

STATEMENT UNDER OATH

OF

JOHN B. STEMPLE, JR.

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. District
Courthouse, 500 West Pike Street,
Clarksburg, West Virginia on
Wednesday, February 22, 2006, at 1:58
p.m.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

A P P E A R A N C E S

RICHARD T. STOLTZ

Supervisory Mining Engineer

Mine Safety & Health Administration

P.O. Box 18233

Building 038

Cochrans Mill Road

Pittsburgh, PA 15236

JOHN COLLINS

West Virginia Miners' Health, Safety
& Training

One South Tenney Drive

Buckhannon, WV 26201

DAVE STUART

1507 Stonehenge Road

Charleston, WV 25214

1

2

3

4

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

5

6

TIMOTHY S. WILLIAMS, ESQUIRE

7

U.S. Department of Labor

8

Office of the Solicitor

9

Mine Safety and Health Division

10

1100 Wilson Boulevard

11

Room 2211

12

Arlington, VA 22209-2296

13

COUNSEL FOR MSHA

14

15

MARCO M. RAJKOVICH, JR., ESQUIRE

16

Rajkovich, Williams, Kilpatrick &

17

True, PLLC

18

2333 Alumni Park Plaza

19

Suite 310

20

Lexington, KY 40517

21

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

I N D E X

INTRODUCTION 6 - 17

WITNESS: JOHN B. STEMPLE, JR.

QUESTIONS

By Mr. Swentosky 17 - 112

By Mr. Collins 112 - 131

By Mr. Swentosky 131 - 152

By Mr. Collins 152 - 155

By Mr. Swentosky 155 - 190

CERTIFICATE 190

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

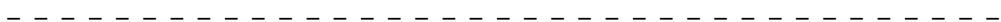
EXHIBIT PAGE

PAGE

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>IDENTIFIED</u>
One	Plan for 8x20 Seals	156

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

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, and John Collins and
3 Dave Stuart with the West
4 Virginia Office of Miners'
5 Health, Safety & Training.

6 I have 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 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.

5 After the investigation
6 is completed, MSHA will issue
7 a written report detailing the
8 nature and causes of the
9 accident. MSHA reports are
10 made available to the public
11 in the hope that greater
12 awareness about the causes of
13 accidents can reduce their
14 occurrence in the future.
15 Information obtained through
16 witness interviews is
17 frequently included in these
18 reports. Your statement may
19 also be used in other
20 enforcement proceedings.

21 I would like to thank
22 you in advance for your

1 appearance here today. We
2 appreciate your assistance in
3 this investigation. The
4 willingness of miners and mine
5 operators to work with us is
6 critical to our goal of making
7 the nation's mines safer. We
8 understand the difficulty for
9 you in discussing the events
10 that took place and we greatly
11 appreciate your efforts to
12 help us understand what
13 happened.

14 This interview with Mr.
15 Stemple is being conducted
16 under Section 103(a) of the
17 Federal Mine, Health and
18 Safety Act of 1977 as part of
19 an investigation by the Mine
20 Safety and Health
21 Administration and the West
22 Virginia Office of Miners'

1 Health, Safety & Training into
2 the conditions, events and
3 circumstances surrounding the
4 fatalities that occurred at
5 the Sago Mine, owned by the
6 International Coal Group, in
7 Buckhannon, West Virginia on
8 January 2nd, 2006. This
9 interview is being conducted
10 at the U.S. District Court in
11 Clarksburg, West Virginia on
12 February 22nd, 2006.

13 Questioning will be
14 conducted by representatives
15 of MSHA and the Office of
16 Miners' Health, Safety &
17 Training.

18 Mr. Stemple, this
19 interview will begin by my
20 asking you a series of
21 questions. If you do not
22 understand a question, please

1 ask me to rephrase it. Feel
2 free at any time to clarify
3 any statements that you make
4 in response to the questions.
5 After we have finished asking
6 questions, you will also have
7 an opportunity to make a
8 statement and provide us with
9 any other information that you
10 believe may be important.

11 If at any time after
12 the interview, you recall any
13 additional information that
14 you believe may be useful in
15 the investigation, please
16 contact Richard Gates at the
17 phone number and e-mail
18 address that was provided to
19 you on --- I believe that
20 information is in the letter
21 that I previously provided to
22 you.

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

8 The court reporter will
9 record your interview and will
10 later produce a written
11 transcript of the interview.
12 Please try to respond to all
13 questions verbally, since the
14 court reporter cannot record
15 non-verbal responses. Also
16 please try to keep your voice
17 up. Copies of the written
18 transcripts will be made
19 available at a later time.

20 If any part of your
21 statement is based not on your
22 own first-hand knowledge, but

1 on information that you
2 learned from someone else,
3 please let us know. Please
4 answer each question as fully
5 as you can, including any
6 information that you learned
7 from someone else. We may not
8 ask the right question to
9 learn the information that you
10 have, so do not feel limited
11 in the precise questions that
12 we ask. If you have
13 information about the subject
14 area of a question, please
15 provide the information to us.

16 At this time, Mr.
17 Collins, do you have anything
18 that you would like to add on
19 behalf of the Office of
20 Miners' Health, Safety &
21 Training?

22 MR. COLLINS:

1 Yes. Thank you. Mr.
2 Stemple, the West Virginia
3 Office of Miners' Health,
4 Safety & Training is
5 conducting this interview
6 session jointly with MSHA and
7 are in agreement with the
8 procedures outlined by Mr.
9 Swentosky for these interview.

10 But the Director
11 reserves the right, if
12 necessary, to call or subpoena
13 witnesses or require the
14 production of any records,
15 documents, photographs or
16 other relevant material
17 necessary to conduct this
18 investigation.

19 And also after the
20 interview today, if you wish
21 to --- have questions or wish
22 to provide additional

1 information, here's a card for
2 Mr. Brian Mills.

3 MR. STEMPLE:

4 Thank you.

5 MR. COLLINS:

6 Thank you, Mr. Stemple.

7 MR. SWENTOSKY:

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

13 MR. STEMPLE:

14 Yes.

15 MR. SWENTOSKY:

16 Do you have a
17 representative with you today?

18 MR. STEMPLE:

19 Yes.

20 MR. SWENTOSKY:

21 And who might that be?

22 MR. STEMPLE:

1 I can't think of his
2 name.

3 ATTORNEY RAJKOVICH:

4 Marco ---.

5 MR. STEMPLE:

6 Marco. Thank you.

7 Rajkovich.

8 ATTORNEY RAJKOVICH:

9 Rajkovich (corrects
10 pronunciation).

11 MR. STEMPLE:

12 Rajkovich (confirms
13 pronunciation).

14 ATTORNEY RAJKOVICH:

15 Close enough.

16 MR. SWENTOSKY:

17 Okay. Are you aware
18 that your representative may
19 have a conflict of interest in
20 representing you while being
21 provided by someone else, such
22 as the company?

1 MR. STEMPLE:

2 Can you repeat that
3 again, please?

4 MR. SWENTOSKY:

5 Sure. Are you aware
6 that your representative may
7 have a conflict of interest in
8 representing you while being
9 provided by someone else, such
10 as that company?

11 MR. STEMPLE:

12 I really don't know how
13 to answer that. Am I aware
14 that there may be a conflict?

15 MR. SWENTOSKY:

16 Yes.

17 MR. STEMPLE:

18 I don't foresee a
19 conflict.

20 MR. SWENTOSKY:

21 Okay. Have you been
22 pressured in any way to accept

1 this person as your
2 representative?

3 MR. STEMPLE:

4 No, sir.

5 MR. SWENTOSKY:

6 With this
7 understanding, do you still
8 choose this person to be your
9 representative?

10 MR. STEMPLE:

11 Yes.

12 ATTORNEY RAJKOVICH:

13 And for the record, Mr.
14 Stemple is here in an
15 individual capacity to testify
16 to the facts he knows, but
17 he's not authorized by the
18 company to speak on behalf of
19 the company. And again, I
20 assume everybody here in the
21 room is investigating team?

22 ATTORNEY WILLIAMS:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

Yes .

ATTORNEY RAJKOVICH:

Thanks . Except me .

MR. SWENTOSKY:

Do you have any
questions regarding the manner
in which the interview will be
conducted before we get
started, Mr. Stemple?

MR. STEMPLE:

No, sir .

MR. SWENTOSKY:

Could you swear in Mr.
Stemple, please?

JOHN B. STEMPLE, JR., HAVING FIRST
BEEN DULY SWORN, TESTIFIED AS
FOLLOWS:

BY MR. SWENTOSKY:

Q. Could you give us your full
name and spell your last name for us,

1 please?

2 A. My name is John B. Stemple,
3 Junior. And my last name is spelled
4 S-T-E-M-P-L-E.

5 Q. And could we have your address
6 and telephone number, please?

7 A. [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. Thank you. Are you appearing
12 here today voluntarily?

13 A. Yes.

14 Q. And how many years of mining
15 experience do you have?

16 A. I started in the mines January
17 of 1987, so I guess that would be 19
18 years.

19 Q. And could you give us a brief
20 description of your coal mine
21 employment history, please?

22 A. In 1987 I started as a

1 surveyor/draftsman. I worked for two
2 years in that capacity. In 1990 ---
3 I'm sorry, 1980 --- I started in the
4 mines in '85. 1987 is when I went to
5 Black Diamond Energy as a beltman. I
6 worked as a beltman and utility man
7 on a section for approximately two
8 years. In 1990, I went to work for
9 Anker at the same mine, when they
10 purchased the mine, in the safety
11 department. And been in the safety
12 department and I've been a foreman or
13 superintendent ever since in one of
14 those capacities.

15 Q. And what is your present
16 position?

17 A. My current title is Assistant
18 Director of Safety and Employee
19 Development.

20 Q. And how long have you worked
21 in that position?

22 A. I got that title in August of

1 2005.

2 Q. Okay. And what other
3 positions have you held at the Sago
4 Mine?

5 A. I was superintendent for a
6 two-month period prior to August,
7 June and July.

8 Q. And prior to that?

9 A. Approximately a year before
10 that I was a safety --- well, I
11 wasn't listed as safety director
12 there, but I was in the safety
13 department involved with the mine, in
14 the plans and initializing the mine
15 reopening.

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

19 A. Yes. Assistant Director of
20 Safety and Employee Development, yes.

21 Q. Okay. And what mining
22 certifications do you have?

1 A. I have a West Virginia miner's
2 card. I have a shot fires card in
3 West Virginia. I have my West
4 Virginia mine foreman's
5 certifications papers. I have an EMT
6 certification in West Virginia.

7 Q. Okay. Do you have any
8 certifications in any other states?

9 A. No, sir.

10 Q. And who is your immediate
11 supervisor?

12 A. At this time, Sam Kitts.

13 Q. And who was your immediate
14 supervisor prior --- on the day of
15 the accident, prior to the accident?

16 A. Ty, Tyrone Coleman. Harrison
17 Tyrone Coleman.

18 Q. Okay. And he's no longer your
19 immediate supervisor?

20 A. After the accident occurred, I
21 was told that I was to answer to Sam
22 Kitts and they took me from my

1 current office and put me at the mine
2 site in an office at the mine site as
3 part of the investigation.

4 Q. Where was your office prior to
5 the accident?

6 A. Buckhannon.

7 Q. Okay. And how long was Mr.
8 Coleman your supervisor?

9 A. Since August 2005.

10 Q. Who was your supervisor prior
11 to that?

12 A. Chuck Dunbar.

13 Q. Can you just kind of describe
14 the safety department operations at
15 the Sago Mine?

16 A. The safety department
17 operations at the Sago Mine ---.

18 Q. Let me make one clarification
19 before you start. And the question
20 I'm asking --- when I ask the
21 questions, I'm referring to prior ---
22 on the day of the accident and prior

1 to that.

2 A. Okay. James Allen Schoonover
3 is the safety director at the mine
4 and then we are support group for him
5 if he needs us.

6 Q. And were you working on the
7 day of the accident?

8 A. No, sir.

9 Q. Okay. Can you tell us when
10 you learned of the explosion at the
11 Sago Mine?

12 A. At 7:00 a.m. January 2nd.
13 Well, I need to just correct that.

14 Q. Okay.

15 A. I didn't know there was an
16 explosion at 7:00 a.m.

17 Q. That's fine. The event.

18 A. Yes.

19 Q. Okay. And where were you at
20 when you were notified of that?

21 A. At home.

22 Q. At home? Okay. And who ---

1 well, you said when, but who notified
2 you of the event?

3 A. Bill Chisolm. He was the
4 dispatcher.

5 Q. And how did he notify you of
6 that?

7 A. Telephone.

8 Q. Telephone, okay. And what was
9 the information that he provided to
10 you at that time over the telephone?

11 A. He told me that there had been
12 a severe lightning storm come through
13 the area at about 6:30 in the
14 morning. And that they had lost
15 power underground and that the One
16 Left crew had called out on the mine
17 phone and said that they felt that
18 there was a problem in the mine,
19 possibly the fan was down. And they
20 didn't know what to do and he was
21 calling for my direction.

22 Q. Okay. Was that the extent of

1 the conversation?

2 A. No.

3 Q. Just tell me what he said.

4 A. Our conversation went on for
5 approximately 20 minutes.

6 Q. Okay. Let me ask you this
7 then, just starting at 7:00 a.m. when
8 Mr. Chisolm called you. And if you
9 just start there and kind of lead me
10 through what happened that day to the
11 time you left the property. And I'll
12 try not to interrupt you but I want
13 to just kind of let you tell us what
14 you recall. And then when we're done
15 with that, we'll just kind of back up
16 and work our way through and fill in
17 some of the blanks that I may have.

18 A. It was a very eventful
19 morning.

20 Q. Yes, I would imagine.

21 A. I made 46 phone calls from
22 basically seven o'clock in the

1 morning 'til approximately 10:45.
2 And this being the first phone call
3 and trying to understand what Bill
4 was trying to tell me being that I
5 was at home and couldn't understand
6 the magnitude of what was going on in
7 the mine.

8 When he told me that there was
9 a problem at the mine, I questioned
10 him where was the superintendent.
11 And he told me that he was
12 underground. I said, well, where is
13 the maintenance superintendent. He's
14 underground. Well, where's the
15 safety director. He is underground.

16 So I just had Bill to talk to,
17 to try to work out the details. And
18 I said, well, I really would like to
19 talk to one of those individuals.
20 And he said, maybe I can get one of
21 them on the mine phone. So he tried
22 to holler at them on the mine phone.

1 And when he finally got ahold
2 of Dick Wilfong, he patched the land
3 line phone into the mine phone and I
4 talked to Jeff Toler, which at that
5 time was approximately 7:15. And I
6 asked Jeff what was going on. And he
7 said that they had lost power. He
8 wasn't sure what was going on at that
9 time. He had just ran into the crew
10 from One Left. They were exiting the
11 mine. And that they said they had
12 noticed several intake stoppings out
13 along the way.

14 And I said, do you have any
15 idea what may have happened. And he
16 said, no, I don't. And I said, have
17 you been able to get ahold of the Two
18 Left crew, which Bill had told me he
19 had not had contact with the Two Left
20 crew at that time.

21 And Jeff (sic) said, no, he
22 had not. And I said, well, being

1 that there are stoppings out, you
2 need --- and they had also said there
3 was some smoke and dust in the air.
4 Being that there's stoppings out and
5 smoke and dust in the air, you need
6 to re-establish ventilation as deep
7 as you can into the mine to try and
8 prevent the air from being short-
9 circuited from the Two Left section
10 since we can't get ahold of those
11 men.

12 And Gary Marsh, who's the
13 outside yard man was also on a mine
14 phone and overheard this conversation
15 and he proceeded, from my
16 understanding, to put together some
17 ventilation controls, curtain, nails
18 and stuff to take down to the pit
19 mouth.

20 And from my understanding,
21 Dick Wilfong left that group and
22 exited the mine with the One Left

1 crew via the mantrip, track mantrip,
2 returned to the surface and gathered
3 up the supplies that Gary Marsh had
4 prepared. And Dick went back into
5 the mine and there was five
6 individuals that proceeded to install
7 ventilation controls into the mine.

8 In the meantime, I was trying
9 to decipher what type of problem we
10 may have based on the information
11 that I was given. And I proceeded to
12 make phone calls that morning. I
13 started with our company people
14 calling phones and leaving messages
15 on answering machines. Then I tried
16 to call the state office and there
17 was no answer of course at the state
18 office. That was at approximately
19 7:50 --- 7:40, I'm sorry. 7:40.

20 I got Mark Wilfong and Brian
21 Mills' phone numbers of the answering
22 machine. I called Mark Wilfong's

1 home phone number. I let it ring ten
2 times and there was no answer. I
3 called Brian Mills' number that was
4 on the answering machine and got a
5 message that the number had been
6 disconnected.

7 My wife was there helping me
8 and I'm asking her to look up phone
9 numbers in the phonebook. I then
10 called John Collins at home, left a
11 message on his answering machine. I
12 then tried to call --- I made so many
13 phone calls, I don't want to get them
14 mixed up.

15 I then called back to the mine
16 to get an update, because I'm calling
17 and leaving messages on answering
18 machines and I'm really not knowing
19 what type of message to leave.

20 So I believe at that time, I
21 called back to the mine to get an
22 update to see if there was any type

1 of update. And I also requested the
2 phone number of the mine rescue team
3 station off the bulletin board and I
4 tried to call the mine rescue team
5 numbers that were on the board and
6 was not having any luck with that.

7 I made a phone call to Jeff
8 Rice's home. He was not there. I
9 made a phone call to the mine rescue
10 station. This was approximately
11 eight o'clock, maybe five minutes
12 after 8:00. Their answering machine
13 had been turned off. There was no
14 answering machine. It had been turned
15 off.

16 I then call back to the mine
17 by my best recollection and asked for
18 any more phone numbers posted with
19 the mine rescue team, and got ahold
20 of Chris Height (phonetic) finally at
21 home. And explained to Chris that we
22 had a problem at the mine.

1 In my earlier conversation
2 with Jeff Toler, he said that Dick
3 Wilfong recommended that we contact a
4 mine rescue team and get them started
5 toward the mine.

6 I believe it was at --- I'm
7 not going to quote this time, because
8 I don't remember. I called the --- I
9 called Kenny Tenney's home and left a
10 message on his answering machine.
11 Then I called the District III office
12 in Morgantown, and I had to call it
13 twice to get all the phone numbers
14 and names that were listed on their
15 answering machine.

16 I then called Carlos Mosley's
17 cell phone number, which was listed
18 on their answering machine, and I
19 left a message. I called Bill
20 Ponceroff's cell phone, left a
21 message. I called Kevin Stricklin's
22 phone and I left a message. I then

1 had my wife look up Jim Satterfield's
2 phone number. I called and it was a
3 wrong number. There was two Jim
4 Satterfields listed in the book.

5 So I then called the
6 Bridgeport Field Office and got Jim's
7 correct phone listed on their
8 answering machine. Called Jim at
9 home and that was approximately 8:28.
10 I do remember that time. And
11 explained to him what I knew at that
12 time, which I told him I still don't
13 know very much, but that's what I
14 knew at that time.

15 And he asked me what time it
16 was and I said 8:32. And he said at
17 8:32, I'm issuing a (k) order and no
18 one is to enter the mine or do any
19 work at the mine from 8:32 on. I
20 then called the mine to let them know
21 that I had got ahold of Chris Height
22 with the Barbour County Mine Rescue

1 Team.

2 I had got ahold of John
3 Collins. He called me back, too. I
4 forgot to mention that. John had
5 called me back probably about five
6 minutes after I called him and John
7 told me he was heading toward the
8 mine. But I did call back to the
9 mine then to let them know I had got
10 ahold of the state. I had got ahold
11 of federal and I got ahold of the
12 Barbour County Mine Rescue Team.

13 And at that time, John Collins
14 came to the phone and I talked to
15 John and he told me that they had 42
16 parts per million CO coming out of
17 the return entry at the pit mouth and
18 they were monitoring at the pit
19 mouth. And that he had issued an
20 order as well at the mine.

21 After that, I made numerous
22 phone calls as far as mine rescue

1 goes. Our employees, our other
2 safety personnel, mine-related people
3 and once I felt confident that I
4 could finally leave my phone to head
5 toward the mine, which was about
6 10:45 in the morning, then I headed
7 --- actually I went to the Buckhannon
8 division office first. And then from
9 the division office in Buckhannon, I
10 collected some things I needed, then
11 I went on to the mine. I arrived at
12 the mine approximately 11:30.

13 Q. Okay. Boy, you had quite a
14 phone call history there and some
15 times. Okay. You were notified at
16 7:00 a.m., you said, on January 2nd,
17 and that was Mr. Chisolm, ---

18 A. Yes.

19 Q. --- the dispatcher?

20 A. Yes.

21 Q. And just briefly again, what
22 was --- you said you were on the

1 phone for 20 minutes with him
2 approximately?

3 A. Yes, approximately 20 to 23
4 minutes, between Bill and Jeff Toler.

5 Q. Okay. And do you know
6 approximately what time you spoke to
7 Mr. Toler?

8 A. 7:15.

9 Q. 7:15. And that was patched
10 through the pager phone that's
11 underground?

12 A. Yes.

13 Q. And just again, what
14 instructions did you give him?

15 A. I asked him what he knew at
16 that time.

17 Q. Okay.

18 A. And he told me what the One
19 Left crew had told him.

20 Q. Okay.

21 A. And I asked him, had he been
22 able to get ahold of the Two Left

1 crew. Had we made contact with the
2 Two Left crew. And he had not. And
3 I said being that the intake
4 stoppings had been breached, the
5 statements made by the One Left crew,
6 that I told him that he needed to
7 replace those stoppings with
8 curtains. Being that there was smoke
9 and dust in the air, that I felt that
10 the ventilation was definitely
11 disrupted. And being a blowing
12 ventilation system, I understand how
13 that works and a stopping out means
14 your air is short-circuited. I
15 instructed him to gather up what
16 ventilation controls he could and re-
17 establish ventilation into the mine
18 to the Two Left crew.

19 Q. Okay. At any time, did Mr.
20 Chisolm indicate that he had ordered
21 the mine evacuated or anything like
22 that? Or who made the --- did

1 anybody instruct that the mine be
2 evacuated?

3 A. I'm not aware of that.

4 Q. Okay. After you had that
5 initial discussion with Mr. Toler ---
6 and was that the end of the
7 conversation, that first
8 conversation, by telephone with
9 anyone or ---?

10 A. Underground, yes.

11 Q. And the surface, did your
12 conversation continue then with Mr.
13 Chisolm or someone else?

14 A. No.

15 Q. Is that when you hung the
16 phone up then?

17 A. Yes.

18 Q. Okay. And you said at that
19 point then, you --- and who was the
20 person that you called next?

21 A. Chuck Dunbar.

22 Q. Chuck Dunbar. And what was

1 the extent of that conversation?

2 A. I left a message on his
3 answering machine letting him know
4 what we had at the mine, what I knew.

5 Q. And then do you know the
6 approximate time of that?

7 A. 7:23.

8 Q. Okay. Do you have a log or
9 something that you have those ---
10 would we be able to have a copy of
11 that? Or maybe we already have. I'm
12 not sure.

13 ATTORNEY RAJKOVICH:

14 We'll look, take it
15 under advisement.

16 MR. SWENTOSKY:

17 Okay.

18 BY MR. SWENTOSKY:

19 Q. After you spoke to --- or you
20 didn't speak to Mr. Dunbar, but you
21 left him a message on his machine.
22 And then who was it that you

1 attempted to phone next?

2 A. Raymond Coleman.

3 Q. Coleman. And what is his
4 position?

5 A. I believe his title is
6 production coordinator.

7 Q. Okay. And did you speak with
8 him at all?

9 A. No. Left a message.

10 Q. Message. Okay. And then who
11 did you call next?

12 A. Tyrone Coleman.

13 Q. Tyrone Coleman. Did you speak
14 to him?

15 A. No, sir.

16 Q. You were having a tough time?

17 A. I was having a tough time.

18 Q. Okay. And then who did you
19 try next?

20 A. Chuck Dunbar then returned my
21 phone call and I basically told him
22 the same thing I did on the message,

1 that there was a problem underground
2 and I asked him to help me make some
3 phone calls because I was having a
4 rough time.

5 Q. And did he give you any
6 instructions at all?

7 A. No, sir.

8 Q. Okay. And then who did you
9 attempt to call? Let me ask you this
10 first, please. When you asked him to
11 give you some assistance in phone
12 calls, what phone calls was he to
13 make?

14 A. To his supervisors, people
15 above him.

16 Q. Okay. Was there a discussion
17 about calling the state or MSHA at
18 that time at all?

19 A. No.

20 Q. Okay.

21 A. No.

22 Q. All right. And then who did

1 --- after your discussion with Mr.
2 Dunbar, ---?

3 A. Then I called our division
4 office and I spoke to Jerry Waters,
5 who is our purchasing manager. And I
6 asked him to give me some phone
7 numbers, some additional phone
8 numbers.

9 I didn't have all the pager
10 numbers with me or home phone
11 numbers. I knew the cell phone
12 numbers for Chuck and Raymond and Ty,
13 but I didn't know their home phone
14 numbers. So then I called Raymond's
15 home phone number and spoke with
16 Raymond, told him what I knew.
17 Raymond told me he was leaving his
18 home immediately and heading toward
19 the mine. I said, I'm going to stay
20 here and continue to make phone
21 calls.

22 Q. And did he give you any

1 instructions?

2 A. No.

3 Q. Going back for a second to
4 your phone call with Chisolm, did he
5 indicate anyone that he had called,
6 MSHA or the state?

7 A. He told me that he had tried
8 to make several phone calls but he
9 didn't tell me who he had tried to
10 call. He was having a tough time.
11 He said he hadn't spoken to anyone.
12 He was trying to call people and
13 wasn't able to talk to anyone.

14 Q. But he didn't tell you whether
15 he called MSHA or state or ---

16 A. No, he did not.

17 Q. --- company people or
18 anything?

19 A. No, he did not.

20 Q. Okay. So then after you spoke
21 with Mr. Coleman, then who did you
22 attempt to call?

1 A. That's when I called Jerry
2 Waters to get more phone numbers.

3 Q. And Jerry Waters, what is his
4 position?

5 A. He's purchasing manager.

6 Q. Okay. And you obtained those
7 various phone numbers ---

8 A. Yes.

9 Q. --- that you were attempting?
10 And what phone numbers were you
11 attempting to get through that
12 conversation?

13 A. Tyrone Coleman's home phone
14 number. I guess I did call Jerry
15 before I called Raymond evidently
16 because I got Raymond's phone number
17 as well from Jerry.

18 Q. Okay.

19 A. Called Raymond and got ahold
20 of him. I called Ty's home, still no
21 answer. And after that, I just made
22 a series of phone calls.

1 Q. And what was that series? Do
2 you recall?

3 A. As I said, first I called
4 Kenny Tenney's phone, left a message.
5 I called the state office, that whole
6 ---.

7 Q. And you mentioned you called
8 the state around 7:40, I believe you
9 said?

10 A. Uh-huh (yes).

11 Q. And what time --- do you have
12 any idea what time you attempted to
13 call Mr. Tenney?

14 A. 7:50.

15 Q. 7:50?

16 A. Yes.

17 Q. Okay. And then you --- I know
18 you said you tried a series of MSHA
19 calls and then you finally was able
20 to get ahold of Mr. Satterfield at
21 8:28. You thought ---

22 A. 8:28.

1 Q. --- it was somewhere around
2 there.

3 A. It was 8:28.

4 Q. Okay. And between those MSHA
5 calls, had you made any other calls
6 or did you just start down the line
7 with MSHA?

8 A. Yes, I made several calls. I
9 was just making efforts at the state.
10 I would make an effort at MSHA. I
11 would make an effort at the mine
12 rescue team. And then I would no
13 particular reason or rhyme, then I
14 would go back again. As my wife was
15 looking up phone numbers in the
16 phonebook, I was trying the numbers
17 that she was giving me and I was
18 directing her what numbers and who to
19 give me, who to look up.

20 Q. And you think it was around
21 8:32 that the (k) order was issued?

22 A. It was 8:32 because we spoke.

1 Q. And after those --- when was
2 the mine rescue teams or how did you
3 get in --- how did you get into that
4 if you would fill that in for me?

5 A. Tried to call Jeff Rice first
6 at his home phone.

7 Q. Okay. And who is Jeff Rice?

8 A. He is the team trainer. I
9 believe he's their trainer, is his
10 title.

11 Q. Okay. And did you --- your
12 first attempt at the mine rescue
13 team, was that after the (k) order
14 was issued or was that ---
15 approximately what time was that?

16 A. That was before.

17 Q. That was before?

18 A. I do believe it was before.

19 Q. And what time did you say that
20 was?

21 A. It seemed like it was 8:04 by
22 my best recollection. When I tried

1 to call Jeff Rice at home it was
2 8:04, yes.

3 Q. And what led you to attempt a
4 call to Mr. Jeff Rice?

5 A. By Jeff Toler stating that
6 Dick Wilfong had recommended we
7 contact the mine rescue team.

8 Q. Okay. And is that --- and I
9 know you have a lot of these calls
10 and I'm trying to follow that, too,
11 so I can understand what problems you
12 had. But after you hung up the phone
13 with Mr. Chisolm, is that --- okay,
14 wait a minute here. What sequence
15 did you call --- or attempt to call
16 Mr. Rice, was that after you hung up
17 the phone? How long after you hung
18 up the phone with Mr. Chisolm?

19 A. Well, I hung up the phone with
20 Mr. Chisolm at 7:23, then I called
21 back at approximately 20 'til 8:00
22 I'm guessing, because I don't

1 remember that time exactly. And I
2 tried to call the mine rescue team,
3 Jeff, at 8:04. I do remember that
4 time.

5 Q. Okay. And you were not able
6 to get ahold of him. And then who
7 did you try and call?

8 A. I tried the station itself and
9 there was no answer, that said that
10 the message machine had been turned
11 off. That's the message that I got
12 on the phone.

13 Q. Okay.

14 A. So then I called back to the
15 mine after that and spoke with Bill
16 and Gary Marsh was also on the phone
17 evidently, because he's the one ---
18 or I believe Bill sent him to get the
19 numbers. But he came back with the
20 phone numbers of Chris Height, Mark
21 Chewning, Clyde Tenney.

22 Q. When you asked for those

1 numbers, did you at that point end
2 the phone conversation then and did
3 he call you back or anything or was
4 did you --- did you just hang on the
5 phone until he came back?

6 A. I hung on the phone 'til he
7 got back, yes.

8 Q. Okay. And you got these
9 additional phone numbers for the mine
10 rescue?

11 A. Yes. Their home, the
12 individuals' home phone numbers,
13 which are posted.

14 Q. Okay. And based on that
15 information, who did you call?

16 A. Chris Height.

17 Q. Chris Height. And what is his
18 position?

19 A. He is affiliated with the
20 Barbour County Mine Rescue. I'm not
21 sure what his title is, but he's
22 affiliated with the Barbour County

1 Mine Rescue Team. He may be the
2 president. I think he's the
3 president.

4 Q. And were you able to get ahold
5 of him?

6 A. Yes.

7 Q. And what information did you
8 provide Mr. Rice --- or excuse me,
9 ---

10 A. Mr. Height.

11 Q. --- Mr. Height?

12 A. At that time, I told him there
13 was problem at the mine, that we felt
14 we needed the mine rescue team and I
15 told him to go to the mine rescue
16 station and get his people together
17 and start making phone calls to get
18 his people together.

19 Q. Okay. And did he ask you for
20 any additional information or ---?

21 A. No.

22 Q. That was the extent of that

1 conversation?

2 A. Yes.

3 Q. And that was approximately ---
4 again, you may have said it already?

5 A. I would say around 8:10 to
6 8:15, just guessing. I don't
7 remember that time.

8 Q. Okay. And after that
9 conversation then, who did you ---
10 start at that point and tell me what
11 occurred.

12 A. I then called the mine rescue
13 station and Jeff Rice and answered
14 the phone. And I told Jeff Rice at
15 that time what we had and that I had
16 got ahold of Chris and Chris was on
17 his way to the station. Jeff told me
18 that he was in the process of calling
19 his mine rescue team members. And
20 that he had not got ahold of all of
21 them, but he had enough for one team.
22 He then asked me if I knew anything

1 about Roger Hedrick, which is one of
2 his team captains. If Roger had
3 worked that night. He works at the
4 Sago Mine on midnight shift. And I
5 told him I would call the mine and
6 see. Maybe he is there. So then I
7 called the mine to see if Roger had
8 worked that night. And they said,
9 no, no one had worked on midnight
10 shift that night.

11 Q. When you called back to Jeff
12 Rice and he said he was getting
13 things prepared, had he heard
14 something from someone else?

15 A. That was ---

16 Q. And that was your ---?

17 A. --- obvious. Evidently.

18 Q. Okay. But you're not aware of
19 ---

20 A. I'm not aware.

21 Q. --- how that occurred? Okay.
22 Then you tried to get ahold of the

1 captain for Sago and he had --- or
2 excuse me, you had called back to the
3 mine and he did not work that
4 evening. Then what did you do?

5 A. I called back and told Jeff
6 Rice that, that he had not worked
7 that evening. And Jeff told me that
8 he would continue trying to get ahold
9 of the other members, that he had
10 enough people there now for one team
11 and he was going to go ahead and send
12 them to the mine at that time.

13 Q. And approximately what time
14 was it?

15 A. It was before 8:30.

16 Q. Okay. So that was actually
17 prior to finally getting ahold of Mr.
18 Satterfield?

19 A. Yes.

20 Q. And after that, what happened?

21 A. Just numerous phone calls
22 there. I mean, I can tell you the

1 phone calls but as far as putting the
2 in order, I've made so many, that's
3 it's just hard to put them in order.
4 I know I called Greg Nestor, who's
5 one of our safety department people
6 and told Greg that we were going to
7 need his assistance. I wasn't really
8 sure what assistance at that time we
9 would need ---

10 Q. Sure

11 A. --- but we would need his
12 assistance. I called Ed Ranenberg
13 (phonetic), another member of our
14 safety department. And I told him to
15 make sure he kept his cell phone with
16 him, that I'd be calling him back
17 with direction, just to head toward
18 the mine. I then called the pastor
19 at the Sago Baptist Church and asked
20 him if we could use the church as an
21 area for assembly of the families and
22 news media and mine rescue teams.

1 Then called, I think, Ty
2 Coleman's cell phone and told Ty what
3 I had organized so far, and he
4 updated me on what he had organized
5 so far. And Ty asked me at that time
6 to go ahead and come to the mine. I
7 told him, no, I felt more comfortable
8 making phone calls from my home as
9 opposed to making them on the road
10 and on my cell phone. Called Jeff
11 Kelly. Told Jeff we may need his
12 assistance.

13 Q. And Jeff is ---?

14 A. He's an engineer with the
15 company.

16 Q. Thank you. An engineer that
17 works for ICG?

18 A. Yes.

19 Q. Okay.

20 A. Yes. He told me --- well,
21 actually I called Jeff to see if
22 there was anyone available at the

1 Anker office that could print off
2 maps for us for the mine rescue
3 teams. And Jeff at that time
4 volunteered his assistance.

5 I then called back to the mine
6 and told Ty where I was at at that
7 time and --- because Ty's the one
8 that told me we would need maps. We
9 were having a hard time getting ahold
10 of our engineering group, Alpha
11 Engineering, out of Beckley, West
12 Virginia, to provide maps. We were
13 having a hard time getting ahold of
14 Joe Myers, who is our engineer that
15 would be able to provide the maps for
16 us.

17 Q. Ty then got to the mine much
18 earlier than you?

19 A. Yes.

20 Q. Okay. So then ---.

21 A. Several hours I'm sure.

22 Q. Several hours before, okay.

1 A. Yes.

2 Q. Okay. During your discussions
3 with Mr. Chisolm initially, the
4 initial phone call, what --- did he
5 talk to you about any CO levels or
6 anything like that?

7 A. I asked --- when he said the
8 power went off, I said, well, then
9 the belts went down? And he said,
10 yes. I said, well, look and see on
11 the computer printout what time the
12 belts went down because they were
13 printed off on the monitoring system.
14 He said at 6:31. So I said you lost
15 power then at 6:31, that's what
16 that's telling me. He agreed.

17 Q. And did you discuss the CO
18 levels at all?

19 A. No. No.

20 Q. Did he relate anything about
21 CO levels?

22 A. No.

1 Q. Okay. Did you have any other
2 conversations with MSHA or the state
3 prior, any additional ones, other
4 than what you've told me so far?

5 A. Yes.

6 Q. From that time until the time
7 you left ---

8 A. Yes.

9 Q. --- your home?

10 A. Yes.

11 Q. And what was the --- when were
12 those and what were the extent of
13 those conversations?

14 A. Ron Wyatt phoned me and told
15 me that he was on I-79 headed south,
16 and he had Bill Ponceroff with him
17 and that they were headed to the mine
18 and he needed direction on how to get
19 to the mine.

20 Q. And approximately what time
21 was that, do you remember? Do you
22 recall at all?

1 A. No, I don't.

2 Q. And ---.

3 A. Probably around nine o'clock
4 but I don't remember exactly.

5 Q. Okay. And I guess my next
6 question, was there any other
7 conversation with MSHA or the state
8 prior to you leaving for the mine?

9 Q. No.

10 Q. The mine rescue, now there's
11 --- the first team has been sent to
12 the mine. And were there any other
13 teams that were mobilized that you're
14 aware of prior to you leaving from
15 home?

16 A. Yes. When I talked with Ron
17 Wyatt, he told me that he had
18 contacted Consol's mine rescue team
19 people, whoever that is.

20 Q. Okay.

21 A. And he had contacted Tri-State
22 Mine Rescue Team and he had both on

1 the way.

2 Q. Okay. Had anyone asked them
3 to --- are you aware of anyone asking
4 Mr. Wyatt to make those contacts at
5 all?

6 A. No.

7 Q. Did anyone from ICG request
8 any additional teams up until the
9 time you left from home?

10 A. From what I've learned, yes.

11 Q. At that time though, were you
12 aware of ---?

13 A. No, I was not.

14 Q. Okay. And since that time,
15 what have you come to find out?

16 A. Tim Martin, who's one of our
17 safety managers out of the Ashland
18 office in Kentucky, had made phone
19 calls trying to acquire mine rescue
20 teams.

21 Q. How did he become aware of the
22 --- was that just part of the

1 telephone ---?

2 A. I believe I called him.

3 Q. Oh, you did?

4 A. Yes.

5 Q. And what did you tell him?

6 A. Just that there was a problem
7 at the mine and what Bill Chisolm had
8 told me and what Jeff Toler had told
9 me on the phone.

10 Q. And do you recall
11 approximately what time that was?

12 A. It was before nine o'clock.

13 Q. And what rescue teams again,
14 did he notify?

15 A. Tim had contacted a mine
16 rescue team at one of the ICG
17 operations. I believe it's in
18 Illinois. They're called Viper. I
19 believe the name of the mine is Viper
20 Mine. And Tim told me that he had
21 contacted the Viper team. He had
22 them in a charter jet on their way

1 and we would need to make
2 arrangements to pick them up at 1:30
3 in Charleston.

4 Q. And that's 1:30 p.m. in the
5 afternoon of January the 2nd?

6 A. Yes.

7 Q. And did he relate any --- or
8 this is just information that you
9 have come to learn after?

10 A. No. He told me that on the
11 phone.

12 Q. Oh, okay. Did he --- was
13 there any other mine rescue teams
14 that he related to you that he might
15 have requested?

16 A. Not to my knowledge.

17 Q. Did anyone request any
18 additional teams that we haven't
19 discussed yet?

20 A. Not to my knowledge.

21 Q. Were there any mine rescue
22 teams that had arrived prior to you

1 leaving your home that you're aware
2 of?

3 A. I was told in one of my phone
4 conversations that the Barbour Mine
5 Rescue Team was on the property. And
6 that was probably 9:30, quarter 'til
7 10:00, sometime in that time frame.

8 Q. Okay. And who did you have
9 that discussion with?

10 A. I believe Brad Phillips.

11 Q. And who is Brad Phillips?

12 A. At that time, he was assistant
13 superintendent at the mine, at Sago
14 Mine.

15 Q. When you say at that time,
16 what do you --- you're just relating
17 that he --- is he still?

18 A. On January the 2nd.

19 Q. The 2nd?

20 A. Uh-huh (yes).

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

1 A. I wanted to know if there was
2 smoke coming out of the drift mouth
3 of the return entry. That's why I
4 called and he answered the phone and
5 he went and looked and told me no,
6 there was not.

7 Q. Was there any instructions to
8 anyone up to that point to check the
9 returns to determine what the
10 constituents might have been?

11 A. It was already being done.
12 Whenever I talked to John Collins
13 earlier, he told me that they had
14 already checked the return and there
15 was 42 parts per million coming out
16 the return. And that he had the
17 sheriff's department at the gate to
18 monitor the gate. I had already
19 given Gary Marsh instruction to go
20 out and monitor the gate and not to
21 allow anyone in. And then John ---
22 this was probably ten minutes after I

1 talked to Gary or shortly after I
2 talked to Gary, John had told me that
3 he had the deputy sheriff at the gate
4 monitoring the gate. And John's the
5 one that told me there was 42 parts
6 per million CO coming out the return
7 entry and that they were monitoring
8 the return entry for air quality.

9 Q. Okay. And did the say who was
10 doing the monitoring?

11 A. I believe it was the Barbour
12 County Mine Rescue Team. I believe
13 it was Clyde Tenney at that time.

14 Q. And you may have just said
15 this, but approximately what time was
16 that?

17 A. I want to say 8:42, but I
18 don't --- I'm not a hundred percent
19 sure.

20 Q. Prior to you leaving home, was
21 there any additional calls concerning
22 mine rescue?

1 A. No.

2 Q. All right.

3 A. No. The phone conversation
4 that I had with Greg Nestor, that was
5 going to be part of his job was to
6 assist in mine rescue team, as far as
7 organizing support and the
8 mobilization of the Viper team from
9 Charleston to Buckhannon, vans, box
10 vans, whatever we would need to
11 organize to move them.

12 Q. Greg Nestor, who is he?

13 A. He's a member of the safety
14 department.

15 Q. Safety department at Sago?

16 A. Sentinel.

17 Q. Sentinel?

18 A. Uh-huh (yes).

19 Q. Okay. That's your --- one of
20 your sister mines?

21 A. Correct.

22 Q. Okay. What had you --- you

1 had made --- or spoke with him or ---

2 A. Yes.

3 Q. --- he called you? You called
4 him?

5 A. I called him.

6 Q. And that's prior to you
7 leaving home again?

8 A. Yes.

9 Q. Okay. And his --- the
10 instruction that you had given him
11 was to organize mine rescue, to pick
12 up ---?

13 A. Just what Tim Martin had
14 directed me, that someone would need
15 to make arrangements to get the mine
16 rescue team from Charleston to
17 Buckhannon. And he asked me to have
18 Greg do that, and I told him I would.

19 Q. So that was the extent of his
20 instruction, at that point anyway?

21 A. Yes.

22 Q. Okay. When you left your

1 residence, what caused you to leave
2 your residence? And maybe that
3 sounds like a dumb question, but I
4 mean, do you ---? You had everything
5 organized at that point that you felt
6 you needed?

7 A. Yes.

8 Q. Or did someone instruct you to
9 come to the mine at that point?

10 A. No.

11 Q. I guess that's what I'm
12 questioning.

13 A. No. I felt at that time, I
14 had contacted the people that I
15 needed to contact and could leave and
16 go to assist.

17 Q. Okay. Did you make a final
18 call to the mine prior to leaving
19 your residence?

20 A. I made several calls to the
21 mine prior to leaving my residence.

22 Q. Okay. What was that

1 conversation, that last one?

2 A. I don't know that that was the
3 last call that I made.

4 Q. Do you recall what information
5 was given to you at the last
6 conversation with the mine?

7 A. That the state was at the
8 property, the federal was at the
9 property. And again, I asked was
10 there smoke coming out of the pit
11 mouth and the answer was no.

12 Q. And who did you speak to at
13 the last, do you recall?

14 A. No, I do not. I spoke with
15 several people on my various phone
16 calls. I don't remember who the last
17 person was I talked to.

18 Q. Okay. When you left your
19 residence to go to the mine, did you
20 make any additional calls on a cell
21 phone on your ---

22 A. Yes, sir.

1 Q --- route to the mine? And
2 who might that have been?

3 A. Yes. Some of them are what I
4 already mentioned, conversations with
5 Tim Martin, conversations with Greg
6 Nestor, conversations with Jeff
7 Kelly, conversations with Tyrone
8 Coleman.

9 Q. And those --- you say that
10 some of those calls are the ones that
11 you've already mentioned?

12 A. Yes. Yes.

13 Q. And when you arrived at the
14 mine, what did you do?

15 A. When I arrived at the mine, I
16 walked over to the office building to
17 see what was going on.

18 Q. And you say the office
19 building, you mean the ---

20 A. The mine office.

21 Q. --- the mine office, the large
22 building, the bathhouse ---

1 A. Yes.

2 Q. --- combined with offices?

3 A. Yes.

4 Q. And who did you speak to at
5 that location?

6 A. I spoke with several people,
7 Brad Phillips, Bill Ponceroff, Carl
8 Crumrine, Jim Satterfield.

9 Q. Okay. And when you arrived
10 and you went to the office and spoke
11 with them, what were the extent of
12 those conversations or what
13 instructions did you give or did you
14 get at that time?

15 A. It was very chaotic. I did
16 not give any instructions and I did
17 not receive any instructions. I
18 guess the first instructions that I
19 received was for my company to
20 provide information to Gene Kitts and
21 Roger Nicholson. Gene Kitts is a
22 senior engineer and Roger Nicholson

1 is senior counsel.

2 Q. And what information did you
3 provide?

4 A. What was going on, what
5 efforts were being made.

6 Q. Okay. And just kind of lead
7 me through that. What did you tell
8 them?

9 ATTORNEY RAJKOVICH:

10 First of all, anything
11 with Counsel, we're going to
12 invoke the privilege. Roger
13 Nicholson. So he won't be
14 able to discuss anything he
15 talked to Mr. Nicholson about.

16 MR. SWENTOSKY:

17 And who is Roger
18 Nicholson?

19 ATTORNEY RAJKOVICH:

20 He's Counsel for ICG,
21 in-house Counsel.

22 MR. SWENTOSKY:

1 Oh. Okay.

2 ATTORNEY RAJKOVICH:

3 Yeah.

4 BY MR. SWENTOSKY:

5 Q. What about Mr. Kitts?

6 A. What I provided to him was a
7 list of names of the men that were
8 still underground and unaccounted
9 for, some of their background
10 history, and throughout the next 40
11 hours, I continued to provide them
12 with information from the command
13 center, as far as updates to be able
14 to give to the families and to the
15 news media.

16 Q. Okay. After you arrived at
17 the mine, you had these persons that
18 you met there and you named various
19 people from the various
20 organizations, but did you go to the
21 --- at any point, go to the
22 dispatcher's shanty to dispatcher

1 trailer to observe the CO levels or
2 ---?

3 A. No.

4 Q. And did you have occasion to
5 get a report on the CO levels or
6 anything ---

7 A. No.

8 Q. --- like that as you're ---?
9 You never heard any CO levels during
10 the initial ---?

11 A. Yes, I did.

12 Q. Okay. And when was that?

13 A. When I arrived, they were
14 taking CO level inside of the office
15 building itself, and it was 61 parts
16 per million inside of the office
17 building. And I was told that in the
18 pit mouth, there were levels, CO
19 levels, as high as 2,300 parts per
20 million being recorded.

21 Q. Okay. And who were --- who was
22 making those --- or who made those

1 examinations in the pit of those
2 levels?

3 A. The mine rescue teams. I
4 believe it was Barbour County Mine
5 Rescue Team, but I'm not a hundred
6 percent sure.

7 Q. Okay. And you were told that
8 it was 61 parts per million in the
9 building. Who told you that?

10 A. Carl Crumrine. He had the
11 detector right in front of him.

12 Q. Okay. And did --- how did he
13 come to know that? I know you said
14 he saw it.

15 A. Uh-huh (yes).

16 Q. But how did he come to
17 actually observe it? I mean, usually
18 you don't look at that.

19 A. At 50 parts per million, the
20 detectors that we have, they're set
21 to alarm at 50 parts per million.

22 Q. Okay.

1 A. Visual and audible alarm.

2 Q. And did the alarm alarm?

3 A. Yes.

4 Q. And that's how you came to
5 know that?

6 A. Yes. There were several
7 alarms alarming. Several detectors
8 alarming.

9 Q. And what type of detectors
10 were those?

11 A. The one that Carl had was a
12 Industrial Scientific iTX.

13 Q. Is there a number that goes
14 with that iTX ---?

15 A. No.

16 Q. And did you personally make
17 any examinations?

18 A. No.

19 Q. You just --- but you did
20 observe Mr. Crumrine's detectors?

21 A. Yes.

22 Q. And at that point, what

1 occurred?

2 A. Bill Ponceroff was making a
3 statement that he felt we should
4 evacuate the mine property.

5 Q. Okay. And did you do that?

6 A. No.

7 Q. Okay. And why didn't you do
8 that?

9 A. It was very chaotic and no one
10 else was listening and it was like,
11 who's in charge.

12 Q. Who was in charge?

13 A. I don't have a clue.

14 Q. Well, then --- so he had asked
15 that everyone --- or suggested that
16 everyone leave the property?

17 A. There were approximately 80
18 people in that area I would say
19 between the parking lot and inside of
20 the building and outside of the
21 building. And as I went him by him in
22 passing, he said I think we should

1 evacuate the property.

2 Q. Okay. And then what happened?

3 A. I did go out and round up the
4 people that I felt were nonessential,
5 employees that were around, family
6 members that were around, and asked
7 them to either meet at the Sago
8 Baptist Church or to go on up to the
9 preparation plant to the training
10 room that we have available up there.

11 Q. Okay. And did they do that?

12 A. Yes.

13 Q. And after you asked them, what
14 did you do next?

15 A. Just walked around like
16 everybody else was doing, trying to
17 see if there was some way I could
18 help or something I could do.

19 Q. Did you ever make any methane
20 or CO examinations?

21 A. No, I did not.

22 Q. So you were not involved in

1 any way of the --- concerning the
2 monitoring of the CO levels?

3 A. No.

4 Q. Did you happen to ask anyone
5 to or direct anyone to make any
6 examinations or monitoring at any
7 time?

8 A. No.

9 Q. Who was making those requests
10 or giving those instructions?

11 A. I don't know.

12 Q. At that --- were there any
13 additional mine rescue teams
14 contacted after you arrived at the
15 mine that you're aware of?

16 A. I don't know that they were,
17 but they were pulling in routinely
18 into the parking lot, Consol teams
19 were pulling in routinely.

20 Q. And were you involved in any
21 of the instruction of those teams or
22 where to go, what to do or anything

1 like that?

2 A. Not at that time, no.

3 Q. Okay. And I believe you ---
4 you did not notify the police; is
5 that correct?

6 A. No, sir.

7 Q. And do you know who did then?

8 A. No, I do not. I was told John
9 Collins had inquired the deputy
10 sheriff --- or sheriff department to
11 watch the gate.

12 Q. And when was that done, do you
13 know?

14 A. Between 8:30 and 8:40 time,
15 sometime in that time frame.

16 Q. Did you notify EMS?

17 A. No, sir.

18 Q. And who did that?

19 A. I believe Bill Chisolm did,
20 but I'm not sure.

21 Q. Okay. They were at the mine
22 whenever you arrived?

1 A. Yes.

2 Q. Okay. After you were
3 instructed by Mr. Ponceroff and we
4 talked about that, what were your
5 duties then from that point on?

6 A. As I stated before, to gain
7 information to give to Gene Kitts and
8 Roger Nicholson.

9 Q. Okay. Did you have any
10 specific duties, other than that?

11 A. No.

12 Q. Did you do any other specific
13 duties?

14 A. No.

15 Q. You just walked around?

16 A. Just like everybody else was
17 doing, in my opinion.

18 Q. Do you know if the power to
19 the outside ever was off during the
20 ---?

21 A. I learned later that it was
22 not. In my phone conversation with

1 Bill Chisolm at 7:00 and Jeff Toler
2 at 7:15, I asked was the fan down.
3 And they said, no, it was not. The
4 fan had not went down.

5 Q. And do you know if the phone,
6 the telephone --- and I'm talking
7 about the Bell phone, you know, the
8 public telephones. Were they ever
9 down at any particular time?

10 A. Not to my knowledge.

11 Q. Okay. And you said the power
12 was not off to your knowledge, ---

13 A. Right.

14 Q. --- at any time? Did you have
15 any involvement in the drilling of
16 the boreholes into the mine?

17 A. No.

18 Q. And when I say any
19 involvement, I'm talking about the
20 planning of where the hole would be
21 drilled or where we should drill a
22 borehole or should we drill a

1 borehole, anything --- did you have
2 any involvement in that?

3 A. No.

4 Q. Did you hear anyone else that
5 was involved in that?

6 A. Yes.

7 Q. Were you in the command
8 center?

9 A. Yes. I was in and out of the
10 command center, yes.

11 Q. Okay. And did you ever give
12 any opinions or anything, or any
13 information while in the command
14 center as far as drilling the
15 boreholes or where they should be
16 built, offer your advice to them?

17 A. No.

18 Q. You never spoke to any of them
19 about ---?

20 A. Drilling the boreholes?

21 Q. Yes.

22 A. No, sir, I did not.

1 Q. Do you know anything about the
2 drilling companies that were selected
3 for the boreholes?

4 A. No.

5 Q. Were you ever at the
6 boreholes?

7 A. Probably three weeks after
8 they were drilled.

9 Q. During the drilling of them,
10 you were never up there?

11 A. No, sir.

12 Q. How many boreholes were
13 drilled? Do you know that?

14 A. Five that penetrated the coal
15 seam and one that did not.

16 Q. Do you know when the borehole
17 went through into the mine ---?

18 A. 5:30 a.m., January 3rd.

19 Q. Okay. And that's --- we're
20 speaking about the initial hole in
21 Two Left?

22 A. Correct.

1 Q. And what can you --- when it
2 went through, do you know what they
3 did?

4 A. Yes.

5 Q. And can you describe that to
6 me, please?

7 A. What I was told is that
8 shortly after they pulled through,
9 they had a moment of quiet to listen.
10 They said that after the quiet, they
11 struck the drill steel with a hammer
12 and then listened again. They
13 removed the drill steels and dropped
14 a camera into the hole. On the way
15 down the camera acquired some mud on
16 the lens. They looked around with
17 the camera, didn't see anything.
18 They then cleaned the lens off --- or
19 pulled it back off, cleaned the lens,
20 dropped it again and looked around
21 again for a better view. And the
22 information that I was given was that

1 there were still rock dust on the
2 miner cable and the water line, the
3 yellow mine waterline for the miner.
4 That the Jabco cable was still hung
5 across the feeder and the area was
6 well rock dusted and that there was
7 no damage, no visible damage and no
8 visible sign of anybody in the area.

9 Q. And were you in the room
10 whenever it was decided to drill the
11 borehole in Two Left?

12 A. I was in the room as those
13 conversations were being held. I
14 don't know that I was in the room
15 when the final decision was made to
16 drill the borehole.

17 Q. And did you know who made that
18 final decision?

19 A. No, I don't.

20 Q. Did you come to find out
21 later?

22 A. No.

1 Q. Do you know anything about the
2 surveying of the hole?

3 A. I know that they had trouble
4 with surveying the hole due to the
5 weather conditions.

6 Q. Okay. And when you're
7 relaying to me this information, is
8 this something you learned after the
9 event or during the day that when
10 they were actually doing the survey?

11 A. What I was asked to do was to
12 provide information to Gene Kitts and
13 Roger Nicholson, so I was trying to
14 acquire as much information without
15 bothering anybody as I could. So I
16 was trying to look over shoulders,
17 look at notes of people as they were
18 in the command center, listen to
19 conversations, what was being said,
20 and try to write that down to create
21 a timeline to give to Roger and Gene
22 so they could pass that on to the

1 families and the news media.

2 Q. Okay. And you say you were
3 taking some notes?

4 A. Yes.

5 Q. And would we be able to get a
6 copy of those notes?

7 ATTORNEY RAJKOVICH:

8 We'll take it under
9 advisement.

10 MR. SWENTOSKY:

11 Okay.

12 BY MR. SWENTOSKY:

13 Q. Okay. Continue about the
14 surveying.

15 ATTORNEY RAJKOVICH:

16 Do you want to take a
17 break or anything?

18 A. I'm good. The surveying, I
19 was told that they were having
20 trouble due to the weather
21 conditions. They were having trouble
22 with their GPS, working with

1 satellites. I know this was late at
2 night, it was dark out. It was
3 foggy. And from what I understand, I
4 guess they had to go as far away as
5 the Spruce Mine, which is behind the
6 Buckhannon Upshur High School, to get
7 a permanent survey location and start
8 from there to get the coordinates. I
9 also learned later that their
10 original GPS location was about 200
11 feet off from the actual survey
12 location that they finally acquired
13 after midnight January 3rd.

14 BY ATTORNEY SWENTOSKY:

15 Q. Okay. And this was
16 information that you had learned
17 looking over shoulders?

18 A. Yes.

19 Q. Okay. And I guess that would
20 be some of the delay in starting the
21 drilling of the hole because of the
22 GPS and trying to get an actual

1 proper location?

2 A. Yes.

3 Q. Do you know when the survey of
4 the hole was completed?

5 A. Sometime between midnight
6 January 3rd and 2:30 a.m. January
7 3rd.

8 Q. Okay. And do you know
9 anything about the construction of
10 the road, when that construction of
11 the road was started?

12 A. I know that they had just
13 received permission from the land
14 owner at approximately 2:00 p.m. on
15 January 2nd to construct a road in an
16 effort to drill a hole.

17 Q. Okay. Do you recall when it
18 was completed?

19 A. Sometime between 2:00 p.m. and
20 midnight.

21 Q. Okay. And do you know if
22 there were any logistical problems

1 encountered during that site
2 development?

3 A. Yes.

4 Q. And what would that be?

5 A. After they developed the site,
6 the elevation at the site changed and
7 it had to be resurveyed again.

8 Q. What do you mean the elevation
9 changed? I don't understand.

10 A. I had learned that they had
11 removed approximately 30 feet of soil
12 in the area to level it off. And
13 after they removed that, they had to
14 resurvey to that point to where to
15 start the drilling from.

16 Q. And why did they have to do
17 that, do you recall?

18 A. Because it changed the
19 coordinates. Your guess is as good
20 as mine.

21 Q. Okay. I guess I won't ask a
22 follow-up, then. So you had already

1 said that you weren't involved in the
2 activities at the borehole at all?

3 A. No, sir.

4 Q. Were you involved in the
5 decision to send the first mine
6 rescue team underground at all?

7 A. No, sir.

8 Q. And who would have made that
9 decision?

10 A. The command center.

11 Q. And did you hear any
12 discussions about when to send that
13 by looking over someone's shoulder?

14 A. 5:51 p.m. January the 2nd is
15 when they went underground is what
16 I've learned looking over shoulders.

17 Q. And do you recall what was
18 involved in making that decision at
19 that time?

20 A. They felt that the level of CO
21 and methane and oxygen coming out of
22 the mine was at safe level to allow

1 mine rescue teams to enter the mine.

2 Q. Okay. And was there any
3 attempt or any discussions to send
4 rescue teams in earlier than that?

5 A. I heard several discussions,
6 but I can't really say who they were
7 because I don't remember.

8 Q. Okay. And not saying who they
9 were but can you relate to me the
10 extent of those discussions?

11 A. Consol wasn't sure if they
12 were going to allow their teams to
13 participate.

14 Q. And why?

15 A. You'd have to ask Consol.

16 Q. Okay. Go ahead.

17 A. We finally got word that yes,
18 they were going to be allowed to
19 participate. I knew two of the men
20 on that team from having worked at
21 Consol previously. And they were
22 wanting to go in the mine.

1 Q. The team members themselves
2 were wanting to go in?

3 A. Yes. Yes.

4 Q. But the top officials --- and
5 who might that have been?

6 A. I don't know.

7 Q. Okay. But they, the top
8 officials, would not permit them to
9 go underground as far as you know?

10 ATTORNEY RAJKOVICH:

11 Top officials of who?

12 MR. SWENTOSKY:

13 Consol.

14 A. No. Consol had made a
15 decision to allow their teams to
16 participate. They were there, they
17 were on site, but we were still
18 waiting on word from, I guess,
19 Pittsburgh where their headquarters
20 is located as to whether or not they
21 were going to be allowed to
22 participate in the rescue efforts.

1 And it was well before 5:51 p.m. that
2 we got word that they were going to
3 be allowed to participate.

4 I had never been a part of a
5 mine rescue in my life. I had never
6 seen a mine rescue team. I had never
7 been in an operation that had mine
8 rescue efforts performed and in my
9 opinion, I felt that when federal
10 took control of the mine and the
11 state took control of the mine, that
12 they were the ones to say, yes or no.

13 BY MR. SWENTOSKY:

14 Q. Do you recall like maybe what
15 the earliest time was that any mine
16 rescue teams or anyone said that,
17 hey, we can --- we should be going in
18 the mine or anything like that?

19 A. I don't recall a time, no.

20 Q. Based on everything you knew
21 at the --- when you arrived at the
22 mine, what did you think happened at

1 the mine?

2 ATTORNEY RAJKOVICH:

3 I'm instructing him not
4 to answer that.

5 BY MR. SWENTOSKY:

6 Q. I mean, you personally at that
7 time, did you have any idea what had
8 happened based on what Mr. Toler had
9 told you?

10 A. I didn't have any idea what
11 happened until the mine rescue team
12 reached where the Number Nine seal
13 was supposed to be and it was gone.
14 That's when I had an idea of what
15 happened.

16 Q. Okay. And what did you think
17 happened at that time, just yourself?

18 A. I didn't know. I didn't know
19 what had happened. What I knew was
20 that we'd lost power in the mine due
21 to the severe lightning storm on the
22 surface. That's what I knew.

1 Q. When the mine rescue team
2 arrived and you said at that seal,
3 then you thought something. What was
4 that?

5 A. The seal, there was absolutely
6 nothing left of the seal, so I felt
7 that it must have been an explosion.

8 Q. And who was in charge of the
9 mine rescue efforts for ICG, to your
10 knowledge?

11 A. I would have to say Ty
12 Coleman.

13 Q. Do you know when the power was
14 removed from the underground portion
15 of the mine?

16 A. Sometime in the morning,
17 January the 2nd. I would say before
18 noon January 2nd.

19 Q. And just judging from what you
20 have already told me, you were not
21 involved in any decision to
22 systematically explore the mine from

1 the portal?

2 A. No.

3 Q. You weren't involved in any of
4 those discussions?

5 A. No. I was in and out of the
6 room as they were being held, but I
7 wasn't a part of the discussions, no.

8 Q. Did you learn anything looking
9 over the shoulder of someone?

10 A. No.

11 Q. Do you recall power being
12 established to some part of the mine
13 for pumping operations?

14 A. Yes.

15 Q. And can you explain that to me
16 a little bit, please?

17 A. When the mine rescue team
18 reached the Number One Belt
19 tailpiece, they were instructed to go
20 over into the return through a man
21 door and open the man door to see how
22 deep the water was. And they called

1 back once they reached the man door
2 and said we don't have to open the
3 door to tell how deep it is because
4 it's coming through the man door.

5 And at that time, the --- a request
6 was typed up to allow the operator
7 --- allow us to be able to put power
8 on into the mine to the Number Two
9 Belt power center and then put power
10 on the pump that was in the return at
11 that location, and that was granted.

12 Q. Approximately what time was
13 that, do you recall?

14 A. No, I don't, but it's listed
15 on the --- whichever number request
16 that was. That was probably about
17 the fourth or fifth request that
18 evening.

19 Q. And the reason for pumping
20 that water was to keep from what?

21 A. To prevent the return from
22 filling up with water and restricting

1 ventilation in the mine.

2 Q. Okay. Do you know whether One
3 Right or Two Right was explored by
4 the teams?

5 A. No, I do not.

6 Q. Okay. Do you know that they
7 --- okay, they weren't, but do you
8 recall seeing or discussed --- any
9 discussions about why they should
10 progress past One Right and Two Right
11 without examining them?

12 A. Yes.

13 Q. And why was that?

14 A. One Right was an area that had
15 recently been put on intake air.
16 It's common with the primary intake
17 escapeway. And that area was --- had
18 been --- to my knowledge, had been
19 dangered off with danger ribbon to
20 not allow anyone in there. Since no
21 one had been in there for such a long
22 period of time, personally we didn't

1 feel it was safe to send a mine
2 rescue team in there wandering
3 around.

4 Q. That was ---?

5 A. The One Right area.

6 Q. Okay. And they, whoever,
7 consulted you about that?

8 A. Did not consult me, no. I was
9 ---.

10 Q. But I thought you said you
11 didn't think that they needed to go
12 in there because it was dangered off?

13 A. I guess I put my two cents in.
14 They didn't come to me and ask me,
15 but I put my two cents in.

16 Q. Okay. Is that the only reason
17 that you can recall why they didn't?

18 A. I felt that we had already
19 spent enough time. I felt that we
20 needed to get into the mine to try
21 and make a rescue effort.

22 Q. Okay. And you also put that

1 two cents in?

2 A. Yes.

3 Q. Do you know whether the One
4 Left area was explored as the teams
5 progressed into the mine?

6 A. To break Number Six of the
7 belt entry.

8 Q. Okay. And why was it not ---
9 why was that decision made not to
10 explore?

11 A. We felt if the constituent
12 levels were at a low enough level on
13 the intake and return and the airflow
14 direction was in correct direction,
15 intake and return, that there was no
16 need to explore that area, as there
17 was no one felt to be in that area.

18 Q. So then I guess during this
19 period you had become somewhat
20 involved in the exploration
21 activities?

22 A. I was learning more about the

1 process, and felt more comfortable
2 about adding what I felt possibly
3 should be done.

4 Q. Okay. At what part of the
5 exploration did you finally become
6 comfortable and where were the mine
7 rescue teams at that point?

8 A. When mine rescue teams had
9 reached 32 break on Number Four Belt
10 entry and the intake stopping at 32
11 break was gone and the air from the
12 intake was short-circuiting into the
13 track entry, and fishtailing, some of
14 it was going inby and some of it was
15 going outby, John Urosek at that time
16 made the statement he felt we should
17 replace that curtain, replace the
18 stopping with a curtain. And I made
19 the statement we feel we should leave
20 it down. If the air is fishtailing,
21 we could use the track as the intake
22 and progress faster into the mine as

1 opposed to putting the track on
2 airflow back out of the mine and
3 putting smoke and dust over the top
4 of our mine rescue teams.

5 Q. Okay. And then what?

6 A. And that decision then was
7 made to leave that open.

8 Q. And that's the point where you
9 did become somewhat involved in the
10 ---

11 A. Yes.

12 Q. --- rescue efforts? Okay.
13 And then was the Two Left in the seal
14 location, was it --- I'm talking
15 about the old Two Left now, the seal
16 location, teams progressing into the
17 mine, how far did they travel in
18 there, do you recall?

19 A. The fresh air base made it as
20 far as 58 break of the Number Four
21 Belt, which is near the Number Four
22 Belt tailpiece, Number Six Belt drive

1 area.

2 Q. Okay. And do you know whether
3 the old Two Left and the seal
4 location was explored as the teams
5 progressed into the mine? Was that
6 area explored?

7 A. I believe that was the last
8 area to be explored.

9 Q. And how --- and why was that
10 decision made --- or how far in did
11 they go?

12 A. When they went to where the
13 Number Ten, which was the Number Nine
14 entry, when they went to where the
15 Number Ten seal should have been,
16 they went approximately a break and a
17 half inby where the seal was supposed
18 to be and they described the seam
19 height as being 12 to 14 feet high,
20 two coal seams with a rock binder in
21 between. And that's when we realized
22 that they had went beyond the seal

1 and they were given direction to back
2 up and look for the seal where it
3 should have been, and they said there
4 was no sign that a seal had ever been
5 built there.

6 Q. Okay. And they did not
7 explore any further than that; is
8 that correct?

9 A. They just continued on across
10 where the seals had been built.

11 Q. And the area --- then the area
12 inby that further was not examined;
13 is that correct?

14 A. Give me a minute to think
15 here.

16 Q. Okay.

17 A. I don't believe they went on
18 into the old Two Left area.

19 Q. Okay. They at that time then
20 started into the Two Left?

21 A. Yes. Yes.

22 Q. And why was that decision

1 made?

2 A. That's where the crew was
3 believed to be.

4 Q. Okay. And after the empty
5 mantrip was found in the Two Left,
6 were you involved in decision to
7 explore up to the faces in the Two
8 Left, even though the communications
9 were extended? Were you involved in
10 that discussion?

11 A. I didn't understand that the
12 mine rescue team was only allowed to
13 progress a thousand feet. I learned
14 that later that that's a --- I
15 learned that it's like an unwritten
16 rule. It's just you go a thousand
17 feet and you move your fresh air base
18 up. I didn't know it at that time.
19 I didn't understand why we weren't
20 there sooner.

21 Q. Okay. But did you have some
22 discussion in the command center to

1 --- after not exploring inby the
2 seals, to make a so-called run to the
3 Two Left face?

4 A. No.

5 Q. Okay. What do you know about
6 that?

7 A. When the mantrip was found, we
8 gave direction --- or direction was
9 given to the mine rescue team to go
10 to the intake and they had told us
11 they had found 12 tops, 12 bottoms of
12 the self-rescuers. They said that
13 they had seen footprints leading down
14 the intake in the soot and debris
15 that was there. So they followed the
16 footprints. And then they were given
17 direction to go as far as 12 break of
18 that belt line.

19 Q. Okay.

20 A. They called back, and I
21 believe at that time they were at 16
22 break. And the statement was made at

1 that time in the command center that
2 they were only given permission to go
3 as far as 12 break. To get ahold of
4 them and instruct them not to go
5 beyond 12 break.

6 And it was some time before we
7 got ahold of them again. I believe
8 Greg Nestor was manning the phone at
9 that time in the command center and
10 continuously was asking for the
11 location of the mine rescue team, but
12 they weren't telling us where they
13 were at.

14 Q. Okay. And at some point, a
15 decision was made for the mine rescue
16 team to go the Two Left faces?

17 A. They were told to retreat and
18 go to the return and check the
19 stopping line on the return side of
20 the belt entry and as they progressed
21 up the return side and found no
22 damage to the ventilation controls,

1 then we decided, the decision was
2 made, let's go to the faces, where
3 they were possibly at and quit
4 checking ventilation controls.

5 Q. Okay. When you say they were
6 asked to retreat, now at that point,
7 they were at 16 block, I believe you
8 said; right?

9 A. They were supposed to go to 12
10 ---

11 Q. Yeah.

12 A. --- and when they called out,
13 at first they said we're at 16, then
14 they said, no, we're at 14 and then
15 they weren't really sure where they
16 were at.

17 Q. Okay. But you said that they
18 were asked to retreat?

19 A. Yes.

20 Q. Okay. At that point there,
21 where were they? Well, you didn't
22 know because they didn't know; is

1 that correct?

2 A. Right.

3 Q. Okay. And where were they
4 asked to retreat to?

5 A. They were asked to retreat to
6 the fresh air base.

7 Q. Oh, okay. And did they?

8 A. I think they were on their way
9 down to the fresh air base when a
10 decision was made to check the return
11 stopping line.

12 Q. Okay. So then you stopped
13 them from the --- or I say you, but I
14 mean the command center stopped them
15 ---

16 A. Uh-huh (yes).

17 Q. --- from retreating? Okay.
18 And do you recall where they were at
19 at that point?

20 A. It seems like about break six.

21 Q. And what instruction --- what
22 was the thought process in the

1 command center of the reason why they
2 should go to the faces?

3 A. I can only guess. I don't
4 know.

5 Q. You were not part of that
6 discussion?

7 A. I was listening in, but I
8 wasn't part of that discussion, no.

9 Q. Okay. Well, listening in,
10 what did you --- listening over the
11 shoulder then again.

12 A. It sounded to me like we
13 wanted to learn to see if the return
14 stopping line was intact, and if it
15 was, then we possibly had some
16 ventilation going up the belt and
17 track entry and possibly intake entry
18 to ventilate the faces with.

19 Q. And that was the basic
20 discussion in the group?

21 A. I don't know that was even
22 discussed. I was going on 48 hours

1 at that time without any rest.

2 Q. So you weren't really involved
3 in the actual discussion to make that
4 run to the face?

5 A. No. What I felt like I was
6 doing at that time, and again from
7 the time that John Urosek was going
8 to make a, what I felt was a poor
9 decision, I just wanted to listen to
10 make sure there weren't any poor
11 decisions made, so I never was really
12 at any post in the command post. I
13 was just kind of in there.

14 Q. Do you know who made that
15 decision to make that run to the
16 face?

17 A. No, I don't.

18 Q. And were you in the command
19 center whenever the miscommunication
20 came out that all the men were alive?

21 A. No, sir, I was not.

22 Q. Where were you at that time?

1 A. In my truck asleep.

2 Q. And did you sleep during that
3 whole event, or did someone come and
4 wake you up or ---?

5 A. No, I heard people yelling and
6 screaming, and I woke in the parking
7 lot.

8 Q. Okay. And did you then go to
9 the --- exit the vehicle and go to
10 the office or what happened?

11 A. I went toward the office and
12 learned that 12 alive, 12 alive.
13 That's all everyone was saying, 12
14 alive. So then I learned that there
15 were doctors and nurses being
16 assembled to go into the mine and I
17 was asked if I would help get them in
18 the mine.

19 I went down in the pit mouth
20 and got mantrips arranged and
21 supplies as far as first-aid, the
22 oxygen-type materials, backboards,

1 stretchers to go into the mine, those
2 were loaded onto a flatcar. And we
3 sent those people into the mine as
4 part of the rescue efforts.

5 Q. When you say those people, who
6 were they?

7 A. I don't --- I never saw a
8 face. I don't know. I was told that
9 they had brought doctors and nurses
10 to the mine, to go into the mine to
11 help revive or whatever they needed
12 to do with the men that were found.

13 Q. Okay. Do you know if those
14 doctors and nurses actually started
15 into the mine?

16 A. Yes. From my understanding,
17 they started into the mine and were
18 retreated back out of the mine. And
19 I later learned the reason they were
20 retreated out of the mine was because
21 they were bringing Randal McCloy
22 outside.

1 Q. Okay. And when did it become
2 evident or when did you hear that
3 unfortunately that was not the case
4 that we had 12 alive and only one?

5 A. I walked back out of the pit
6 mouth up the road to the office
7 building and I saw the state that
8 everyone was in and I asked what was
9 going on.

10 Q. Okay. Those people had
11 already started underground at that
12 point and you walked up over?

13 A. Yes.

14 Q. And who did you speak to up
15 there when you found out that it was
16 not a good situation?

17 A. Brad Phillips.

18 Q. And what did he tell you?

19 A. I said what's going on. And
20 Brad said I think you probably should
21 go talk to Greg Nestor and Ty
22 Coleman. And Greg and Ty were both

1 - - - .

2 MR. SWENTOSKY:

3 Maybe this would be a
4 good time to take a break.

5 MR. STUART:

6 Yeah, let's take a
7 minute.

8 MR. SWENTOSKY:

9 Take a break.

10 SHORT BREAK TAKEN

11 BY MR. SWENTOSKY:

12 Q. Okay. We were talking about
13 whenever the - - - you learned that
14 unfortunately there was only one
15 alive. And do you remember
16 approximately what time that was?

17 A. About 45 minutes after the
18 time that I learned that they were
19 thought to be alive.

20 Q. And who did you find that out
21 from?

22 A. Brad Phillips, a foreman.

1 Q. And during the --- which we've
2 come to find out --- we know it was
3 an explosion. And do you have any
4 idea whether or not there was methane
5 involved or, you know, what --- in
6 your own --- in your own opinion, not
7 the company's opinion, whether or not
8 methane might have been involved?

9 And I say might. Coal dust or
10 anything like that?

11 A. I don't know what it was.

12 Q. Okay. Do you have any idea
13 why the seals may have failed?

14 A. My best guess is due to an
15 explosion.

16 Q. Going back to the initial ---
17 and I just wanted to follow up here,
18 a follow-up question, and we'll go
19 back to whenever you had your
20 conversation with Mr. Chisolm
21 initially from your home, the initial
22 conversation that you had. And I

1 believe --- did you ask him at all
2 whether the fan was operating or ---?

3 A. Yes.

4 Q. And what did he say?

5 A. He said that the fan had never
6 quit operating.

7 Q. Okay. There was a command
8 center set up; correct?

9 A. Yes.

10 Q. And who was all in that
11 command center, agencies, agency-
12 wise?

13 A. The Consol had a team
14 involved. They always had --- well,
15 there were two people I believe in
16 there.

17 Q. Okay. And ---?

18 A. And state and MSHA normally
19 had one to two people in there and
20 then ICG also had one to two people
21 in there.

22 Q. Okay. And whenever decisions

1 were being made, were those decisions
2 made jointly?

3 A. They had to be jointly, yes.
4 Everyone had to agree on the
5 decisions, yes.

6 Q. In other words, everyone had
7 input in it, into the decisions?

8 A. Yes.

9 Q. And any time the decision was
10 made, it was made based on everyone's
11 best knowledge and you pulled --- all
12 pulled together to make those final
13 decisions of what was to be done?

14 A. Yes.

15 Q. Made jointly?

16 A. Yes.

17 Q. Okay. You spoke about a
18 stopping at 32 block and that
19 stopping was out.

20 A. Uh-huh (yes).

21 Q. And there was some discussion
22 of whether or not to put that curtain

1 up?

2 A. Yes.

3 Q. And the air was short-
4 circuiting at that point?

5 A. The air was fishtailing at
6 that point.

7 Q. At that point, at 32 block,
8 ---

9 A. Splitting.

10 Q. --- at Number Four --- or
11 excuse me, along Number Four Belt?

12 A. At that time, it wasn't
13 splitting. At that time, the air was
14 leaving the intake entry coming into
15 the track and going inby, I'm pretty
16 sure. And in an outby area, there
17 was no airflow. I think that the
18 mine rescue team said that they
19 couldn't detect any airflow outby

20 Q. Okay. And you're sure that was
21 at 32 block on Number Four Belt?

22 A. Uh-huh (yes). Yeah.

1 Q. Well, during the initial
2 repair of controls by Mr. Toler and
3 Mr. Schoonover and Mr. Hofer or
4 Wilfong, whatever --- whoever was
5 involved in that, had they not put a
6 curtain up at 32 block?

7 A. Yes, they did, you're right.
8 Yes, they did, you're right. We had
9 that curtain removed, you're right.

10 Q. And who removed that curtain?

11 A. Mine rescue team.

12 Q. Okay. So then the curtain was
13 removed?

14 A. Yes.

15 Q. And why was that decision
16 made?

17 A. To allow intake air to come
18 into the track entry.

19 Q. Okay. And the decision was
20 made to leave that down?

21 A. To allow air to go into the
22 track entry, yes.

1 Q. And that was a decision that
2 was made jointly by everyone on the
3 --- in the command center?

4 A. Yeah, that decision took some
5 time. I remember that one had some
6 discussion involved with it.

7 Q. And everybody decided it
8 jointly to leave that curtain down?

9 A. Yes.

10 Q. You had mentioned Mr. Brad
11 Phillips. He was the assistant
12 superintendent at that time?

13 A. At that time, he may have been
14 the superintendent at the Sycamore II
15 Mine and I believe he came back to
16 assist in this effort. Prior to
17 January 2nd, he was assistant, but
18 January 2nd, I don't think he was at
19 the Sago Mine.

20 Q. Okay. When was the --- do you
21 recall the last time he was at the
22 --- or when that decision was made or

1 --- and I guess I should state the
2 question a little better than that.

3 A. He probably left Sago sometime
4 in November of 2005.

5 Q. Okay. He was just over there
6 assisting in the rescue effort?

7 A. Yes.

8 Q. Okay.

9 MR. SWENTOSKY:
10 John?

11 MR. COLLINS:
12 Yes.

13 BY MR. COLLINS:

14 Q. Mr. Stemple, I know this is
15 tough. But I'd like to just ask a
16 couple follow-up questions if I
17 could.

18 A. Sure.

19 Q. I think maybe you clarified a
20 couple of them. But one of them is
21 when you first mentioned that when
22 you talked to Bill Chisolm, he said

1 that the fan was down, you said that
2 first. But then Dennis just asked
3 that question and you confirmed that
4 the fan had not been down. Can you
5 ---?

6 A. He never once said that the
7 fan was down.

8 Q. I just --- on my notes, you
9 know, you said that the storm had
10 knocked the power out. That One Left
11 crew was on the way out. The fan was
12 down. You made 45 phone calls.

13 A. Yeah, if I said the fan was
14 down then that was mistake, because
15 it was not down, no.

16 Q. And then if I could back up
17 just a little bit on your
18 certifications. I believe you said
19 you were a certified West Virginia
20 miner, you have a miner's
21 certificate?

22 A. Uh-huh (yes).

1 Q. And you're a certified mine
2 foremen in the State of West
3 Virginia?

4 A. Yes.

5 Q. And then you're a certified
6 shot fire?

7 A. Yes.

8 Q. EMT?

9 A. Yes.

10 Q. And are you a certified
11 trainer ---

12 A. Yes.

13 Q. --- with MSHA?

14 A. Yes.

15 Q. And that training, is it all
16 certified to conduct annual
17 retraining, that's required by MSHA?

18 A. Yes.

19 Q. Then also when you stated that
20 you called the state office on
21 January 2nd about 7:40 a.m., and did
22 you leave a message at the state

1 office?

2 A. No, I did not.

3 Q. I think you said you obtained
4 some different phone numbers from
5 there, though?

6 A. Yes.

7 Q. And then you called Mark
8 Wilfong, no answer. You called Brian
9 Mills, the number had been
10 disconnected. You called my house,
11 got an answering machine. And then I
12 called you right back?

13 A. Yes.

14 Q. And you reported this event,
15 what you knew, to me?

16 A. Yes.

17 Q. As a matter of record, do you
18 remember what you told me?

19 A. I tried to tell you what Bill
20 had told me, that there had been an
21 electrical storm and that we had lost
22 power underground. That the One Left

1 crew stated that they felt there was
2 a problem with the ventilation and
3 possibly that the fan was down. That
4 the One Left crew was exiting the
5 mine and had noticed several
6 stoppings out along the intake. And
7 that was about the extent of what I
8 knew other than we could not
9 communicate with the Two Left crew.

10 Q. So at that time, I'm sure you
11 considered that state notification.
12 I think that as a matter of record, I
13 told you I was heading for the mine?

14 A. Yes. Yes, I did.

15 Q. Okay. I think it was Mr.
16 Coleman yesterday that said that when
17 he was talking with you, he
18 instructed you to maintain a
19 timeline. He said that. Is that the
20 same as these notes that's been
21 discussed earlier today that --- that
22 you have?

1 A. He instructed me to go to the
2 mine, and I told him that I had
3 started this timeline and making ---
4 of making phone calls and that I
5 would like to stay at my house and
6 continue making these phone calls.

7 Q. If we request the notes that
8 you've made of your phone calls that
9 morning, that will be this timeline
10 thing, in your opinion?

11 A. Yes.

12 Q. Mr. Stemple, do you know if
13 the Sago Mine has an emergency mine
14 plan?

15 A. Yes. It does, yes.

16 Q. And you've held positions with
17 this company in the safety
18 department, you know, prior to this
19 and stuff. Did you assist in the
20 development of that plan?

21 A. Yes, I did.

22 Q. And this, the plan at the

1 mine, does it cover setting up a
2 command center?

3 A. No, it does not.

4 Q. So it's more of an evacuation
5 plan or an emergency evacuation plan
6 or ---?

7 A. It's called program of
8 instructions and there's several
9 components to this plan. The first
10 part of it lists responsible person.
11 The next part is a table of contents
12 of what's inside of the plan, and
13 then it goes on for notification. It
14 has a notification chart in there,
15 who to notify in case of an
16 emergency. It had SCSR donning
17 procedures and when to don. It has
18 barricading instructions. It has
19 fire suppression and fire
20 extinguisher instructions and their
21 locations. It has evacuation
22 instructions, when to evacuate a mine

1 and how. It has notification of
2 personnel in the mine, where they're
3 at and that the responsible person
4 knows where these people are at. It
5 does not mention anything about the
6 command center.

7 Q. Okay. When you -- I think
8 we're pretty clear on the phone calls
9 that you made that morning and how
10 tough all that was. I think you said
11 you arrived at the mine at about
12 11:30.

13 A. 11:30, 11:45, I do believe.

14 Q. And when you arrived, had a
15 command center been set up?

16 A. I don't know if one had or
17 not. I don't know, John. I didn't
18 know what to look for, didn't know
19 what a command center was.

20 Q. And then, John, I think you
21 said you have never been a member of
22 a mine rescue team?

1 A. Correct.

2 Q. But you have, at least for
3 your mine foreman's test, studied
4 principles of mine rescue?

5 A. I may have studied it, but I
6 don't recall it. I don't have
7 experience with it. I may have read
8 it. It's not anything that I've ever
9 had to use.

10 Q. Okay. Now, the reason I asked
11 that, John, is you referred to some
12 unwritten rules about mine rescue
13 earlier.

14 A. That I learned, yes.

15 Q. And you know particularly the
16 1,000 foot advancement rule, you
17 referred to as an unwritten rule.

18 A. That was my understanding.

19 Q. You made a statement about
20 that we had lost power at the mine
21 due to a lightning storm.

22 A. Yes. That was what Bill

1 Chisolm had told me.

2 Q. Bill told you that at that
3 time?

4 A. Yes.

5 Q. So you were sort of just
6 repeating what he had told you and
7 not that that was a factual event?

8 A. Right.

9 Q. I want to see if I'm clear on
10 this ventilation at block 32 of Four
11 Belt. Was that the stopping between
12 the track and the return?

13 A. No.

14 Q. That was between the track and
15 the intake?

16 A. Correct.

17 Q. Was that the same ventilation
18 change that you referred to as going
19 to be made and you opposed?

20 A. No. I felt that it should be
21 made, I felt that we should open up
22 the intake air and allow it to come

1 into the track entry, to allow intake
2 air to go up inby in the track entry.

3 Q. And then a little bit of a
4 question on the --- when the teams
5 made it to Two Left and they were
6 attempting to explore Two Left, and
7 we asked --- the command center asked
8 that team to withdraw back to the
9 fresh air base, do you know why they
10 were required to --- were asked to
11 come back to the fresh air base?

12 A. I would have to say the reason
13 they were asked to come back to the
14 fresh air base is because they did
15 not follow their instructions.

16 Q. Did you hear any discussion
17 about a low man? Do you know what I
18 mean by a low man on a mine rescue
19 team?

20 A. Yes.

21 Q. And that would be what?

22 A. You know, learning in this

1 process several times it was asked
2 what the low man's reading was on his
3 tanks, on his air tanks. And I guess
4 you have to go by the lowest man for
5 the team. If someone's air is at a
6 certain level then everyone has to
7 retreat.

8 Q. Do you know if during the time
9 that this team was asked to come back
10 to the fresh air base, had one of
11 those team members reported a low air
12 reading?

13 A. You know, John, there were
14 several times that that was asked but
15 I don't remember any specific case.

16 Q. You made a statement that when
17 the federal and state took control of
18 the mine, I felt that they should
19 have said when the team could go
20 underground.

21 A. What my understanding was,
22 when they took control of the mine, I

1 thought that that's what they did,
2 was take control of the mine. When
3 an order was issued that you have to
4 request permission from them before
5 you're allowed to do anything, then
6 they have control of the mine.

7 You've just given them the mine.

8 Q. And the state issued you a
9 control order ---

10 A. Yes.

11 Q. --- or the company ---

12 A. Yes.

13 Q. --- a control order? And then
14 that control order is to --- is
15 issued after serious accidents. We
16 did this in the past; is that
17 correct?

18 A. Yes.

19 Q. So you have an understanding
20 of that order and what you're still
21 allowed to do, or the company is
22 understanding of that?

1 A. Yes.

2 ATTORNEY RAJKOVICH:

3 Object to ---.

4 BY MR. COLLINS:

5 Q. I'm sorry. Do you have an
6 understanding of what that order is?

7 A. Yes.

8 Q. And what does that order still
9 allow you to do, John?

10 A. You're not allowed --- you're
11 not allowed to affect any part of the
12 mine that's under the order.

13 Q. Except to the extent what? If
14 you know.

15 A. There is a part on that. I
16 believe if you're able to rescue an
17 individual. I don't remember the
18 exact wording of that part of the
19 law. But I believe that if you are
20 able to perform first-aid on an
21 individual, then you can continue
22 with what you're doing as far as

1 first-aid efforts go.

2 Q. Do you know if that control
3 order allows you to protect property
4 or to protect people?

5 A. Yeah. I believe it does state
6 that, yes.

7 ATTORNEY RAJKOVICH:

8 Was that --- that was
9 two questions and you said
10 yes. Does that mean to both
11 property and people or what
12 was the question?

13 A. Yeah, I believe that's what he
14 stated.

15 MR. COLLINS:

16 I believe that's the
17 way I intended, both, yes.

18 BY MR. COLLINS:

19 Q. So dealing with the command
20 center, do you know of any requests
21 that the company made that we weren't
22 allowed to do, that they weren't

1 allowed to do?

2 A. I know that the requests were
3 quite lengthy and several times I
4 know when I was in the command center
5 that requests would be typed up on
6 the computer and the parties involved
7 would look at the request and ask for
8 something to be changed on the
9 request before it could be approved
10 by either the state or the federal.

11 Q. And would there be times whey
12 they would say, well, we're going to
13 make this change, but we already have
14 the verbal approval? Do you recall
15 that?

16 A. No.

17 Q. It was always wait until the
18 written?

19 A. It was always written. While
20 I was in there it was always written.

21 Q. That referred to when you were
22 in there?

1 A. Yes.

2 Q. All right. And John, you
3 talked about that you discovered that
4 the mine office had 61 parts per
5 million CO in it?

6 A. Yes.

7 Q. That someone felt like they
8 should have --- that everyone should
9 have evacuated?

10 A. Yes.

11 Q. You don't recall anyone
12 leaving that building?

13 A. No, I don't.

14 Q. So you weren't aware that
15 Barbour Mine Rescue Team was asked to
16 leave the building and bench in
17 another area?

18 A. No, I wasn't aware of that.

19 Q. And you're not aware that the
20 state employees withdrew from the
21 building?

22 A. No. I didn't notice any less

1 people after that was made than I did
2 before.

3 Q. Did you know that anyone
4 withdrew from the dispatcher's office
5 because of CO?

6 A. No, I don't. I never went in
7 the dispatcher's office.

8 Q. Do you know of any mine rescue
9 team wanting to go underground that
10 wasn't allowed to go?

11 A. Yes.

12 Q. And who would that be?

13 A. The Robinson Run Mine Rescue
14 Team. I don't know if it's team one
15 or team two. I know when I talked to
16 Gary, his last name --- Mark Coon
17 (phonetic) and Given, Gary Given,
18 because I've known them in the past
19 from working with them at Consol,
20 gave me the impression they were
21 ready to go underground, they wanted
22 to go underground.

1 Q. That was after their agency

2 --- or their company agreed ---

3 A. Yes.

4 Q. --- to allow them to go?

5 A. Yes.

6 Q. You may have already been
7 asked this, but do you have a time on
8 that?

9 A. I don't remember the time.

10 Q. And why were they not allowed
11 to go?

12 A. I don't actually know. Just
13 my understanding was that the CO
14 levels and the oxygen levels and the
15 methane levels wouldn't --- weren't
16 safe to allow mine rescue team to
17 enter. That was my understanding.

18 Q. I'd like to revisit. I
19 actually missed it a little bit,
20 John. But you said something about a
21 ventilation decision that was going
22 to be made and you didn't agree with

1 it. It think you said it was Bill
2 Ponceroff?

3 A. No, John Urosek.

4 Q. John Urosek?

5 A. Yeah. John felt that if we
6 removed that curtain that it would
7 short circuit all of the air and send
8 it back out the track in the belt
9 entry. And I made the statement that
10 there's a box check in the belt entry
11 and there are track doors in the
12 track entry and in my experience any
13 time an intake stopping has been
14 breached on a blowing ventilation
15 system, the air goes into the track
16 and it goes inby as opposed to outby.

17 Q. And you're talking about the
18 stopping at block 32 on Four Belt?

19 A. Yes.

20 Q. Between the track and the
21 intake?

22 A. Correct.

1 Q. I remember some of that
2 discussion actually. So John, this
3 command center you were in it on and
4 off during this event and the doors
5 were open to this command center. A
6 lot of people came in and out.

7 A. Most of the time the doors
8 were open. At times they were
9 closed. When they were closed, I
10 respected that and stayed out.

11 Q. But you know, would it be fair
12 to say that the command center was
13 not in a lock-down mode, that most
14 times people could go in or out of
15 there?

16 A. Yes, that's a very fair
17 statement.

18 Q. John, if I could revisit,
19 please, the --- I think, and correct
20 me, I think you said you called the
21 mine at approximately 7:20 on January
22 the 2nd?

1 A. That's when I --- probably
2 7:23, I believe, is when I hung up
3 from talking with Jeff Toler.

4 Q. The first, the first call;
5 right?

6 A. Yes.

7 Q. At 7:15 to 7:23?

8 A. 7:01 basically or seven
9 o'clock to 7:23.

10 Q. Okay. And then you hung up at
11 7:23 and when is the next time you
12 called back to the mine?

13 A. Sometime around 7:30 to 7:40,
14 sometime right around in there.

15 Q. And those times would be on
16 this timeline?

17 A. Yes.

18 MR. COLLINS:

19 I thank you, Mr.

20 Stemple.

21 BY MR. SWENTOSKY:

22 Q. Okay. After the --- Mr.

1 Satterfield had mentioned to you that
2 he had placed a (k) order on the mine
3 and you then relayed that information
4 to Mr. Chisolm, or who did you relay
5 that information to?

6 A. Yes, I believe Bill Chisolm
7 was the person I spoke to, yes.

8 Q. Okay. And what did you tell
9 him at that time?

10 A. That I had gotten ahold of the
11 state and had got ahold of MSHA and I
12 got ahold of the mine rescue teams.

13 Q. And what did you tell him
14 specifically about the order?

15 A. That MSHA had issued an order
16 that was a control order and no one
17 was to enter the mine.

18 Q. Okay. And at that time, Mr.
19 Toler and the crew, which involved
20 Mr. Schoonover, I believe, Mr.
21 Wilfong, Mr. Hofer, they were
22 underground at that time; right?

1 A. Yes.

2 Q. And did you know that?

3 A. Yes.

4 Q. Did you give Mr. Chisolm any
5 instruction as to what to do in
6 relation to staying underground and
7 the (k) order?

8 A. Can you say that again,
9 please?

10 Q. Sure. Those people that I
11 just described were underground at
12 that time?

13 A. Yes.

14 Q. Okay. And when you informed
15 Mr. Chisolm of the (k) order, did you
16 give him, Mr. Chisolm, any
17 instruction as to what to do because
18 of that order?

19 A. No.

20 Q. Okay. And so all you told Mr.
21 Chisolm was that there was (k) order
22 on the mine

1 A. Yes.

2 Q. And did you explain to him
3 what that order meant or what he was
4 to do based on that order?

5 A. I told him that a control
6 order had been issued by MSHA and he
7 told me that --- at that time that
8 John Collins was at the mine and he
9 had issued a control order as well on
10 the state side.

11 Q. So you did not instruct him as
12 that those people underground should
13 come out of the mine based on that
14 order?

15 A. No, I did not.

16 Q. Okay. Did you --- when you
17 arrived at the mine or sometime
18 thereafter, did you have an occasion
19 to speak with any of the One Left
20 crew members that had exited the
21 mine?

22 A. Yes.

1 Q. Okay. And did you ask them
2 what had occurred or debrief them in
3 any manner? Just what was your
4 extent of your conversation with
5 those individuals?

6 A. I talked to them as
7 individuals, but not all of them.

8 Q. Okay.

9 A. And my concern was, was there
10 anything wrong with them, was their
11 hearing impaired or damaged or did
12 they hear anything. No, they didn't
13 hear anything. And Owen Jones told
14 me his experience of being blown,
15 literally blown, forward, reverse and
16 forward again. Another individual
17 that had a possible hand injury. I
18 looked at his hand. Another
19 individual that had some debris and
20 dust in his eyes. I was concerned
21 for their individual safety.

22 Q. Did anyone require oxygen?

1 A. No.

2 Q. And the conversations you had
3 with Mr. Toler or did you speak ---
4 let me put it this way.

5 Did you speak with Mr. Toler,
6 Mr. Schoonover, Mr. Wilfong, Mr.
7 Hofer any time after they exited the
8 mine?

9 A. No, not initially. I mean,
10 hours later, sure. But when they
11 initially exited the mine, I wasn't
12 there yet, I was still at home.

13 Q. And I understand that. When
14 you arrived at the mine, did you have
15 a conversation with them though ---

16 A. Yes.

17 Q. --- concerning what they did
18 underground or what they didn't do
19 underground?

20 A. Yes.

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

1 A. They told me that they had
2 made it as far as 58 break on Number
3 Four belt installing curtains. And
4 that --- I asked them, did they feel
5 was there a fire in the mine, and
6 they said no. I asked them just to
7 describe the conditions and Al
8 Schoonover made the statement that it
9 was like opening an old coal potbelly
10 stove and looking inside of it with
11 all the smoke just lingering in the
12 air and moving slowly in circles
13 around in the air. And that they had
14 conversation amongst themselves what
15 to do and whether to continue on.
16 And based on Dick Wilfong's
17 experience in the mines, they decided
18 that it was probably best for them to
19 exit the mine.

20 Q. And did you speak to them as a
21 group or individually?

22 A. Individuals, but not to the

1 point where I had more than two
2 minutes to even talk to them.

3 Q. And do you remember
4 approximately what time during the
5 day that might have been?

6 A. I would say between 12 o'clock
7 and three o'clock sometime.

8 Q. You had mentioned when Mr.
9 Collins asked you about a command
10 center and you said that you didn't
11 really know what a command center
12 was?

13 A. True.

14 Q. Okay. Did you become aware at
15 some point that --- you became aware
16 of what a command center is?

17 A. Yes.

18 Q. Okay. And when would that
19 have been?

20 A. As the January evening,
21 January 2nd evening progressed.

22 Q. Have you ever been around mine

1 rescue contests?

2 A. I've been around contest, yes.

3 This was nothing like a contest.

4 Q. I understand that. But you
5 have been to mine rescue contests?

6 A. I've been to two contests and
7 if you added both those times
8 together, I may have been there for a
9 total of 45 minutes.

10 Q. Okay.

11 MR. SWENTOSKY:

12 Do you have anything
13 else, John?

14 MR. COLLINS:

15 I don't believe we do
16 right now. Thank you.

17 BY MR. SWENTOSKY

18 Q. Okay. Are you familiar with
19 the old Two Left main seals?

20 A. I've never been to them. I
21 know where they're at on the map.

22 Q. You've never been underground

1 to those seals?

2 A. No, sir, I have not.

3 Q. Okay. When's the last time
4 you were underground at Sago Mine
5 prior to the accident?

6 A. Either late July or early
7 August of 2005.

8 Q. Do you know when those seals
9 were started and finished?

10 A. I believe they were finished
11 sometime in middle part of December
12 and I'm really not sure when they
13 were started.

14 Q. Who was in charge of building
15 those seals? Do you know?

16 A. No, I do not.

17 Q. Do you know when the mining
18 was stopped inby the seal area,
19 that'd be up in the Old Two Left
20 area?

21 A. Yeah, it's on the map. I
22 don't know exactly when.

1 Q. Okay. Do you know why it was
2 stopped?

3 A. Due to roof conditions and
4 water.

5 Q. How do you know that?

6 A. Because that's why they
7 stopped it due to roof conditions and
8 water, poor roof conditions and a
9 large amount of water.

10 Q. I mean, you were informed of
11 that in some --- by someone?

12 A. Yes.

13 Q. And who might that have been?

14 A. Just by working in the
15 division office, having learned that
16 they'd stopped the section due to
17 poor roof conditions and a large
18 accumulation of water.

19 Q. Were you involved at all in
20 the training of the persons were to
21 install those seals?

22 A. No, sir.

1 Q. You never talked to anyone
2 about how those seals would be
3 installed?

4 A. No, sir.

5 Q. As far as the ventilation
6 plan, can you explain to us your
7 responsibility for preparing,
8 evaluating the plans for MSHA. Are
9 you involved with that at all?

10 A. Yes.

11 Q. Okay. Were you involved in
12 the preparation for the plan to
13 install those seals at all?

14 A. Not the initial plan.

15 Q. And when you say not the
16 initial plan, ---?

17 A. The initial plan was to add
18 this type of seal to the ventilation
19 plan. There were other types of
20 seals already approved in the
21 ventilation plan.

22 Q. And I guess I should say the

1 plan for installing the seals, we're
2 talking about the Omega ---

3 A. Yes.

4 Q. --- seals?

5 A. Yes. This type. There is a
6 different type of Omega seal already
7 approved in the plan. I believe it
8 was a 24-inch thick seal, and this
9 was a 40-inch thick seal that had to
10 be added to the plan.

11 Q. There was already a 24-inch
12 seal ---?

13 A. I'm pretty sure. I'm pretty
14 sure. I believe that plan --- I've
15 been involved with many plans but I
16 believe that plan had a 24-inch Omega
17 block seal plan in it and also a
18 pre-loaded block seal plan.

19 Q. And so the one we're talking
20 about is the eight-foot high, 20-feet
21 wide, 40-inch-thick Omega block seal?

22 A. Correct. Correct.

1 Q. And you were involved in
2 helping put that together?

3 A. Not the initial plan, no.

4 Q. The one I just spoke about?

5 A. Yeah, that was the initial
6 plan. No, I was not involved in
7 helping put that together.

8 Q. Which on were you involved in?

9 A. The second one, I got involved
10 with. We had later learned that the
11 Number One and Number Two entries
12 were in excess of eight feet high.
13 And Joe Myers or his engineer had got
14 in contact with Clete Stephan with
15 MSHA Tech Support and got the
16 approved seal plan for this type of
17 seal from Clete on what to do if you
18 have higher than eight feet.

19 And there was a plan for 10
20 feet and a plan for 12 feet of
21 height, what you do, what pilaster
22 you have to build, what size pilaster

1 or what size base that you have to
2 put underneath this seal prior to
3 building it. That plan I signed off
4 on.

5 Joe got the information from
6 Clete and we put a letter with that
7 requesting permission to use pilaster
8 for a seal higher than eight foot and
9 sent it in to MSHA for approval.

10 Q. All right. The initial plan
11 for installing the seals, the Old Two
12 Left main seals, that plan, that's
13 the eight-foot high ---

14 A. Correct.

15 Q. --- 20-feet wide ---

16 A. Correct.

17 Q. --- and 40-inches thick?

18 A. Correct.

19 Q. Okay. And that plan was
20 submitted, but you were not involved
21 in that plan; is that right?

22 A. No, I was not.

1 Q. Okay. And do you know when
2 that plan was approved?

3 A. I believe October 24th was the
4 approval date on the letter.

5 Q. And when were those seals
6 started?

7 A. I said, I do not know when the
8 seals were started.

9 Q. Okay. And so then it was
10 determined that the Number One seal
11 was going to be a little wider and a
12 little --- and a little higher; is
13 that correct?

14 A. I was told Number One and
15 Number Two entries where the seals
16 would have been built would have been
17 higher than eight feet.

18 Q. Okay.

19 A. So they were going to need
20 permission to do something additional
21 to the seal in order to build seals
22 at those two locations.

1 Q. Okay. And where did you get
2 that information?

3 A. I believe Joe Myers told me
4 that.

5 Q. Do you know where he got that
6 information?

7 A. From the mine, probably Jeff
8 Toler would be my assumption.

9 Q. Okay. But nobody ever told
10 you who?

11 A. No.

12 Q. Just that ---?

13 A. No.

14 Q. Okay. And were there any
15 other seals that were to be higher
16 than that?

17 A. Not to my knowledge, no.

18 Q. And based on that information
19 from Mr. Myers, then what happened?
20 What took place?

21 A. We submitted a new request for
22 different type of seals, you know,

1 with the pilaster to be approved and
2 with that plan, is also a map of
3 where those seals are to be located s
4 as well. So we had to show instead
5 of being entries One through Nine as
6 initially was submitted, we had to
7 put a seal between entries Two and
8 Three perpendicular to the row of
9 seals that had been proposed earlier
10 and move Number One and Number Two
11 seal inby one block.

12 Q. Okay. And so then by doing
13 that, then you were able to install
14 the seals 20 feet and 8 foot?

15 A. Correct. By doing that, that
16 enabled us to do that, correct.

17 Q. So the --- so if I follow you
18 correctly, that the location that the
19 Number One seal was finally
20 installed, that location presumably
21 was 20-feet wide and no more than
22 eight feet high?

1 A. Correct.

2 Q. No more than 20 feet wide?

3 A. Correct.

4 Q. Okay. So then you were ---
5 based on that, then you were able to
6 use the October 24th approved plan?

7 A. Correct.

8 Q. Okay. And who all contributes
9 to the ventilation plan submittals to
10 MSHA?

11 A. The engineering group and the
12 safety group and I guess in part
13 also, you know, the superintendent at
14 the mine.

15 Q. And in what section of the
16 plan does those individuals
17 participate?

18 A. The superintendent signs the
19 front of the roof control plan with
20 his approval --- the ventilation plan
21 with his approval. And then someone
22 in authority, you know, will sign the

1 request letter.

2 Q. Okay. I guess when you have a
3 submittal then, it kind of goes
4 through the departments and makes
5 suggestions. Do I have that? And
6 that final plan is put together? Is
7 that basically what happens?

8 A. Yeah. Yeah. I'm not going to
9 change one of Clete Stephan's seals.

10 Q. Do you ever have any joint
11 meetings concerning submittals that
12 you'll make to MSHA?

13 A. Sure.

14 Q. And who is ultimately
15 responsible for making sure that all
16 aspects of the ventilation plan to be
17 submitted is correct?

18 A. Who is ultimately responsible
19 for making sure that all the aspects
20 of the ---

21 Q. Yes.

22 A. --- approval is correct?

1 Q. Of the submitted --- of the
2 proposed plan?

3 A. I've never thought of it that
4 way for someone to be ultimately
5 responsible for everything to be
6 correct. I don't know.

7 Q. Okay. Who submits the plans
8 to MSHA?

9 A. The company.

10 Q. The company. And is there a
11 person that's responsible to ensure
12 that that plan is submitted to MSHA?

13 A. An individual? No. I
14 couldn't tie it down to any one
15 individual. I know it needs to be
16 someone that works for the company.

17 Q. Once a plan is approved by
18 MSHA, ---

19 A. Uh-huh (yes).

20 Q. --- who is responsible to see
21 that the work force is made aware of
22 that plan?

1 A. I would have to put that on
2 the superintendent.

3 Q. Okay. That's not your
4 responsibility as the director of
5 safety?

6 A. I wouldn't classify that as my
7 responsibility, no.

8 Q. Okay. So the superintendent
9 takes care of that?

10 A. He would oversee it, yes.

11 Q. Did you ever hear him review a
12 plan with the work force?

13 A. I wasn't located at the work
14 site.

15 Q. Did you ever visit the work
16 site?

17 A. Sure.

18 Q. Okay. During those visits,
19 did you ever have an opportunity to
20 hear Mr. Toler or anyone at the mine
21 review any type of ventilation
22 changes or ventilation plan with the

1 work force?

2 A. Yes.

3 Q. And when would that have been?

4 A. When we made the air change at
5 One Right and changed part of the
6 escapeway system, we made a major
7 ventilation change and also changed
8 part of the escapeway system as a
9 part of that, and the work force was
10 explained what that change was.

11 Q. Okay. Was the entire work
12 force made aware of that change?

13 A. Yes.

14 Q. And who reviewed that with
15 them?

16 A. Al Schoonover went over it
17 with them. Jeff Toler was present
18 while he did it. I believe Carl
19 Crumrine was present as well, the
20 mine foreman.

21 Q. Okay. And do you remember
22 what date that change was made?

1 A. Sometime in September, I do
2 believe, of 2005.

3 Q. And the initial plan that was
4 submitted for Omega seals, that's the
5 40-inch plan?

6 A. Uh-huh (yes).

7 Q. And do you know why they
8 wanted to use the Omega seal?

9 A. Jeff Toler had used them in
10 the past and Brad Phillips, who was
11 assistant at that time, assistant
12 superintendent, had also used them in
13 the past at mines that they worked
14 at. They each worked at different
15 mines and they had each used them at
16 those different mines that they had
17 worked at.

18 Q. And were you involved at all
19 in that decision?

20 A. No.

21 Q. And how did you become aware
22 that that's the plan that they wanted

1 to submit?

2 A. Listening to them discuss it.

3 Q. And do you know where they
4 acquired the information to submit in
5 that plan, that initial plan, the
6 40-inch plan?

7 A. No, I do not.

8 Q. And so you're not involved in
9 all the submittals that are submitted
10 to MSHA?

11 A. Correct.

12 Q. Are you familiar with any
13 other seals that are built
14 underground at Sago Mine?

15 A. I know their location. I've
16 not been to them or I don't know what
17 type they are, but I do know their
18 location on the map.

19 MR. SWENTOSKY:

20 Do you want to inject
21 anything before I go on?

22 MR. COLLINS:

1 Just a couple quick
2 questions on the seals, if I
3 may, John.

4 BY MR. COLLINS:

5 Q. Do you know, if you've already
6 answered this, I apologize before.
7 But do you know the approval date of
8 the second seal plan?

9 A. It was December, but I'm not
10 sure of the exact date.

11 Q. And that's saying that seal
12 plan number one was for the old Two
13 --- old Two Northeast Mains?

14 A. Yes. Ye.

15 Q. And then so seal Number One
16 and seal Number Two was installed in
17 a different location than originally
18 proposed?

19 A. Correct.

20 Q. But in a location submitted
21 and approved?

22 A. Correct.

1 Q. This seal plan number two, was
2 it only approved for a particular
3 location, for example in One Left, at
4 those One Left, A-1 rooms, or would
5 it have been mine-wide?

6 A. I would take it as mine-wide.
7 That type of seal to be built, I
8 would say would have been a mine-wide
9 seal, yes.

10 Q. So submittal number two, was
11 it intended to be used on the seals
12 in old Two Northeast Mains?

13 A. Yes.

14 Q. But it was submitted after
15 those seals were installed, John; is
16 that ---?

17 A. These seals were not installed
18 yet. The seals --- when the second
19 plan that included the pilaster for a
20 higher area, when that second plan
21 had been submitted, the seals were
22 already in progress of being built as

1 intended.

2 Evidently, there evidently was
3 a third plan that I was not aware of
4 submitted to show the seals moved
5 inby in Number One and Two entry and
6 then the seal between Number Two and
7 Number Three entry, because that
8 surprised me that the seals were
9 completed and we --- I was still
10 concerned whether we had permission
11 with the pilaster or not. But then I
12 learned that we did not use the
13 pilaster.

14 MR. COLLINS:

15 Okay. Thank you, John.

16 A. You're welcome.

17 MR. COLLINS:

18 Oh, if I might, Dennis.

19 I'm sorry.

20 BY MR. COLLINS:

21 Q. John, the notes or timeline,
22 if we want to call it a timeline that

1 that time and give it --- hand it to
2 Gene or Roger so when we addressed
3 the family and the media, they read
4 from that and then Roger kept those.

5 Q. Okay. I'm going to ---.

6 MR. SWENTOSKY:

7 We'll call this Exhibit
8 One. This is a copy of the
9 plan that was submitted to
10 MSHA and was subsequently
11 approved, and that is for the
12 40-inch thick seals, 8-foot
13 wide or excuse me, 8-foot wide
14 and 20-foot wide.

15 (Stemple Exhibit Number
16 One marked for
17 identification.)

18 A. Uh-huh (yes).

19 BY MR. SWENTOSKY:

20 Q. Does that appear to be the
21 plan that was submitted? And there's
22 five pages to that?

1 A. Yes.

2 Q. Okay. And that is --- you
3 recognize that as the plan that they
4 used underground to install those
5 seals; is that correct?

6 A. Yes.

7 Q. Okay. And that there is a
8 plan that you did not have anything
9 to do with submitting; is that
10 correct?

11 A. Correct.

12 Q. Okay. But you're aware of
13 that plan?

14 A. Yes.

15 Q. And when did you become aware
16 of that plan?

17 A. I guess when I looked in the
18 ventilation file and saw that it was
19 in there. I knew --- I had learned
20 through conversation that this plan
21 was going to be submitted, probably
22 even learned that it was submitted,

1 but wasn't really involved with that.

2 Q. Are you an MSHA approved
3 instructor?

4 A. Yes, sir.

5 Q. And you teach new miner or
6 experienced miner training annual
7 refresher?

8 A. Yes, sir.

9 Q. You do all that?

10 A. Yes, sir.

11 Q. Are you a limited instructor
12 or a full instructor?

13 A. Full instructor.

14 Q. Full instructor?

15 A. Unlimited.

16 Q. And I believe you did say
17 during the opening part of the
18 question that you've run various
19 machines underground over the years?

20 A. Yes.

21 Q. Is that correct?

22 A. Yes.

1 Q. And do you personally conduct
2 task training?

3 A. I have, yes.

4 Q. Underground?

5 A. Yes.

6 Q. At the Sago Mine?

7 A. Yes. I believe I have, yes.

8 Q. Okay. And when would that
9 have been?

10 A. When we were transferring
11 employees from Spruce to Sago, and
12 also hiring new hires at the Sago
13 Mine. That would have been in
14 probably May or --- April, May, March
15 2004, that time frame.

16 Q. Okay. And you --- I believe
17 you did say you've taught experienced
18 miner training?

19 A. Yes.

20 Q. Okay. During the experienced
21 miner training, can you tell us what
22 you covered with the employees?

1 A. During experienced miner
2 training?

3 Q. Yes.

4 A. Everything that's required by
5 the plan.

6 Q. And what might that be?

7 A. Check-in, check-out
8 procedures, smoking material,
9 evacuation, firefighting, health and
10 safety aspects, mine emergency
11 preparedness. I keep an outline
12 whenever I do my retraining, so that
13 I can follow my outline.

14 Q. Would that be in that training
15 plan and that's part 48, 6 and that's
16 the information that you use that's
17 in that training plan?

18 A. Yes.

19 Q. And during the evacuation and
20 escape portion of the training, do
21 you teach that?

22 A. Uh-huh (yes).

1 Q. What information do you
2 provide them during that particular
3 training?

4 A. The location of the primary
5 and secondary escapeway, location of
6 SCSRs.

7 Q. Location of SCSRs?

8 A. Uh-huh (yes).

9 Q. Do they store SCSRs
10 underground at Sago Mine?

11 A. Yes, sir.

12 Q. Okay. So would that be part o
13 the training for Sago Mine?

14 A. Yes.

15 Q. Do you tell them where they're
16 stored at Sago?

17 A. I tell them where they're
18 located at. They're to be located
19 within arm's reach at all times.

20 Q. Oh, okay. I'm sorry. I
21 thought you were talking about
22 stored. I'm sorry.

1 A. Nope.

2 Q. And do you talk to them about
3 barricading at all, escape ---?

4 A. Yes.

5 Q. Okay. And what do you tell
6 them about barricading?

7 A. That's the last resort.

8 Q. And do you explain to them how
9 to build a barricade?

10 A. Use whatever material that you
11 have available.

12 Q. And how do you describe that
13 to them?

14 A. If you have stopping material
15 available, you can build a stopping.
16 If you have --- whatever material you
17 have available, and to take whatever
18 you can in there that may provide
19 oxygen, such as an oxygen tank or
20 spare tire that's on the section.
21 And then once you do barricade,
22 you're to sound on the roof and

1 listen for shocks.

2 Q. Did you perform any of the
3 miner training at Sago Mine?

4 A. Sure. Yes, I did.

5 Q. And I believe I did ask you
6 that and I think you said that the
7 last time you did any training was
8 2004 ---

9 A. Yes.

10 Q. --- at the Sago Mine?

11 A. Yes.

12 Q. And so you haven't done any
13 training at Sago Mine after ICG took
14 over?

15 A. No, sir.

16 Q. And actually before that, too?

17 A. Maybe. I've possibly been
18 involved in some hazard training.

19 Q. Okay. And who does that
20 training at Sago Mine?

21 A. The newly-employed and
22 experienced miner training?

1 Q. Yes.

2 A. Al Schoonover.

3 Q. Okay. Have you ever observed
4 any of his training?

5 A. No, sir.

6 Q. And who would do that, any
7 monitoring? Does anybody do any
8 monitoring of the training?

9 A. No.

10 Q. Okay. When you talk about the
11 SCSR training, and you train
12 individuals, can you explain to me a
13 little bit how you do that?

14 A. I do hands-on SCSR training.

15 Q. Okay. And explain that to me,
16 what do you do?

17 A. I use the three-plus-three
18 method. I first open up --- I first
19 explain the unit to the individual. I
20 explain their checks. I explain the
21 checks that the company makes on a
22 90-day period. Then I explain the

1 unit to them. I open up the unit,
2 put it on, simulate the mouthpiece.
3 Then I package it all back up and I
4 have them repeat it all to me, the
5 checks that they make, and then I
6 have them don the unit as well.

7 Q. Okay. And do they actually
8 assume a position and take the hat
9 off, if they have a hat on, and you
10 go through all that with them?

11 A. Yes, I do.

12 Q. And that's what they do?

13 A. Yes, they do.

14 Q. Does the company have
15 evacuation procedures in place and do
16 you discuss that with the miners?

17 A. Yes.

18 Q. And what do you tell them
19 during that discussion?

20 A. Your first line is the primary
21 intake escapeway. As far as
22 evacuation goes, when do you evacuate

1 the mine? If you found a fire or an
2 explosion in the mine or you've been
3 notified there's a fire and explosion
4 in the mine, then you don your SCSR
5 and you evacuate the mine using the
6 primary or secondary escapeway.

7 Q. Do you talk about assembly of
8 any --- you know, assembly of the
9 people, make that sure everyone's
10 together?

11 A. If they're on the section,
12 they're to assemble at the section
13 power center. I explain the method
14 for communication if you have your
15 mouthpiece in and you can't talk on
16 the mine phone.

17 Q. What about instruction for
18 supervisors, annual refresher
19 training you did, do you do that at
20 all?

21 A. What we have is our --- most
22 of our instructors or most of our

1 supervisors are EMTs, and that covers
2 that portion of that part of the law.

3 Q. When's the last time that
4 you've conducted any training? And
5 I'm not talking about the Sago Mine,
6 I'm just --- when's the last time
7 you've done that?

8 A. I would say probably in April
9 of 2004.

10 Q. Okay. Do they teach any
11 hoisting --- and I'm talking about
12 Sago Mine. Hoisting refresher class?

13 A. We have.

14 Q. At the Sago Mine?

15 A. At the Sago Mine, not that I'm
16 aware of at the Sago Mine, no. If we
17 covered hoisting, we would state that
18 there is no hoist at the mine, just
19 the same as explosives.

20 Q. The reason I ask that
21 question, it's in the training plan,
22 but I just wondered if you ---.

1 A. It's the same as explosives,
2 explosives is in there, but we have
3 no explosives at the mine.

4 Q. But you still go over that
5 with them?

6 A. Yes.

7 Q. Yes, okay.

8 A. Yes.

9 Q. And have you ever taught the
10 course for qualified persons in the
11 performance of a task, which they
12 perform as a qualified person,
13 methane, you know?

14 A. Yes.

15 Q. Any ---?

16 A. Yes.

17 Q. You've done that in the past?

18 A. Yes.

19 Q. Okay. And the last time
20 again, would have been around 2004
21 sometime, that you've done that?

22 A. Yes.

1 Q. The supervisors at Sago Mine,
2 there's a certain amount of those
3 people who are EMTs. I think you did
4 say all of your supervisors are ---?

5 A. No. There are a certain
6 amount that are.

7 Q. Certain amount?

8 A. I'm going to say 90 percent,
9 in the ballpark figure. At least 90
10 percent of them are EMTs.

11 Q. Okay. And is there a
12 temporary transfers from one mine to
13 the other? Do you go back and forth
14 people or do you basically just ---?

15 A. I never considered them
16 temporary. If someone transferred
17 from one mine to the other, they were
18 considered a new employee at that
19 mine and were trained as such.

20 Q. Okay. But you don't have
21 people that, let's say, on a weekly
22 or monthly basis, will go back and

1 forth, or on a daily basis or
2 anything like that?

3 A. Yes. Yes, at that time we
4 did. In 2004 when I was less
5 involved with that, yes.

6 Q. Okay. But at Sago Mine at
7 this point here, let's say, in 2005,
8 that type of thing doesn't exist or
9 does it?

10 A. Well, the Spruce Mine was the
11 one that we transferred people back
12 and forth, from Spruce to Sago. And
13 the Spruce Mine was shut down in
14 September of 2005, so since September
15 2005, not to my knowledge.

16 Q. Okay. Whenever you do that,
17 what type of training do you provide
18 to people, the miners?

19 A. We gave them new employee/
20 experienced miner training.

21 Q. If they do that monthly, do
22 you do it every time they do that?

1 A. Yes.

2 Q. And what about every week, do
3 you so the same thing?

4 A. If an individual had it within
5 the past 12 months and had been
6 trained at that mine, then no. If
7 they went back and forth month to
8 month or week to week, no.

9 Q. Okay. Were you working at the
10 Sago Mine when ICG bought the mine?

11 A. No.

12 Q. But you were part of ---?

13 A. Tell me the date that you're
14 referring to.

15 Q. Okay. Well, when did ICG ---

16 A. My understanding ---

17 Q. --- take over ---?

18 A. --- November 18th, 2005. It
19 was either the 18th or the 21st. I've
20 heard both dates.

21 Q. Okay. And were you
22 responsible for the Sago Mine at that

1 point?

2 A. No, sir, I was not.

3 Q. When did you become
4 responsible for Sago Mine?

5 A. The month of June 2005, up
6 through the month of July 2005 and
7 Jeff Toler came the first week of
8 August 2005, and I spent a week with
9 him.

10 Q. I apologize, but could you
11 kind of --- I lost it there somewhere
12 and I apologize.

13 A. I was put at the Sago Mine in
14 the month of June of 2005.

15 Q. Okay.

16 A. And I was there ---.

17 ATTORNEY WILLIAMS:

18 Was that as a
19 superintendent?

20 A. Yes. I was there all of June
21 and all of July. And Jeff Toler came
22 the first week of August 2005. And I

1 spent a week with him in the
2 transition.

3 BY MR. SWENTOSKY:

4 Q. Okay. And then from that
5 point then, you assumed your duties
6 as ---?

7 A. As Assistant Director of
8 Safety and Employee Development at
9 the division office in Buckhannon.

10 Q. Okay. Do you know what
11 training was provided to employees
12 whenever ICG took over?

13 A. Some of them were given new
14 employee/experienced miner training,
15 but to my understanding not all of
16 them were.

17 Q. Would they have been just
18 informed of a change of management or
19 anything like that?

20 A. Yeah, that's part of the
21 training is the management status. I
22 believe, and what I learned is, that

1 escapeway systems were gone over, any
2 changes in the plans were gone over.

3 Q. Okay. And that would have
4 been Mr. Schoonover that ---

5 A. Yes.

6 Q. --- did that?

7 A. Yes.

8 Q. Okay. And would he have
9 documented that training?

10 A. Yes, on 5023 forms, yes.

11 Q. Have you conducted hazard
12 training?

13 A. Yes.

14 Q. What do you use for that type
15 of training? Use a checklist or an
16 outline of some ---?

17 A. I've used a checklist. I've
18 used an outline. I've used the
19 training plan itself.

20 Q. And have you conducted hazard
21 training at the Sago Mine?

22 A. Yes.

1 Q. And when would that have been?

2 A. Numerous occasions.

3 Q. Numerous occasions.

4 A. Visitors would come to the
5 mine and being that I was an
6 instructor, I would go ahead and
7 perform that training.

8 Q. So you do that on a routine
9 basis at Sago?

10 A. Now? Well, ---.

11 Q. Okay. I'm talking about ---
12 I'm talking about prior to the
13 accident.

14 A. Not on a routine basis. The
15 two months that I was there as
16 superintendent, I probably did it
17 several times, maybe five.

18 Q. Between that time, that time
19 meaning after you left Sago as a
20 superintendent, until the day of the
21 accident, did you conduct any hazard
22 training during that period?

1 A. No.

2 Q. No?

3 A. Not that I can recall.

4 Q. Is there a copy of the safety
5 policy, the company's safety policy.
6 at the mine?

7 A. Yes.

8 Q. Okay. Is it physically at the
9 mine?

10 A. Yes, the policies are posted
11 on the bulletin board.

12 Q. Okay. Were there safety
13 policies posted at the mine on the
14 day of the accident and prior to?

15 A. Yes.

16 Q. And as part of the annual
17 refresher training or even new miner
18 training, do you use videos or DVDs
19 at all?

20 A. Yes.

21 Q. And how much of that training
22 is provided by DVDs and videos?

1 A. I'd have to look at the
2 outline to tell you.

3 Q. Okay. Do they use it more for
4 --- more than just SCSR training?

5 A. Oh, yes.

6 Q. Can you tell me approximately
7 how much time is spent with video or
8 DVDs during the training, like in
9 hours?

10 A. I would say possibly three to
11 four hours, just as a guess.

12 Q. And during that --- during the
13 annual refresher training, is section
14 110(a) and (f) discussed with the
15 miners?

16 A. You'll have to refresh me.

17 Q. That's the miners' rights?

18 A. Yes.

19 Q. Okay. Good. And is that
20 documented on the 5023?

21 A. It's on the 5023, yes.

22 Q. Okay. The training for

1 evacuation of the mine --- and you
2 discussed earlier about the
3 firefighting evacuation plan and who
4 the responsible person is. Who is
5 the responsible person at Sago Mine?

6 A. The dispatcher.

7 Q. Okay. And what type of
8 training is he provided as the
9 responsible person?

10 A. He's explained that two-page
11 list, and then also the part of the
12 evacuation plan that deals with the
13 dispatcher, that part is gone over
14 with him as well.

15 Q. And what is his
16 responsibilities, as far as the
17 firefighting evacuation plan is
18 concerned?

19 A. In the part of the
20 firefighting evacuation plan are
21 program instructions that list that
22 when the CO levels reach a certain

1 point, what he is to do, what he's
2 instructed to do, ten parts per
3 million, alert, and 15 parts per
4 million, an alarm.

5 Q. Okay. And what else is he ---
6 as far as the responsible person?

7 A. As the responsible person,
8 it's his duty to determine when to
9 evacuate the mine.

10 Q. Okay. And is that discussed
11 with him?

12 A. Yes.

13 Q. And what is he told during
14 that training?

15 A. When I've trained them, I've
16 just read it to them word for word,
17 provided them with a copy of it.
18 I've even laminated it and put it on
19 the computer, the AMS computer module
20 system for them to have available for
21 them.

22 Q. Okay. Has there been occasion

1 to just do more than just read it to
2 them and discuss with them what
3 situations he might want to evacuate
4 the mine, or just more in-depth,
5 should I say?

6 A. Yes.

7 Q. You have done that?

8 A. Yes.

9 Q. Okay. Did you do that at the
10 Sago Mine?

11 A. No, not at Sago.

12 Q. Okay. Who would have done
13 that at the Sago Mine?

14 A. Al Schoonover would have
15 conducted that training.

16 Q. And do you know that he did
17 that?

18 A. I do not know.

19 Q. And who would follow up to see
20 that Mr. Schoonover would do that?

21 A. I guess MSHA.

22 Q. As part of the safety

1 department, do you follow up on any
2 training?

3 A. Not specifically, no.

4 Q. So you didn't follow up on
5 that at all ---

6 A. No, sir.

7 Q. --- to see if that was done?

8 A. No, sir.

9 Q. And has Mr. Schoonover
10 indicated to you at all that he has
11 done that?

12 A. No, sir.

13 Q. Did you ask him?

14 A. No, sir.

15 ATTORNEY WILLIAMS:

16 Can we take a break for
17 a second?

18 MR. SWENTOSKY:

19 Yeah.

20 ATTORNEY WILLIAMS:

21 Go off the record.

22 SHORT BREAK TAKEN

1 BY MR. SWENTOSKY:

2 Q. Mr. Schoonover, when did he
3 arrive at the mine? And you may have
4 said this, and I apologize for asking
5 again if you did. But how did Mr.
6 Schoonover arrive at the mine, and
7 when?

8 A. At the Sago Mine?

9 Q. Yes, sir.

10 A. I believe in early 2004 is
11 when he started there.

12 Q. Okay. Was that prior to your
13 involvement?

14 A. I guess I was involved with
15 the Sago Mine, I'm trying to think
16 when Al came back to work. He was
17 off with an injury. He came back
18 either late 2003 or early 2004. I
19 don't really recall when he came
20 back.

21 Q. Okay. I guess he was there
22 then whenever you --- during your

1 involvement at Sago Mine?

2 A. Yes. Yes.

3 Q. It wasn't someone that you
4 brought in? He was already there?

5 A. Yes.

6 Q. Okay. Are you aware of anyone
7 at the mine that is not properly
8 qualified and they're doing tests
9 that they're not qualified for?

10 A. No, sir.

11 Q. Have you ever seen any
12 document related to the approval of
13 Omega seals at the Sago Mine that has
14 Mr. Stephan's name on it?

15 A. No.

16 Q. Okay. If you haven't seen any
17 of those documents, how did it come
18 about that you knew or thought that
19 Mr. Stephan provided that
20 information?

21 A. Joe Myers told me that he
22 acquired the information from Clete

1 Stephan.

2 Q. So from your personal
3 knowledge, you don't know or have not
4 seen anything with Mr. Stephan's name
5 on it?

6 A. No, I have not.

7 Q. Have you ever personally
8 contacted Mr. Stephan about Omega
9 seals?

10 A. No, sir, I have not.

11 Q. The information, do you know
12 if Mr. Myers obtained that
13 information in writing or by phone?
14 How was that obtained? Do you know?

15 A. I don't know. That I don't
16 know. It would be my understanding
17 that it was faxed to Joe.

18 Q. And how would you --- why
19 would you think that?

20 A. Because to do those detailed
21 drawings and the plan as it is, I
22 don't think that Joe did that.

1 Q. Okay. And did you do any
2 documentation of the conversation
3 that you had with Mr. Myers
4 concerning the information that was
5 given to Mr. Myers from Mr. Stephan?

6 A. Yes.

7 Q. And could we have a copy of
8 that?

9 A. I don't have it with me.

10 ATTORNEY RAJKOVICH:

11 We'll take it under
12 advisement.

13 BY MR. SWENTOSKY:

14 Q. What is it?

15 A. Conversations that I had with
16 Tom Hlavsa over the phone and Ed
17 Parrish concerning this plan's
18 approval.

19 Q. Okay.

20 A. And Tom's questioning of the
21 plan and my statement was that Tom
22 said that he was going to have to

1 have this looked at by tech support

2 ---

3 Q. Okay.

4 A. --- and that's when we had
5 acquired this information from tech
6 support and he said well, we would
7 have to have the specialist, Clete
8 Stephan, look at it.

9 Q. Okay.

10 A. And I said, that's who we got
11 the information from so there
12 shouldn't be any delay.

13 Q. Okay. And did you have any
14 documentation with your conversation
15 with Mr. Myers concerning that plan?

16 A. Say that again. I didn't ---.

17 Q. Did you document any
18 conversations that you had with Mr.
19 Myers concerning the information that
20 he had supposedly gotten from Mr.
21 Myers ---

22 A. No, I never have.

1 Q. --- or Mr. Stephan?

2 A. No.

3 Q. Okay. And what would --- the
4 information that you got from Mr.
5 Hlavsa and that documentation, okay,
6 is that just a --- is that a written
7 notes that you have?

8 A. Yes. What I did was, anytime
9 I contacted him, I would write down
10 the date and the time that I
11 contacted him, and what my question
12 was and what his answer was.

13 Q. Okay. And that's the
14 information that we'd like to have.

15 ATTORNEY RAJKOVICH:

16 We'll take it up.

17 BY MR. SWENTOSKY:

18 Q. Who chooses the location ---
19 or who chose the location for the
20 seals to be built at Sago?

21 A. I don't know.

22 Q. Do you know if anyone made any

1 actual measurements of the seal
2 location, the ten seals, Omega seals,
3 that, you know, were blew out?

4 A. Evidently, they measured where
5 Number One and Number Two were
6 initially to go because they moved
7 them. Other than that, I don't know.

8 Q. Okay. The present location,
9 do you know if the measured that
10 present location?

11 A. I don't know.

12 Q. And I guess after that, then,
13 you wouldn't know what those
14 measurements might have been?

15 A. Correct.

16 Q. Okay. Do you know if there
17 was any documentation of measurements
18 of those seals ---

19 A. No.

20 Q. --- seal locations?

21 A. No, I do not.

22 Q. Do you know who made the

1 decision to move those seals based on
2 the --- that they would be two wide
3 and two high?

4 A. I do not.

5 Q. Did you have any conversations
6 with Mr. Toler concerning that?

7 A. No, I did not.

8 Q. And Mr. Myers then, would have
9 been the person you had a
10 conversation about submitting that
11 plan ---

12 A. Yes.

13 Q. --- for higher?

14 A. Yes.

15 Q. That would be a higher seal
16 and a wider seal?

17 A. Yes.

18 Q. Okay. And again, what did
19 that conversation entail?

20 A. We were going to need to
21 submit a plan to include a pilaster,
22 due to the fact that the Number One

1 and Number Two entries we exceeded
2 eight foot in height.

3 Q. And did he say who he had that
4 conversation with?

5 A. No, he did not.

6 MR. SWENTOSKY:

7 John?

8 MR. COLLINS:

9 I don't think we have
10 anything further. Thank you,
11 John.

12 MR. SWENTOSKY:

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

22 We ask that you not

1 discuss your testimony with
2 any person who may have
3 already been interviewed or
4 who may be interviewed in the
5 future. This will ensure that
6 we obtain everyone's
7 independent recollection of
8 the events surrounding the
9 accident. After questioning
10 other witnesses, we may call
11 you if we have any follow-up
12 questions that we feel that we
13 need to ask.

14 If at any time you have
15 additional information
16 regarding the accident that
17 you would like to provide to
18 us, please contact us at the
19 contact information that we
20 previously discussed with you,
21 and you have in a letter.

22 The Mine Act provides

1 certain protections to miners
2 who provide information to
3 MSHA, and as a result, are
4 treated adversely. If at any
5 time, you believe that you
6 have been treated unfairly
7 because of your cooperation in
8 this investigation, you should
9 immediately notify MSHA.

10 If you wish, you may
11 now go back over any answer
12 that you have given during
13 this interview and you may
14 also make a statement that you
15 would like to make at this
16 time.

17 Do you have anything
18 additional to add or any
19 statement that you would like
20 to provide to us?

21 A. Just one thing that I don't
22 understand is why we weren't

1 listening for the men when they were
2 barricaded. They did what they were
3 trained to do and in my opinion, we
4 didn't follow up on our end for
5 listening.

6 MR. SWENTOSKY:

7 Okay. Anything else,
8 Mr. Stemple?

9 A. No.

10 MR. SWENTOSKY:

11 Okay then, we thank you
12 for your cooperation in this
13 matter.

14 A. Thank you.

15 MR. SWENTOSKY:

16 And thanks for coming
17 in.

18 A. Thank you.

19 MR. SWENTOSKY:

20 We really appreciate
21 it.

22 A. Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

* * * * *

SWORN STATEMENT

CONCLUDED AT 5:14 P.M.

* * * * *