yeah, B-Bond, BlocBond. I
12 don't know what it's called. That's
13 ---.

14 Q. Okay. The color bags it comes
15 in? Yeah, I know ---.

16 A. I don't know.

17 Q. Like a blue bag, blue striped?

18 A. Blue, red, yeah, I don't know
19 what color it is. I don't know.

20 Q. Okay. Let me ask you this,
21 the material that you used to ---
22 when you say B-Bond, did it have

1 little styrofoam balls in it or is it
2 just ---?

3 A. I believe it was fiberglass.

4 Q. Okay. So it didn't have ---

5 A. Slivers.

6 Q. --- it didn't have any little
7 balls in it?

8 A. No.

9 Q. Okay. And whenever you built
10 the stoppings, and I had asked you
11 this a moment ago, but just for
12 clarification, did you use --- would
13 you dry stack them or would you use
14 ---?

15 A. Yeah, dry stack them.

16 Q. Okay.

17 A. Yeah.

18 Q. And then you used the ---
19 plastered them with the BlocBond; is
20 that correct?

21 A. Yeah.

22 Q. Okay.

1 MR. SWENTOSKY:

2 Did you have anything
3 else?

4 MR. MILLS:

5 That's okay. You got
6 them.

7 BY MR. SWENTOSKY:

8 Q. Do you have anything else that
9 you would like to add or anything you
10 want to tell us or think that you may
11 --- think that might be helpful?

12 A. No.

13 MR. SWENTOSKY:

14 Okay. On behalf of
15 MSHA, I would like to thank
16 you for appearing and
17 answering the questions here
18 today. Your cooperation is
19 very important to the
20 investigation as we work to
21 determine the cause of the
22 accident.

1 We ask that you not
2 discuss your testimony with
3 any person who may have
4 already been interviewed or
5 who may be interviewed in the
6 future. This will ensure that
7 we obtain everyone's
8 independent recollection of
9 the events surrounding the
10 accident. After questioning
11 other witnesses, we may call
12 you if we need to ask follow-
13 up questions that we feel that
14 we need to ask you. If at any
15 time you have additional
16 information regarding the
17 accident that you would like
18 to provide to us, please
19 contact us at the contact
20 information that was
21 previously provided to you,
22 and that was the business card

1 with Mr. Gates' number on it.

2 A. Okay.

3 MR. SWENTOSKY:

4 The Mine Act provides
5 certain protections to miners
6 who provide information to
7 MSHA, and as a result, are
8 treated adversely. If at any
9 time, you believe that you've
10 been treated unfairly because
11 of your cooperation in this
12 investigation, you should
13 immediately notify MSHA.

14 If you wish, you may
15 now go back over any answer
16 you have given during the
17 interview and you may also
18 make a statement that you
19 would like to make at this
20 time. Do you have anything to
21 add?

22 A. No.

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MR. SWENTOSKY:

Again, we thank you for
your cooperation in this
matter. Thank you.

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SWORN STATEMENT

CONCLUDED AT 10:09 A.M.

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