

STATEMENT UNDER OATH

OF

NATHAN HEROLD EYE

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  
Courthouse, 324 West Main Street,  
Clarksburg, West Virginia, on  
Thursday, February 17, 2006, at 12:19  
p.m.

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

2

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EXHIBIT PAGE

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P R O C E E D I N G S

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MR. SWENTOSKY:

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

1 Crawford, from the Solicitor's  
2 Office, and John Collins with  
3 the West Virginia Office of  
4 Miners' Health, Safety &  
5 Training.

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

21 At this time, the  
22 accident investigation team



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

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

22                        I would like to thank

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

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

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

1 Administration and the West  
2 Virginia Office of Miners'  
3 Health, Safety & Training into  
4 the conditions, events and  
5 circumstances surrounding the  
6 fatalities that occurred at  
7 the Sago Mine, owned by  
8 International Coal Group in  
9 Buckhannon, West Virginia, on  
10 January 2nd, 2006. This  
11 interview is being conducted  
12 at the U.S. Bankruptcy  
13 Courthouse in Clarksburg, West  
14 Virginia on February 17th,  
15 2006.

16 Questioning will be  
17 conducted by representatives  
18 of MSHA and the Office of  
19 Miners' Health, Safety &  
20 Training.

21 Mr. Eye, this interview  
22 will begin with my asking you

1 a series of questions. If you  
2 do not understand a question,  
3 please ask me to rephrase it.  
4 Feel free at any time to  
5 clarify any statements that  
6 you make in response to the  
7 questions. After we have  
8 finished asking questions, you  
9 will also have an opportunity  
10 to make a statement and to  
11 provide us with any  
12 information that you believe  
13 may be important.

14 If at any time after  
15 the interview, you recall any  
16 additional information that  
17 you believe may be useful in  
18 the investigation, please  
19 contact Richard Gates at the  
20 phone number and e-mail  
21 address provided to you. And  
22 that's on this business card,

1 and you may have that.

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

9 The court reporter will  
10 record your interview and will  
11 later produce a written  
12 transcript of this interview.  
13 Please try and respond to all  
14 questions verbally since the  
15 court reporter cannot record  
16 non-verbal responses.

17 MR. EYE:

18 Okay.

19 MR. SWENTOSKY:

20 Also please try to keep  
21 your voice up. Copies of the  
22 written transcripts will be

1 available at a later date.

2 If any part of your  
3 statement is based not on your  
4 own first-hand knowledge, but  
5 on information that you  
6 learned from someone else,  
7 please let us know. Please  
8 answer each question as fully  
9 as you can, including any  
10 information that you learned  
11 from someone else.

12 We may not ask the  
13 right questions to learn the  
14 information that you have, so  
15 do not feel limited by the  
16 precise questions that we ask.  
17 If you have any information  
18 about the subject area of the  
19 question, please provide us  
20 with that information.

21 At this time, Mr.  
22 Collins, do you have anything

1           that you would like to add on  
2           behalf of the Office of  
3           Miners' Health, Safety &  
4           Training?

5                           MR. COLLINS:

6                           Yes. Mr. Eye, the West  
7           Virginia Office of Miners'  
8           Health, Safety & Training is  
9           conducting this interview  
10          session jointly with MSHA and  
11          is in agreement with the  
12          procedures outlined by Mr.  
13          Swentosky today.

14                          But the Director  
15          reserves the right, if  
16          necessary, to call or subpoena  
17          witnesses or require the  
18          production of any records,  
19          documents, photographs or  
20          other relevant information  
21          necessary to conduct this  
22          investigation. And then also,

1 here's a card if you'd wish to  
2 contact us later.

3 MR. EYE:

4 All right.

5 MR. COLLINS:

6 Thank you.

7 MR. SWENTOSKY:

8 Mr. Eye, are you aware  
9 that you may have a personal  
10 representative present during  
11 the taking of this statement?

12 MR. EYE:

13 Yes.

14 MR. SWENTOSKY:

15 Do you have a  
16 representative present here  
17 today?

18 MR. EYE:

19 Yes.

20 MR. SWENTOSKY:

21 And who would that be?

22 ATTORNEY YUHAS:



1 Joe Yuhas.

2 MR. SWENTOSKY:

3 Thank you. Has anyone  
4 suggested to you that you use  
5 this representative?

6 MR. EYE:

7 No.

8 MR. SWENTOSKY:

9 Are you aware that your  
10 representative may have a  
11 conflict of interest in  
12 representing you while being  
13 provided by someone else, such  
14 as the company?

15 MR. EYE:

16 No.

17 MR. SWENTOSKY:

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

21 MR. EYE:

22 No.

1                   MR. SWENTOSKY:

2                   With this  
3                   understanding, do you still  
4                   choose this representative ---

5                   MR. EYE:

6                   Yes.

7                   MR. SWENTOSKY:

8                   --- as your  
9                   representative?

10                  ATTORNEY YUHAS:

11                  Let me clarify that one  
12                  question.

13                  MR. SWENTOSKY:

14                  Yes.

15                  ATTORNEY YUHAS:

16                  He indicated that he  
17                  was not aware that I was  
18                  provided for by the company.  
19                  I think he is aware of that.

20                  MR. EYE:

21                  Oh, yeah. Yes, I am  
22                  aware that the company ---.

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ATTORNEY YUHAS:

There may be a conflict  
of interest.

MR. EYE:

Oh, okay. I  
misunderstood the question.

MR. SWENTOSKY:

Sure.

MR. EYE:

Yes. I understand that  
the company has provided him,  
but I do choose to use him.

MR. SWENTOSKY:

Okay. Thank you. Do  
you have any questions  
regarding the manner in which  
this interview will be  
conducted at this point?

MR. EYE:

No.

MR. SWENTOSKY:

Could you swear in Mr.

1 Eye, please?

2 -----

3 NATHAN HEROLD EYE, HAVING FIRST BEEN  
4 DULY SWORN, TESTIFIED AS FOLLOWS:

5 -----

6 BY MR. SWENTOSKY:

7 Q. Could you please state your  
8 full name and spell your last name  
9 for us, please?

10 A. My name is Nathan. My middle  
11 name is Herold, H-E-R-O-L-D. And my  
12 last name is Eye. And that's spelled  
13 E-Y-E.

14 Q. Could you provide us with your  
15 address and your telephone number,  
16 please?

17 A. [REDACTED]  
18 [REDACTED]  
19 [REDACTED]

20 Q. Are you appearing here today  
21 voluntarily?

22 A. Yes.

1 Q. And Mr. Eye, how many years of  
2 mining experience do you have?

3 A. I've been in and out of the  
4 coal mines since 1989, in different  
5 jobs.

6 Q. Okay. Can you give us a brief  
7 description of your coal mining  
8 employment history, please?

9 A. I started as a red hat at  
10 McTeekee (phonetic) Coal for Paul  
11 Tenney Mining, Incorporated, and  
12 worked there until I got my time in  
13 to get my black hat. Then I hired on  
14 to Anker Mining in --- I'm not sure  
15 of the year. I started at Stony  
16 River Mine until they closed. I went  
17 from Stony River for Anker to Stoyer  
18 (phonetic) Mine in Maryland. I quit  
19 there. I started vulcanizing belts  
20 for a company out of Blairsville, PA  
21 called Conveyer Services.

22 I went back to McTeekee for a

1 contractor, Fairfax Machine and  
2 Welding. Was there for several years  
3 working on their longwall, welding,  
4 doing welding on their longwall with  
5 their equipment or shields, stuff  
6 like that, when they had longwall  
7 moves. Took care of their outside  
8 belt lines and helped at the prep  
9 plant there.

10 And then just --- let's see,  
11 then I hired on four years ago for  
12 Anker again. Well, actually, it was  
13 a contracting unit that went out of  
14 business.

15 Q. The best you remember.

16 A. Island Four Construction.  
17 Started for Island Four Construction  
18 at Spruce Number One and then hired  
19 on to Anker. And then I've been with  
20 Anker 'til they transferred me over  
21 to Sago when Spruce shut down. And  
22 now it's International Coal Group.

1 Q. Okay. Well, how much time was  
2 --- or when did you start at Sago  
3 Mine?

4 A. It was in March of 2002.

5 Q. Okay. What did ---?

6 A. Oh, wait a minute. You said  
7 Sago; right?

8 Q. Yes, sir.

9 A. Oh, no, at Sago, June of 2005.  
10 I'm sorry. I was thinking Spruce.

11 Q. Okay. And what is your  
12 present position?

13 A. I'm dispatcher.

14 Q. How long have you worked in  
15 your present position as dispatcher?

16 A. Since June of 2005.

17 Q. So then your entire time at  
18 Sago Mine has been spent as a  
19 dispatcher?

20 A. Yes.

21 Q. Okay. At any time, as an  
22 extra or anything, did you work at

1 any other position?

2 A. No.

3 Q. Have you ever been underground  
4 at Sago Mine?

5 A. No, sir.

6 Q. Were you working on the day of  
7 the accident, June 2nd of 2006?

8 A. No, sir.

9 Q. What is the last day that you  
10 worked prior to the accident?

11 A. Sunday the 1st.

12 Q. Okay. Could you just in  
13 general describe your normal job  
14 duties?

15 A. I dispatch your mantrips in  
16 and out from underground on the  
17 sections. If they have a problem or  
18 need parts from outside, I make sure  
19 that the motor men get their supplies  
20 into the section that they need,  
21 answer the phones in the dispatch  
22 office, watch the CO monitor screen.



1 That's generally it.

2 Q. Okay. Do you have any mining  
3 certificates --- certifications?

4 A. Yeah, I have my underground  
5 card.

6 Q. Do you have any certifications  
7 like mine foreman, ---

8 A. No.

9 Q. --- mine examiner, or anything  
10 like that?

11 A. No.

12 Q. Who is your immediate  
13 supervisor?

14 A. My immediate would be Carl  
15 Crumrine. And Jeff Toler would be  
16 the immediate supervisor over him.

17 Q. And how long has Mr. Toler  
18 been your immediate supervisor?

19 A. I couldn't answer that. I'm  
20 not sure how long he's been there.

21 Q. Okay. Were you working --- or  
22 did you work any time during the

1 rescue efforts?

2 A. No, sir.

3 Q. You weren't at the mine any of  
4 that period?

5 A. No, sir, I was not.

6 Q. What was the next day that you  
7 worked after the accident?

8 A. Let's see, the accident was on  
9 Monday, the 2nd. And I didn't come  
10 back in to work until Friday, that  
11 following Friday.

12 Q. What schedule do you normal  
13 work?

14 A. Friday, Saturday and Sunday.  
15 That's my schedule. I work every  
16 Friday, Saturday and Sunday. That's  
17 my scheduled shift.

18 Q. And how many hours do you work  
19 those days?

20 A. Three 12s.

21 Q. Three 12s. And you say you  
22 worked on the 1st, ---

1 A. Yes, sir.

2 Q. --- the day before the  
3 accident?

4 A. Yes, sir.

5 Q. And when you worked, what  
6 hours did you work?

7 A. I worked my scheduled 12, or  
8 6:00 to 6:00 shift, 6:00 a.m. to 6:00  
9 p.m.

10 Q. Okay.

11 A. I worked my scheduled shift.

12 Q. And who did you relieve that  
13 day?

14 A. I don't know. We'd have to go  
15 back on the schedule and look.  
16 That's been a month ago. I don't  
17 know who was working.

18 Q. Okay. And during your shift  
19 that day, how many miners were  
20 underground, do you recall?

21 A. No, I wouldn't know, not  
22 without looking at the schedule.

1 Q. And how do you track the  
2 miners underground. You said you  
3 were a dispatcher. How do you do  
4 that?

5 A. Well, like if we have a  
6 mantrip going in and they're going to  
7 Two Left, they dispatch on the  
8 mantrip radio or the mine phone and I  
9 write it down on a sheet of paper,  
10 the date, the time, the mantrip  
11 number and who's the operator. And  
12 they go to the section and they clear  
13 up when they get there, let me know  
14 that they're there.

15 Q. Okay. On the 1st, the shift  
16 that you were working, was the  
17 trolley phone working?

18 A. Yes, as far as I know. I  
19 don't remember having any trouble  
20 with them.

21 Q. Okay. And what activities  
22 were going on during your shift

1        underground, do you recall? Or what  
2        would you know about that?

3        A.        I think the motor crew was  
4        ballasting track, and I can't  
5        remember. There was only three or  
6        four, or four or five. There wasn't  
7        very many guys there. It was a  
8        volunteer day. If you wanted to  
9        work, you could.

10               And if you --- there wasn't  
11        very many working, just a couple  
12        guys. But I know the motor crew were  
13        ballasting track, but I don't  
14        remember who else was there and what  
15        they were doing.

16        Q.        Okay. How do you determine if  
17        the belts are running and the power's  
18        on and the fan's running, the CO  
19        sensors are functioning?

20        A.        Well, we have a computer  
21        screen that has your belt lines, your  
22        CO-monitoring system, all that. The

1 belt line, CO-monitoring system is  
2 right there on the computer screen.  
3 And as far as the fan, I can hear it  
4 running from the dispatch trailer.

5 Q. Okay. But by that system,  
6 you're not able --- you can't monitor  
7 the power or anything like that?

8 A. Oh, yeah. Yeah, if we lose  
9 power underground, my screen will go  
10 all grey.

11 Q. It will show?

12 A. Yeah, it will show a power  
13 loss, yeah.

14 Q. What about the fan? Is it  
15 shown on the screen at all?

16 A. I'm going to look --- I don't  
17 think the fan ---. I'm not sure on  
18 the fan.

19 Q. Okay.

20 A. I mean, we've never had no  
21 trouble with it when I was there. I  
22 wouldn't know if it would show up or

1 not.

2 Q. Are there any other functions  
3 that you can monitor from the screen?

4 A. No. I don't think so.

5 Q. Can you describe the AMS  
6 system used at the mine? That's the  
7 sensors, the alarms and the warnings.  
8 Kind of go through what it showed.

9 A. You mean your CO system?

10 Q. Yes. What it shows and what  
11 you do in reaction to any alarms ---.

12 A. Okay. Your CO system's on our  
13 screen --- all your COs are showed as  
14 a green square. Each CO is showed as  
15 a green square. If you get zero to  
16 six parts per million, you just get a  
17 --- the box will turn yellow and then  
18 there will be an alarm go off. And  
19 it will show you a CO warning. And  
20 if I get that, I have someone go  
21 check the CO. And if there's nothing  
22 wrong there, and everything's okay, I

1 clear the CO back to green.

2 Anything above six parts per  
3 million on the CO, it turns red and  
4 gives you another audible alarm. And  
5 I would have someone to check it  
6 again if that's the way ---. It  
7 gives you a warning up to six parts  
8 per million and it turns yellow and  
9 six parts per million and higher it  
10 turns red and gives you an alarm.  
11 And then I just get ahold of our fire  
12 boss or whoever's on that particular  
13 area and have them to check that CO  
14 number, and then get back with me and  
15 let me know what's going on.

16 Q. Okay. You say six parts per  
17 million.

18 A. Yeah, they're sensitive.

19 Q. Okay. But what about ten  
20 parts per million?

21 A. It would give you a red --- an  
22 alarm. Anything above six it would



1 give you an alarm and I would have  
2 someone go to that area and check it  
3 and let me know what's going on  
4 immediately. If we have any trouble  
5 with them, I always have someone go  
6 to that area and see what the problem  
7 is.

8 Q. All right. Okay. At six  
9 parts per million, then when it shows  
10 a --- it shows, you said, a yellow?

11 A. Yeah, yellow. It will give  
12 you a yellow warning.

13 Q. And at that point there, who  
14 would you call?

15 A. It would depend on who would  
16 be your belt man or your fire boss in  
17 that particular --- you know, it  
18 depends on who's in that area,  
19 because where it would be on the  
20 section. If it's on the section,  
21 always get ahold of the section boss.

22 Q. Okay. And if it's outby the

1 section?

2 A. Well, that would be your fire  
3 bosses, depending on who that would  
4 be on that particular shift at that  
5 time.

6 Q. And when it goes into the six  
7 parts per million, this alert, is  
8 there an audible alarm at that ---?

9 A. Yeah. Well, it's audible, but  
10 when it gives you a warning, it will  
11 give me an audible alarm off my  
12 computer.

13 Q. Okay. I'm talking about at  
14 six parts per million, will you hear  
15 an audible and a visual or just a  
16 visual or an audible?

17 A. Both, you get both.

18 Q. Both. Both the visual and ---  
19 and what is the visual?

20 A. Well, the screen.

21 Q. Okay. The screen is the  
22 visual?

1 A. The screen, yeah.

2 Q. You also have an audible on  
3 it?

4 A. Yes. Yeah.

5 Q. And, you know, suppose it was  
6 an outby sensor --- and do you call  
7 the sections at all also at all,  
8 whenever you see that?

9 A. Well, now I don't --- usually  
10 someone picks up the phone and, you  
11 know, they listen ---. Usually  
12 people listen in on the conversation  
13 anyway because the page system goes  
14 throughout the mine. But no, I don't  
15 --- not just when I'm having someone  
16 to check one to get back with me, I  
17 usually don't call the section on an  
18 outby.

19 Q. Okay. So you don't purposely  
20 call a section and alert them that  
21 you have an alarm or an alert?

22 A. Yeah. Just for --- you know,

1       it depends on what my parts per  
2       million are. You know, if I have a  
3       six or a seven parts per million, you  
4       now, I don't call in on the section  
5       and say anything. I send my fire  
6       boss to that area and have him get  
7       back with me and let me know what's  
8       going on.

9       Q.       And then --- okay, then when  
10       does it turn red, what parts per  
11       million?

12       A.       I'm trying to see. Zero to  
13       six gives you a yellow. Seven parts  
14       per million would turn it red, would  
15       give you a red visual and an audible,  
16       both.

17       Q.       Okay. Is there a difference  
18       --- when it turns red, is there  
19       another alarm that goes off or ---?

20       A.       No, it's the same. You know,  
21       you get the same audible alarm. The  
22       only difference is the color of the

1 monitor screen.

2 Q. When it turns red, what do you  
3 do?

4 A. Contact the fire boss. Or if  
5 it's on the tailpiece on the section,  
6 I contact the section foreman and  
7 have them check it and get back with  
8 me so I know what's going on.

9 Q. Okay. Do you ever --- when it  
10 turns red, do you ever call the  
11 sections that are inby the sensors  
12 and ask them to evacuate or anything?  
13 What color or what reading would you  
14 receive that you would actually ask  
15 the people to move outby the sensor  
16 that you have a red color on, an  
17 alarm?

18 A. In parts per million?

19 Q. Yes.

20 A. I don't know. I've never  
21 really been --- it had never really  
22 been discussed, but I would figure

1 anything above 20 parts per million  
2 would be way too much to leave  
3 anybody in by. I mean, if you get one  
4 that goes off on six --- you know,  
5 and it happens. And you'll get one  
6 that will go off on six or seven  
7 parts per million and then you go up  
8 there, send a guy up there and he  
9 hangs around there and lets you know  
10 there's nothing going on. And he  
11 hangs around a little bit and nothing  
12 else ever happens, you know.

13 Q. Have you ever had an occasion  
14 whenever you had an alarm and you had  
15 to call the sections and instruct  
16 them that you have a certain reading  
17 and that they need to evacuate out by  
18 a particular sensor?

19 A. No.

20 Q. Have you ever been instructed  
21 on what to do in those types of  
22 situations?

1 A. No. I mean, not as far as  
2 what parts per million to do it at,  
3 no.

4 Q. Is there a difference between  
5 the alert ---? Let's put it this  
6 way, you mentioned to me that you  
7 have an alert which is around six  
8 parts per million. And you have a  
9 visual and an audible alarm. The  
10 visual being the screen and the  
11 audible is, what, a buzzer?

12 A. Yeah, it's the same buzzer.  
13 It goes off both for a warning and,  
14 you know, for ---.

15 Q. Does the buzzer keep buzzing  
16 or do you have to shut it off?

17 A. I have to --- yeah, I have to  
18 --- you know, when it goes off, I  
19 have to go to the screen and click  
20 acknowledge on the buzzer, but that  
21 don't clear it. And then I have to  
22 get on the mine phone ---

1 Q. Okay.

2 A. --- and get someone to go look  
3 at it. And I don't clear it until  
4 someone gets back with me, because  
5 once I clear it, you know, it clears  
6 it on the screen.

7 Q. Okay. If the CO level and  
8 parts per million would continue to  
9 let's say go to ten, another alarm  
10 you said would go off; is that  
11 correct or did I misunderstand?

12 A. What, while I'm standing there  
13 watching it on the ---? Yeah, it  
14 won't ---. No. Once I acknowledge  
15 it, it will be acknowledged until  
16 someone calls me and lets me know.

17 Q. Okay.

18 A. But it stays on the screen,  
19 the visual does. The visual will  
20 keep monitoring the CO.

21 Q. If the CO level ---?

22 A. But the audible won't go back



1 off until someone gets back with me  
2 and I clear it.

3 Q. If the CO level would climb to  
4 let's say 10 ppm, the CO level at ten  
5 parts per million, will another alarm  
6 go off?

7 A. You mean on the same --- well,  
8 on the same one?

9 Q. Yes.

10 A. Once I've acknowledge it and  
11 I've got it on the screen, ---

12 Q. Yes.

13 A. --- and I've already got  
14 someone going to it?

15 Q. Yes.

16 A. I can't truthfully answer  
17 that. I don't know. I don't know  
18 whether it does or not.

19 Q. Okay.

20 A. I see what you're saying, that  
21 once I've acknowledged the first  
22 audible alarm, will it go off again?

1 I don't know.

2 Q. If a sensor --- CO sensor goes  
3 off, due to let's say a seven ppm  
4 reading, is there a section alarm  
5 that will go off, like a strobe light  
6 or an alarm in the section?

7 A. I don't know. They have an  
8 alarm on the section, but I don't  
9 know whether there's ---. I don't  
10 know if ---. I don't know.

11 Q. Do you recall whether there'd  
12 been any problems with the CO system  
13 at all on the day --- during your  
14 shift? Were they having any problems  
15 with the CO system at all?

16 A. Which?

17 Q. On the shift that you worked  
18 on the 1st of January.

19 A. I don't know, without going  
20 back and printing off ---.

21 Q. Okay. But you don't recall  
22 having any problems?

1       A.           Not that I recall. That's a  
2 month ago. I don't --- you know ---.  
3 I mean, if I had the --- if we would  
4 have a print-off or something, then  
5 we could look, but just to remember,  
6 I don't know.

7       Q.           Okay. What's your procedure  
8 for welding and cutting? If someone  
9 is going to weld and cut along the  
10 track, or along the belt where the CO  
11 sensors are located, what occurs at  
12 that time?

13      A.           Well, usually the crew that's  
14 going to do the work on the belt,  
15 they will notify us that they're  
16 going to be doing some cutting or  
17 welding around the belt head or  
18 tailpiece or something. And then  
19 they go in there and I guess they do  
20 their test, what they need to do.  
21 And then I still --- when an alarm  
22 goes off, I still get ahold of the

1 crew and have them check the CO when  
2 they're under there.

3 Q. Even whenever they're welding  
4 and cutting?

5 A. Yeah. If it goes off, I have  
6 them check that.

7 Q. Do they notify you whenever  
8 their work is completed?

9 A. Yes.

10 Q. Whenever they're calibrating  
11 the CO sensors, do they notify you?  
12 They being the persons who are doing  
13 the calibration?

14 A. Yeah. If they're going to be  
15 working on them, yeah, they let us  
16 know they're going to be ---. That  
17 way we know what's going on.

18 Q. And if you have a sensor which  
19 is not working, what procedures do  
20 you follow? Say that there's one not  
21 working for whatever reason, what do  
22 you do?

1       A.       Well, it will stay --- it will  
2       stay, you know red or yellow for  
3       whatever reason it might be.    And  
4       then they --- you know, they make the  
5       repairs that they need to make on it.  
6       That would be the maintenance, you  
7       know.

8       Q.       Does anyone ever monitor with  
9       hand-held detectors at those sensors  
10      whenever they're not working  
11      properly?

12      A.       Well, that's what you're  
13      saying --- that's why I call the fire  
14      boss, so he can go in and do his  
15      checks at the sensors, because out  
16      there looking at that screen, I can't  
17      --- you know, I don't know.

18      Q.       Sure I understand.    And let's  
19      suppose that he finds out that the  
20      sensor needs replaced, okay?    And  
21      what occurs during the period of time  
22      that that sensor is not operating?

1       A.       There has been guys stay  
2       there, you know, if they're having a  
3       problem and we don't know, there has  
4       been guys stay there with the CO, if  
5       it just keeps going off and bothering  
6       us.    And if it goes off once and  
7       won't clear and there's no signs of  
8       nothing there with our monitor, then  
9       we get ahold of the maintenance crew  
10      and then they have to go in and  
11      repair the CO.

12      Q.       Does someone stay at that  
13      location until it's repaired at all,  
14      do you know?

15      A.       I don't know how they do that.  
16      I mean, I don't know what they do  
17      underground.

18      Q.       Okay.

19      A.       I don't know whether someone  
20      stays with it 'til maintenance gets  
21      there or, you know, if everything's  
22      clear and they're standing there

1 talking to me on the phone and it's  
2 clear, I don't know whether they stay  
3 there or not.

4 Q. In a situation where let's say  
5 that all of the sensors or the CO  
6 system, as an example, in the One  
7 Left section, if all of those sensors  
8 were not working properly, what  
9 occurs at that time?

10 A. If all the sensors are not  
11 working?

12 Q. On the One Left section,  
13 hypothetically, if that would occur.

14 A. Until the CO system was  
15 repaired or it was fire bossed by ---  
16 you know, you wouldn't send --- I  
17 wouldn't send --- let the crew go in  
18 on One Left. I mean, if I go in and  
19 the whole screen goes --- you know,  
20 the whole CO system goes down or  
21 something, you know, why let anybody  
22 go in, ---

1 Q. Okay.

2 A. --- until I'm sure what's  
3 going on.

4 Q. Does anyone monitor that belt  
5 with a CO detector maybe during that  
6 time and they would continue to work?

7 A. While the whole system was  
8 down?

9 Q. One Left --- yes, the One  
10 Left, let's say all the sensor  
11 systems.

12 A. I don't know what they'd do in  
13 that procedure.

14 Q. All right.

15 A. I mean ---.

16 Q. Is there a record of the  
17 maintenance calibration and  
18 malfunctions? Is that record kept?

19 A. I don't know. That would be  
20 maintenance.

21 Q. All right.

22 A. I have no access to that



1 stuff.

2 Q. Is there a map or a schematic  
3 showing each belt flight and the  
4 details of the monitoring system  
5 posted at the mine, are you aware of  
6 that?

7 A. We have a mine map with the  
8 --- you know, it has your intake and  
9 your track and your belt and your  
10 sections, working sections on it, you  
11 know.

12 Q. Was there one --- is there a  
13 map or a schematic that shows the CO  
14 sensors where they're located?

15 A. I think they can print one off  
16 our screen if it's needed. They're  
17 in the dispatch trailer.

18 Q. All right. Is there an  
19 automatic kill-type system that will  
20 disconnect all the batteries that go  
21 underground?

22 A. All the batteries?

1 Q. Or excuse me, the batteries  
2 that operate the system if the power  
3 is removed. Is there an automatic  
4 kill system that you would just hit  
5 and it would shut those off? Like  
6 for example, if the fan goes down?

7 A. To shut the COs off?

8 Q. Yes.

9 A. No, I don't think you can shut  
10 the COs off if the fan goes down. I  
11 think that's set up on a ---. I hate  
12 to answer that. I'm not sure.

13 Q. All right. If you would  
14 perform any duties that would require  
15 you to be away from the screen, or in  
16 a situation where you couldn't see  
17 the screen, or ---?

18 A. No, I'm not allowed out of the  
19 ---. If I have to leave the trailer,  
20 I get someone else to cover the  
21 system.

22 Q. Okay. If you're on the phone,

1       you can still see the screen?

2       A.       Uh-huh (yes).    Yes, sir.

3       Q.       Suppose you were wanting to  
4       get ahold of someone in section say  
5       One Left or Two Left, ---

6       A.       Uh-huh (yes).    Okay.

7       Q.       --- is it possible for you to  
8       activate the alarm, the CO alarm in  
9       the sections to gain their attention?

10      A.       Yes.

11      Q.       Okay.    And there's occasions  
12      when you do that, like if they're not  
13      answering the phone, that you'll set  
14      off that alarm to get their  
15      attention?

16      A.       Yes, sir.    Well, it's a ---  
17      yeah, a light.    It's visual.    It's a  
18      light at the feeder.

19      Q.       Okay.    And if they're not  
20      answering the phone sometimes, that's  
21      how you get their attention?

22      A.       Yes.

1 Q. How often does that happen, do  
2 you think?

3 A. I don't know whether I've had  
4 to do that ---. I think once I've  
5 had to --- like if they have a miner  
6 hung up or something and everybody's  
7 down there working, you know, they  
8 can't hear you or something. I think  
9 I've had to do it once.

10 Q. Is that like once a day  
11 or ---?

12 A. No. No, just once since I've  
13 been there.

14 Q. How do you tell the difference  
15 between a nuisance alarm and a real  
16 alarm? Is there a way you can tell  
17 that?

18 A. No.

19 Q. So an alarm is an alarm?

20 A. Yeah.

21 Q. I'm going to present you with  
22 a series of pages of the computer

1 log. And there's eight pages. And  
2 the first page is actually --- on the  
3 bottom it's marked as page five. And  
4 this is a computer log from the  
5 CO-monitoring system. And I've  
6 stapled those pages together for  
7 convenience. And you notice I've  
8 highlighted an area in yellow  
9 highlight. And it starts on  
10 12/31/2005, 2:37:32, time. Do you  
11 notice that?

12 A. 2:37:32. Okay.

13 Q. Okay. And the station is  
14 identified as 199; is that correct?

15 A. One Left Section line, yes.

16 Q. The last words on that  
17 particular line indicates alarm  
18 latch; is that correct?

19 A. Yes.

20 Q. And what does that mean?

21 A. I don't know what the alarm  
22 latch ---. I don't know what that's

1 referring to.

2 Q. Okay. If you ---.

3 A. Latch. Warning gained ----.

4 Q. As you can see, ---

5 A. Twenty-six (26) ---.

6 Q. --- as we continue down to the  
7 bottom of the page, we're talking  
8 about the One Left section alarm; is  
9 that correct, all stations, 199?

10 A. Yeah, 199.

11 Q. Okay. And as you look down  
12 through there, it shows alarm latch.  
13 And then there's one that says  
14 warning and gained. Do you know what  
15 any of those indications mean?

16 A. Well, warning, it's when it  
17 evidently went off, the alarm.

18 Q. Do you know what --- let's  
19 look at ---.

20 A. The latch, I'm not sure what  
21 the latches mean on the one, because  
22 the printer's not ---. I mean, this

1 printer is not on in the office  
2 because we've got the screen on all  
3 the time.

4 Q. Okay. Do you ever look at  
5 these logs at all?

6 A. I don't print these off. This  
7 is --- you know, this is not  
8 something ---.

9 Q. Okay. You've never seen this  
10 type of thing before?

11 A. Yeah, I've seen them but I  
12 mean I don't --- this is not  
13 something I run off and file every  
14 day, ---

15 Q. I understand.

16 A. --- because it's on the  
17 computer. They can get it any time  
18 they need it.

19 Q. Okay. Let's just start at the  
20 top there again for a second.

21 A. Okay.

22 Q. The first one that's

1 highlighted, 12/31/2005 at 2:37:32.

2 And that's the first one we looked at  
3 a moment ago.

4 A. Yes.

5 Q. One Left Section alarm. And  
6 it says alarm latch, okay?

7 A. Okay.

8 Q. And you don't know what that's  
9 really referring to; is that correct?

10 A. No. I don't know what the  
11 alarm latch is referring to.

12 Q. If we look at the next line  
13 where it says 12/31/2005, at 2:37:32,  
14 which is the same time and the same  
15 section alarm, that being One Left,  
16 and it says, warning. Okay? What  
17 does that mean?

18 A. Well, it's telling me that the  
19 alarm --- it's a warning.

20 Q. And if you look at the next  
21 line below that, out there under  
22 where it says 12/31/2005, it says



1 latch set, 16 ppm. What's that  
2 referring to?

3 A. Now, you've lost me.

4 Q. All right. It would be the  
5 --- see where it says the 12/31/2005  
6 at 2:37 ---?

7 A. 2:37:32, it says warning.

8 Q. All right. And then the next  
9 line below that, right below that.

10 A. Latch set.

11 Q. Under the date.

12 A. Yeah, it says ---.

13 Q. Latch set 16 ppm in  
14 parentheses. What does that mean?

15 A. I don't know.

16 Q. Okay. If you look at the next  
17 line down, 12/31/2005, 2:38:54, you  
18 see that?

19 A. Yeah.

20 Q. Okay. Right below that it  
21 says communications dead, what's that  
22 mean?

1           A.           That it's lost communications  
2           is the only thing I can ---.

3                           MR. SWENTOSKY:

4                           That will be good.

5                           Thanks, Nathan.   And this will  
6                           be marked Exhibit One.

7                                   (Eye Exhibit Number One  
8                                   marked for  
9                                   identification.)

10           BY MR. SWENTOSKY:

11           Q.           Okay.   Who is the responsible  
12           person that is designated by the mine  
13           operator to direct evacuation of the  
14           mine in case of emergency?

15           A.           That would be the dispatcher.  
16           Well, no, repeat that again.   You ran  
17           through that one so quick.

18           Q.           All right.   I'm sorry.

19                           Who is the responsible person  
20           designated by the operator to direct  
21           the evacuation of the mine in case of  
22           an emergency?   If you have an

1 explosion, a mine fire, an inundation  
2 of water, some type of emergency such  
3 as that.

4 A. I guess that would be the  
5 dispatcher.

6 Q. Have you ever been told that's  
7 you?

8 A. No, not personally, no. I  
9 haven't been told, no.

10 Q. Has anyone ever discussed with  
11 you the responsibilities of the  
12 firefighting and evacuation of the  
13 mine, what should be done in case of  
14 an emergency?

15 A. Yeah. When I first went  
16 there, Johnny Stemple went through  
17 --- he's our assistant safety  
18 director. He went through the  
19 procedures when he first got me to  
20 --- because when I first went over  
21 there, that was supposed to be a  
22 temporary position.

1 Q. In case of an explosion or  
2 anything, what procedures would you  
3 follow?

4 A. Well, I'd have to notify the  
5 proper personnel first. That should  
6 be upper management, Carl, Jeff. And  
7 try to contact my sections to see if  
8 I can get any response underground.

9 Q. Do you have certain  
10 individuals that you would contact in  
11 case of an explosion or fire?

12 A. Well, we have an emergency  
13 call sheet on the wall there at the  
14 dispatch trailer, but that's just all  
15 the numbers and names on it. I  
16 couldn't sit here and remember them.

17 Q. Do you happen to keep a log of  
18 the daily activities? Like a written  
19 log of daily activities, do you keep  
20 one?

21 A. Like everything I do?

22 Q. Yes.

1 A. Not everything I do. Just on  
2 our --- the only thing that I keep a  
3 daily log on is my mantrips and  
4 supply motors and stuff in the track.

5 Q. And you've never been  
6 underground at Sago Mine?

7 A. No. I have never been  
8 underground at Sago.

9 Q. And I may have asked you this  
10 before, but who is your supervisor  
11 concerning the CO system? Who  
12 directs you as part of your CO or  
13 your --- who is the supervisor  
14 concerning the CO system? Who do you  
15 receive your instructions from  
16 concerning the CO system?

17 A. Like for --- I mean, for what?

18 Q. How to operate it and what you  
19 do in case of alarms. Who tells you  
20 what to do in those situations?

21 A. Well, that would be --- I know  
22 Dick's maintenance on them, but I

1 don't know whether --- who that would  
2 be, whether that would be Carl or  
3 Jeff that would be ---.

4 Rephrase that for me, please.

5 Q. Okay. I'll do that. Who has  
6 told you how to operate the CO  
7 system?

8 A. Oh, how to work it on the  
9 computer and ---?

10 Q. Yes. What you see and how you  
11 react to what you see?

12 A. Well, Johnny was the only one  
13 that ---. Johnny Stemple was the  
14 only one that had trained me, you  
15 know, like I said, but that was  
16 supposed to be a temporary position  
17 over there and I kind of got stuck  
18 with it.

19 Q. I see.

20 A. I mean, he told me what to do  
21 when I went over there and that's  
22 just --- of course, Flea's helped me.

1 Flea's helped me out on learning some  
2 of the --- I'm not real hot on the  
3 computers.

4 Q. I see. Who gave you the ---  
5 and I think you may have answered  
6 this, but just for clarification, who  
7 gave you your initial training on the  
8 dispatcher's responsibilities?

9 A. Johnny Stemple.

10 Q. Johnny Stemple?

11 A. Yes.

12 Q. Okay. And is he the one that  
13 instructed you on how to operate the  
14 CO system in the dispatcher's office,  
15 the screen and how you're supposed to  
16 respond to whatever you see?

17 A. Yes.

18 Q. Okay. And that was your  
19 initial day there; correct?

20 A. Well, a couple days, yes.

21 Q. A couple days.

22 A. Yeah, they didn't ---.

1 Q. Has anyone since that time  
2 instructed you on how to respond to  
3 the CO levels and what you see on the  
4 screen?

5 A. No.

6 Q. No.

7 MR. SWENTOSKY:

8 Do you have anything,  
9 John?

10 MR. COLLINS:

11 Not on the CO monitors.

12 No, just a little follow-up  
13 here if you don't care, Den.

14 BY ATTORNEY COLLINS:

15 Q. Did you dispatch at Spruce  
16 Fork?

17 A. No.

18 Q. You were an end loader  
19 operator?

20 A. No. I was a loader operator  
21 at Spruce Fork.

22 Q. So when you came to Sago Mine



1 is when you started dispatching for  
2 the first time?

3 A. Yeah. I was called ---. Yes.  
4 I was still running loader at Spruce.  
5 And I was called for a couple of  
6 extra days to help out at Sago, just  
7 to dispatch a couple days. And  
8 Johnny helped me through, you know,  
9 this is your CO system and this is  
10 how we --- you know, and kind of got  
11 ---. I'm still there.

12 Q. And you've never been  
13 underground at Sago?

14 A. No, sir.

15 Q. But do you understand how the  
16 underground is laid out or did  
17 someone train you on that, where the  
18 track goes, the spurs and ---?

19 A. Well, just --- not really. I  
20 mean, I've been underground before at  
21 other mines, but I mean as far as  
22 these spurs, you know, I know One

1 Left switch is --- where it's at on  
2 the map in the office and stuff like  
3 that, but, no, I haven't been  
4 underground at Sago.

5 Q. And I wanted to just touch  
6 back on something. Dennis asked  
7 about the fan alarm. Is there a fan  
8 alarm in the dispatcher's office?

9 A. I'm trying to think, John, I  
10 got ---.

11 Q. Just what you know, Gander.

12 A. I don't know. We've never had  
13 a fan alarm. I don't know. I'm  
14 trying to --- I was trying to think  
15 if there was one on the upper  
16 right-hand corner of our computer  
17 screen. I don't know whether there's  
18 one there that says fan house or not,  
19 just to ---.

20 Q. Okay. If you don't remember,  
21 you don't remember.

22 A. I just don't remember.

1 Q. Then since you took the job in  
2 June of '05 as dispatcher, have you  
3 had an emergency situation?

4 A. No, sir.

5 Q. You've never called an  
6 ambulance?

7 A. No, sir.

8 Q. Never had to call upper  
9 management concerning an emergency?

10 A. No, sir.

11 Q. But you did say that's posted  
12 in the dispatcher's office ---

13 A. Yes.

14 Q. --- who you call first?

15 A. Let's see, the phone to your  
16 right --- it's in the right-hand  
17 corner, right above the office ---  
18 right above the phone.

19 Q. And the training that you  
20 received to be a dispatcher, they  
21 reviewed this emergency phone list  
22 with you?

1 A. Yes.

2 Q. And did they say that's your  
3 responsibility, to call everyone on  
4 that list or the first person on that  
5 list or ---?

6 A. No, they never really --- you  
7 know, that's --- they never really  
8 said call one or call all. I just  
9 assumed we would try to contact as  
10 many as we could on that list.

11 Q. So I think you said earlier  
12 that if there's an emergency, it's  
13 the dispatcher's job to evacuate the  
14 mine. Did you say that?

15 A. That's the way I understand  
16 our job to be.

17 Q. Do you understand that you  
18 would direct them on which escapeway  
19 to take?

20 A. Yes. The first way you would  
21 want them to get out would be their  
22 fresh air. And your secondary way

1 would be the track or your return.

2 Q. So does management train you  
3 on ventilation?

4 A. They haven't me.

5 Q. Did they train you on  
6 ventilation changes?

7 A. They haven't me.

8 Q. And when they trained you as a  
9 dispatcher, they said your duties, if  
10 there's an emergency, you have to  
11 direct these people out of the mine?

12 A. No. They did not specifically  
13 say those words, that you have to  
14 direct those people out of the mine.

15 Q. So Gander, do you feel like  
16 that in the event of an emergency at  
17 that mine, such as a fire or  
18 explosion, that you would be able to  
19 --- and ventilation controls are  
20 changed ---? And this is a big  
21 scenario, but you feel like you've  
22 been properly trained to assume those

1       responsibilities?

2       A.       No.

3                               MR. COLLINS:

4                               That's all I have,

5                               Dennis. Thanks, Gander.

6       BY ATTORNEY SWENTOSKY:

7       Q.       And I know we in a fashion  
8       kind of beat this to death, but what  
9       did they tell you whenever you came,  
10      as a dispatcher, to Sago Mine as your  
11      responsibilities, just what did they  
12      tell you?

13      A.       We'd be watching the screen on  
14      the COs and the belts, be taking care  
15      of traffic underground with the  
16      mantrips and the motors, supplies.  
17      If sections call out for supplies or  
18      parts, make sure that we get them  
19      underground to them. Take care of  
20      that. Monitor the phones. That's  
21      about what, you know, they ---.

22      Q.       And as far as an explosion or

1 let's say in an emergency, what did  
2 they specifically tell you about  
3 that?

4 A. Specifically, I got an  
5 emergency call sheet there I got to  
6 go down through.

7 MR. SWENTOSKY:

8 Let's take two minutes.

9 A. Okay.

10 MR. SWENTOSKY:

11 Off the record.

12 SHORT BREAK TAKEN

13 BY MR. SWENTOSKY:

14 Q. When was your last annual  
15 retraining?

16 A. I think I'm due again in  
17 April.

18 Q. Okay. And when was the last  
19 one that you had?

20 A. It would have been April of  
21 2005.

22 Q. Okay. At Sago Mine?

1           A.           No.    That would have been at  
2    Spruce.

3                               MR. SWENTOSKY:

4                               John, do you have  
5                               anything else?

6                               MR. COLLINS:

7                               No.

8                               MR. SWENTOSKY:

9                               Okay. On behalf of  
10                              MSHA, I would like to thank  
11                              you for appearing and  
12                              answering the questions today.  
13                              Your cooperation is very  
14                              important to the investigation  
15                              as we work to determine the  
16                              cause of the accident. We ask  
17                              that you not discuss your  
18                              testimony with any person who  
19                              may have already been  
20                              interviewed or who may be  
21                              interviewed in the future.  
22                              This will ensure that we



1           obtain everyone's independent  
2           recollection of the events  
3           surrounding the accident.

4                         After questioning other  
5           witnesses, we may call you for  
6           any follow-up questions that  
7           we feel we need to ask you.  
8           If at any time you have  
9           additional information  
10          regarding the accident that  
11          you would like to provide to  
12          us, please contact us at the  
13          contact information that was  
14          previously provided to you.  
15          And that was the business  
16          cards that we provided to you.

17                        The Mine Act provides  
18          certain protections to miners  
19          who provide information to  
20          MSHA, and as a result are  
21          treated adversely. If at any  
22          time you believe that you have

1           been treated unfairly because  
2           of your cooperation in the  
3           investigation, you should  
4           immediately notify MSHA.

5                       If you wish, you may  
6           now go back over any answer  
7           you may have given during this  
8           interview and you may also  
9           make any statement that you  
10          would like to make at this  
11          time. Do you have anything to  
12          add, Nathan?

13    A.       No, I don't.

14                       MR. SWENTOSKY:

15                       Okay. I'd like to  
16           thank you for appearing here  
17           today. And we appreciate your  
18           cooperation. Thank you.

19

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SWORN STATEMENT

CONCLUDED AT 1:21 P.M.

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