

0001

1 STATEMENT UNDER OATH
2 OF
3 TIMOTHY A. MARTIN
4

5
6 Taken pursuant to Notice by Miranda
7 D. Elkins, a Court Reporter and
8 Notary Public in and for the State of
9 West Virginia, at the U.S. Bankruptcy
10 Court, 324 West Main Street,
11 Clarksburg, West Virginia, on
12 Thursday, March 23, 2006, at 10:26
13 a.m.
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1 P R O C E E D I N G S

2 -----
3 MR. SWENTOSKY:
4 My name is Dennis
5 Swentosky. I'm an accident
6 investigator with the Mine
7 Safety and Health
8 Administration, an agency of
9 the United States Department
10 of Labor. With me is Jim
11 Crawford with the Solicitor's
12 Office and Mike Rutledge and
13 Dave Stuart, with the West
14 Virginia Office of Miners'
15 Health, Safety & Training.
16 I've been assigned to
17 conduct an investigation into
18 the accident that occurred at
19 the Sago Mine on January 2nd,
20 2006, in which 12 miners died
21 and one was injured. The
22 investigation is being
23 conducted by MSHA and the West
24 Virginia Office of Miners'
25 Health, Safety & Training to

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1 gather information to
2 determine the cause of the
3 accident, and these interviews
4 are an important part of the
5 investigation.
6 At this time, the
7 accident investigation team
8 intends to interview a number
9 of people to discuss anything
10 that may be relevant to the
11 cause of the accident. After
12 the investigation is
13 completed, MSHA will issue a

14 written report detailing the
15 nature and causes of the
16 accident. MSHA accident
17 reports are made available to
18 the public in hope that
19 greater awareness about the
20 causes of accidents can reduce
21 their occurrence in the
22 future. Information obtained
23 through witness interviews is
24 frequently included in these
25 reports. Your statement may

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1 also be used in other
2 enforcement proceedings.
3 I would like to thank
4 you in advance for your
5 appearance here today. We
6 appreciate your assistance in
7 this investigation. The
8 willingness of miners and mine
9 operators to work with us is
10 critical to our goal in making
11 the nation's mines safer. We
12 understand the difficulty for
13 you in discussing the events
14 that took place, and we
15 greatly appreciate your
16 efforts to help us understand
17 what happened.

18 This interview with Mr.
19 Martin is being conducted
20 under Section 103(a) of the
21 Federal Mine Safety & Health
22 Act of 1977 as part of an
23 investigation by the Mine
24 Safety & Health Administration
25 and the West Virginia Office

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

10 This interview is being
11 conducted at the U.S.
12 Bankruptcy Court in
13 Clarksburg, West Virginia, on
14 March 23rd, 2006. Questioning
15 will be conducted by
16 representatives of MSHA and
17 the Office of Health, Safety &
18 Training.

19 Mr. Martin, the
20 interview will begin by my
21 asking you a series of
22 questions. If you do not
23 understand a question, please
24 ask me to rephrase it. Feel
25 free at any time to clarify

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1 any statements that you make
2 in response to the questions.
3 After we have finished
4 asking questions, you will
5 also have an opportunity to
6 make a statement and provide
7 us with any additional
8 information that you believe
9 may be important. If at any
10 time after the interview you
11 recall any additional
12 information that you believe
13 may be useful in the
14 investigation, please contact
15 Richard Gates at a phone
16 number and e-mail provided to
17 you. And we'll have that for
18 you.

19 Your statement is
20 completely voluntary. You may
21 refuse to answer any question,
22 and you may terminate your
23 interview at any time. If you
24 need a break at any time,
25 please just let me know.

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1 The court reporter will
2 record your interview and will
3 later produce a written
4 transcript of the interview.
5 Please try to respond to all
6 questions verbally since the
7 court reporter cannot record
8 nonverbal responses. Also,
9 please try to keep your voice
10 up.

11 Copies of written
12 transcripts will be made
13 available at a later date. If
14 any part of your statement is
15 based not on your own
16 firsthand knowledge but on
17 information that you learned
18 from someone else, please let
19 us know. Please answer each
20 question as fully as you can,
21 including any information you
22 have learned from someone
23 else. We may not ask the

24 right question to learn the
25 information that you have, so

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1 do not feel limited in the
2 precise question asked. If
3 you have information about the
4 subject area of a question,
5 please provide the information
6 to us.

7 At this time, Mr.

8 Rutledge, do you have anything
9 you would like to add on
10 behalf of the Office of
11 Miners' Health, Safety &
12 Training?

13 MR. RUTLEDGE:

14 Yes. The West Virginia
15 Office of Miners' Health,
16 Safety & Training is
17 conducting this interview
18 session jointly with MSHA and
19 in agreement with the
20 procedures outlined by Mr.
21 Swentosky for the interviews
22 that will be conducted here
23 today.

24 The Director does
25 reserve the right, if

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1 necessary, to call or subpoena
2 witnesses or require the
3 production of any record,
4 document, photograph or any
5 other relevant materials
6 necessary to conduct this
7 investigation. If you have
8 any questions about anything
9 that occurs here concerning
10 your statement today, you can
11 contact Mr. Brian Mills there
12 at the information on there.
13 Thanks.

14 MR. SWENTOSKY:

15 Mr. Martin, are you
16 aware that you may have a
17 personal representative
18 present during the taking of
19 this statement?

20 MR. MARTIN:

21 Yes, I do.

22 MR. SWENTOSKY:

23 And do you have a
24 representative with you here
25 today?

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1 MR. MARTIN:

2 Yes, I do.

3 MR. SWENTOSKY:
4 And who might that be?
5 MR. MARTIN:
6 My attorney, Marco
7 Rajkovich.
8 MR. SWENTOSKY:
9 Thank you.
10 ATTORNEY RAJKOVICH:
11 And just for the
12 record, Mr. Martin is here to
13 testify in his individual
14 capacity and as to his own
15 facts. He's not authorized by
16 the company to make any
17 statements on behalf of the
18 company. And I'll just ask
19 again, I assume everybody in
20 the room here is part of the
21 investigating team.
22 MR. SWENTOSKY:
23 That's correct. And do
24 you have any questions
25 regarding the manner in which
0015
1 the interview will be
2 conducted before we get
3 started, Mr. Martin?
4 MR. MARTIN:
5 Thank you.
6 MR. SWENTOSKY:
7 Could you please swear
8 in the witness, please?
9 -----
10 TIMOTHY A. MARTIN, HAVING FIRST BEEN
11 DULY SWORN, TESTIFIED AS FOLLOWS:
12 -----
13 BY MR. SWENTOSKY:
14 Q. Could you please state your
15 full name and spell your last name
16 for us, Mr. Martin?
17 A. Timothy A. Martin,
18 M-A-R-T-I-N.
19 Q. And could you provide us with
20 your address and telephone number,
21 please?
22 A. [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 Q. And are you appearing here
0016
1 today voluntarily?
2 A. Yes.
3 Q. And how many years of mining
4 experience do you have?
5 A. Thirty-two (32).
6 Q. And could you give me a brief
7 description of that employment,

8 please?
9 A. I started my career with
10 American Electric Power Mining
11 Operations in 1974. Left there in
12 2001, when they sold the operations
13 to Consol, and worked as a consultant
14 for three years while I worked on a
15 Ph.D. Then I became employed at ICG
16 in November of 2004, and have been
17 employed up to this date.

18 Q. And how much time was spent at
19 Sago Mine?

20 A. In my current capacity?

21 Q. Yes.

22 A. I've made a few visits, but it
23 wasn't one of my normal work
24 locations.

25 Q. And when you say normal work

0017

1 locations, what do you mean by that?

2 A. Well, my position is the
3 Corporate Director of Health &
4 Safety, which I'm --- my office is
5 located out of Ashland, Kentucky, and
6 we have, you know, multiple
7 operations. So the Sago Mine was
8 just one small part of the total ICG
9 operations. So there's been a few
10 visits to the mine and --- but other
11 than that, I did not work there on a
12 regular basis.

13 Q. When you say a few, how many
14 times have you visited Sago Mine?

15 A. I'm going to estimate maybe
16 half a dozen.

17 Q. And your present position
18 again is Corporate Safety Director;
19 is that what you said?

20 A. Corporate Director of Health &
21 Safety.

22 Q. Okay. And how long have you
23 worked in that position?

24 A. Since November of 2004.

25 Q. Okay.

0018

1 A. For ICG.

2 Q. Yes. When you worked for ---
3 prior to November of 2004, the
4 position you worked in, was that
5 involved with the Sago mine also?

6 A. You mean at my previous
7 employer?

8 Q. Prior to that, where did you
9 say you worked?

10 A. Okay. I worked at American
11 Electric Power from 1974 to 2001.
12 And my capacity there was mainly in

13 safety. After 2001, I spent about
14 two or three years working on a
15 doctorate and had a consulting
16 business. I started at ICG in
17 November of 2004, at this current
18 capacity.

19 Q. Okay. I missed that one
20 partly. Sorry. And you held the
21 same position on January 2nd, 2006?

22 A. Yes.

23 Q. Do you have any mining
24 certificates --- certifications,
25 excuse me?

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1 A. Yes. Well, Ohio mine
2 supervisor gassy mine papers and Ohio
3 mine foreman gassy mine papers. And
4 then I have some qualification cards
5 from MSHA, mine rescue trainer, part
6 48 certified trainer, noise and dust
7 cards. And I believe that's all I
8 have.

9 Q. And this certification for
10 mine foreman, that's Ohio. Do you
11 have any in any other states?

12 A. No.

13 Q. And who is your immediate
14 supervisor?

15 A. Gene Kitts, Vice-President of
16 Mining Services.

17 Q. And how long has he been your
18 supervisor?

19 A. I believe he came to ICG
20 around June of 2005. So since then.

21 Q. And who was your supervisor
22 prior to that?

23 A. I was hired at ICG by C.K.
24 Lane, who was the Vice-President of
25 Operations. And he was there for a

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1 short period of time and left, and
2 then Scott Perkins was the new
3 Vice-President of Operations, so I
4 reported to him.

5 Q. And then Sam --- or excuse me,
6 and then Gene took over?

7 A. Until Gene came. Then he ---
8 yeah.

9 Q. And can you kind of describe
10 the corporate safety department
11 operations, how you work with --- you
12 know, starting with yourself and
13 moving on to the mines and what
14 positions and how --- just basically
15 how you operate.

16 A. Okay. Maybe you can clarify.
17 That's kind of a broad question. Can

18 you narrow that down a little bit?
19 Q. Starting with yourself, you
20 have people working under you, and
21 then you ---.

22 A. No, I don't. I do not have
23 any direct reports.

24 Q. Okay. Well, then describe how
25 that does work. As the Corporate

0021

1 Safety Director, how does your
2 department work?

3 A. What is my functions or
4 responsibilities?

5 Q. Yes. Yes. I operate
6 basically in the capacity of, I
7 guess, to support, well, the two
8 vice-presidents of operations for
9 Kentucky-Illinois and West
10 Virginia-Maryland, which would be Sam
11 Kitts and Scott Perkins. And my role
12 basically is to support them in any
13 kind of issues they may have for
14 accident prevention, regulatory
15 compliance, any kind of safety
16 programs that they have initiated to
17 the operations and at times act as an
18 advisor. When they need information
19 on any new regulatory issues or
20 legislative issues, my job is to
21 disseminate that information to the
22 Vice-President of Operations of any
23 new regulations coming up and to get
24 that information out to the mine
25 sites, to the mine safety managers at

0022

1 each mine.

2 Q. Okay. And do you, in your
3 capacity, develop any safety programs
4 for the different mines?

5 A. No. That's basically handled
6 within each West Virginia-Maryland or
7 Kentucky-Illinois group. And it's
8 primarily the --- any type of safety
9 initiatives are basically handled
10 from each mine site, working through
11 the mine safety manager and the
12 vice-president and general manager of
13 that mine complex.

14 Q. In your capacity, do you have
15 occasion to deal with the safety
16 directors for the individual mines?

17 A. Yes.

18 Q. And through that, what
19 dealings do you have with them?

20 A. Just communications of how
21 things are going. They'll contact me
22 from time to time for advice,

23 information about new regulations or
24 regulatory issues, litigation issues
25 with compliance issues, those sorts

0023

1 of things, communicate to me if
2 there's been an accident to keep us
3 apprised of any type of injuries
4 and/or regulatory issues.

5 Q. And who is the safety manager
6 at Sago Mine?

7 A. The safety manager at the Sago
8 Mine is Al Schoonover, and he's
9 assigned to the mine site.

10 Q. And who does he report to?

11 A. He reports to a Ty Coleman,
12 who is the safety manager of the
13 Spruce Fork Division.

14 Q. In your capacity, the
15 corporate safety department, when you
16 have different manufacturers of
17 materials that are used at the
18 different mines, do you gather
19 information, like manufacturer's
20 recommendations for those products
21 that you purchase and pass that
22 information on? Do you do any of
23 that at all?

24 A. Not really. That's basically
25 handled at the mine sites, at the

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1 mine level.

2 Q. Okay. And how does the
3 corporate safety department
4 disseminate information and provide
5 it to the safety department for the
6 individual mines or, you know,
7 the ---?

8 A. Well, for example, if there's
9 --- such as the new regulations
10 that's coming out right now, if I
11 receive information from a particular
12 coal association, NMA or West
13 Virginia Coal Association, I'll
14 forward those e-mails on to all the
15 safety managers.

16 Q. Okay. Do you ever have
17 meetings with those --- the corporate
18 ---?

19 A. Yes. We try to do a quarterly
20 meeting. And to date, I think we've
21 had two meetings with the safety
22 managers.

23 Q. When you say two meetings to
24 this date, you mean since you've
25 taken over or since you were employed

0025

1 by ICG, ---

2 A. Yes. Uh-huh (yes).
3 Q. --- two? And when was the
4 last one that you had?
5 A. The last one, let me think
6 about that a minute. I believe the
7 last one was --- I don't have my
8 notes in front of me, probably in
9 August of last year.
10 Q. Of 2005?
11 A. Uh-huh (yes).
12 Q. And do you provide any ---
13 such as the new regulations, do you
14 provide training for anyone at the
15 mine or do you provide any treatment
16 for your safety departments?
17 A. Can you clarify that?
18 Q. Sure.
19 A. I mean, do I actually conduct
20 training?
21 Q. Yes.
22 A. No.
23 Q. So you just pass the
24 information on?
25 A. Correct.

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1 Q. Okay. And do you provide any
2 oversight or anything on the training
3 that they might conduct, they meaning
4 the safety managers?
5 A. No. That's basically handled
6 at each mining operation.
7 Q. So I guess you just provide
8 the information and it's up to them
9 to do whatever?
10 A. Do you want to clarify that?
11 Q. Okay. So you provide the
12 information, but you don't provide
13 any oversight to see that it's done?
14 A. Yeah. As an example, like new
15 regulatory information ---
16 Q. Yes.
17 A. --- or compliance information,
18 if we receive something that's, say,
19 from the West Virginia Coal
20 Association, I'll disseminate that to
21 the mine safety managers through an
22 e-mail. But I don't have oversight
23 over their operations as far as ---.
24 Q. So what they do with that, you
25 don't really know? I guess that's my

0027

1 question.
2 A. Well, we hope they ---.
3 Q. Well, I understand you hope
4 that they do.
5 A. Yeah.
6 Q. But I mean, you don't provide

7 any oversight to see that it is used?
8 A. Yeah. They do not report to
9 me directly, so I don't have direct
10 supervision over these individuals.

11 Q. So if the mine does not ---
12 let's say Sago Mine, in this case, if
13 they do not provide the training, you
14 would not know about it?

15 A. If that would happen, I guess
16 I wouldn't, you know, because I don't
17 have a --- since I'm not involved in
18 the daily operations, if that would
19 happen, I probably wouldn't know
20 about it. Somebody would have to
21 inform me of that happening for me to
22 become aware of it.

23 Q. The direct supervision for the
24 safety managers at the mine, who
25 again provides that?

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1 A. Most --- all the safety
2 managers primarily report to their
3 vice-president and general manager or
4 the GM of the operation.

5 Q. What about Sago Mine?

6 A. That individual reports to Ty
7 Coleman.

8 Q. Were you involved in any of
9 the rescue and recovery activities at
10 the Sago Mine on the day of the
11 accident?

12 A. Yes.

13 Q. Can you tell us how you
14 learned of the explosion of the Sago
15 Mine?

16 A. On January the 2nd, which
17 obviously was a holiday for us after
18 Christmas, I received a phone call
19 about 9 --- I'm estimating 9:03 to
20 9:05 a.m. from Gene Kitts informing
21 me that he was notified that we had a
22 possible event at the Sago Mine with
23 two crews unaccounted for.

24 Q. And where were you?

25 A. I was at home.

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1 Q. And what information did he
2 provide to you? I mean, I know you
3 just briefly said ---.

4 A. The information was sketchy at
5 that time, just that there's some
6 type of an event, a possible
7 explosion. There were two crews
8 unaccounted for. Mine rescue teams
9 had been called. And that's all the
10 information he had at that time.

11 Q. Can you just basically start

12 when you learned, like where you just
13 mentioned to me, and kind of go
14 through your activities during that
15 day up until the time that you left
16 mine property?

17 A. Okay. So I got the phone call
18 around 9:05 a.m. I told Mr. Kitts
19 that I would immediately head to the
20 coal mine. It probably took me about
21 three minutes to pack and get out the
22 door. While on the road, heading
23 towards Sago, which was about three
24 and a half hours from where I live in
25 Point Pleasant, my first phone call,

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1 I believe about 9:10, was to Bob
2 Gardner, the vice-president and
3 general manager of Viper Coal, and
4 requesting that he activate his mine
5 rescue team. And then as I traveled
6 toward the --- you know, towards
7 Sago, I made some subsequent phone
8 calls to arrange for transportation
9 for the mine rescue team from the
10 Charleston Airport to the Sago Mine
11 with some vehicles to haul the mine
12 rescue team and a vehicle to haul
13 their equipment. I made a phone call
14 to one of the --- one of our safety
15 managers, his name is Dave Shinn, who
16 --- I instructed him to go rent a
17 U-haul in the Charleston area and
18 report to the airport and wait for
19 the arrival of the Viper Mine Rescue
20 team, which they were scheduled to
21 land about 1:30 p.m. The team landed
22 --- well, let me back up.

23 So I got that taken care of as
24 far as transportation for the team
25 and the team enacted, and then I

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1 guess my next phone call was to the
2 mine site to talk to Ty Coleman to
3 find out what was the situation that
4 we had. And he informed me that
5 there was still two crews unaccounted
6 for and we had about 47 parts per
7 million of CO at the return. Then I
8 continued to make further phone calls
9 to make sure that the transportation
10 was arranged for the team and what
11 would be their ETA for arrival, of
12 all that.

13 Then my second phone call to
14 the mine, which was probably 45
15 minutes later, the update was the CO
16 at the return was now at 2,200 parts

17 per million. At that time I was
18 concerned that we may have a mine
19 fire. My next series of phone calls
20 went out to a consultant that we had
21 met that was basically a fire and
22 explosion expert from Phoenix First
23 Response. I tried the three phone
24 numbers that I had for that
25 individual, Ian Houlison, from

0032

1 Phoenix First Response. I was going
2 to try to contact him and head him to
3 the Sago Mine. I couldn't reach him
4 for about a half hour. I know
5 another individual with the same
6 capacity that I have with Arch Coal,
7 Tony Bumbico, I called him to see if
8 he had any additional phone numbers
9 for Ian that I may not have. And I
10 learned that Ian was at West Elk
11 fighting that mine fire out there.
12 And the reason I couldn't contact
13 him, he was down in the pit and their
14 cell phones wouldn't work down there.
15 So Tony Bumbico called down to the
16 mine phone in the pit and had Ian
17 give me a phone call back, which I
18 advised him what we had and inquired
19 whether he could be released and head
20 our way. I felt like we needed an
21 expert on the scene as an additional
22 hand. And he called back probably
23 within 15 minutes and told me,
24 informed me that they would release
25 him to assist us and they would start

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1 making flight arrangements. Probably
2 a half hour or 15 minutes later I got
3 a subsequent phone call from him
4 informing me that they were having
5 difficulties getting a commercial
6 flight out, that it would take about
7 three to four-hour delay and wanted
8 to know if I would authorize a
9 private plane, which I told him yes.

10 Then he informed me that John
11 Urosek, from MSHA, was having the
12 same difficulty getting back with a
13 delayed flight and asked if he could
14 hitch a ride with us on our plane,
15 which obviously I immediately said
16 yes, knowing that John is well
17 experienced as well in fires and
18 explosions.

19 So I believe that they had an
20 ETA to the Clarksburg Airport of
21 around 7:00 p.m. And once they

22 arrived, they had a State Police
23 escort down to the Sago Mine. I
24 believe they showed up around 7:30 to
25 eight o'clock that evening.

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1 But backing up, so those phone
2 calls were being made prior to
3 arriving at the mine. So I arrived
4 to the mine around 12:15, I believe.
5 Got a an update. I believe I was
6 told at that time that the second
7 crew --- the second crew that we were
8 concerned about had made it outside.
9 So there was one crew of 13 people
10 unaccounted for.

11 Within about five minutes,
12 probably about 12:20 I believe it
13 was, we had a federal mine inspector
14 come into the office with a 107(a)
15 Order, wanting us to evacuate the
16 building due to some CO levels now
17 that was inside the Sago Mine office.
18 So we started making some
19 arrangements and discussions of where
20 we could set up our command center if
21 we were going to be faced with this
22 office having CO. And in about five
23 to ten --- five minutes, the CO went
24 away. So they allowed us --- they
25 decided --- MSHA decided, allowed us

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1 to go ahead and use that facility as
2 a command center.
3 Probably I believe it was
4 another 20 minutes later they came
5 back with another 107(a) Order,
6 saying that the CO was back. And at
7 that time, the CO detectors in the
8 back foreman's room was all sounding
9 their alarm, which it was obvious
10 that there was CO there.
11 So we started discussing an
12 alternate location to set up the
13 command center. Some suggestions was
14 made to set it up down at the prep
15 plant, which had concerned us very
16 much that there's not --- wasn't a
17 whole lot of communication down there
18 such as there was, you know, at the
19 Sago Mine site. So we had decided
20 possibly to set up our command center
21 at the northern side of the parking
22 lot to get away from the building.
23 Then again, about five minutes
24 later, the CO cleared again. So then
25 they allowed us to maintain in the

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1 building there. Again, that was
2 probably somewhere between --- when I
3 arrived at 12:15 until maybe 1:00,
4 one o'clock, 1:15, something like
5 that, the best I can recall.
6 I then immediately kind of
7 took the role of ensuring that we had
8 mine rescue teams available and took
9 the role to help stage them up
10 whenever we would get the clearance
11 to, you know, enter the mine.
12 The next thing I can recall,
13 that the Barbour County Mine Rescue
14 Team was --- I believe was there when
15 I arrived. There was another team
16 that had just arrived or were
17 possibly there, the Tri-State Mine
18 Rescue Team. Then throughout the
19 day, the Consol teams started
20 arriving, I believe. And after the
21 Viper team arrived at the airport
22 around 1:30, I think --- I believe
23 they made it to the mine by the
24 police escort around 3:30 or 4:00.
25 And then their equipment followed

0037

1 them about a half hour later. And I
2 believe they --- their equipment made
3 it around 5:00 p.m. And then we
4 proceeded to just assist all the mine
5 rescue teams there getting their
6 bottles filled, getting their
7 equipment organized and a schedule
8 set up of what teams would go under
9 first and what teams would back up
10 and just kind of getting everything
11 organized since everybody was coming
12 in. And that probably took me up to
13 about, say, six or seven o'clock that
14 evening, when we finally got the
15 go-ahead to go underground.
16 As soon as we got the
17 go-ahead, there was a little bit of a
18 confusion for a short period of time,
19 I don't recall how long, of ---
20 Consol was the team that was selected
21 to go underground, since they were
22 the most experienced, first. And
23 they informed us that they had to get
24 a clearance from their corporate
25 office to go underground. And I know

0038

1 they spent a short amount of time on
2 the phone to their people, explaining
3 what the situation was, how the mine
4 was ventilated, what were the current
5 air readings. And then after a short

6 period of time, that clearance was
7 finally given, then we sent our first
8 team in.

9 I then kind of proceeded to
10 work with a Bill Tolliver from
11 Consol, who was their --- one of
12 their safety --- corporate safety
13 individuals. And he and I basically
14 worked throughout the rest of the
15 40-some hours of trying to manage
16 making sure that we had teams
17 available, teams staged up and teams
18 ready to go and backup for the rescue
19 operations. And that's basically the
20 function that we took for the next,
21 you know, --- until the miners were
22 located and barricaded.

23 Q. Okay. Thank you. After you
24 were notified by Mr. Kitts and you
25 said you was out the door in three

0039

1 minutes, that's pretty fast.

2 A. Yeah.

3 Q. Good. Well, I was notified at
4 9:05, and I checked my phone records
5 and my first call to Gardner was at
6 9:10. So I must have --- I did it in
7 about five minutes.

8 Q. And if we can just kind of go
9 back over this and kind of get some
10 follow-up questions as we go.

11 A. Sure.

12 Q. You mentioned after you got on
13 the road you had called in to get
14 ahold of someone concerning the Viper
15 team?

16 A. Yes.

17 Q. And who was that individual?

18 A. Bob Gardner.

19 Q. Bob Gardner.

20 A. He's the general manager of
21 Viper Mine.

22 Q. And what information did you
23 provide to him?

24 A. That --- it was the same
25 sketchy information that I had, that

0040

1 we've had a possible explosion and we
2 had some crews unaccounted for at the
3 Sago Mine and that we needed the mine
4 rescue team.

5 Q. And did you contact any other
6 mine rescue teams?

7 A. No. I was --- at that time, I
8 was informed that our mine rescue
9 team was called and they had another
10 mine rescue team coming as an

11 additional backup. And my call was
12 to the Viper team.

13 Q. And where is the Viper team
14 located?

15 A. Illinois, near Springfield.

16 Q. And that team is part of what
17 company?

18 A. It's ours, International Coal
19 Company.

20 Q. International Coal Company?

21 A. Yeah.

22 Q. And that's at what mine?

23 A. Viper Mine.

24 Q. Viper Mine, okay. And who's
25 the trainer on that Viper team?

0041

1 A. I believe his name is Pete
2 Byrant (phonetic). I believe so.

3 Q. And during the course, did you
4 have any involvement in notifying any
5 other teams during the operation?

6 A. No. When I arrived at the
7 mine, someone had informed me that
8 Brian Mills had --- I believe it was
9 him who contacted the Consol teams.

10 Q. Okay.

11 A. And shortly after --- I can't
12 say for certain, but it was sometime
13 after I arrived there that the Consol
14 teams had started arriving later that
15 day.

16 Q. And you say Mr. Mills notified
17 you of that?

18 A. I was informed ---

19 Q. Informed by who?

20 A. --- that Mr. Mills contacted
21 ---.

22 Q. And who told you that?

23 A. I can't remember. Somebody
24 told me that, but I can't recall. I
25 can't recall who told me that.

0042

1 Q. But the Viper team is the only
2 team that you actually had
3 involvement in contacting?

4 A. Yes.

5 Q. Did you have any --- did you
6 notify MSHA at all?

7 A. No.

8 Q. That was already taken care
9 of?

10 A. I was told it was taken care
11 of.

12 Q. And who told you that?

13 A. Gene Kitts.

14 Q. Gene Kitts?

15 A. Yeah.

16 Q. And did he say who contacted
17 ---?
18 A. I asked him had the
19 authorities been notified. He said
20 yes.
21 Q. Okay. And that was the extent
22 of that?
23 A. Yeah.
24 Q. When you arrived at the mine,
25 did you have any conversations with

0043

1 the dispatcher concerning the CO
2 levels at all?
3 A. No. Clarify the dispatcher.
4 Q. That would be the --- at the
5 mine, you may have come to know him
6 as Flea.
7 A. Okay. No, I did not have any
8 conversations with him.
9 Q. And how did you --- you had
10 mentioned about the CO levels. What
11 information did you get?
12 A. That was my second phone call
13 into the mine while I was on the
14 road.
15 Q. Okay.
16 A. That was to the command
17 center, to Ty Coleman.
18 Q. To Ty Coleman?
19 A. Yes.
20 Q. And what did he tell you?
21 A. The levels had reached 2,200
22 parts per million.
23 Q. And what other information did
24 he provide to you at that time?
25 A. That was all.

0044

1 Q. Did you ever have an occasion
2 to personally check any CO levels at
3 all?
4 A. No, did not.
5 Q. And when you got --- when you
6 arrived at the mine, what information
7 did you --- who was the first person
8 you spoke to?
9 A. I went into the command
10 center, which Ty Coleman was in
11 there. And as I was getting an
12 update, that's what I was telling you
13 about, about five minutes later the
14 inspector came in and we started
15 dealing with having to clear the
16 office.
17 Q. And what information did Mr.
18 Coleman give to you; do you recall?
19 A. No, I don't. I believe they
20 did tell me at that point in time

21 that the other crew --- I already
22 said that, the other crew was
23 outside.
24 Q. And when you say the other
25 crew, you're meaning ---?

0045

1 A. The crew that went in to see
2 what happened.
3 Q. Okay. You're speaking about
4 the ---
5 A. Superintendent.
6 Q. --- superintendent.
7 A. Safety director, yeah.
8 Q. Those people?
9 A. Yes.
10 Q. Okay. And then you mentioned
11 about someone came in and said a
12 107(a) order was to be issued?
13 A. Yes.
14 Q. And who was that?
15 A. I don't --- I didn't recognize
16 him. It was just a federal
17 inspector.
18 Q. And what was his conversation
19 to you?
20 A. It was to really everyone in
21 the room, but he was stating that we
22 had to clear the office building due
23 to CO in the building.
24 Q. Did you ever personally check
25 any --- take any CO levels during

0046

1 your ---
2 A. No.
3 Q. --- time at the mine?
4 A. No.
5 Q. And who was it that actually
6 notified the other Mine Rescue Team?
7 I know you said you notified Viper.
8 Who else?
9 A. I notified Viper. I can't
10 tell you exactly who the person was
11 that notified the Barbour County team
12 or the --- I'll back up --- I was
13 also told, and I can't remember who
14 told me this, that it was Brian Mills
15 who notified the Tri-State team and
16 the Consol teams, okay. But Brian
17 did not tell me that, but someone
18 told me that Brian had. I think
19 someone told me that Johnny Stemple
20 is the one who called the Barbour
21 County Mine Rescue Team, which is our
22 contract team.
23 Q. And do you know who notified
24 the EMS? I mean, you didn't have any
25 involvement in that?

0047

1 A. No. No, I did not.
2 Q. That was all done ---
3 A. Yeah.
4 Q. --- prior to you getting here?
5 Do you know who did that?
6 A. No, I do not.
7 Q. Do you know if at any time the
8 telephones at the mine were
9 inoperative? Now, I mean telephones,
10 I'm talking about, you know, the
11 business telephones.
12 A. No.
13 Q. Did anyone ever say that to
14 you at all?
15 A. No. I used several phones
16 there. Everything seemed to be
17 working fine.
18 Q. And at any time did the
19 commercial power go off to the ---?
20 A. Not that I was aware of.
21 Q. Tell me a little bit about now
22 the mine rescue teams. You were
23 involved with getting them ready and
24 directing which team goes in and out.
25 Tell me a little bit about that, what

0048

1 was going on.
2 A. Well, myself and Bill
3 Tolliver, since he was sort of
4 directing the Consol teams, we got
5 together and started working at the
6 schedule, a rotation schedule, for
7 when we were ready to enter the mine,
8 so we could have a fresh team ready
9 and a backup team ready. And so we
10 worked on that for a half hour or so
11 and put together a spreadsheet of how
12 we would manage what teams went under
13 when.
14 Q. And do you have any
15 involvement in the decisions as to
16 how the mine would be --- or who
17 would enter first and who would enter
18 --- how they would enter?
19 A. No, that was --- those
20 decisions were basically made by the
21 command center.
22 Q. Did you work in the command
23 center?
24 A. No. I was in and out of there
25 just to keep abreast of when they

0049

1 would need another team staged up or
2 a team ready to go or when a team was
3 getting ready to come out. But other
4 than that, I didn't really have any

5 capacity in there.

6 Q. Did you have any involvement
7 in drilling or finding a site for the
8 boreholes or any involvement in the
9 boreholes at all?

10 A. I know John Urosek worked with
11 us for a real brief period of time of
12 some fittings we would need to take,
13 you know, proper air readings. And
14 we worked with him for maybe a half
15 hour, making sure they got the right
16 fittings and tubing and things that
17 they would need once the hole got
18 down. But that's my only involvement
19 with the drilling.

20 Q. So you weren't involved in any
21 of the site --- finding the correct
22 site ---

23 A. No.

24 Q. --- or mapping out the site?

25 A. No.

0050

1 Q. And you don't know anything
2 then about who the drilling companies
3 were and if any drilling companies
4 offered their services?

5 A. I just overheard in the
6 hallway that someone had offered a
7 drill rig, and they told him to
8 immediately head them that way, you
9 know, but I didn't catch any names or
10 know anything about that.

11 Q. So you wouldn't know anything
12 about the logistical problems that
13 may have occurred?

14 A. No, I have no knowledge of
15 that.

16 Q. What about the surveying of
17 the borehole?

18 A. I have no --- wasn't involved
19 in that.

20 Q. Do you know when the borehole
21 was completed? That's the Two Left
22 borehole I'm speaking of.

23 A. That was a general discussion
24 among everybody, you know, in the
25 building. And the best I can recall,

0051

1 I thought that it finally got down
2 around 4:00 a.m. I'm sure we've got
3 records that would show that. But
4 again, I just didn't have a direct
5 --- any involvement in that process,
6 you know.

7 Q. Were you involved in the
8 initial decision to send the teams
9 underground? Were you consulted at

10 all on that, when they should send
11 them underground, when and who?
12 A. I had inquired early on when I
13 got there when will we be able to
14 send the team in. And I was informed
15 just through whoever some of the
16 general state and --- or mainly MSHA
17 individuals that they wanted to set
18 up a sampling system and get some
19 history is the term they kept using.
20 We had to get some trending analysis,
21 some history on the constituents
22 before we could, you know, make a
23 decision to send a team in.

24 I knew there was some work
25 being done to collect, you know,

0052

1 bottle samples and get them analyzed
2 with a chromatograph. And from what
3 we understand, that's, you know, what
4 led us up to going underground about
5 10 hours, 11 hours later, yeah. I
6 was getting the history there.

7 Q. Were you involved in any of
8 the --- as teams moved underground,
9 were you consulted at all as to what
10 should be explored or what does not
11 need to be explored or any of those
12 type decisions?

13 A. Did anyone approach me for my
14 direction on that? No.

15 Q. Okay. Were you involved in
16 any ---?

17 A. Yes.

18 Q. Did you involve yourself in
19 that?

20 A. Yes.

21 Q. You did. Okay. Can you
22 explain that to me?

23 A. There was a period somewhere
24 throughout the event that there was
25 some concern the teams were moving

0053

1 too slow or very slow. And I'd have
2 to go back and look at the record,
3 you know, but if I'm not wrong, I
4 thought that the team only moved
5 about 17 breaks in the first 24
6 hours, something like that. There
7 was a lot of frustration, you know,
8 from everybody that it was just
9 moving slowly. Of course, everyone
10 sort of understand that, you know,
11 one of the primary concerns was the
12 safety of the team, obviously.

13 There was some high emotion
14 there, obviously, that we have 12 ---

15 you know, 13 men unaccounted for and
16 we need to get to those folks. I
17 pulled John Urosek and Ian Houlison
18 in a kind of a side room, did a
19 little sidebar, and started
20 discussing how could we possibly ---
21 what could we do to move these teams
22 a little bit quicker. And we had
23 kind of come up with an idea that
24 instead of --- they were actually
25 using a method of almost like a mine

0054

1 rescue contest to tunnel across and
2 back and just being extremely
3 methodical about exploring and
4 measuring the constituents. And I
5 believe we kind of proposed an idea
6 of moving around --- up to 250 feet,
7 I think it was, 250 feet to 500 feet,
8 at a time and tying back in and out
9 of the intake return, getting
10 readings and then moving forward.
11 We even discussed who would
12 present that idea to the command
13 center. And the fact that those
14 folks really don't know me or Ian, we
15 thought John would be the best person
16 to make that recommendation. And we
17 went back in and we discussed it with
18 the peoples in the command center.
19 And it took about ten minutes but
20 they finally accepted the idea, and
21 that's when the teams kind of picked
22 up pace and started moving.
23 Q. And who was in that command
24 center at that time; do you recall?
25 A. I was thinking it's --- Ty

0055

1 Coleman keeps, you know, flashing in
2 my face, but I thought John Collins,
3 I believe, but I may be wrong. He
4 was in there, in and out, you know,
5 several times during his shifts, but
6 I knew it was Ty for one of them.
7 But it could have been John Collins.
8 I just can't say here --- I just
9 can't say for sure who was in there.
10 This thing going on for 40-some
11 hours, there was quite a few people
12 in and out.
13 Q. Sure. And you say that ---
14 and when you say we, you're talking
15 about the three of you?
16 A. Yeah, the three of us.
17 Q. Do you know when the power was
18 removed from the underground portion
19 of the mine?

20 A. No, I don't.
21 Q. That had already been done
22 whenever you arrived?
23 A. I was involved in some
24 conversation when the teams found a
25 red light.

0056

1 Q. Yes.
2 A. But they --- everyone assumed
3 it may have been a cap lamp, but when
4 they got up to it, it was a CO
5 monitor light. And there was some
6 work done to deactivate the batteries
7 to the CO monitors, but not --- I
8 wasn't involved with anything to do
9 with main power.
10 Q. During that period, was all
11 the teams pulled out from underground
12 whenever they discovered that light?
13 A. Yes, they were. They pulled
14 everyone out of the mine and worked
15 on solving the problem, and then they
16 allowed them to go back underground.
17 Q. Were you involved in any of
18 the decision for the teams to
19 establish power to portions of the
20 mine, to a pump where they were
21 concerned about flooding the area?
22 Do you recall that at all?
23 A. No, I wasn't involved in that
24 decision making.
25 Q. Do you know whether One Right

0057

1 and Two Right were explored as the
2 teams progressed into the mine?
3 A. I remember when we dropped the
4 boreholes down to One Right and ---
5 or One Left, Two Left.
6 Q. But I'm talking about One
7 Right, the area ---.
8 A. Oh, One Right, no, I don't
9 remember.
10 Q. Do you recall whether that was
11 explored or not?
12 A. No, I don't recall.
13 Q. You don't recall any
14 discussions about that?
15 A. No. Most of the discussions
16 between team captains of briefings
17 and debriefings was basically handled
18 out of the command center.
19 Q. Okay. And do you recall any
20 discussion concerning the old Two
21 Left area, the sealed area, whether
22 that would be explored or any
23 discussions concerning that?
24 A. No.

25 Q. What about the empty mantrip
0058
1 that was found in Two Left? Were you
2 involved in any discussions to
3 explore the faces, go directly to the
4 faces rather than ---?
5 A. I was involved in getting the
6 teams ready when we started pushing
7 teams that direction. But I was
8 never --- other than what I told you
9 about where I was --- myself and
10 Urosek and Ian, I had absolutely no
11 involvement in any kind of direction
12 to the teams of where they went or
13 what they did. That was all handled
14 out of the command center.

15 Q. Command center?

16 A. Yeah.

17 Q. Okay. Whenever the initial
18 information came to the surface
19 concerning the 12 --- or all the
20 miners were alive, where were you at
21 that time?

22 A. I was back in the bathhouse
23 working with one of the teams. And I
24 was heading back to the area where I
25 was working and several people was

0059
1 coming around the corner, commenting
2 that, you know, it was great news,
3 you know, they found all 12. And I
4 think I made my way to the command
5 center to verify that. And there was
6 obviously a lot of excitement ---

7 Q. Sure.

8 A. --- and kind of some joy. And
9 I kept asking for them to confirm
10 that. But then the pace picked up
11 that we had to get in to those
12 individuals and get them out, so they
13 sent me back --- I was instructed by
14 somebody or the entire group in the
15 command center that we needed to get
16 the medical individuals, the doctors
17 and nurses, ready to go underground
18 and send them, along with the mine
19 rescue team, to the barricaded area
20 to help, you know, retrieve these 12
21 miners.

22 So we went back and started
23 kind of working on that. And once we
24 got them underground, I think I went
25 back to the command center and

0060
1 started --- we started talking about
2 confirming, you know, that we did
3 have the 12 miners. And if I'm not

4 mistaken, they did ask one of the
5 mine rescue teams, you know, to
6 confirm that, and they did, that they
7 had, you know, the 12 miners. I
8 think what was said was one would be
9 coming out on --- I was told one
10 would be coming out on a stretcher
11 and they would be walking the
12 remaining 11 out. Then at some point
13 in time --- let me back up and tell
14 you this first so you'll understand
15 what I'm getting ready to say. There
16 was a point in time in the evening
17 that it appeared that information
18 from the command center
19 communications system was leaking to
20 the press. They was --- for some
21 reason they was believing that the
22 press was getting ahold of our
23 information.
24 Q. And who was --- how did you
25 get that information? How did you

0061

1 come to believe that?
2 A. They had the State --- the
3 Governor had the State Policemen
4 there to go around the perimeter and
5 investigate, looking for someone that
6 may have like a listening device or
7 whatever. Plus we had a security
8 group there as well. And they were
9 all trying to investigate how was
10 this information leaking out. That
11 was sort of like the rumor, I guess.
12 So we had --- it was decided from the
13 command center that if the teams
14 would discover a body, that they
15 would not identify the person as a
16 body or the name, that they would
17 identify the body as an item. I
18 guess this might --- as per se a code
19 word.
20 Q. Okay.
21 A. That the command center would
22 understand the word item meant body.
23 And then we had decided that it had
24 been recommended, I think, by Consol,
25 and I was part of this, that we would

0062

1 assign each of the missing miners a
2 number, 1 through 13, and have a
3 briefing with the captains of each
4 team that was going under and give
5 them a copy of this list of 1 through
6 13. And if they would find a
7 survivor or a body, they would say in
8 the communications that we've located

9 item number four between break so and
10 so. And that way the communications
11 --- the command center could have
12 that information, who it was, in case
13 they had to go notify, you know, a
14 family member or whatever. Okay. So
15 we did that. We met with --- I typed
16 up a list, very confidential. Me and
17 Bill Tolliver met with the captains
18 of the Consol teams and I believe the
19 Tri-State team and told them what we
20 wanted them to do, and of course
21 that's what they did.

22 So back to me coming into the
23 command center to try to confirm
24 things. The room was kind of --- it
25 was, at that time, kind of full and

0063

1 the emotions were very high that they
2 thought they had 12 miners alive.
3 The word come across from one of the
4 crew members on the phone that we
5 have one coming out on a stretcher
6 and 11 items. And it just hit me
7 like a ton of bricks that I knew what
8 that meant. And I kind of stepped
9 back for a minute. I just, you know,
10 was in shock.

11 But then I could see the rest
12 of the room didn't understand. They
13 --- for some reason, I'm going to say
14 most of them thought that we still
15 had 12 alive. And so I asked, I
16 believe it was one of the Consol
17 individuals that was helping manage
18 our teams was at that time on the
19 phone with his --- one of the mine
20 rescue members, and I asked him to --
21 - I think we got bad news here. I
22 said, you need to confirm that.

23 And they argued with me for a
24 short period of time that, no, no,
25 no, we've got --- you know, we got 12

0064

1 people coming out. And then there
2 was some discussion maybe that they
3 was going to be carrying more people
4 out, maybe there was more injured
5 possibly or whatever. And I had to
6 kind of raise my voice pretty loud to
7 get them to listen to me. I said,
8 listen, he --- they just said we got
9 11 items. I said, have him repeat
10 what do we have as far as survivors.
11 He spoke to the mine rescue person,
12 whoever that was, I don't know, the
13 captain, I assume, or someone at the

14 fresh air base, that how many
15 survivors do we have, I believe it
16 was asked.
17 And the answer came back, we
18 have one on a stretcher and 11 items.
19 And they turned to me and said, see,
20 we're okay or something to that
21 effect. I said, listen, are you all
22 forgetting about the code of an item?
23 I said, tell them to drop the code
24 and just tell us what they've got as
25 far as survivors.

0065

1 So they called back in and
2 said, do you have 11 survivors and
3 one on a stretcher? And they said,
4 no, it's the other way around. And
5 that's when everyone finally
6 understood that, you know, we had
7 fatalities. And again, you know, the
8 emotions of the room just --- it's
9 almost like everybody in the room
10 died. It was pretty tough.
11 Q. Okay. I wonder if we could
12 just back up a little bit and when I
13 first asked you about the time that
14 you were told that you had 12 alive.
15 A. Yeah.
16 Q. And you said that at that
17 point there they started making an
18 arrangement, and you seemed to have
19 some involvement there.
20 A. Well, as I was staging teams,
21 they had me help stage more teams. I
22 get the philosophy at that time out
23 of the command center was push more
24 teams, push everything we had down
25 there to save these men.

0066

1 Q. Yes.
2 A. So they started sending more
3 teams.
4 Q. When you say more teams, do
5 you know which teams went down or how
6 many teams went down?
7 A. No. I mean, there was a
8 little bit of confusion at the time.
9 Q. Sure, I understand.
10 A. There was so many teams being
11 pushed that direction. Robinson Run,
12 I believe, 84, Tri-State and --- you
13 know, just --- I can't say they were
14 --- tell you exactly which ones.
15 Q. Yeah, I understand. Sure.
16 But when you say push down, you mean
17 down into the pit; is that correct?
18 A. Yeah, get them ready ---

19 Q. Get them ready to go
20 underground?
21 A. --- to go underground, yeah.
22 And then there was the medical
23 professionals. There was, I think, a
24 couple doctors and maybe medics, that
25 we got them suited up. We did like a
0067
1 real quick five-minute hazard
2 training, ---
3 Q. Sure.
4 A. --- made sure they had hats
5 and safety glasses and things.
6 Q. How many doctors were there;
7 do you recall?
8 A. I don't know exactly. I think
9 there was at least a couple, if not
10 --- at least one. At least one,
11 maybe a couple. But there was a
12 couple --- several women there that I
13 think was like medics, paramedics,
14 nurses, something like that.
15 Q. And those all people did
16 assemble down in the pit?
17 A. We assembled them in the
18 shower, the bathhouse, and then we
19 moved them down to the pit.
20 Q. Down to the pit?
21 A. Yes. And then they took them
22 underground.
23 Q. And you say they took them
24 underground. Now, do you know ---
25 A. I wasn't down there, so I
0068
1 didn't ---.
2 Q. --- who was ---?
3 A. I didn't see. I don't know
4 who took them underground, how they
5 got underground. I just know that
6 they were going to be sent to the
7 area to help.
8 Q. Let me ask you this way. Do
9 you know for a fact, ---
10 A. Okay.
11 Q. --- okay, that there were
12 doctors or medical people --- doctors
13 sent underground?
14 A. Yes. I personally talked to
15 them.
16 Q. Personally talked to them,
17 meaning ---?
18 A. I mean, I personally talked to
19 them in the staging area ---
20 Q. Yes.
21 A. --- and I helped them get
22 ready to go underground.
23 Q. When you say the staging area,

24 are you talking about the bathhouse?
25 A. Bathhouse, yes.

0069

1 Q. Okay. So they went to the
2 pit. And that's what I'm trying to
3 get at. Do you know that they
4 actually did go underground?

5 A. I did not see them go
6 underground.

7 Q. Were you told that they went
8 underground?

9 A. I believe later I saw a news
10 interview with the doctor that
11 claimed he was the one that
12 administered the oxygen, so I believe
13 it was him that was one of the people
14 we staged up.

15 Q. Is he the same guy that you
16 talked to before they went
17 underground? Was he one of the guys
18 that you talked to ---?

19 A. I thought he was, yeah.

20 Q. Okay. But you don't know his
21 name?

22 A. No, I do not.

23 Q. Okay.

24 A. I don't know where these
25 individuals were from. All I know,

0070

1 they were a team of medical
2 professionals to help us through the
3 emergency.

4 Q. Did you ever have an occasion
5 to go into the pit?

6 A. No.

7 Q. Okay. So during this whole
8 ---?

9 A. Well, afterwards. I mean,
10 after I was put in charge of the body
11 recovery, to help with the teams.
12 And I personally went down to the pit
13 and helped transport the bodies to
14 the ambulances. That was my first
15 trip to the pit.

16 Q. So then all these teams and so
17 on were dispatched to the pit, and
18 the doctors and medical people were
19 dispatched to the pit. And at that
20 point there, once they were down
21 there and they were down there
22 whenever you spoke about the ---
23 confirming what we really had, so ---
24 they had already gone at that point?

25 A. Yes. Yeah, that's when I went

0071

1 back to the command center, ---

2 Q. Command center.

3 A. --- after I got that job done.
4 Q. Okay. And do you know what
5 time that was?
6 A. You know, we just --- this
7 whole thing was such a blur for 40
8 hours.
9 Q. I understand. Sure.
10 A. I just don't know, to be
11 exact.
12 Q. And at that point there,
13 that's whenever you had the
14 conversation with the command center
15 personnel and what you just described
16 to me concerning the miscommunication
17 incident ---
18 A. Yeah.
19 Q. --- and so on? After it was
20 decided that you did actually have
21 one survivor only, ---
22 A. Uh-huh (yes).
23 Q. --- then kind of --- what
24 occurred then?
25 A. Well, of course the work was

0072

1 pushed to get him out, you know,
2 bring him outside.
3 Q. Was there any communications
4 with the command center at that point
5 to say, hey, don't send all these
6 doctors underground or don't send all
7 these teams underground?
8 A. You know, I wasn't aware of
9 that.
10 Q. Okay. Go ahead. Then at that
11 point, what did you do?
12 A. Well, we just waited to, you
13 know, --- for them to bring the
14 individual out. And then the next
15 thing I was somewhat involved in was
16 they staged --- we had to stage up
17 the Viper team, I believe it was the
18 Viper team, that went back
19 underground --- was assigned to go to
20 the barricade.
21 Q. How did that occur? Tell me a
22 little bit about that, how that got
23 put in place?
24 A. I don't know. I just knew
25 that they were going to send the

0073

1 Viper team to go back and re-examine
2 the individuals.
3 Q. Who told you to get them ready
4 to do that?
5 A. It was just --- it came out of
6 the command center that they --- I
7 mean, there was so many people in

8 there.
9 Q. Sure.
10 A. It came out of the command
11 center that they were going to send
12 the Viper team back up there. I
13 think there was a couple EMTs, two or
14 three EMTs on the team. They were
15 going to take stethoscopes and ---

16 Q. Just verify?

17 A. --- just verify that they were
18 expired.

19 Q. Do you know how the
20 communication got to the Sago church
21 ---

22 A. No.

23 Q. --- that they all survived?

24 A. I don't know. I don't know
25 for a fact. I mean, there was a lot

0074

1 of people around the outside of the
2 building that, you know, had cell
3 phones. You know, during the high
4 emotion, ---

5 Q. Yes.

6 A. --- you could see a lot of
7 people on cell phones outside, out in
8 the dark in the gravel areas and ---.
9 If I tell you, I'd just make an
10 assumption, so ---

11 Q. Yes, I understand.

12 A. --- you know, ---.

13 Q. Okay. So then you prepared
14 --- you were involved in the
15 preparation of the Viper team to go
16 underground?

17 A. Yeah, we got them staged up.

18 Q. Who gave them stethoscopes?

19 How was that ---?

20 A. I think they --- I think that
21 --- I think another medical group or
22 something loaned them or they had
23 their own, okay. I think they were
24 loaned them from some medical group
25 there.

0075

1 Q. And you briefed them on what
2 they were supposed to do or who
3 briefed them on what they were to do?

4 A. The command center. I wasn't
5 part of telling them what they had to
6 do. I just, you know, got them
7 ready.

8 Q. Got them ready?

9 A. Yeah.

10 Q. Then what did you do?

11 A. We just waited for word. And
12 I guess it was maybe around 11:30, 12

13 o'clock when it was confirmed, I'm
14 going to assume, because I don't ---
15 I just don't have a time line right
16 in front of me. It was just so late
17 that night. It was close to midnight
18 maybe.

19 Q. Yes.

20 A. Maybe after midnight. And
21 after it was confirmed, then there
22 was some discussions of, you know,
23 retrieving the bodies. And there was
24 some earlier debate whether Consol
25 would be allowed to assist us in

0076

1 retrieving the bodies. There was
2 some talk --- I guess there was some
3 controversy that their corporate
4 office did not want them involved in
5 handling the bodies or, you know,
6 bringing the bodies outside. So at
7 one point in time I instructed the
8 Viper team that it would be --- that
9 job would be left up to us and
10 probably, you know, our other
11 contract team there. But then
12 somewhere throughout that --- later
13 that night, Consol must have got
14 their clearance to go ahead and help
15 us retrieve the bodies.

16 Q. And who actually --- what team
17 went under --- the Viper team did go
18 underground to retrieve the bodies
19 from the section?

20 A. Yes. Well, yes, they went
21 under, yes.

22 Q. And then you said that Consol
23 could help you. What did they do to
24 assist you?

25 A. I think they worked along with

0077

1 us --- I think there were several
2 teams up there that was working
3 toward getting the bodies outside.

4 Q. Okay.

5 A. I mean, I can't tell you which
6 Consol team for sure, but I think it
7 was 84 and Robinson Run that helped,
8 you know, retrieve the bodies. Viper
9 worked for a short period of time. I
10 believe I was --- I was told by the
11 Viper members that they loaded the
12 bodies into the body bags at the
13 barricade and they were working with
14 a federal inspector with them and
15 probably a state inspector. And they
16 brought one body down to the end of
17 the track and they were instructed by

18 the federal inspector to go back up
19 and help with the Consol teams
20 because they were short handed. They
21 only had four people or five people
22 up there. They needed a couple extra
23 people to help carry.

24 Q. Yes.

25 A. And then, I believe, their

0078

1 oxygen started getting low, it was
2 time to come outside, so they were
3 instructed to go back to the fresh
4 air base.

5 Q. And when you say they, you're
6 talking about which ---?

7 A. Viper.

8 Q. Viper team?

9 A. Yeah.

10 Q. Okay.

11 A. So their time was limited of
12 handling the bodies to the one
13 individual down to the track and then
14 helping the Consol --- I believe
15 helping the Consol team bring one
16 down possibly. I'm not sure if they
17 completed it or not. They were
18 ordered outside because of --- back
19 to the fresh air base because of low
20 oxygen. And then they went down
21 there and stayed for a while to see
22 how they could help. Then I believe
23 they --- Mr. Helms, I believe they
24 told me that that body was loaded
25 onto a stretcher and they placed that

0079

1 body into a body bag and put the body
2 bag back in the stretcher.

3 Q. And they, again, you're
4 talking about Viper?

5 A. Viper, yes. Then I guess
6 eventually they were ordered outside,
7 you know, to change out teams.

8 Q. And the information that you
9 have just provided to me, is that the
10 information that you gathered from in
11 the command center?

12 A. No, from one of the Viper
13 members.

14 Q. Through a debriefing?

15 A. Not a debriefing, just a
16 conversation.

17 Q. With whom and when was that
18 conversation?

19 A. Probably the next evening,
20 talking with a couple members.

21 Q. And who were those members?

22 A. I believe it was Pete Byrant

23 and Brad Kauffman.
24 Q. And Pete Byrant is what?
25 A. Captain.

0080
1 Q. Captain of the team?
2 A. Uh-huh (yes).
3 Q. And the other individual?
4 A. I don't know what position he
5 has on the team, but just a member of
6 the team.
7 Q. Of the team.
8 A. He may be a co-captain
9 possibly.
10 Q. You were waiting in the
11 command center for the teams to go
12 underground and recover the bodies?
13 A. Yeah.
14 Q. And then what was you doing at
15 that time, just waiting in the
16 command center?
17 A. Just waiting.
18 Q. Just waiting. And then at
19 what time did you do something else
20 other than waiting?
21 A. To be honest with you, the
22 Consol teams basically conducted
23 themselves to get the bodies out. I
24 believe it was them and the Tri-State
25 team. And the next thing we --- the

0081
1 next action we had was around ten
2 o'clock in the morning, when they
3 started heading outside with the
4 bodies on mantrips.
5 Q. Okay.
6 A. We arranged for the three
7 ambulances that was on site to go
8 down close to the portal. There was
9 some discussion that someone believed
10 that there was reporters trying to
11 get a shot of the bodies, you know,
12 on the hills or a helicopter
13 possibly, something like that, so we
14 sort of --- a couple of us got
15 together and discussed how we could
16 handle the bodies in a very
17 respectful, you know, very delicate
18 way when we had to bring them from
19 the mantrips to the ambulances. So
20 we kind of talked about that a little
21 bit.
22 Q. When you say a couple of us,
23 who do you mean?
24 A. Me and Bill Tolliver and I
25 think the superintendent possibly and

0082
1 a mine manager maybe, and Ty Coleman

2 I think was part of that discussion.
3 And I think we got word about 9:30 or
4 10:00 they were heading out. So we
5 got the ambulance as close as we
6 could to the portal without being
7 illegal and brought the mantrips out
8 one at a time and, you know, just six
9 of us would, you know, very slowly
10 hand the body over to the ambulances.

11 Q. And then what did you do after
12 that?

13 A. After all the bodies were
14 gone, I --- there was about 60 people
15 down in the pit. I gathered the
16 group together kind of in a circle
17 and we had a prayer for, you know,
18 our lost miners. And then I went
19 back up on the hill to start seeing
20 what else we had to do. And I guess
21 I just started getting ready to get
22 to the hotel because I had been awake
23 maybe 50-some hours at that point,
24 you know, ---.

25 Q. Yes.

0083

1 A. --- and went back to the
2 hotel.

3 Q. Do you want to take a short
4 break?

5 A. Yeah.

6 SHORT BREAK TAKEN

7 MR. SWENTOSKY:

8 Michael, do you have
9 some questions?

10 MR. RUTLEDGE:

11 Yes.

12 BY MR. RUTLEDGE:

13 Q. Tim, let's go back quite a bit
14 earlier in the day, if we can. You
15 told me --- or you told this hearing
16 that you got to the mine about 12:15;
17 is that right?

18 A. I believe that was about
19 right.

20 Q. And then shortly after that,
21 there was the first instance of the
22 CO in the offices and the bathhouse?

23 A. That's the way I recall it,
24 yes.

25 Q. So I mean, a five-minute

0084

1 period or something after you got
2 there or just a very short ---?

3 A. Yeah. I thought I got there
4 at five --- I thought I got there at
5 12:15. And to me, it seemed like
6 about five minutes later, that's when

7 we immediately got into the CO. Of
8 course, you know, we could look at
9 those orders and get the exact time
10 to correct me. But that's --- my
11 recollection, that's what I recall.

12 Q. Okay. And order was issued by
13 MSHA on the first instance?

14 A. Yeah. They actually had it in
15 their hand, I believe, yeah.

16 Q. And then shortly thereafter,
17 the COs were checked again and ---

18 A. Yeah.

19 Q. --- it was clear, ---

20 A. Yes.

21 Q. --- and you were allowed to
22 stay?

23 A. Yes.

24 Q. Then there was another
25 instance of a CO climb again?

0085

1 A. Yes.

2 Q. How much later was that?

3 A. I'm thinking it was around 20
4 minutes later. It was fairly close
5 to the first one.

6 Q. So about 20 minutes apart.
7 Ending in the same resolution?

8 A. Yes.

9 Q. Just a few minutes it was
10 checked again?

11 A. It was cleared, yes.

12 Q. And everybody was allowed to
13 stay?

14 A. Yes.

15 Q. Okay. Also you told me that
16 --- excuse me, I keep saying me. You
17 told this hearing here, you told the
18 group that at one time you talked to
19 Ty Coleman on the phone?

20 A. Yes.

21 Q. And he reported to you that
22 there was 2,200 parts per million CO
23 ---

24 A. Yes.

25 Q. --- at the return?

0086

1 A. Yes.

2 Q. Can you give us your best
3 approximation of what time that would
4 have been?

5 A. You know, I left the house at
6 9:05, I guess, or right after 9:05.
7 I know from my phone records I made
8 my first phone call to Viper at 9:10.

9 It's a three-hour drive up here. I
10 was somewhere on 79 --- I can say
11 that, I was somewhere on 79 when I

12 made the call to Ty, the second call
13 to Ty. So I'm going to --- it's just
14 a guess or an estimate, I'd say two
15 hours into my trip.

16 Q. Okay. Also you mentioned
17 earlier that Ty was part of a Spruce
18 Fork Division?

19 A. He's the safety manager for
20 the Spruce Fork Division.

21 Q. Can you explain the corporate
22 structure that gets us to a Spruce
23 Fork Division?

24 A. Okay.

25 Q. Is it a separate company or

0087

1 what is that?

2 A. The Spruce Fork Division at
3 that time had Sago and Sentinel and
4 Sycamore. Yeah, they had those three
5 mines, Sentinel, Sycamore and Sago,
6 under the Spruce Fork Division, which
7 the general manager is Chuck Dunbar
8 and the safety manager for the
9 division is Ty Coleman, which each of
10 the mining operations has a safety
11 manager.

12 Q. Okay. Now, was that again ---
13 that Spruce Fork Division, was that a
14 division of ICG, of ---

15 A. Yes.

16 Q. --- Anker or ---?

17 A. I don't know the legal
18 structure, but it's one of the
19 operating units of ICG.

20 Q. Is the Viper team the only
21 mine rescue team that ICG has at this
22 time?

23 A. Yes.

24 Q. You also mentioned that you
25 and Bill Tolliver had done

0088

1 spreadsheets of the team rotations?

2 A. Yes.

3 Q. Are any of those still
4 available, or do you still have any
5 of those sheets?

6 A. Yes. I have those on my
7 laptop.

8 Q. Okay. Would you provide us
9 with copies of those?

10 ATTORNEY RAJKOVICH:

11 We'll take that under
12 advisement.

13 BY MR. RUTLEDGE:

14 Q. Also, you mentioned a code
15 that was devised, number one, to call
16 any bodies or recovered items, and

17 also that there was a list of names
18 and numbers assigned so that teams
19 could get item number four and
20 whatever. Is that list available
21 anywhere?
22 A. It may be on my laptop, but we
23 tried to be very confidential about
24 that. We collected those papers that
25 we gave the captains immediately

0089

1 after they got outside. I may have
2 erased it, but it could be on there.
3 It was just basically a list of the
4 miners, and the list that I had, I
5 just numbered them 1 through 13,
6 simply that.

7 MR. RUTLEDGE:

8 Again, we would request
9 that you look for that and see
10 if that's still available.

11 ATTORNEY RAJOVICH:

12 Same thing.

13 BY MR. RUTLEDGE:

14 Q. You also talked about the
15 concern that it was taking teams a
16 long time to get underground; was
17 that correct, or not?

18 A. What I said was, that was a
19 general concern among everybody
20 throughout the building. I guess a
21 lot of the non-experienced mine
22 rescue members was the people who
23 were asking why is it taking so long
24 to get the teams under. Why haven't
25 we sent a team yet, you know. It was

0090

1 a general consensus among everybody
2 in the building that they were
3 wishing we could send the teams, you
4 know, obviously, after the people.

5 Q. Okay. And you did say that
6 you and Ian and John Urosek then
7 approached the command center?

8 A. Yes.

9 Q. Can you give us any
10 clarification as to what time this
11 was or how far along, ---

12 A. Well, again, I'm thinking ---.

13 Q. --- during the --- you know,
14 how much advance had been made at
15 this time?

16 A. For some reason, it sticks in
17 my mind that 12 hours or 24 hours
18 might have passed. I just don't
19 recall. I mean, I would assume that
20 you could go back in the written
21 plans and find out maybe when the

22 team started moving quicker, but I
23 don't --- I just don't have a time
24 for you. I would just be guessing if
25 I told you something. It obviously

0091

1 was after a period of time that
2 allowed, you know, some frustration
3 to build up that the teams were
4 moving slow.

5 Q. So you really can't be a
6 little more precise ---

7 A. No.

8 Q. --- about the amount that
9 hadn't been explored or the length of
10 time the exploration had been going
11 on before this ---?

12 A. Like, it sticks in my mind,
13 for some reason, that they had made
14 it to break 17, and it took a long
15 time to get there. I don't know if
16 that's factual, but that just sticks
17 in my mind. Maybe it was around that
18 time.

19 Q. Okay. We talked about your
20 responsibilities in preparing the
21 teams and getting them ready to go.
22 Where were the teams staged?

23 A. We staged as many teams as we
24 could fit into the bathhouse. And I
25 believe we probably fit about four or

0092

1 five teams there. We staged a team
2 in the front side of the building,
3 which it was a rib --- an area being
4 remodeled. It kind of resembles like
5 a garage. And we had two teams
6 there. And I believe they even had a
7 team in a site --- no, that's not
8 correct. That's later on. And then
9 there was several teams, I notice,
10 that had brought tents, portable
11 buildings or tents, that set up
12 tables and did some, you know, work
13 there. But primarily, we --- the
14 teams getting ready to go underground
15 staged out of the bathhouse.

16 Q. Okay. And how did you receive
17 information that the team would be
18 needed at any particular time,
19 or ---?

20 A. From the command center.

21 Q. Okay. Someone would come and
22 contact you, or come and look for
23 you, or ---?

24 A. I tried to stay in contact
25 back and forth by the command center.

0093

1 I tried to stay out of their way, but
2 I would check in and out when it
3 would seem like we were getting ready
4 for a team. And there was maybe a
5 couple times they maybe came and got
6 me, but mainly we just kept checking
7 on them and see when they needed
8 something.

9 Q. Okay. And who briefed the
10 teams before they were sent
11 underground?

12 A. I thought it was the command
13 center. I thought they would ---
14 they took the time to take someone
15 out of the command center to brief
16 the teams.

17 Q. But you weren't --- you
18 weren't ---?

19 A. No. I did not sit in on any
20 of the briefings.

21 Q. Any of the briefings. Okay.
22 And after the briefings, the teams
23 would go to the pit; is that right?

24 A. Well, they would stage up in
25 the bathhouse, kind of assemble on

0094

1 the side of the building, and there
2 was a couple of state, I think --- I
3 believe federal inspectors of the
4 walkway leading down to the pit that
5 would take their names and record
6 when they went in and when they came
7 out. And once they cleared that
8 checkpoint, I guess you'd call it,
9 they was allowed to go down over the
10 hill.

11 Q. Okay. And once they went down
12 there, how did they get underground
13 to the fresh air base?

14 A. I can't --- I couldn't tell
15 you for a fact. I don't know. I
16 wasn't down there. I didn't discuss
17 that.

18 Q. Okay. To your knowledge, were
19 mantrips run back and forth to fresh
20 air bases?

21 A. At some point in time I
22 believe they were, but I just --- I
23 can't know that for a fact.

24 Q. Okay. And could you make any
25 estimate as to --- once the command

0095

1 center might have issued an order for
2 a team to get ready and go as to how
3 long it might have taken for them to
4 do that to get ready and to be able
5 to get to the pit and in to the fresh

6 air base?
7 A. When we knew --- when we would
8 be communicating with the command
9 center that they were getting ready
10 for a team, we would have that team
11 ready to go when the change out
12 needed to happen. So there was ---
13 there was never any lag time. We
14 would have a team right there ready
15 to roll right into the pit when there
16 was a change-out required. So that
17 was probably a half hour before they
18 would need a team, we had them
19 suiting up, you know, with their
20 packs and ready to go.
21 Q. Ready to go.
22 A. And they probably even had
23 another hour notice prior to that who
24 would be next since we had a rotation
25 list.

0096

1 Q. Okay. You spoke quite a bit
2 about the misinformation that was
3 received, and then later confirmed
4 that there was, in fact, the
5 fatalities and only the one survivor.
6 Did you have any input at all or any
7 dealings with that official
8 information being relayed to the
9 families of the churches, or ---
10 A. No.

11 Q. --- do you have any
12 recollection of anything going on,
13 you know, that you would have
14 knowledge about, about why that may
15 have taken as long as it did?

16 A. No. There was --- like, there
17 was a --- there was a rumor
18 throughout the building that the
19 governor or someone sent a state
20 trooper up to the church. I can't
21 recall whether I heard that
22 afterwards or during or what. I just
23 wasn't part of that process.

24 Q. Okay. Have you seen the
25 report that ICG put out about the

0097

1 cause of the explosion?

2 A. No, I have not.

3 Q. Okay. A press release or
4 anything like that that the company
5 has put out, have you ---?

6 A. I've seen a news story about
7 the press release of meeting with the
8 families, but I have not seen the
9 actual release, no.

10 Q. Okay. So do you have any idea

11 who within the company would have put
12 out such a release or would have
13 authorized a press release like that?
14 A. I'm not part of the company
15 communications. I really wouldn't
16 even have a clue who actually
17 authorized that.

18 MR. RUTLEDGE:
19 That's all I have for
20 the moment. Thanks.

21 MR. SWENTOSKY:
22 Thanks, Mike. Mike,
23 I'd ask you for some pieces of
24 information that you had on
25 your laptop, and I would just

0098

1 ask that any other notes that
2 you may have concerning your
3 activities at the mine, that
4 we could have copies of those.
5 A. I had --- I did not take any
6 notes or detailed notes throughout
7 the event, because everything kind of
8 moved so quickly. The only thing
9 that I can think of that I might have
10 is just some scratch pads of
11 telephone numbers, like when I was
12 calling Ian and calling Bumbico, or
13 just a few of the phone calls I made
14 of --- I jotted down some phone
15 numbers, you know, getting them off a
16 PDA or a notebook or something. But
17 I did not keep any notes. The only
18 thing I have is probably that
19 spreadsheet for the teams.

20 MR. SWENTOSKY:
21 Okay. Just any
22 information that you
23 might ---.

24 A. Okay.
25 BY MR. SWENTOSKY:

0099

1 Q. Okay. Just a few more
2 questions concerning the recovery of
3 the bodies in the Two Left section.
4 Do you know why the decision was made
5 to recover the bodies under
6 apparatus? I mean, that's kind of
7 unusual, usually bodies are not
8 recovered under apparatus. Do you
9 recall any conversations or reasons
10 why ---?

11 A. I believe I was told that
12 there was --- I believe there was
13 still like 250 parts per million CO
14 is the reason they did that.

15 Q. Okay. Usually you

16 re-ventilate the mine, and then
17 you're able to go barefaced to
18 recover bodies. But in this
19 particular situation, it was decided
20 to go ahead and recover them at that
21 point, rather than re-ventilate and
22 use apparatus. Do you know reasons
23 why that was done?

24 A. No. I mean, that was --- at
25 that point in time the Consol teams

0100

1 were sort of, you know, working
2 themselves to making decisions up
3 there and through the command center
4 to do the recoveries. I mean, they
5 were in constant communication with
6 the command center, so I'm going to
7 assume those decisions were made
8 between the Consol teams and the
9 command center.

10 Q. Okay. But you weren't
11 involved in that?

12 A. No.

13 Q. Okay. The transportation of
14 the bodies from the section down to
15 the mantrips, scoops were used. Do
16 you recall --- or were you involved
17 in any of those conversations or
18 reasons they did that, or who made
19 those decisions?

20 A. Yeah. I wasn't part of the
21 decision-making process there, but I
22 was a part of some discussions. And
23 from what I understood, the reason
24 those decisions were made on the site
25 was that they had a federal mine

0101

1 rescue member went down carrying Mr.
2 McCloy out. And from just --- I
3 don't know, exhaustion or the terrain
4 or whatever, and that they were very
5 worried about, you know, harming
6 another --- injuring another mine
7 rescue member in those conditions.
8 So they made the decision that they
9 were going to use the scoop.

10 Q. And you don't know who made
11 that decision ---

12 A. No. Again, that's ---.

13 Q. --- just in general
14 discussions? And where was that
15 general discussion that you're
16 speaking about?

17 A. I believe that was between me
18 and Bill Tolliver. And of course, he
19 was communicating with his people and
20 communicating with their teams.

21 Q. And that discussion was in the
22 command center; is that correct?

23 A. No. With me?

24 Q. Yes.

25 A. No. That was just probably in

0102

1 the room that me and Bill was working
2 in. And I think it came out as a
3 request to the command center for the
4 teams requesting to use the scoops to
5 do that. And it got passed on to me
6 through Bill, but that's what the
7 Consol teams wanted to do.

8 Q. And I think Mike might have
9 asked you this, but I apologize if he
10 did, but --- to re-ask it. But who
11 did you speak with in the command
12 center whenever new teams were asked
13 for? Who was your communication person
14 there?

15 A. Well, when Ty was in there, it
16 was --- I usually talked to the
17 company person. And it was Ty
18 Coleman with the times he was in
19 there. I think Johnny Stemple, I
20 believe, was in there and relieved
21 him. So it was probably between Ty
22 and Johnny. There was times that the
23 state people or the federal people
24 would also kind of talk to me. So
25 it's kind of a consensus between the

0103

1 three main figures that was in there.
2 There wasn't any discussion.

3 Q. It wasn't any one specific
4 individual that said, hey, we
5 need ---?

6 A. Well, at times there were, but
7 most of the time it was a consensus
8 between the three that, you know,
9 we're getting ready to need a team
10 here within a half hour.

11 Q. Okay. And then they would, in
12 turn, tell you, ---

13 A. Yeah.

14 Q. --- hey, we need this, we need
15 another team?

16 A. Yes.

17 Q. Okay. Were you ever in the
18 Sago Mine?

19 A. Yes. Not during this event,
20 no ---

21 Q. No?

22 A. --- but prior to.

23 Q. Prior to.

24 A. Yes.

25 Q. Yes. And I believe you said

0104

1 earlier ---
2 A. I mentioned it to you.
3 Q. --- that it was --- you had
4 been to the mine about six times.
5 A. Estimate, yeah.
6 Q. An estimate.
7 A. Four or five times maybe.
8 Q. Okay. And were you
9 underground at those times?
10 A. Yes.
11 Q. Okay. And what were the
12 occasions --- what did you do ---
13 what was the purpose of going
14 underground on those occasions?
15 A. A mine visit. I tried to
16 visit, you know, a lot of our mines.
17 Q. And you would have been
18 looking for --- observing safety
19 conditions or ---
20 A. Uh-huh (yes).
21 Q. --- I mean, that's the ---?
22 A. The mining operations, the
23 safety conditions, things like that?
24 Q. Okay. And what were the
25 results of those visits as far as

0105

1 safety concern? Did you pass any
2 information on to the safety director
3 --- the safety manager there? In
4 this case, that would be, I guess, Al
5 Schoonover.
6 A. Well, the last visit --- I
7 believe my last visit there was when
8 I accompanied an insurance auditor
9 for some of our risk insurance. And
10 the mine looked good, well rock
11 dusted, well-ventilated. The
12 equipment was clean, just in general.
13 Q. And did you tell me that was
14 around November of 2005 or no?
15 A. No. I don't remember. I'd
16 have to look back at my calendar to
17 see exactly when that was, but it was
18 a few months ago before the
19 explosion.
20 Q. Yes, before the --- yes.
21 A. Yeah. Yeah.
22 Q. Okay. Does the corporate
23 safety department, do they track the
24 health and safety issues, injuries,
25 violations at the mine site?

0106

1 A. I do a monthly report for all
2 of our operations that tracks numbers
3 and incident rates and such and
4 distribute that report monthly.

5 Q. Okay. And do you provide ---
6 when you get that information, if you
7 see increases in violations,
8 increases in injuries, do you provide
9 direction to those safety departments
10 at the mines?

11 A. No. That's basically handled
12 at each mining division. And those
13 things are already in place by the
14 time I get that information.

15 Q. So when you see that --- when
16 you see an increase in violations or
17 injuries, you just pass that
18 information on to your supervisors,
19 but you don't contact the mine itself
20 concerning those increases?

21 A. You have to restate the ---.

22 Q. Okay.

23 A. I put out a monthly report
24 that has the --- any kind of ---. I
25 put out a monthly report that shows

0107

1 the measurement of how many
2 violations, of violations per
3 inspection day, incident rates, and
4 this report goes out on a monthly
5 basis to all of the general managers
6 and all the safety managers.

7 Q. Okay. And you provide that to
8 those safety managers?

9 A. Yes.

10 Q. And how do you provide that to
11 them, by e-mail, or ---?

12 A. Yes. And actually, the
13 information that I assemble, this
14 report comes from them to me.

15 Q. Yeah. Yes, I understand that.

16 A. Then I collect it and put it
17 into one general report for the
18 entire, you know, company and then
19 disseminate it back out.

20 Q. Okay. But if you would see an
21 increase in injuries or violations
22 you would put that report out, and
23 that's --- is it fair to say that
24 that's the end of it? You would not
25 have no further conversation with ---

0108

1 or contact with these ---.

2 A. Would I analyze the report and
3 make recommendations?

4 Q. Yes, to the safety manager at
5 the --- in this case we're talking
6 Sago Mine. You know, to have
7 discussions with them on possibly how
8 to ---.

9 A. Yeah, I don't recall doing

10 that with Sago Mine.
11 Q. And how do you ---?
12 A. Actually, the Sago Mine was
13 having a decrease in violations in
14 accidents. You know, the second half
15 compared to the first half. So they
16 were on a downward trend.
17 Q. But if there was an upward
18 trend, you would just provide them
19 with this written report, and you
20 wouldn't have --- you wouldn't have
21 contact with them at all?
22 A. Well, we have safety managers
23 at each mine site.
24 Q. Okay.
25 A. And they, obviously, take note

0109

1 of when something's increasing or
2 decreasing, and they usually respond,
3 you know, immediately to it in some
4 fashion.
5 Q. Does the corporate office
6 provide any oversight as far as
7 training's concerned ---
8 A. No.
9 Q. --- to see that the training's
10 being properly handled and ---?
11 A. That's all handled from the
12 mining operations.
13 Q. And of course, the same with
14 the workforce and the training there,
15 not only from the corporate ---
16 excuse me, the mine management
17 people, but also the mine workers?
18 A. Right. You keep referring to
19 the corporate safety department is
20 --- you're looking at it. Okay. So
21 that's ---.
22 Q. Well, that's why I'm asking
23 the question.
24 A. Yeah. So no, I have not been
25 involved in any training at the mine

0110

1 sites, you know, disseminating any
2 training or conducting any training.
3 Q. Did you have an occasion ---
4 okay. You never observed any of the
5 old Two Left main seals, because I
6 think they were --- the old Two Left
7 main seals, the ones that blew out?
8 A. Okay. What's your question
9 then?
10 Q. Did you ever observe those?
11 A. Before or afterwards?
12 Q. Before.
13 A. Yes. I think I visited that
14 section --- it was probably one of

15 our visits during that audit, I
16 believe.

17 Q. And the seals were in place at
18 that time?

19 A. No. It was --- back then it
20 was a working section.

21 Q. Yes. And do you get involved
22 in the ventilation plan at all?

23 A. No. That's done at the ---
24 again, operations level.

25 Q. And you just did state that

0111

1 you haven't conducted any training or
2 anything at the Sago Mine?

3 A. No.

4 Q. And those responsibilities for
5 the training is at the mine level ---

6 A. Yeah.

7 Q. --- that would have been Mr.
8 Schoonover?

9 A. Him and Mr. Coleman does quite
10 a bit of training, yes.

11 Q. Okay. During your visits
12 there, did you ever observe any like
13 fire drills, escapeway drills or
14 anything like that that they happen
15 to be going on at that time?

16 A. No, not at the time I was
17 there.

18 Q. Do you have any personal
19 opinion as to what occurred and what
20 caused the explosion?

21 A. Yeah. I'm not officially part
22 of the investigation, so I just ---
23 I've not been exposed to all the
24 findings yet, so I really don't.

25 MR. SWENTOSKY:

0112

1 Do you have any
2 additional questions?

3 MR. RUTLEDGE:

4 A couple, please.

5 BY MR. RUTLEDGE:

6 Q. Tim, forgive me if I asked you
7 this before. Would you have any
8 input in permitting, any idea of any
9 permits going on, and particularly
10 what I'm interested in is that the
11 permit transfer and especially state
12 permit transfers from Anker to ICG.
13 Did you have input in that?

14 A. I've been involved in the MSHA
15 IDs, but not any mining permit or
16 licenses or anything like that.

17 Q. Okay. So you have --- you
18 would have no input or no work
19 responsibility for any state

20 permitting that would have been done?
21 A. No, that's not ---.
22 Q. Do you know who would?
23 A. I hate to keep repeating this,
24 but I'm assuming it's being handled
25 by the mine operations.

0113

1 Q. Okay.
2 A. Let me back up. Clarify what
3 you mean by permit so that we're not
4 misunderstanding each other.
5 Q. By a state permit, a state ID
6 number. Okay. You know, the mine
7 originally was permitted as Anker
8 Energy.
9 A. Oh, okay. No, I'm not
10 involved in that.
11 Q. And you know, of course, ICG
12 was taking it over, and they would
13 need to ---
14 A. Yeah.
15 Q. --- change those?
16 A. Right.
17 Q. The other question on ---
18 you've mentioned the list of the
19 employees ---
20 A. Yeah.
21 Q. --- that were numbered. Do
22 you recall what Mr. McCloy's number
23 was?
24 A. No. I'd have to look at the
25 list and ---.

0114

1 Q. Was that code ever used that
2 we found item number or --- I mean,
3 we have ---?
4 A. Not --- you know, I can't say
5 that. Not at the times I was in or
6 out of the command center did I hear
7 him use that. So I don't know if
8 that was ever used or not.
9 Q. Did you hear any
10 identification of the one survivor,
11 or when did you hear, or how did you
12 hear that?
13 A. It was afterwards, I believe
14 after they got outside. And I
15 believe that no one knew until they
16 got outside, but I may be wrong.
17 Because I think I heard afterwards,
18 you know, after they were outside and
19 on the way to the hospital when it
20 kind of became knowledge, I guess.
21 But no one personally came and told
22 me, you know. It was, again, just
23 general
24 --- just cautionary.

25 MR. RUTLEDGE:

0115

1 All right. Thanks.

2 MR. SWENTOSKY:

3 Okay. Can we go off

4 the record, just two minutes?

5 OFF RECORD DISCUSSION

6 MR. SWENTOSKY:

7 You've mentioned

8 monthly reports. We would

9 like to request any monthly

10 reports that you have related

11 to the Sago Mine.

12 ATTORNEY RAJKOVICH:

13 And you mean any, or

14 how many, or how far back?

15 MR. SWENTOSKY:

16 Well, since ICG took

17 over.

18 ATTORNEY RAJKOVICH:

19 Okay. We'll take it

20 under advisement.

21 BY MR. SWENTOSKY:

22 Q. Okay. And you mentioned you

23 had a Sago audit. Are these audits

24 that you conduct?

25 A. It was an ICG audit that

0116

1 included Sago.

2 MR. SWENTOSKY:

3 Okay. And we'd like to

4 request copies of that.

5 ATTORNEY RAJKOVICH:

6 Okay. Same response.

7 BY MR. SWENTOSKY:

8 Q. And did you ever have an

9 opportunity to review any mine

10 records concerning training with fire

11 drills or escapeway drills?

12 A. No.

13 Q. During your approximate six

14 trips to the Sago Mine, did you ever

15 review any kind of record books or

16 any of the record books, pre-shift or

17 records of training?

18 A. I probably looked at the fire

19 boss book the day I went under. I've

20 got a habit of doing that. But no

21 other --- I have not audited or

22 looked at the training records there,

23 if that's what you're asking.

24 Q. Has there ever been any

25 occasions whenever Mr. Schoonover

0117

1 would have contacted you at all

2 concerning any issues that he might

3 be dealing with?

4 A. Sure.
5 Q. And when was the last time
6 that he might have spoken to you
7 concerning that, and what would those
8 issues have been?
9 A. Obviously, during the
10 explosion, we had some discussions,
11 but ---.
12 Q. I mean prior to that.
13 A. Oh, prior to that? Maybe an
14 issue dealing with the regulatory
15 issue, maybe a violation that's in
16 litigation or something like that to
17 that effect. I might have discussed
18 an accident, possibly something like
19 that in general. But I mean,
20 specifically, I can't put my finger
21 on one individual thing, you know.
22 Q. Yeah.
23 A. I talk to all my safety
24 managers on a pretty much regular
25 basis.

0118

1 Q. And when you say you talk to
2 them pretty regular, what's the type
3 of conversation, or what would be the
4 topic of those conversations?
5 A. Just how things going. I
6 might see an accident report that
7 I'll call about and see a little bit
8 more detail on what happened, just to
9 get a general idea of what's --- of
10 what's occurred and concern with, you
11 know, how we might take that
12 information and disseminate it among
13 the company to try to prevent it
14 throughout other coal mines.

15 MR. SWENTOSKY:

16 Mike?

17 MR. RUTLEDGE:

18 My other question or
19 comment really, the state
20 would like to request that
21 copies of any monthly reports
22 that you might have done for
23 like a three-month period
24 there at Sago.

25 ATTORNEY RAJKOVICH:

0119

1 Did you say from three
2 months?

3 MR. RUTLEDGE:

4 Yeah, that's all.

5 Thank you.

6 BY MR. SWENTOSKY:

7 Q. Has anyone offered you
8 anything or made any promise to you

9 in exchange for your appearing here
10 today?

11 A. No.

12 Q. And do you have anything that
13 you would like to add or ask about
14 before we close?

15 A. No. I can't think of
16 anything.

17 MR. SWENTOSKY:

18 Okay. On behalf of
19 MSHA, I would like to thank
20 you for appearing and
21 answering questions today.
22 Your cooperation is very
23 important in the investigation
24 as we work to determine the
25 cause of the accident. We ask

0120

1 that you not discuss your
2 testimony with any person who
3 may have already been
4 interviewed or who may be
5 interviewed in the future.
6 This will ensure that we
7 obtain everyone's independent
8 recollection of events
9 surrounding the accident.

10 After questioning other
11 witnesses, we may call you if
12 we have any follow-up
13 questions that we feel that we
14 need to ask you. If at any
15 time you have additional
16 information regarding the
17 accident that you would like
18 to provide to us, please
19 contact us at the contact
20 information that was
21 previously provided to you.

22 The Mine Act provides
23 certain protections to miners
24 who provide information to
25 MSHA, and as a result are

0121

1 treated adversely. If at any
2 time you believe that you have
3 been treated unfairly because
4 of your cooperation in this
5 investigation, you should
6 immediately notify MSHA.

7 If you wish, you may
8 now go back over any answer or
9 have any --- you have given
10 during the interview, and you
11 may also make any statement
12 that you would like to make at
13 this time.

14 A. In my opinion, I mean, you've
15 asked enough questions where I pretty
16 much explained everything that I was
17 involved in. So I think I've told
18 you everything I could think of.

19 MR. SWENTOSKY:

20 Okay. Again, thank you
21 for your cooperation in this
22 matter.

23 SWORN STATEMENT
24 CONCLUDED AT 12:21P.M.
25 * * * * *