

STATEMENT UNDER OATH

OF

GARY LEN MARSH

Taken pursuant to Notice by Miranda
D. Elkins, a Court Reporter and
Notary Public in and for the State of
West Virginia, at the MSHA Bridgeport
Field Office, 105 Platinum Drive,
Suite B, Bridgeport, West Virginia,
on Monday, February 20, 2006, at
12:42 p.m.

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

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3 D E N N I S J . S W E N T O S K Y

4 S u p v . M S & H S p e c i a l i s t (V e n t i l a t i o n)

5 U . S . D e p a r t m e n t o f L a b o r

6 M i n e S a f e t y & H e a l t h A d m i n i s t r a t i o n

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18 T I M O T H Y S . W I L L I A M S , E S Q U I R E

19 U . S . D e p a r t m e n t o f L a b o r

20 O f f i c e o f t h e S o l i c i t o r

21 M i n e S a f e t y a n d H e a l t h D i v i s i o n

22 1 1 0 0 W i l s o n B o u l e v a r d

1 Room 2211

2 Arlington, VA 22209-2296

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

5

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8 Charleston, WV 25214

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10 JOSEPH YUHAS, ESQUIRE

11 P.O. Box 1025

12 Northern Cambria, PA 15714

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I N D E X

INTRODUCTION 6 - 16

WITNESS: GARY LEN MARSH

QUESTIONS

By Mr. Swentosky 16 - 52

By Mr. Collins 53 - 60

By Mr. Swentosky 60 - 73

By Mr. Collins 73 - 76

By Mr. Swentosky 76 - 82

CERTIFICATE 83

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
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EXHIBIT PAGE

PAGE

| <u>NUMBER</u> | <u>DESCRIPTION</u> | <u>IDENTIFIED</u> |
|---------------|--------------------|-------------------|
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NONE OFFERED

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P R O C E E D I N G S

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 Tim

1 Williams, from the Solicitor's
2 Office, John Collins and Dave
3 Stuart with the West Virginia
4 Office of Miners' Health,
5 Safety and 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.

12 The investigation is
13 being conducted by MSHA and
14 the West Virginia Office of
15 Miners' Health, Safety &
16 Training to gather information
17 to determine the cause of the
18 accident. And these
19 interviews are an important
20 part of the investigation.

21 At this time, the
22 accident investigation team

1 intends to interview a number
2 of people 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 of 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 Marsh is being conducted under
18 Section 103(a) of the Federal
19 Mine, Health and Safety Act of
20 1977 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 Corporation
9 --- International Coal Group
10 in Buckhannon, West Virginia.
11 on January 2nd, 2006. This
12 interview is being conducted
13 at the MSHA Bridgeport, West
14 Virginia Field Office on
15 February 20th, 2006.

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

21 Mr. Marsh, this
22 interview will begin with my

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

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

1 we have that right here on a
2 business card. You can have
3 that.

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

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

19 Also please try to keep
20 your voice up. Copies of the
21 written transcripts will be
22 made available at a later

1 date.

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

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

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

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

5 MR. COLLINS:

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

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

1 investigation. After the
2 interview today, if you have
3 additional information or
4 questions, here's a card that
5 you can contact, Mr. Mills.

6 MR. MARSH:

7 All right.

8 MR. COLLINS:

9 Thank you.

10 MR. SWENTOSKY:

11 Mr. Marsh, are you
12 aware that you may have a
13 personal representative
14 present during the taking of
15 this statement?

16 MR. MARSH:

17 Yes, sir.

18 MR. SWENTOSKY:

19 Do you have a
20 representative with you here
21 today?

22 MR. MARSH:

1 Yes, I do.

2 MR. SWENTOSKY:

3 And who is that
4 representative?

5 MR. MARSH:

6 Joe Yugas.

7 MR. SWENTOSKY:

8 Has anyone suggested to
9 you that you use Mr. Yugas as
10 your representative?

11 MR. MARSH:

12 No.

13 MR. SWENTOSKY:

14 Are you aware that Mr.
15 Yugas may have a conflict of
16 interest in representing you
17 while being provided by
18 someone else, such as the
19 company?

20 MR. MARSH:

21 Yes.

22 MR. SWENTOSKY:

1 Have you been pressured
2 in any way to accept Mr. Yuhas
3 as your representative?

4 MR. MARSH:

5 No.

6 MR. SWENTOSKY:

7 With this
8 understanding, do you still
9 choose Mr. Yuhas as your
10 representative?

11 MR. MARSH:

12 Yes.

13 MR. SWENTOSKY:

14 Do you have any
15 questions before we start the
16 interview?

17 MR. MARSH:

18 No.

19 MR. SWENTOSKY:

20 Could you swear in Mr.
21 Marsh, please?

22 -----

1 GARY LEN MARSH, HAVING FIRST BEEN
2 DULY SWORN, TESTIFIED AS FOLLOWS:

3 -----

4 BY MR. SWENTOSKY:

5 Q. Could you give us your full
6 name and spell your last name for us,
7 please?

8 A. Gary Len Marsh, M-A-R-S-H.

9 Q. Can you give us your address
10 and your telephone number, please?

11 A. [REDACTED]

12 [REDACTED]

13 Q. Okay. Thank you. And are you
14 appearing here today voluntarily?

15 A. Yes.

16 Q. Do you have a nickname?

17 A. Yes. Muff.

18 Q. Thank you. How many years of
19 mining experience do you have?

20 A. Thirty (30).

21 Q. And could you give us just a
22 brief description of your mining

1 history over the last several years?

2 A. The last several years I've
3 been motorman, which was mostly outby
4 work. The last year I've been yard
5 man over at Sago, which is outside.
6 It involves ordering supplies and
7 unloading trucks and loading the
8 motor crew to take supplies into the
9 mines.

10 Q. Okay. Where did you work
11 prior to Sago?

12 A. Spruce.

13 Q. Spruce Mines?

14 A. I was motorman over there.

15 Q. And when did you --- do you
16 recall the date when you started at
17 Sago Mine?

18 A. It was in --- I think it was
19 in July like two years ago.

20 Q. In 2004?

21 A. I believe. I'm not real
22 certain, but it's been a couple years

1 ago.

2 Q. And your present position is
3 what?

4 A. Yard man.

5 Q. Yard man. And I believe you
6 said you held that position for ---
7 well, when did you start in that
8 position?

9 A. It's been --- it probably
10 would be eight months ago, something
11 like that. Before that, I was kind
12 of yard man plus a motorman. You
13 know, I loaded the cars, plus I
14 hauled them underground.

15 Q. And did you hold the same
16 position, the yard man, on January
17 2nd, 2006, the day of the accident?

18 A. Yes, sir.

19 Q. Starting whenever you arrived
20 at the mine that morning, can you
21 just kind of describe what occurred
22 until you left the property?

1 A. Well, I got there probably
2 around 5:30, got dressed, went into
3 the dispatcher trailer and had I
4 don't know, two or three cups of
5 coffee and just BS'd with the men.
6 And then a little after 6:00, one of
7 the maintenance foreman had some
8 parts there that he wanted to take
9 underground, so I got the fork truck
10 and went to get a pallet to haul it
11 downhill.

12 Well, while I was out there
13 doing that, we had this violent
14 lightning strike. And I mean, it
15 pretty well lit the place up like
16 daylight. I carry a, I guess you'd
17 call it a walkie-talkie, in case they
18 need to get ahold of me. Well, I
19 heard the dispatcher hollering for
20 everyone underground.

21 And I figured something was
22 wrong. So I went back to the

1 dispatcher trailer and when I went
2 in, he couldn't get ahold of anyone
3 underground. And we have a belt
4 system where a bunch of the COs and
5 stuff are going crazy. One and Two
6 belt was still running, but the rest
7 of them weren't.

8 So I tried to help him with
9 what was going on there. And then
10 the superintendent and them decided
11 they were going underground to
12 investigate, which I offered to go
13 with them and they told me I couldn't
14 because I wasn't certified.

15 And they went in. And I
16 helped Flea with the dispatching as
17 best I could. And in a little bit, I
18 talked with some of them underground.
19 They said they thought they had had
20 an explosion and told us to get help,
21 which we proceeded to do.

22 And then Dick brought the One

1 Left crew out. And they requested
2 that I load fly boards and curtains
3 and nails and spads for them to take
4 back in with them, which I did.

5 And then in a little while
6 there was trucks coming in and just
7 bringing all kind of supplies in. We
8 were trying to, you know, get ready
9 for the rescue.

10 And the rest of that day ---
11 it was probably around noon or so the
12 government wouldn't allow me over the
13 hill anymore. So I just more or less
14 stood around the rest of the day and
15 did what I could. But there wasn't
16 much we could do.

17 Q. Do you have any mining
18 certifications, like mine foreman,
19 examiner?

20 A. No. I used to have a shop
21 fire's card, but it's ---.

22 Q. And who is your immediate

1 supervisor?

2 A. Carl Crumrine.

3 Q. How long has he been your
4 supervisor?

5 A. Eight months, probably,
6 something like that.

7 Q. On the day of the accident,
8 did you begin your shift at the
9 normal time?

10 A. Yes.

11 Q. And we'll kind of go back
12 through your activities during the
13 day and try to fill in some of the
14 blanks.

15 A. Okay.

16 Q. What time did you get to the
17 mine that day?

18 A. Did I get to the mine or start
19 work?

20 Q. To the mine.

21 A. It was probably around 5:30.

22 Q. Okay. Whenever you got to the

1 mine, what did you do next then?

2 A. Just went in and got dressed,
3 ready to go to work.

4 Q. After you were dressed and
5 getting ready to go to work, what did
6 you do next?

7 A. I went to the dispatcher
8 trailer and drank coffee and talked
9 to the men and stuff.

10 Q. Okay. Do you recall what time
11 that might have been?

12 A. It was probably 20 'til 6:00,
13 something like that.

14 Q. And the dispatcher's office,
15 the CO system and the screen,
16 everything was normal, ---

17 A. Yes.

18 Q. --- at that point?

19 A. Yes, it was.

20 Q. And then whenever --- did the
21 men go underground at the normal
22 time? Approximately what time did

1 they leave to go?

2 A. It was --- I'd say they
3 probably left out of there at maybe
4 five 'til 6:00, to get over the hill,
5 to get on the mantrips and go.

6 Q. And everything was normal up
7 to that point?

8 A. Other than the violent
9 lightning storm, yes.

10 Q. A lightning storm. Okay.
11 When they went down, they went down
12 over the hill to go to the mantrips
13 then what did you do?

14 A. I just sat there and drank
15 coffee.

16 Q. Okay.

17 A. I mean, you know, I was kind
18 of waiting on orders as ---

19 Q. Sure, I understand.

20 A. --- as to what to do.

21 Q. And up to that point, had you
22 had any conversations with Mr. Toler

1 and Mr. Crumrine or anyone at that
2 point?

3 A. No.

4 Q. Okay.

5 A. Because Carl was off that day.
6 It was a holiday and he wasn't there.

7 Q. After you were done drinking
8 your coffee, what did you do?

9 A. I got the forklift and went to
10 get the pallet to take the parts over
11 the hill for the maintenance foreman.

12 Q. Okay.

13 A. He was going to take it
14 underground.

15 Q. And approximately what time
16 was that?

17 A. I would say probably 6:15.

18 Q. Okay. And then when you went
19 to prepare those, then what did you
20 do?

21 A. Well, by that time, all the
22 confusion had started underground. I

1 mean, I was in the process of loading
2 the pallet with the parts.

3 Q. Was that up by the bathhouse
4 or was that down in the pit?

5 A. No, it was by the bathhouse.

6 Q. All right. Go ahead.

7 A. And by the time I got it down
8 there, I knew there was something
9 wrong, so that's when I came back to
10 help the dispatcher with ---.

11 Q. Okay. At the first sign that
12 you knew something was wrong, where
13 were you?

14 A. I was in the forklift behind
15 the office.

16 Q. Okay. And how did you know
17 that?

18 A. Well, it was a very violent
19 lighting --- I mean, I can't say that
20 it struck, but I mean, it lit the
21 place up like daylight.

22 Q. Okay.

1 A. And then I heard the
2 dispatcher hollering for anyone
3 underground.

4 Q. Okay. When you say you heard
5 the dispatcher, how did you hear it,
6 I mean over a phone?

7 A. I have a walkie-talkie that I
8 carry. And, you know, that way the
9 dispatcher or whoever needs me, if
10 you page a mine phone, it comes in
11 over the walkie-talkie.

12 Q. Okay.

13 A. You know, if I'm on a part of
14 the property and they need me, all
15 they got to do is holler.

16 Q. Okay. So the people
17 underground can communicate with you
18 on the surface, ---

19 A. Yes.

20 Q. --- through that walkie-
21 talkie?

22 A. Through the mine phone, yes.

1 Q. Anything that's said over the
2 pager phone, you can hear?

3 A. As long as they're paging.

4 Q. Okay.

5 A. Now, they have to page in
6 order for me to hear.

7 Q. Okay.

8 A. You know, if they just use the
9 hand and talk like you do on a
10 regular mine phone, ---

11 Q. Yes.

12 A. --- I can't hear them. But as
13 long as they're paging, I can hear
14 them, yes.

15 Q. Can you talk back to them?

16 A. Yes.

17 Q. But they have to continue to
18 hold the pager button down for you
19 to ---

20 A. Yes.

21 Q. --- continue to speak to them?

22 A. I mean, they can hear me, but

1 unless they page, I can't hear them.

2 Q. Okay. So that's how you knew
3 there was something wrong?

4 A. Yes.

5 Q. And what did you hear over the
6 walkie-talkie at that point?

7 A. I just heard Flea hollering
8 for mainly Two Left, because
9 according to the COs, that's where
10 the problem was.

11 Q. Okay. And what was Flea
12 saying?

13 A. He was just hollering for them
14 to try to get them to answer.

15 Q. Okay. And you heard that over
16 your phone?

17 A. Yes.

18 Q. And then when you heard that,
19 what did you do?

20 A. I went to the dispatcher's
21 office to see what was going on.

22 Q. So you never did go down in

1 the pit at that point yet?

2 A. No.

3 Q. So you went to the
4 dispatcher's office?

5 A. Yes, sir.

6 Q. What did you observe there?
7 You know, kind of give me a little
8 bit of what went on there.

9 A. Well, I just walked in and I
10 asked Flea what was going on. They
11 said, well, we've lost the power on
12 the beltlines. One and Two belt was
13 still running, but the rest of them
14 weren't. And I saw that about --- I
15 believe it was six of the COs were
16 pegged on the monitor.

17 Q. And do you recall which six
18 that was?

19 A. I believe it was three on Two
20 Left and three close to the tail of
21 Four belt. I think the first one or
22 two on Four belt at the tail were

1 showing dead. They were gray.

2 Q. And that gray color, that's
3 what it does whenever you have a loss
4 of power?

5 A. Loss of power or they're
6 disconnected, whatever, yes.

7 Q. Do you ever fill in as
8 dispatcher?

9 A. Yes, sir.

10 Q. Okay. Then after you saw
11 those were dead, then what happened?

12 A. Well, it's a little hard to
13 remember.

14 Q. That's okay. Take your time,
15 you know.

16 A. I went in and asked Flea what
17 I could do to help. And of course he
18 was pretty busy. And I talked to
19 several guys underground that called
20 out, because Flea was on the
21 telephone trying to get ahold of ---
22 we tried calling Raymond Coleman and

1 Chuck Dunbar.

2 Q. Who's Raymond Coleman?

3 A. He's one of the officials.

4 Q. Okay.

5 A. But I'm not sure what his
6 title is. But you know, we were
7 trying to let them know that
8 something was wrong.

9 Q. Yes. And when you said you
10 had --- or there was a conversation
11 with people underground, who would
12 that have been?

13 A. Well, during the day, I talked
14 to ---.

15 Q. No, I mean at that point
16 there, whenever you initially ---.

17 A. At that point?

18 Q. Yes.

19 A. Initially, I think the first
20 one I talked to was John Boni.

21 Q. Okay. And what was the extent
22 of that conversation?

1 A. I guess he was along Three
2 Belt. And he bent over, checking a
3 pump. And he said he felt the air
4 change.

5 Q. Okay.

6 A. And he called out and asked me
7 what was going on. He said he
8 thought we had had a fall. And he
9 asked me what the COs were doing and
10 I told him.

11 Q. What did you tell him?

12 A. I told him that the ones on
13 Four Belt were going crazy. And he
14 said he thought we had a problem.

15 Q. Did he say what that problem
16 might be?

17 A. No. At first he thought it
18 was a major roof fall.

19 Q. Yes.

20 A. Because he said he could feel
21 the pressure from where he was. And
22 I really can't remember what all was

1 said.

2 Q. So that initial conversation
3 was with Mr. Boni?

4 A. I believe he was the first one
5 I talked to, yes.

6 Q. All right. And then after
7 your conversation with him, then go
8 ahead, continue.

9 A. Owie Jones called just a
10 little after that.

11 Q. Okay.

12 A. And he was up around One Left
13 switch.

14 Q. And you received that call?

15 A. Yes.

16 Q. You took that call?

17 A. Yes, sir.

18 Q. All right.

19 A. That might not have been his
20 initial call. You know, Flea may
21 have talked to him before that. I
22 really don't know.

1 Q. Okay. But you don't recall
2 Flea speaking to Mr. Jones at that
3 point? You didn't hear any
4 conversations with Mr. Jones?

5 A. No, not unless he talked to
6 him before I got in there.

7 Q. Okay. Go ahead.

8 A. But Owie told me he was trying
9 to get to Two Left, but he said it
10 was so smoky and stuff that he
11 couldn't get up there. And he really
12 didn't know where he was. And I told
13 him there was help coming, and to
14 either stay where he was or get back
15 in fresh air, which he told me he was
16 going to try to get to his brother.

17 Q. At that point --- when was the
18 first thought that there may have
19 been an explosion, or how did you
20 realize that there was an explosion?

21 A. Well, it was probably after
22 Dick and all of them went

1 underground. Dick called out and
2 said, we had a major explosion.

3 Q. Okay.

4 A. You know, I kind of thought
5 that, but I didn't know.

6 Q. Well, had they gone
7 underground before your conversation
8 with Mr. Jones?

9 A. Yes.

10 Q. So you had your conversation
11 with Mr. Jones. And then what
12 happened?

13 A. Well, Ron Grall called. He
14 said he was at the maintenance
15 shanty, which is --- it's either
16 Seven or Nine block on Four belt. He
17 had been on the One Left mantrip.
18 And he told me that he and Paul
19 Avington were at the maintenance
20 shanty and they were okay.

21 Q. Do you know approximately what
22 time that might have been?

1 A. No, sir.

2 Q. Okay.

3 A. I can't tell you.

4 Q. Sure.

5 A. I didn't look at times.

6 Q. I understand.

7 A. But I told him that Dick and
8 them were in there, and Dick was
9 getting ready to bring One Left crew
10 out. And I told him that if they
11 were in fresh air, okay, just stay at
12 the track and wait on Dick, that way,
13 you know, they could get a ride out,
14 which I guess that's what they did.

15 Q. Now, I'll ask you, you said
16 you didn't --- or a moment ago you
17 said you didn't remember times, but
18 do you happen to remember, or is
19 there some way you can relate what
20 time Mr. Wilfong and Mr. Toler ---?
21 Who all went underground?

22 A. Dick Wilfong, Al Schoonover,

1 Jeff Toler and Vern Hofer.

2 Q. Do you know approximately what
3 time they might have gone
4 underground?

5 A. Yeah. I could make a guess,
6 but I can't tell you ---. You know,
7 there was so much going that I wasn't
8 worried about times.

9 Q. Sure. Okay. Had you spoken
10 to them prior to them going
11 underground?

12 A. Yes, sir.

13 Q. And when was that?

14 A. Probably 20 'til 7:00 or
15 something like that. That's just a
16 guess.

17 Q. After the explosion?

18 A. Yes, sir.

19 Q. And what was the extent of
20 that conversation?

21 A. Well, they just said they were
22 going under to see what happened.

1 And I told them I wanted to go with
2 them, and they told me I couldn't go.
3 So that was --- that was pretty
4 well ---.

5 Q. Was that up around the
6 dispatcher shanty that you had that
7 conversation?

8 A. Yes.

9 Q. And did they have any --- do
10 you recall, did they have any
11 detectors or anything with them?

12 A. I'm not sure.

13 Q. Okay.

14 A. I mean, I don't know.

15 Q. And after you had this
16 conversation, did you go into the
17 dispatcher shanty then?

18 A. Yes, sir.

19 Q. And then that's whenever you
20 had these calls that we've just
21 discussed?

22 A. Yes.

1 Q. After you had your
2 conversation with Mr. Grall, then
3 what occurred?

4 A. I believe that might have been
5 about the time that --- that might
6 have been about the time that Dick
7 called out and said that we'd had a
8 major explosion and we needed help.

9 Q. And Dick, who would that have
10 been?

11 A. Dick Wilfong.

12 Q. Wilfong.

13 A. Yes, the maintenance foreman.

14 Q. All right. And tell me a
15 little more about that conversation.

16 A. Well, he just said that, we've
17 had a major explosion. And he said
18 we need help and we need help now.

19 Q. Okay. And then what happened
20 then?

21 A. Well, he told me he had got
22 the One Left crew and he was going to

1 bring them out. And I guess they
2 started out with them. And then Jeff
3 Toler, the superintendent called me.
4 And he said, I want fly boards,
5 curtain, nails, spads an extra hard
6 hat and two monitors sent in.

7 Q. Monitors. When you say
8 monitors, what do you mean?

9 A. The ITX methane monitors.

10 Q. Okay. Methane detectors?

11 A. Yes. Sent in with Dick when
12 he gets out there, which I went out
13 and proceeded to get all that
14 together. And when Dick got there, I
15 loaded it on the mantrip for him.

16 Q. After you had that
17 conversation, you went to --- you
18 left the dispatcher shanty at that
19 point then?

20 A. Yes, sir.

21 Q. And you went to gather
22 material that he had asked for?

1 A. Yes, sir.

2 Q. And how many methane detectors
3 did you get for him?

4 A. Two.

5 Q. Two?

6 A. Yes, sir.

7 Q. Where did you get those
8 detectors?

9 A. Out of the dispatcher's
10 office. That's where they keep them
11 to charge them.

12 Q. And then you gathered up the
13 supplies, the supplies that he had
14 asked for?

15 A. Yes, sir.

16 Q. And what did you do next?

17 A. I took everything over the
18 hill and waited for Dick to get out
19 there. And it was pouring rain down.
20 Got soaking wet. Once Dick got out
21 there, I loaded the stuff in the
22 mantrip for him to take back in.

1 Q. Okay. When Dick came out,
2 then he brought the One Left crew
3 out, ---

4 A. Yes, sir.

5 Q. --- those that were
6 underground?

7 A. Yes.

8 Q. Was there any conversation
9 among any of those people that you
10 might have had?

11 A. I didn't at that time, no.

12 Q. And what conversation did you
13 have with Mr. Wilfong?

14 A. Just asked him if there was
15 anything else that he needed. And he
16 said, no, he needed to get back in
17 there and he just pretty well went
18 back.

19 Q. And you loaded all that
20 material onto the ---

21 A. Yes.

22 Q. --- mantrip?

1 A. Of course Dick and a couple
2 other guys helped me, you know. I
3 didn't load it all myself.

4 Q. Okay. Did anyone go
5 underground with Mr. Wilfong?

6 A. Vern Hofer.

7 Q. Just the two of them went
8 underground, back underground?

9 A. At that time, ---

10 Q. Yes.

11 A. --- yes.

12 Q. Okay. Then what did you do?

13 A. Well, I went back up to the
14 dispatcher's office to help with
15 communications and stuff.

16 Q. Prior to going underground,
17 did anyone go over and check any of
18 the mine openings for methane or
19 carbon monoxide, or did anybody make
20 examinations at that point?

21 A. I believe John Boni did when
22 he got outside. But now before the

1 initial group went underground, I
2 really don't know.

3 Q. Okay. But at that point when
4 you were in the pit, did you ever
5 observe anyone doing that?

6 A. No, sir. Now, they may have.
7 I don't know.

8 Q. Okay. But you never say
9 anyone make an examination?

10 A. No, sir.

11 Q. So then after they left to go
12 back underground, what did you do
13 then?

14 A. I just went back to the
15 dispatcher's office and helped. By
16 that time the telephone was ringing
17 off the hook. I guess word got out.

18 Q. When you went to the
19 dispatcher shanty, who was in there
20 with you?

21 A. Well, at that time there was
22 Flea and John Boni. And there were

1 several of the One Left crew members
2 in there also.

3 Q. Okay. And what were your
4 activities at that point? Were you
5 assisting in some fashion?

6 A. I was just assisting Flea.
7 You know, if he was on the mine phone
8 and the telephone rang, I answered
9 it. If he was on the telephone and
10 the mine --- if someone called on the
11 mine phone, I answered it.

12 Q. And did you ever, at any
13 point, do any monitoring of the mine
14 openings or anything?

15 A. No.

16 Q. No. Do you recall anyone ever
17 going to the pit to make any
18 examinations?

19 A. No, sir, I don't. But, you
20 know, they may have. I really don't
21 know.

22 Q. Do you recall anyone ever

1 saying what the carbon monoxide
2 levels might have been in the pit or
3 the openings or anything?

4 A. The only thing I heard was we
5 didn't have a detector to monitor,
6 that it was too high.

7 Q. Okay. Going back to whenever
8 Mr. Wilfong and Mr. Hofer came out
9 and you guys were loading these
10 supplies, during that conversation,
11 did they indicate at all what CO
12 levels they might have known about or
13 anything like that? Was there any
14 discussion to that effect?

15 A. The only thing they told me
16 was they had fresh air and they
17 weren't reading a lot of methane or
18 CO. I don't know exactly what point
19 they were at, at that time, you know.

20 Q. When you went back to the ---
21 getting back to whenever you're in
22 the dispatcher shanty and One Left

1 crew members were in there, okay, and
2 you were assisting Flea by answering
3 telephones. The telephone calls that
4 you were getting --- did you make any
5 telephone calls?

6 A. No.

7 Q. Okay. Then what were your
8 activities for the rest of the day?
9 Just kind of fill in the rest of the
10 day there for me if you would,
11 please.

12 A. Well, once MSHA got there and
13 shut us down it was pretty much stand
14 around and do nothing.

15 Q. Okay. Do you recall anyone
16 calling the mine rescue team? Were
17 you part of that at all?

18 A. Yes, sir, Johnny Stemple
19 called them.

20 Q. But were you involved in any
21 of that?

22 A. Well, he called me and told me

1 that he couldn't get ahold of the
2 director or president, whoever it is
3 you're supposed to notify.

4 Q. You mean the company people or
5 MSHA?

6 A. No, the mine rescue team.

7 Q. Oh, okay.

8 A. I guess they have a president
9 or a trainer or something. And he
10 tried to get ahold of them and he
11 couldn't.

12 Q. All right.

13 A. And he asked me to go over in
14 the office and get the list of the
15 mine rescue team, to give him some
16 more phone numbers, ---

17 Q. Okay.

18 A. --- that he could get ahold of
19 someone.

20 Q. All right.

21 A. And I did that.

22 Q. Okay.

1 A. I guess I did use the phone
2 because I think I had to call him
3 back.

4 Q. All right. And then you gave
5 him a list of the mine rescue teams
6 to call or the ---?

7 A. Well, it was the Barbour
8 County team, which was the closest
9 team.

10 Q. All right.

11 A. And he just needed some
12 numbers to get ahold of one of them
13 so that they could get ahold of
14 everyone else.

15 Q. And how many phone numbers did
16 you give him, one or two or ---?

17 A. I think it was like three.

18 Q. Three phone numbers?

19 A. Yes, sir.

20 Q. And what other subjects might
21 you have talked to Mr. Stemple about?
22 Anything? Or was that the extent of

1 it?

2 A. I really can't remember
3 talking about anything else, other
4 than, you know, just telling him we
5 needed help.

6 Q. And what other individuals did
7 you speak with maybe over the
8 telephone? Do you recall any
9 conversations you might have had with
10 someone else when you answered the
11 phone?

12 A. I spoke to some woman from The
13 Exponent. I told her I had no
14 comment.

15 Q. Okay.

16 A. I mean, there was all kind of
17 news media calling. You know, we
18 didn't talk to them. I really can't
19 remember talking to anyone as far as
20 a conversation over the phone.

21 Q. Do you recall approximately
22 what time that might have been,

1 whenever Mr. Stemple called?

2 A. Not really, but I'd say it was
3 maybe a little after 7:00 that I
4 talked to him.

5 Q. Okay.

6 A. But he had had phone contact
7 before. You know, I don't ---.

8 Q. What makes you think that?

9 A. Well, I think Flea talked to
10 him first. I mean, I'm not sure.

11 Q. Okay. But you didn't hear
12 that conversation?

13 A. No.

14 Q. What makes you think that, you
15 know, that he had a conversation with
16 Flea?

17 A. Well, we were trying to get
18 ahold of everyone in the company that
19 we could, you know, to notify them
20 that something was wrong. And I
21 think Johnny Stemple was the first
22 one we got ahold of, or that Flea got

1 ahold of. I didn't get ahold of him.

2 Q. Okay. And then after you had
3 the conversation with Mr. Stemple,
4 and providing him with the phone
5 numbers that he wanted, then what did
6 you do?

7 A. I really can't remember. Just
8 we stayed in there until I guess the
9 CO levels started getting so high
10 coming out of the pit mouth that they
11 made us evacuate the dispatcher
12 trailer.

13 Q. Okay.

14 A. And they had us all around
15 behind the offices. Actually, they
16 wanted us to leave the property, but
17 we stayed. They told us unless we
18 were part of the rescue, we had to
19 leave.

20 Q. Who was that that told you
21 that?

22 A. I believe it was Mr.

1 Satterfield.

2 Q. Okay.

3 A. They told him that I was part
4 of the rescue, that I needed to load
5 the supplies if they needed it.

6 Q. When you say they, who was
7 they?

8 A. Raymond Coleman's the one that
9 told him that.

10 Q. Okay. So you didn't have to
11 leave?

12 A. No.

13 Q. And then what did you do then?
14 At that point there what happened?

15 A. We just stood out there for,
16 you know, probably two or three hours
17 and talked and really didn't do
18 anything. We weren't allowed to do
19 anything.

20 Q. You may have already answered
21 this, but were you ever underground
22 at Sago Mine?

1 A. Yes, sir.

2 Q. When was that?

3 A. Well, I ran motor there for a
4 good while.

5 Q. Okay.

6 A. And the last time I was
7 underground was like two weeks prior.
8 It was on a Saturday two weeks prior
9 to the accident.

10 Q. What was the purpose of your
11 underground involvement that day?

12 A. I was ballasting track on Two
13 Left. Actually, it was on Christmas
14 Eve day. I worked that day and
15 ballasted track.

16 Q. Are you familiar --- or during
17 your travels underground, would you
18 have been familiar with the old Two
19 Left Main seals?

20 A. No, sir. I was never up
21 there.

22 Q. Okay. And you didn't deliver

1 any supply? I know you said you were
2 a motorman extra. Did you ever
3 deliver any supplies up in that area
4 at all?

5 A. No, sir. At that time, I
6 wasn't underground. Until that
7 Saturday I ballasted track, I had
8 never been to Two Left. I mean,
9 that's the only time I was ever up
10 there.

11 Q. And then what time did you
12 leave mine property? Do you have any
13 idea?

14 A. On the day it happened?

15 Q. Yes.

16 A. It was roughly 10:30 that
17 night.

18 Q. And what did you do from the
19 time that you were asked to leave the
20 property and you didn't leave the
21 property, what did you do the rest of
22 the day there?

1 A. Pretty well stood around out
2 there, hoping that the men would get
3 out.

4 Q. Were you assigned any duties
5 during that period of time?

6 A. Off and on a truck would come
7 in and I'd unload them. We had a
8 bunch of Kennedy stoppings came in,
9 extra curtain, foam packs. And, you
10 know, just preparing in case we
11 needed all this. But most of the
12 time we was just standing around
13 doing nothing.

14 Q. And I think you did say you
15 were never asked to go into the pit
16 to make any methane, oxygen or CO
17 readings?

18 A. No, I wasn't asked to.

19 MR. SWENTOSKY:

20 Do you have anything,
21 John?

22 BY MR. COLLINS:

1 Q. Mr. Marsh, how long have you
2 been employed by Anker, including
3 Spruce Fork?

4 A. Roughly 40 years.

5 Q. And do you have a West
6 Virginia coal miner's certificate?

7 A. Yes.

8 Q. Are you a certified
9 electrician?

10 A. No.

11 Q. Mine foreman?

12 A. No.

13 Q. Any other West Virginia
14 certifications?

15 A. (Indicates no).

16 Q. You said that you were having
17 a bad lighting storm on January the
18 2nd. Was it still dark, ---

19 A. Yes.

20 Q. --- at that time?

21 A. Yes, sir.

22 Q. And from what location did you

1 observe the lightning? Where were
2 you at when you seen the lightning?

3 A. Oh, I was in the forklift
4 behind the office going to get a
5 pallet.

6 Q. Was that after the day shift
7 crew had entered the mine?

8 A. Yes.

9 Q. In your opinion, where was
10 that lightning at?

11 A. The way it looked to me, it
12 was everywhere. I mean, it lit the
13 sky up like it was daylight for just
14 a second or two.

15 Q. You said you never helped
16 build the seals ---

17 A. No.

18 Q. --- at Two Left?

19 A. I loaded the supplies to go in
20 there.

21 Q. Did you load the seal
22 material?

1 A. Yes, sir.

2 Q. Were those Omega blocks?

3 A. Yes, sir.

4 Q. Are they different than normal
5 Omega blocks?

6 A. Some of them were. Most of
7 your Omega block are eight inch. And
8 I guess they ordered six inch ---
9 something about you top them off with
10 six inch or something.

11 Q. Those were different sizes of
12 Omega blocks ---

13 A. Yeah, ---

14 Q. --- they used in the seal?

15 A. --- as far as thickness.

16 Q. When those blocks came into
17 the mine, were they separated
18 different than normal Omega material?

19 A. No.

20 Q. Was there a different --- were
21 there boards that you loaded with
22 that material list?

1 A. No, because I don't think they
2 used any wood in that, but I'm not
3 real sure.

4 Q. Wedges, that you remember?

5 A. I may have loaded some wedges,
6 but I really can't remember.

7 Q. What about the mortar for the
8 seals?

9 A. It was a --- it's not B-Bond,
10 it was mine sealant, I think they
11 called it.

12 Q. A different kind that you
13 would normally use?

14 A. Yes, sir.

15 Q. That was for the seals?

16 A. For the seals.

17 Q. You were there the morning
18 when the explosion occurred, Mr.
19 Marsh. What time do you think it was
20 clear that the surface knew they had
21 had an explosion?

22 A. In my opinion?

1 Q. Yes.

2 A. Probably 6:45. But that's my
3 opinion.

4 Q. And the two detectors --- I
5 think you probably cleared this up
6 for Dennis, but the two detectors you
7 sent in were multi-gas detectors ---

8 A. Yes.

9 Q. --- you gave to Dick?

10 A. They're ITX detectors.

11 Q. Then just to clarify some of
12 the time. I think you said that
13 Johnny Stemple called back and said
14 that he was having trouble getting
15 hold of the Barbour County mine
16 rescue station?

17 A. Yes, sir.

18 Q. And that you weren't sure what
19 time that was, but you think it was
20 around 7:00 a.m.?

21 A. 7:00, 7:30, I mean I'm not
22 sure.

1 Q. And that Flea had already
2 talked to Johnny Stemple prior to
3 that conversation?

4 A. Yes, sir.

5 Q. Do you remember what three
6 numbers you gave him, not the numbers
7 but perhaps the individuals?

8 A. No, sir, I don't.

9 Q. You don't remember at all?
10 Like if I said, is Chris Hite
11 (phonetic) one of them, do you know
12 if you gave him that number or not?

13 A. No. I gave him the number two
14 man on the list, but I can't remember
15 what his name is.

16 Q. And you also said around
17 twelve o'clock the government
18 wouldn't let you go back into the pit
19 anymore?

20 A. Yeah, it was around there.

21 Q. Do you know why they didn't
22 want you to go down there?

1 A. They said CO levels were too
2 high and they didn't want anyone down
3 in there.

4 Q. Mr. Marsh, you've been pretty
5 involved there in the rescue attempt,
6 recovery, rehabilitation of the mine.
7 Do you have anything that you'd like
8 to --- that you could offer us or
9 help us, any information you think we
10 don't have, ---

11 A. Nothing I know of, John.

12 Q. --- as to what may have
13 occurred?

14 A. I mean, in my opinion, we had
15 a lightning strike that blew up the
16 mine somehow, but I don't know how.

17 Q. Dick Wilfong came back outside
18 and you mentioned the things that you
19 put on the mantrip. Did you also put
20 on any SCSRs, extra self-rescuers?

21 A. No, sir, not at that time.
22 And I believe that --- well ---.

1 Nothing.

2 Q. Then you mentioned it was
3 raining.

4 A. Yes, sir.

5 Q. Pouring down rain I think is
6 what you said?

7 A. Yes, at that time.

8 Q. Did that continue for a while?
9 How was it?

10 A. Roughly a half hour I would
11 say. But now by that time the
12 lightning had pretty well eased up.
13 You know, when the lightning storm
14 was, it was raining, but not real
15 hard. But the lightning kind of
16 eased up and then the rain really
17 poured down.

18 Q. If Number One Belt was
19 running, Mr. Marsh, would the stacker
20 belt have also been running?

21 A. Yes. If the stacker wasn't
22 running, it would shut Number One

1 down.

2 Q. Do you know if there's a fan
3 alarm in the dispatcher's office? If
4 the fan goes down, does it set off an
5 alarm in the dispatcher's office?

6 A. No.

7 Q. It doesn't or you don't know?

8 A. I don't believe. I don't
9 believe it does. Now, there's a
10 siren down at the fan which you can
11 hear, ---

12 Q. Okay.

13 A. --- but I don't believe
14 there's one in the dispatcher's
15 office.

16 MR. COLLINS:

17 Okay. Thank you.

18 BY MR. SWENTOSKY:

19 Q. When Mr. Wilfong called out
20 and said they had a major explosion
21 and they needed help, do you know
22 approximately what time that might

1 have been?

2 A. No, sir.

3 Q. Okay. Did he happen to say
4 what kind of help? Did he just say
5 help or ---?

6 A. He just said we needed help.

7 Q. Help.

8 A. You know, he didn't
9 really ---.

10 Q. He didn't elaborate or ---?

11 A. No. I mean, I took for
12 granted he needed mine rescue teams
13 and that sort of help, but he really
14 didn't say what we needed.

15 Q. Okay. When he asked for help
16 then, what did you do? Did you tell
17 anyone or call MSHA or anything like
18 that?

19 A. We called Johnny Stemple.

20 Q. So that's what you --- that's
21 what led you to call Mr. Stemple, ---

22 A. Yes, sir.

1 Q. --- was whenever he said he
2 needed help?

3 A. Yes, sir.

4 Q. And I think Mr. Collins asked
5 you about, were there any self-
6 rescuers taken underground after Mr.
7 Wilfong came out and you sent all the
8 --- when you sent detectors and
9 boards and nails and all this other
10 stuff. Did you say they did take
11 self-rescuers underground or ---?

12 A. If they did, they got them on
13 their own. I didn't load them. I
14 didn't see them take any.

15 MR. SWENTOSKY:

16 Okay. Can we take a
17 short break here? Go off the
18 record.

19 SHORT BREAK TAKEN

20 BY MR. SWENTOSKY:

21 Q. When you were --- you talked
22 about when you first thought it was

1 an explosion that occurred. Okay.

2 And do you recall what time that was?

3 I may have asked you this, but ---.

4 A. Not really. There was so much
5 going on that ---

6 Q. Yes. And I understand that.

7 A. --- I wasn't worried about
8 times. I was just ---.

9 Q. And how did you know or how
10 did you come to know --- to think it
11 was an explosion?

12 A. Well, the way the COs were
13 going crazy in the mines, on our
14 computer screen. And then when they
15 called out, I talked to different
16 people and they had seen all kind of
17 dust. They felt different air
18 changes, and you know, just
19 experience in the mines, I thought it
20 was an explosion, but I didn't say
21 anything to anyone about it until
22 Dick Wilfong called out. And I

1 believe at that time, he was up
2 around Four Drive or somewhere around
3 in there. And he said, we had a
4 major explosion.

5 Q. Is that --- I'm sorry. Go
6 ahead.

7 A. Well, he had like 15 years'
8 experience on a mine rescue team, so
9 he would know from the conditions.

10 Q. Okay. And that's the first
11 --- would that be then the first
12 person that would have used the word
13 explosion?

14 A. Yes. To my knowledge.

15 Q. Who were the first company
16 people to arrive at the mine, other
17 than the normal company people that
18 were already at the mine?

19 A. Carl Crumrine was probably the
20 first to arrive.

21 Q. Okay.

22 A. And then Raymond Coleman and

1 Chuck Dunbar and all of them showed
2 up. But I'm not certain what order
3 they came in.

4 Q. Do you happen to remember ---

5 A. I can't tell you a time.

6 Q. --- what time? You knew my
7 next question, huh?

8 A. Yes.

9 Q. Okay. During the period of
10 time that you were answering the
11 phone and then making some calls, an
12 example, one of those to Mr. Stemple,
13 what was Flea --- what was he doing
14 at that time?

15 A. If I was on the phone, he was
16 probably on the mine phone. And we
17 were notified that MSHA had put a (k)
18 order on us and if we talked to the
19 men underground attempting rescue, to
20 tell them that we had a (k) order and
21 they needed to evacuate.

22 Q. Who told you that, that there

1 was a (k) order?

2 A. Johnny Stemple.

3 Q. And where was John at that
4 time?

5 A. To the best of my knowledge,
6 he was home. He was on the
7 telephone.

8 Q. Okay. Were you on the
9 telephone with him?

10 A. Yes, sir.

11 Q. And he told you that there was
12 a (k) order on the mine?

13 A. Yes, sir. That's when he had
14 notified MSHA of what was going on.

15 Q. So he had been notified ---
16 he, Mr. Stemple, had been notified of
17 the (k) order while he was at home?

18 A. He was either at home or on a
19 cell phone.

20 Q. Okay.

21 A. I really don't know. I talked
22 to him on the telephone, but ---.

1 Q. Well, that call --- did you
2 make the call to him when he ---?
3 Did you make the call to him when you
4 learned of the (k) order, or did he
5 call you?

6 A. He called us.

7 Q. Okay.

8 A. See, he notified the state and
9 federal and the mine rescue teams and
10 everything. I guess --- I'm not
11 sure, but I think it was Mr.
12 Satterfield that he got in touch
13 with, with MSHA.

14 Q. Okay.

15 A. Which they automatically put a
16 (k) order on us over the phone. And
17 he called and notified me of that.

18 Q. And he called and notified you
19 of that?

20 A. Yes, sir. I just happened to
21 answer the phone when he called.

22 Q. And you wouldn't happen to

1 know what time that was, would you?

2 A. No, sir. It was before noon.

3 Q. And then who did you tell that
4 information to, relay that
5 information to?

6 A. Vern Hofer called out to --- I
7 guess they had advanced the
8 telephone. And he called out to see
9 if they had communications. And I
10 notified him at that time that we had
11 a (k) order and they were to evacuate
12 the mines and not to proceed any
13 further.

14 Q. Okay.

15 A. And to the best of my
16 knowledge, that's what they did.

17 Q. Did you tell anyone else on
18 the surface that there was a (k)
19 order on the mine?

20 A. I told Flea.

21 Q. Flea, okay.

22 A. I'm not sure --- I talked to

1 John Collins. John told me if I
2 talked to any of them, to tell them
3 that they needed to come out of the
4 mines.

5 Q. So the first company person
6 that you had spoken to was Mr. Hofer,
7 at that point. And he was the first
8 person --- company person that was
9 notified of the (k) order?

10 A. As far as I know.

11 Q. Okay. When you spoke to Owen
12 underground, ---

13 A. Yes, sir.

14 Q. --- did you ask him where he
15 was?

16 A. Yes, sir.

17 Q. What did he say?

18 A. He told me he was on Four belt
19 somewhere, but he wasn't sure where
20 he was.

21 Q. And he would have been using a
22 pager phone?

1 A. Yes, sir.

2 Q. And you were in the
3 dispatcher's office on that pager?

4 A. Yes, sir.

5 Q. When you were speaking with
6 Mr. Stemple, going back to him for a
7 second, was the One Left crew out of
8 the mine yet?

9 A. No, I don't believe. They may
10 have --- I guess they were. Yeah, I
11 believe they were.

12 Q. Your first call with Mr.
13 Stemple or ---?

14 A. The one where he said we had a
15 (k) order. I know they were out ---

16 Q. At that time?

17 A. --- at that time.

18 Q. Okay. So then you actually
19 had three --- would I be correct in
20 saying that you had three
21 conversations with Mr. Stemple, three
22 separate calls?

1 A. Yes, I would say.

2 Q. And it was the one with the
3 discussion of the (k) order, when you
4 absolutely know that the One Left
5 crew was out of the mine?

6 A. Yes, sir.

7 Q. What about whenever he asked
8 you to provide him with a list of
9 persons on the list, what about that?

10 A. I believe the One Left crew
11 was on their way out, but I'm not
12 certain if they were out at that time
13 or not.

14 Q. Okay. The walkie-talkie that
15 you have, ---

16 A. Uh-huh (yes).

17 Q. --- is that the same type of
18 walkie-talkie that the men use
19 underground in the sections?

20 A. No.

21 Q. They're not?

22 A. No. Mine's a handheld

1 walkie-talkie. I mean, if I got on
2 the same frequency as them, it's
3 possible that we could talk.

4 Q. Well, the two --- are you
5 familiar with walkie-talkies, as far
6 as appearance is concerned, with the
7 men use underground on the sections?

8 A. Yes.

9 Q. Do they look the same?

10 A. More or less, but theirs has a
11 microphone or a ---. It has a cord
12 on it and similar to what the police
13 have, where you clip this little
14 microphone on your ---

15 Q. Microphone, okay.

16 A. --- and they can talk. Now
17 mine you've got to push a button on
18 the side of it and talk into it.

19 Q. They both have a flexible
20 aerial on?

21 A. Yes.

22 Q. The ones underground and the

1 one that you have do?

2 A. Uh-huh (yes).

3 Q. So then the only difference,
4 in appearance, is one has a corded
5 microphone?

6 A. They have a cord, yes.

7 Q. You don't happen to know the
8 model number or anything like that,
9 do you?

10 A. No, sir, I don't.

11 Q. But you know as far as the
12 frequency is concerned, in that way
13 they're different?

14 A. I would say they are. I mean,
15 I really don't know. The ones we
16 have or that I carry has like three
17 or four different frequencies on it.

18 Q. Okay.

19 A. But I have to be turned on a
20 certain frequency in order to talk to
21 the people.

22 Q. And just let me go through

1 this one more time. And I apologize
2 for doing this ---

3 A. Okay.

4 Q. --- another time, but ---.
5 When the pager button on the mine
6 phone, the pager phone underground,
7 you can hear whenever --- as long as
8 the pager button on that particular
9 phone is held down?

10 A. Yes, sir.

11 Q. When that button is let go by
12 the person underground, then you
13 cannot hear him any longer?

14 A. That's right.

15 Q. Okay. But can you contact the
16 persons underground ---

17 A. Yes.

18 Q. --- with that?

19 A. Yes.

20 Q. So then whenever you speak on
21 that walkie-talkie, then that
22 broadcasts all over the mine?

1 A. Yes, sir.

2 Q. Through the pager phone?

3 A. The mine phones, yes, sir.

4 Q. But for them to call you back,
5 they have to hold the pager button
6 down?

7 A. Yes, sir.

8 BY MR. COLLINS:

9 Q. If I might, just a second. I
10 just need you to clarify one thing.
11 You said that --- this is on the
12 radios again. You said that you
13 could, with the handheld radio that
14 you carried outside, ---

15 A. Uh-huh (yes).

16 Q. --- that you could talk to the
17 people underground. But you did not
18 mean you could page these little
19 handheld radios that they carry on
20 them in the section?

21 A. No. Mine phone only.

22 Q. Okay. So from outside on the

1 surface, the phone that you carry
2 when you're in your forklift and
3 stuff, you cannot talk to the guys on
4 the section that are carrying the
5 little handhelds?

6 A. No. No, I cannot.

7 Q. And I'm trying to clarify a
8 little time. You know, the event
9 occurred, everything was busy. But
10 Dick, Al, Vern and Jeff got ready to
11 go underground.

12 A. Uh-huh (yes).

13 Q. How long do you think it was
14 before they actually headed
15 underground?

16 A. It's just a guess, John, but
17 I'd say probably 15 minutes after it
18 happened.

19 Q. And we're thinking this all
20 occurred around 6:30, 6:31. And you
21 observed these people throwing their
22 lights on and running down the hill

1 and got underground pretty fast?

2 A. Yes, sir.

3 Q. Then Dick and Vern brought the
4 One Left crew back outside?

5 A. Yes, sir.

6 Q. And you seen them come back
7 outside and they loaded up some stuff
8 and went underground?

9 A. Yes.

10 Q. Then what time that day do you
11 think Dick and Al, Vern, Owen and
12 Jeff got back outside?

13 A. Do you want a time or a guess?

14 Q. No.

15 A. I mean ---.

16 Q. If you don't know, you don't
17 know.

18 A. I don't know.

19 Q. Do you know if the Sago Mine
20 has any employees on the Barbour
21 County Mine Rescue Team?

22 A. Yes, sir.

1 Q. Do you know who they are?

2 A. Yes, sir. Teddy Hickman and
3 --- oh, boy. The boss over there and
4 I can't even think of his name right
5 now. Hedrick.

6 Q. Roger?

7 A. Roger Hedrick. And there was
8 one that just got on it.

9 Q. Since the explosion, there's
10 been another one?

11 A. No. He got on it right before
12 the explosion. I know his name but I
13 can't think of it.

14 Q. But three total? The numbers
15 that you gave that day, were any of
16 these three numbers given to Johnny
17 Stemple, if you can recall?

18 A. It's possible, John, but I
19 really can't remember.

20 Q. What about what shift these
21 guys would have been working that
22 day? The mine had just changed to a

1 seven-day work week, you know,
2 shortly before this.

3 A. Well, at that time, they were
4 all off because two of them worked
5 midnight shift and one of them works
6 the weekend.

7 Q. So they would have been off
8 this day?

9 A. Yes, sir.

10 MR. COLLINS:

11 Okay, Dennis. Thank
12 you.

13 BY MR. SWENTOSKY:

14 Q. When was the last annual
15 retraining class that you
16 participated in for the Sago Mine?

17 A. It was sometime back in the
18 summer, after vacation. I really
19 don't know.

20 Q. The summer of 2005?

21 A. Yes, sir.

22 Q. Did you receive hands-on SCSR

1 training?

2 A. Yes.

3 Q. And tell me a little bit about
4 that. How did they do that?

5 A. Well, they just had a display
6 model and Al showed you how to don
7 it. And then he asked you to
8 demonstrate it.

9 Q. You mean how to put it on?

10 A. Yes, sir.

11 Q. And you did that?

12 A. Yes, sir.

13 Q. Was there any additional
14 training that you think should be
15 added to that training?

16 A. No, not really.

17 Q. Did you feel the training that
18 you received was adequate?

19 A. Yes.

20 Q. Have you ever been searched
21 for smoking materials?

22 A. Yes, sir.

1 Q. How do they do that?

2 A. They just pat you down and ask
3 you if you have any smoking ---.

4 Q. How often do they do that?

5 A. It's usually once a month.

6 Q. Have you ever observed anyone
7 smoking underground?

8 A. No.

9 Q. Have you ever found any
10 smoking materials underground?

11 A. No, sir, not at these mines.

12 Q. Has anyone offered you
13 anything or made any promise to you
14 in exchange for you appearing here
15 today?

16 A. No, sir.

17 Q. Do you have anything that you
18 would like to add that would be
19 relevant to the investigation at this
20 time?

21 A. No, sir.

22 MR. SWENTOSKY:

1 On behalf of MSHA, I
2 would like to thank you for
3 appearing and answering the
4 questions today. Your
5 cooperation is very important
6 to the investigation as we
7 work to determine the cause of
8 the accident.

9 We ask that you not
10 discuss your testimony with
11 any person who may have
12 already been interviewed or
13 may be interviewed in the
14 future. This will ensure that
15 we obtain everyone's
16 independent recollection of
17 the events surrounding the
18 accident.

19 After questioning other
20 witnesses, we may call you if
21 we have any follow-up
22 questions that we feel that we

1 will need to ask you. If at
2 any time you have additional
3 information regarding the
4 accident that you would like
5 to provide to us, please
6 contact us at the contact
7 information that was
8 previously provided to you.
9 And that's the business cards
10 that you received.

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

21 If you wish, you may
22 now go back over any answer

1 you have given during this
2 interview and you may also
3 make any statement that you
4 would like to make at this
5 time.

6 Do you have anything
7 else?

8 A. I'd just like to know why MSHA
9 wouldn't let the mine rescue teams go
10 in there and rescue those men. I
11 mean, that's --- there were 11 men in
12 there that could have been saved.
13 And it's really hard to know that
14 they laid in there and died and they
15 could have been saved.

16 MR. SWENTOSKY:

17 Okay. Anything else?

18 A. No.

19 MR. SWENTOSKY:

20 Okay. We thank you for
21 your cooperation in helping us
22 in this matter. Thank you.

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SWORN STATEMENT

CONCLUDED AT 2:01 P.M.

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