

0001

1 STATEMENT UNDER OATH
2 OF
3 CLIFFORD BRYANT, JR.

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 Friday,
12 March 24, 2006, at 9:03 a.m.

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

2
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11
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19
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0003

1 A P P E A R A N C E S (continued)
2
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7 22nd Floor West
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1	EXHIBIT PAGE	
2		PAGE
3	NUMBER DESCRIPTION	IDENTIFIED
4	NONE OFFERED	
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14 accident. After the
15 investigation is completed,
16 MSHA will issue a written
17 report detailing the nature
18 and causes of the accident.
19 MSHA accident reports
20 are made available to the
21 public in the hope that
22 greater awareness about the
23 causes of accidents can reduce
24 their occurrence in the
25 future. Information obtained

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

21 This interview with Mr.
22 Pete Bryant is being conducted
23 under Section 103(a) of the
24 Federal Mine Health and Safety
25 Act of 1977, as part of an

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

13 This interview is being
14 conducted at the U.S.
15 Bankruptcy Court in
16 Clarksburg, West Virginia on
17 March 24th, 2006. Questioning
18 will be conducted by

19 representatives of MSHA and
20 the Office of Miners' Health,
21 Safety & Training.

22 Mr. Bryant, the
23 interview will begin by my
24 asking you a series of
25 questions. If you do not

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1 understand a question, please
2 ask me to rephrase it. Feel
3 free at any time to clarify
4 any statements that you make
5 in response to the questions.

6 After we have finished
7 asking questions, you will
8 also have an opportunity to
9 make a statement and to
10 provide us with any other
11 information that you believe
12 may be important. If at any
13 time after the interview you
14 recall any additional
15 information that you believe
16 may be useful in the
17 investigation, please contact
18 Richard Gates at the phone
19 number or e-mail address
20 provided to you. And we'll
21 give you that here just a
22 little bit later.

23 Your statement is
24 completely voluntary. You may
25 refuse to answer any question

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1 and you may terminate or end
2 the interview at any time. If
3 you need a break at any time,
4 for any reason, just let me
5 know.

6 The court reporter will
7 record your interview and will
8 later produce a written
9 transcript of the interview.
10 Please try and respond to all
11 questions verbally, since the
12 court reporter cannot record
13 nonverbal responses.

14 Also, please try to keep your
15 voice up. Copies of written
16 transcripts will be made
17 available at a later time.

18 If any part of your
19 statement is based not on your
20 own firsthand knowledge but on
21 information that you learned
22 from someone else, please let
23 us know. Please answer each

24 question as fully as you can,
25 including any information you

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1 have learned from someone
2 else.
3 We may not ask the
4 right questions to learn the
5 information that you have, so
6 do not feel limited by the
7 precise questions that we ask.
8 If you have information about
9 the subject area of a
10 question, please provide us
11 with that information.

12 At this time, Mr.
13 Rutledge, do you have anything
14 that you would like to add on
15 behalf of the Office of
16 Miner's Health, Safety &
17 Training?

18 MR. RUTLEDGE:

19 Yes. Pete, I need to
20 tell you that the Office of
21 Miners' Health Safety &
22 Training is conducting this
23 interview session jointly with
24 MSHA. We are in agreement
25 with the procedures as

0013

1 outlined by Mr. Swentosky here
2 this morning for the way these
3 interviews will be conducted
4 today.

5 The Director, though,
6 of the Office of Miners'
7 Health, Safety & Training does
8 reserve the right, if
9 necessary, to call or subpoena
10 witnesses or require the
11 production of any record,
12 document, photograph or other
13 relevant materials necessary
14 to conduct this investigation.

15 We also appreciate you
16 being here. If you have any
17 questions on anything dealing
18 with the State government
19 here, you can use that for a
20 contact.

21 MR. BRYANT:

22 Okay.

23 MR. RUTLEDGE:

24 Thanks.

25 MR. BRYANT:

0014

1 All right.
2 MR. SWENTOSKY:

3 Mr. Bryant, are you
4 aware that you may have a
5 personal representative
6 present during the taking of
7 this statement?

8 MR. BRYANT:
9 Yes.

10 MR. SWENTOSKY:
11 And do you have a
12 representative with you here
13 today?

14 MR. BRYANT:
15 Yes, I do.

16 MR. SWENTOSKY:
17 And who may that be?

18 MR. BRYANT:
19 Marco --- I'm not sure
20 of his last name. I don't
21 know even if I can pronounce
22 it.

23 ATTORNEY RAJKOVICH:
24 Rajkovich, yes.

25 MR. BRYANT:

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1 Rajkovich, yes.
2 ATTORNEY RAJKOVICH:
3 And just for the
4 record, I think that you
5 represented that everyone here
6 is part of the investigation
7 team, in the room?

8 MR. SWENTOSKY:
9 Yes, with exception of
10 the court reporter.

11 ATTORNEY RAJKOVICH:
12 Got you. She feels
13 like she is, too.

14 MR. SWENTOSKY:
15 Do you have any
16 questions regarding the manner
17 in which the interview will be
18 conducted?

19 MR. BRYANT:
20 Not at this moment, no.

21 MR. SWENTOSKY:
22 Can you swear in Mr.
23 Bryant?

24 -----
25 CLIFFORD BRYANT, JR., HAVING FIRST

0016

1 BEEN DULY SWORN, TESTIFIED AS
2 FOLLOWS:

3 -----

4 BY MR. SWENTOSKY:
5 Q. Could you please state your
6 full name and spell your last name
7 for us, please?

8 A. My full name is --- my legal
9 full name is Clifford Bryant, Jr.
10 Q. And could you spell your last
11 name for us?

12 A. B-R-Y-A-N-T.

13 Q. Okay. And your address and
14 telephone number?

15 A. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Q. And are you appearing here
19 voluntarily today?

20 A. Yes.

21 Q. And the mining company that
22 you work for?

23 A. International Coal Group,
24 Viper Mine in Williamsville,
25 Illinois.

0017

1 Q. Okay. And your position on
2 the team?

3 A. Captain. I was captain in the
4 rescue event, but I'm actually the
5 mine rescue trainer at our facility.

6 Q. Where were you when you were
7 notified of the explosion?

8 A. I was at home. I was on
9 vacation that particular day. I got
10 a call from the mine and said they
11 needed my help.

12 Q. Okay. And who notified you?

13 A. My mine manager.

14 Q. And who might that be?

15 A. Brad Kauffman.

16 Q. And he's a manager at Viper
17 Mine?

18 A. He's the mine manager on C
19 shift.

20 Q. Okay. And approximately what
21 time was that?

22 A. Approximately eight o'clock in
23 the morning, Monday morning.

24 Q. And who was that ---? And
25 just kind of maybe just start and

0018

1 tell me, you know, the events and how
2 you became involved. And just go
3 through the time that you arrived at
4 the mine and what you did at the mine
5 until the time that you actually left
6 the mine.

7 A. I got the call at
8 approximately eight o'clock Monday
9 morning from Brad indicating he
10 needed our help, there was a
11 situation at one of the other ICG
12 facilities that there were some

13 people missing.
14 And my first reaction was,
15 he's just pulling my leg. Then I
16 realized that he wouldn't kid over
17 something like that, so I immediately
18 threw some things together in a bag
19 and come to the mine and started
20 getting all of our mine rescue
21 equipment together while the other
22 team members were being notified to
23 meet at the coal mine.

24 Approximately two hours later,
25 we had all of our equipment, all of

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1 our team members. We loaded up in
2 vehicles and immediately went to the
3 airport, Capital City Airport, got on
4 a private jet and flew out to
5 Charleston, I believe it was.
6 Our equipment was on another
7 plane. Of course, it didn't arrive
8 until probably two and a half, three
9 hours later.

10 We flew into Charleston, was
11 greeted by company representatives
12 that were there to assist us to take
13 us to the coal mine. One of the
14 individuals was on standby to pick up
15 our equipment at that particular
16 time, bring it to the mine. And we
17 proceeded to load it into a couple
18 SUVs and come to the coal mine by
19 State Police escort.

20 We got to the mine probably
21 around 2:30. And that's a pretty big
22 time line there. Started talking to
23 some folks on site. I'm not sure who
24 those folks were. Trying to get a
25 situational awareness of what was

0020

1 going on and kind of what happened,
2 where we were at. Looked at a few
3 maps.

4 And from there, we were in
5 pretty much a standby mode 'til we
6 were needed. Set in the back of a
7 big box truck for several hours
8 before we were called upon. And
9 that's kind of a snapshot of what
10 happened up to that particular point.
11 Q. Okay. Just let me get some
12 clarification for that portion of it,
13 then we'll continue.

14 A. Okay.

15 Q. You say you were met by
16 representatives at the airport. Do
17 you know who that was?

18 A. David Shinn. He was there to
19 pick up our equipment.
20 Q. And David Shinn is --- what's
21 his position?
22 A. I'm not sure what his position
23 is. I couldn't speak to that,
24 officially. I know he works for ICG,
25 but I don't know in what capacity.

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1 But he was our liaison there to pick
2 up our equipment and bring it to the
3 Sago Mine after it arrived at the
4 airport.
5 Q. Okay. And you say you arrived
6 at the mine around 2:30?
7 A. That's my recollection, yes.
8 Q. And who did you speak to
9 whenever you got there? Was it just
10 you yourself that spoke to this other
11 individual or who was with you when
12 you ---?
13 A. We were all there kind of
14 collectively, but I don't recall the
15 individual's name. Our first contact
16 was with one of the employees at the
17 coal mine. And he had been in a
18 monitoring mode, monitoring the
19 constituents coming out of the mine
20 at that particular time. And he kind
21 of give us --- took us over to the
22 West Virginia rescue truck. There
23 was a map that was kind of taped to
24 one of the doors on the side. And
25 kind of give us an overview of the

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1 mine, two-unit coal mine, where the
2 unit was of the individuals that were
3 missing. And that's pretty much our
4 briefing at that particular time.
5 But I don't know that
6 individual's name. All I know is he
7 was one of the mine employees. And I
8 can recall he had a Drager
9 self-contained self-rescuer on at
10 that particular time, so he was one
11 of the individuals monitoring the
12 constituents coming out of the mine.
13 Q. Okay. When you said he had
14 one of those on, you mean, just
15 donned or ---?
16 A. He had it on. But he just had
17 it strapped on. Of course the face
18 mask was --- he didn't have it
19 on ---. I mean, he was wearing it,
20 but he didn't have it ---. How can I
21 officially say that? He had it on
22 his face. I mean, he just finished

23 --- apparently he just finished with
24 monitoring the mine gases, so he was
25 away from the pit opening. So he was

0023

1 up towards the office facilities and
2 there was no need to have the machine
3 --- the face mask on his head at that
4 particular time.

5 Q. And you're saying it was a
6 person --- you think he worked for
7 the mining company?

8 A. I think he did, yes.

9 Q. Okay. And this is the first
10 individual that gave you any type of
11 briefing at all?

12 A. Yeah, pretty much. We had
13 some intermittent contact with Tim
14 Martin to try to get some update, but
15 it was pretty hectic and pretty
16 brief. And he instructed us to, you
17 know, to pretty much stand by, then
18 he'd get in touch with us at a later
19 date.

20 So we were just kind of
21 roaming around trying to interact
22 with folks and try to get to know
23 some of the people. Tried to get a
24 situational awareness and trying to
25 build some bridges. And we were kind

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1 of the outsiders there. We just
2 wanted to be there to help in
3 whatever capacity we could.

4 Q. Okay. And you mentioned Tim
5 Martin. When was the first time that
6 you had contact with him, do you
7 recall?

8 A. I would say probably a half
9 hour or so after he got to the
10 facility.

11 Q. He got there. Did someone
12 come and get you or did you just kind
13 of make your way over there to try
14 and introduce yourself?

15 A. We just kind of went to the
16 mine facility, the office facility,
17 and started intermingling with folks
18 and introducing ourselves. And of
19 course we knew Tim. And I think he
20 was about the only individual that
21 was a familiar face. Of course all
22 the folks there were strangers to us,
23 obviously. And he was kind of our
24 go-to guy, I guess, him and David
25 Shinn, who I mentioned earlier.

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1 Q. So the contact with Mr.

2 Martin, then, he just kind of told
3 you to stand by and ---?
4 A. He give us kind of a brief
5 briefing that indicated there were
6 some folks missing. And that we just
7 needed to stand by and he'd be in
8 touch with us when we were needed.
9 Q. Was there ever a situation
10 where they had to evacuate the
11 building or anything? Do you recall
12 that at all?
13 A. Not when we were there.
14 Q. Not when you were there.
15 Okay. The briefing that you had at
16 the State rescue truck, at the map
17 there, was that after you had
18 contacted Mr. --- had this contact?
19 A. That was before.
20 Q. Before you had contact ---
21 A. Yes.
22 Q. --- with Mr. Martin?
23 A. Yes.
24 Q. Okay. And go ahead and pick
25 it up from there and kind of take me

0026

1 through the rest of the day.
2 A. The rest of the day was pretty
3 much a frustrating day on our part.
4 We set around in the back of a box
5 rental truck anxious to participate
6 in whatever way we could. But being
7 in kind of a standby mode and not
8 sure really what was really going on.
9 And at 12 o'clock, I think it was
10 around 12 o'clock, that's when we
11 were contacted that they wouldn't
12 need us tonight.
13 Q. Did you say 12 o'clock?
14 A. Around 12 o'clock, I think, is
15 when they informed us.
16 Q. Midnight?
17 A. Midnight. That they wouldn't
18 need us at that particular time. We
19 were notified there was a rotation
20 schedule --- a tentative rotation
21 schedule set up and that they
22 wouldn't need us 'til the following
23 evening at midnight. And at that
24 time, that's when we went back to the
25 hotel.

0027

1 Q. Okay. During that day, did
2 you get briefings at all at any time?
3 Just as you say, you were frustrated
4 with this.
5 A. We tried to glean whatever
6 information we could from kind of

7 eavesdropping on, you know, some of
8 the folks, but we'd get periodic
9 briefings from Tim, probably two or
10 three total, to kind of give us an
11 update on kind of what was going on,
12 mainly talking about the CO levels
13 coming out of the mine.

14 Q. Okay. So you went back to the
15 hotel and then pick it up from
16 whenever you were called back and go
17 from there.

18 A. Yeah. We got a call the next
19 evening around six o'clock, five or
20 six o'clock, and that we'd been moved
21 up, they'd need us out at the coal
22 mine at eight o'clock. So we got
23 everybody together, come out to the
24 mine. I think we were there probably
25 by seven o'clock.

0028

1 Q. Okay. And go ahead. What
2 occurred then? Who did you meet?
3 Just kind of take it from there.

4 A. Well, we come in contact with
5 Tim Martin. He referred to --- it
6 would get pretty close to where they
7 think the miners were located. That
8 there were teams that were pushing up
9 the intake, establish communication.
10 A fresh air base was established at a
11 specific location. I don't recall
12 exactly where that was at. But that
13 they'd moved us up and they were
14 going to prepare us to go into the
15 mine to where they think the guys
16 were located.

17 So at that particular time we
18 got our machines together, got all
19 our necessary equipment together,
20 checked our instruments, our
21 machines, and pretty much waited
22 around 'til we got the call to go.
23 Talked to the Governor of West
24 Virginia briefly, right before we
25 went underground. And he give us

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1 some words of encouragement and
2 support. And from that point, got
3 our representatives together, our
4 Federal officials and I believe our
5 West Virginia officials. And then we
6 prepared to go into the coal mine.
7 And that was about probably ten
8 o'clock, I'm thinking.

9 Q. Okay. You got to the mine you
10 say around 7:00 p.m.?

11 A. That's what I recall, yes.

12 Q. Yeah. That would be January
13 3rd, the day after the accident?
14 A. You know, I don't recall the
15 exact date, but ---.
16 Q. But it was the day after the
17 accident?
18 A. The day after the accident,
19 yes.
20 Q. Okay. And who did you meet
21 there? And you were saying we ---.
22 A. Our team.
23 Q. Your team?
24 A. Yes, my team.
25 Q. And whenever you got

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1 discussions, that would be you and
2 your whole team or just you?
3 A. Well, usually the whole team
4 was kind of dispersed.
5 Q. Okay.
6 A. And we were there --- again,
7 we were there to try to, you know,
8 build some bridges and kind of make
9 our faces known to folks so we didn't
10 feel out of place or they wouldn't be
11 wondering, well, who's these guys
12 here, who's that guy.
13 Q. Yeah.
14 A. So we kind of wanted to make
15 our presence known and kind of
16 intermingle and interact and try to
17 avail ourselves, as much as we could
18 to, again, build those bonds and
19 bridges and let those folks know we
20 were here to help.
21 Q. Yeah. Okay. So when you got
22 to the mine at 7:00 then, you spoke
23 with Mr. Martin?
24 A. Yes.
25 Q. And he said just you were to

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1 stand by and ---?
2 A. Yes.
3 Q. And you say about ten o'clock,
4 then, that's whenever you found out
5 that you were to go underground?
6 A. Yes.
7 Q. And who told you that?
8 A. That would be Tim.
9 Q. Tim?
10 A. Tim indicated to us that they
11 were getting pretty close to where
12 these guys were at and that they'd be
13 needing us to go underground at that
14 particular time.
15 Q. Okay.
16 A. And at that time we didn't

17 know what the situation was, you
18 know, the conditions of where the
19 guys were at, you know, their --- you
20 know, if they were still alive or if
21 they had passed on.

22 Q. Sure.

23 A. That was not known at that
24 time.

25 Q. Okay. And so you went --- you

0032

1 prepared your equipment to go
2 underground?

3 A. Yes.

4 Q. And then once you were ready
5 to go underground, who gave you the
6 briefing on what you were to do?
7 Just kind of tell me what you were
8 supposed to do.

9 A. Well, the first job, they had
10 located one of the miners, one of the
11 deceased miners. And I think that
12 was close to the First Left track
13 switch. I think that's where it was
14 at. And our job was to go
15 underground and to recover that
16 gentleman and to bring him out of the
17 mine.

18 Of course we had some
19 instructions from you, I believe, you
20 know, some protocol on how to prepare
21 the guys or this individual to be
22 brought out of the mine, proper
23 procedure in putting him in the body
24 bag. Because our team had been
25 through a lot of training and

0033

1 practices and that, but we'd never
2 been exposed to an actual real-life
3 event. So we were pretty green on
4 this procedure, so we got
5 instructions from you on how to
6 prepare this individual.

7 Q. And when you say you, who did
8 you mean you?

9 A. Brian Mills.

10 MR. RUTLEDGE:

11 Mike Rutledge.

12 A. Mike Rutledge?

13 MR. RUTLEDGE:

14 Yes.

15 A. Okay. I'm really bad with
16 names, so I mean, ---

17 MR. RUTLEDGE:

18 Don't worry about it.

19 A. --- you know, I'll remember
20 your face but I may not remember your
21 name.

22 BY MR. SWENTOSKY:
23 Q. In previous --- just a moment
24 ago you said you, too, that was the
25 same individual, Mr. Rutledge?

0034

1 A. Yes.

2 Q. Okay. And the actual
3 briefing, then, for you to go
4 underground was Mr. Rutledge?

5 A. No. Mr. Rutledge showed us
6 proper protocol on how to put the
7 individual in the body bag.

8 Q. Okay. And who did you get
9 your briefing from to go --- before
10 you went underground?

11 A. Tim Martin.

12 Q. Tim Martin?

13 A. Yes.

14 Q. Okay. And what did he tell
15 you, do you recall?

16 A. He said they're pretty close
17 to where the guys were at. And they
18 were getting pretty close to where
19 the guys were at. And our first job
20 was to go underground and recover the
21 first individual that he had found.
22 And that was our focus at that
23 particular time.

24 Q. Okay. And then you had the
25 instruction from Mr. Rutledge. And

0035

1 then at that point, then what
2 happened?

3 A. We went underground to recover
4 that particular miner, deceased
5 miner.

6 Q. Okay.

7 A. Then when we got to that
8 location, it seemed like everything
9 changed almost immediately.

10 Q. When you actually arrived at
11 that location?

12 A. Yes.

13 Q. Okay. Go ahead.

14 A. Someone from inby our
15 location, the fresh air base, in a
16 very excited loud tone told us that,
17 stop what you're doing, plans have
18 changed. Get up here right now,
19 they're coming out, we need help
20 carrying an injured man, command
21 center wants to speak to the Viper
22 captain.

23 Q. And do you recall who that
24 individual was ---?

25 A. I don't know who that was.

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1 All I know, it was ---.
2 Q. Was it a mine rescue
3 individual?
4 A. No, no, it was --- the person
5 that was giving the instructions was
6 --- I took it to be a Federal
7 official.
8 Q. Okay. But you don't know who
9 that was?
10 A. But I don't know who that was,
11 no.
12 Q. All right. Go ahead.
13 A. He said, drop what you're
14 doing, plans have changed, they found
15 them, they're walking out, they need
16 help carrying an injured man. I went
17 to the command center, identified
18 myself to the command center.
19 Q. And who was that?
20 A. I don't know who was at the
21 other end of the phone.
22 Q. No, I meant, you ---. When
23 you went to the ---. Okay. When you
24 went to the command center, you got
25 on the phone to talk to someone?

0037

1 A. Yes.
2 Q. Okay.
3 A. I went to the fresh air base,
4 yeah. Let's clarify that. Went to
5 the fresh air base to talk to the
6 command center.
7 Q. Okay.
8 A. So that's two different
9 things, yeah. Identified myself, and
10 I indicated to them what my
11 understanding of the situation was.
12 That the rescue team had found them,
13 they were walking out, they needed
14 help carrying an injured man.
15 At that particular time, we
16 were using a reference, to those
17 individuals, as items, because there
18 were some problems developing there
19 at the mine where the press was
20 somehow gaining some kind of dialogue
21 with communications. So they wanted
22 to try to keep this as confidential
23 as they possibly could. So they
24 asked us to refer to anybody that we
25 may encounter as items. And that was

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1 my first communications is, they
2 found 11 items, they were carrying an
3 injured man out.
4 And they asked me to drop the
5 code and repeat again. And I said,

6 the rescue team has found them,
7 they're walking out, they need help
8 carrying an injured man. And they
9 said, are they alive? And I said, I
10 don't know, I think they are.
11 So from that particular point
12 --- I mean, you've got to understand,
13 when we first heard that first
14 initial comment, that plans have
15 changed, drop what you're doing, get
16 up here right now, they found them,
17 they're walking out and they need
18 help carrying an injured man, our
19 whole team was pretty excited ---
20 Q. Sure.
21 A. --- emotionally. Pretty happy
22 that they've got these guys and
23 they're bringing them out. And
24 everyone on the team felt the same
25 thing.

0039

1 And then we communicated --- I
2 communicated that to the command
3 center. And then it was not long
4 afterwards when the reality of the
5 situation set in, that that's not the
6 case at all.
7 Q. Can you tell me a little bit
8 about that, how --- you had been
9 talking to the command center, and
10 you don't know who that was?
11 A. No.
12 Q. Okay. And you told them that,
13 you know, they need help and there's
14 going to be 12 injured men and then
15 the others are going to walk. And
16 then you come ---. What happened
17 then next? What did the command
18 center tell you to do?
19 A. Well, at that particular time,
20 the captain from the initial team
21 that found the location, the guys, he
22 wanted the telephone. He needed to
23 talk to command center.
24 Q. And who was that?
25 A. And I don't know who that was.

0040

1 Q. Do you know which team it was?
2 A. No, I don't.
3 Q. Okay. Do you know where it
4 came from? Like was he inby and ---?
5 A. He was the captain of the mine
6 rescue team that initially found ---
7 breached the barricade where the guys
8 were at.
9 Q. Okay. That's the individual
10 that you're speaking about that

11 wanted the telephone?
12 A. Yes. He wasn't at the
13 telephone yet because they were on
14 the way out.
15 Q. Okay.
16 A. When I went to the telephone
17 to talk to the command center, two or
18 three of our guys went up to assist
19 his team to bring the survivor out.
20 And they put him under oxygen and
21 prepared him to get him out of the
22 coal mine. And this was going on
23 during the time frame that I was
24 talking to command center.
25 Q. Okay.

0041

1 A. After this brief dialogue with
2 those folks, the captain of that mine
3 rescue team that initially found the
4 guys, he wanted the telephone. He
5 wanted communication with command
6 center. I turned it over to him and
7 I went back with my team.
8 Q. And you say, back with your
9 team, where do you ---?
10 A. In the track entry. They were
11 located over in the track entry. A
12 fresh air base was established in the
13 intake. There was a communication
14 reel that went from that location
15 over to the track entry. And the way
16 it was --- the way it looked like it
17 was established was someone was on
18 the headset in the track entry
19 talking to someone on a headset and
20 the intake entry, who was talking to
21 someone in the command center.
22 Q. And are you familiar with
23 where those people were at all?
24 A. No. When I come to the fresh
25 air base that was located in the

0042

1 intake, there was one individual
2 there, but he wasn't on the telephone
3 or the headset.
4 Q. Okay. So then Mr. --- or the
5 captain of the team that found ---
6 that was in the barricade, he took
7 the telephone. And then do you
8 recall what he said or you said ---?
9 A. No. He had dialogue with the
10 command center. And I went back to
11 my team because I assumed that there
12 was folks that needed some
13 assistance.
14 Q. Okay. You had mentioned that
15 when you got on the telephone some of

16 your people, some of your team
17 members ---
18 A. Yes.
19 Q. --- went up to help carry the
20 survivor?
21 A. Yes.
22 Q. And at that point there, those
23 team members were back, or were they
24 still up there in the ---?
25 A. No. They were back. And they

0043

1 had the survivor back --- taking him
2 to the mantrip to load him on to get
3 him out of the mine.
4 Q. Okay. And then after you gave
5 the phone to the other team captain,
6 then you went back to the --- with
7 your other team members?
8 A. Yes.
9 Q. And then what did you do?
10 A. At that particular time, I
11 found out the reality of the
12 situation.
13 Q. Who told you that?
14 A. Brad.
15 Q. Brad?
16 A. Kauffman.
17 Q. Kauffman. Who was he?
18 A. He's my briefing officer on
19 the team.
20 Q. Okay. Was he one of the
21 individuals that was helping carry
22 the survivor?
23 A. No, he was not.
24 Q. Where did he get his
25 information?

0044

1 A. He got his information from
2 one of the other team members from
3 the other team.
4 Q. Okay.
5 A. Because Brad asked him. He
6 said, where's the other guys at? He
7 said, what other guys? He said, the
8 other coal miners. He said, there
9 isn't any, there's only one. And
10 then he realized that --- he knew
11 that information before I did.
12 Q. Yeah.
13 A. I was still assuming --- I
14 mean, I was still jacked up that they
15 found these guys. And I'm getting
16 back --- in my mind, I'm envisioning
17 exhausted coal miners coming out of
18 this coal mine ---
19 Q. Sure.
20 A. --- needing help. And my

21 focus is, get back over there to help
22 those guys get out.
23 Q. Okay. Then you went back with
24 your teammates and then you found out
25 that there were not any others coming

0045

1 out. And what happened then, next?
2 A. I think they proceeded with
3 getting the survivor out of the coal
4 mine, the other team. And there were
5 several of us there waiting for
6 instructions from the command center.
7 And it seemed like eternity, but it
8 couldn't have been over 15, 20
9 minutes or so. And then we were
10 instructed to come out of the coal
11 mine.

12 Q. And you said --- was it just
13 your team there or were you with
14 other individuals?

15 A. Everyone. There's other teams
16 members from another team that was
17 still there.

18 Q. Okay. So you were all
19 congregated at that point. Do you
20 know what crosscut that was or where
21 that was located?

22 A. I'm thinking --- if my memory
23 serves me right, I think it's
24 somewhere around 53 crosscut, 53 to
25 56, in that particular area. I can't

0046

1 recall exactly.

2 Q. Okay. And then you say it was
3 about 20 minutes or whatever. And I
4 understand the times ---. And who
5 gave you the instruction to come
6 outside?

7 A. Someone, I believe it may have
8 been ---. It may have been the
9 captain from the other team. I'm not
10 sure who it was. It may have been an
11 official. Command wanted us all to
12 evacuate the mine and come out of the
13 mine, and that's what we did.

14 Q. Okay. And do you know
15 approximately what time that was?

16 A. Well, I'm thinking 11:30,
17 maybe midnight.

18 Q. Okay.

19 A. I'm sorry, it's real vague and
20 I can't ---

21 Q. That's fine.

22 A. --- be specific.

23 Q. That's perfect. I understand.

24 A. I tried to keep --- I tried to
25 keep some documentation but it's ---

0047

1 you just give up on that after a
2 while.
3 Q. Yeah. Okay. And then you
4 exited the mine. And you came out on
5 the mantrip?
6 A. Yeah. We all come out on the
7 mantrip, both teams and all the
8 officials.
9 Q. Then when you got outside,
10 what occurred?
11 A. Oh, it was --- it seemed like
12 --- it wasn't pandemonium, but it
13 was ---. If I could describe it
14 other than to say ---. When I seen
15 all the ambulances and all the first
16 aid personnel expecting 12 other
17 people to come out of the mine and
18 there wasn't anybody other than the
19 rescue teams, the look on those
20 folks' faces was very disheartening.
21 Q. When you came out, with all
22 the people there, did they know that
23 there was only one at that time? You
24 seemed to indicate that it didn't
25 seem like they knew that.

0048

1 A. I don't know. I don't think
2 they knew then. I think --- here it
3 is. I'm speculating and --- I really
4 don't know.
5 Q. Okay. And when you arrived on
6 the surface then, what did you do?
7 A. Well, we were told that the
8 primary focus was to get the survivor
9 out, but there may be further miners
10 that may still be alive. And our job
11 then, at that particular time, was to
12 get back in there and assess the
13 condition of the miners. And if
14 there were any other miners still
15 alive, to get those folks out as soon
16 as possible.
17 Q. And who did you have this
18 conversation with?
19 A. Tim Martin.
20 Q. And where was he? Was he in
21 the pit or was he up ---?
22 A. No. He was up at the ---
23 outside the mine facility, outside
24 the main office.
25 Q. Okay. So when you come out of

0049

1 the mine, and then you just go
2 straight up ---?
3 A. Yeah. We walked back up the
4 hill.

5 Q. Okay. Did anybody debrief you
6 or speak to you in the pit there?

7 A. No.

8 Q. You just then went up to the
9 surface?

10 A. Yeah, walked up to the ---.

11 Q. I mean up to the bathhouse
12 area.

13 A. Yes.

14 Q. And you say Mr. Martin was
15 outside?

16 A. Yes.

17 Q. And as you got up there, you
18 then immediately had a discussion
19 with him?

20 A. Yes. They thought there was a
21 possibility that there could still be
22 further survivors and that our job,
23 primary job, was to get back in there
24 and see if there were any folks still
25 alive. At that particular time, you

0050

1 know, he give us first aid equipment,
2 stethoscopes for all our EMTs. We
3 had five EMTs on the team. Extra
4 breathing EBAs, breathing apparatus.
5 And then it was just shortly after we
6 got that stuff together we
7 immediately went back in.

8 Q. And did you have any other
9 conversation with anyone else prior
10 to going back underground?

11 A. No.

12 Q. Okay. So Mr. Martin is the
13 only individual that you had
14 conversations about going back
15 underground?

16 A. Yeah. Yes.

17 Q. And how many stethoscopes ---
18 I mean, do you even know, like how
19 many stethoscopes?

20 A. Yeah. I think they give us
21 five stethoscopes. There was eight
22 on --- seven team members ---

23 Q. Okay.

24 A. --- on our team at that
25 particular time. And five of them

0051

1 are EMTs. And two of them are on BLS
2 teams back home, so they're ---.

3 Q. BLS, what do you mean?

4 A. It's like kind of an advanced
5 form of EMT, emergency response
6 individuals from their hometowns.

7 Q. Okay. And at that point ---
8 and then other first aid equipment.
9 So Mr. Martin, again, is the only

10 person that you had a conversation
11 with prior ---
12 A. Yes.
13 Q. --- to going back underground?
14 A. Yes.
15 Q. So then you immediately went
16 back underground?
17 A. Went back underground for ---.
18 Q. Well, how long ---? Sorry to
19 interrupt. How long was it, do you
20 think, from the time you exited the
21 mine until you went up to the office
22 and you met with Mr. Martin until you
23 went back underground again? Do you
24 have any kind of an idea?
25 A. Yeah. I would say probably

0052

1 15, 20 minutes, maybe, at the most.
2 Q. Sure.
3 A. That's my recollection. It
4 could have been longer.
5 Q. Okay.
6 A. I don't know.
7 Q. Sure. I understand. So then
8 you went back underground. You went
9 back underground in the mantrip?
10 A. In the mantrip, with Federal
11 inspectors.
12 Q. Did you have any conversation
13 with anybody down in the pit at all?
14 A. No.
15 Q. And at that point, Mr. McCloy
16 had been placed in an ambulance and
17 he was gone, so that ---?
18 A. He was gone, yeah.
19 Q. Was there any of the
20 ambulances or anything still down in
21 the pit?
22 A. What, when we went back in?
23 Q. Yes.
24 A. No. I think when we went back
25 in, I think that they had all

0053

1 eventually kind of packed up their
2 gear and drove away.
3 Q. Okay. So you went back
4 underground in the mantrip. And who
5 all was with you, just your team?
6 A. Just my team, yes, two Federal
7 officials. And I can't recall if we
8 had a State of West Virginia --- I'm
9 sure there was a West Virginia
10 official, but I can't --- I can't
11 speak to that.
12 Q. And do you know any of the
13 individuals' names, the Federal
14 people or anything?

15 A. I think Mike Houston may have
16 been one, and Mike Shumate may have
17 been the other individual.
18 Q. Okay. And who took you in on
19 the mantrip? Who drove the mantrip?
20 A. One of our guys drove the
21 mantrip. One of our guys was task
22 trained on proper operating procedure
23 on the mantrip and he was the one
24 that drove us in.
25 Q. Okay. So those were the only

0054

1 --- the Viper team was the only
2 people that went underground at that
3 time?
4 A. Yes.
5 Q. And there wasn't anybody
6 underground --- or still underground?
7 A. No. When we went back in,
8 there wasn't, no.
9 Q. Okay. So then kind of take it
10 from there, where you went back
11 underground.
12 A. We went back underground to
13 the location of the fresh air base.
14 And thus crosscut 53 to 56, somewhere
15 in that area. Got our machines on
16 and started walking up the track,
17 track travel way.
18 Not long after we turned to
19 the Two Left switch, past the Two
20 Left switch ---.
21 Q. Well, did someone stay at the
22 fresh air base?
23 A. Yes.
24 Q. Okay. One of your members?
25 A. One of our guys, yes. Yes.

0055

1 Once we went around the track, on Two
2 Left track, we started encountering
3 kind of high concentrations of CO.
4 And at that particular time we put
5 the apparatus on. We had it one
6 anyhow, but we didn't --- we didn't
7 have the face masks on.
8 Q. And so at that point there
9 would be six of you, right, because
10 you left one ---
11 A. Yes.
12 Q. --- at the fresh air base?
13 Okay.
14 A. And as we went on in, the
15 concentration of CO was getting a
16 little higher. And basically we had
17 to turn the instruments off. And I
18 instructed our members to turn them
19 off so we could communicate with one

20 another, and that we would turn them
21 back on at another specific location
22 and check the constituents. And
23 that's where --- and then we went on
24 in.

25 At that particular time, we

0056

1 had three radios, I think, to
2 communicate with. And as we were,
3 you know, getting further into the
4 mine, we were starting to lose
5 communication with the fresh air
6 base. Radio transmission started
7 breaking up. Well, our escorts was
8 kind of moving on in.
9 And I made the decision, at
10 that time, that we're going to start
11 to go on in. We're going to kind of
12 break protocol, we're not going to
13 worry about communications so much
14 with the fresh air base because this
15 was a known area. There had been a
16 team through there already. So we
17 didn't feel --- I didn't feel we were
18 in any danger. And I thought it was
19 imperative for us to stay in contact
20 with our escorts, so we went on in to
21 the fresh air base, not immediately,
22 because we had lost sight of our
23 escorts and then we weren't sure in
24 what direction they went.

25 Q. Excuse me. You said you went

0057

1 on in to the fresh air base.
2 A. Yeah. Yeah, that's a
3 misstatement. I understand ---.
4 Q. Okay.
5 A. We lost sight of our escorts
6 going to the barricade. And we
7 weren't sure what direction they
8 went, so we come to an area on the
9 track that was covered with water.
10 We wasn't sure if the water was three
11 inches deep or three feet deep. I
12 mean, it looked pretty deep to us.
13 So we basically did deviations, went
14 over the belt line for a while, come
15 back in over to the track, and
16 finally worked our way up to the
17 unit, the last opening, to the last
18 barricade.

19 Q. And go ahead. What happened
20 then?

21 A. The barricade had been
22 breached by the previous team. It
23 was still down, open probably four to
24 five feet wide. And as you

25 approached the barricade, you could
0058
1 see some of the guys behind the
2 curtain, that was, you know, visible.
3 And our job when we got to the
4 barricade was to immediately try to
5 determine if there were any signs of
6 life in any of the coal miners. That
7 was our focus at that particular
8 time.
9 We didn't worry about IDing
10 anybody at all. We were trying to
11 determine if there was any heartbeat,
12 any respiratory --- signs of
13 respiratory or anything. So our guys
14 took a lot of time and patience and
15 pain to make those assessments. And
16 it was determined that there was no
17 signs of life in those individuals.
18 At that particular time, we
19 assisted the Federal guys, Federal
20 representatives in making the
21 identifications of the miners. And
22 after that was done, we, you know,
23 prepared them to be put in body bags
24 to be brought out.
25 Q. Do you want to take a break?

0059

1 A. Yeah. That's great.
2 MR. SWENTOSKY:
3 Okay.
4 SHORT BREAK TAKEN
5 MR. SWENTOSKY:
6 Back on the record.
7 BY MR. SWENTOSKY:
8 Q. Just before we go on, some
9 clarifying things here. When you
10 were notified at home and you said
11 8:00 a.m., was that central time?
12 A. Central time, yes, our time.
13 Q. Okay. And what position did
14 you hold at the Viper mine?
15 A. Project coordinator on C
16 shift.
17 Q. And project coordinator,
18 that's ---?
19 A. That deals primarily with
20 construction-related work.
21 Q. Okay. When you went
22 underground, was there a Dr. Blake or
23 anyone that went with you
24 underground?
25 A. No.

0060

1 Q. Do you recall ever any doctors
2 going underground?
3 A. Not with us.

4 Q. Okay. Did anyone say that
5 there was one at any other time?
6 A. I could only speculate so much
7 as that there was a doctor that come
8 in and met the guys coming out with
9 Randal McCloy, and stopping the
10 mantrip and trying to do an
11 assessment, saying, we've got to make
12 an assessment of him. And one of our
13 guys said, we need to get him out,
14 you know, it's imperative we get him
15 out right away. So they were pretty
16 adamant to getting Randal out instead
17 of doing --- because our guys had
18 already done an assessment on him as
19 they were bringing him out.
20 And with all due respect, I
21 didn't think it was necessary to have
22 a physician do the same thing over
23 again. It was more imperative to get
24 him out as soon as possible because
25 he was --- I think he was close to

0061

1 expired.
2 Q. Okay. When you say, they met
3 him, they --- I mean the doctor met
4 the mantrip bringing --- taking Mr.
5 McCloy out.
6 A. Yes.
7 Q. And where was that ---
8 A. I don't know.
9 Q. --- meeting taking place?
10 A. I don't know. I can't speak
11 to that.
12 Q. Okay. And you only know that
13 from what you just told me, from ---
14 someone else told you that?
15 A. Yes.
16 Q. And who was that, do you
17 recall?
18 A. Gosh, I can't recall. It may
19 have been Brad. It may have been
20 Brad, through talking with Brad, that
21 may have been.
22 Q. And Brad?
23 A. Kauffman.
24 Q. Kauffman. Was Brad the one
25 that went out --- was there any Viper

0062

1 team members ---? You may have told
2 me this, but was there any Viper team
3 members that went out with ---?
4 A. Not all the way out, no.
5 Q. When you say all the way
6 out ---?
7 A. All the way out with Randal
8 McCloy?

9 Q. Yes.
10 A. No.
11 Q. Okay. Where was the last time
12 that a Viper team member was with Mr.
13 McCloy?
14 A. I would say probably right as
15 they was loading him on the mantrip
16 to bring him out.
17 Q. Okay. So one of the Viper
18 --- no Viper team members rode out on
19 the mantrip?
20 A. I don't think so.
21 Q. Okay. Let's kind of start at
22 the fresh air base, if we can, and
23 get a little more clarification,
24 because there's some things ---. I'm
25 kind of slow, you know?

0063

1 A. Okay.
2 Q. Okay. When you arrived at the
3 fresh air base ---?
4 A. What particular time?
5 Q. And this is --- okay, the
6 fresh air base going back in to make
7 the assessment on the victims.
8 A. Okay.
9 Q. That would have been your last
10 trip that we talked about. Okay.
11 When you arrived at the fresh air
12 base, then, did anyone take any CO
13 readings, right at the fresh air
14 base?
15 A. No. I don't believe we did
16 take any CO readings at the fresh air
17 base.
18 Q. Okay.
19 A. We had our instruments on, ---
20 Q. Okay.
21 A. --- but there was no alarm
22 indications going off with the
23 instruments.
24 Q. Okay. And I believe you
25 mentioned that your team was actually

0064

1 the only people underground, other
2 than the escorts ---
3 A. Correct.
4 Q. --- that you talked about.
5 And who were those escorts?
6 A. Pardon me?
7 Q. And who were the escorts, as
8 you ---?
9 A. I believe it was Mike Houston
10 and Mike Shumate. I think that's how
11 you pronounce his name, but I can't
12 confirm that for sure. I think those
13 are the guys that went back in with

14 us.
15 Q. Okay. And those are the only
16 two, in addition to the Viper team?
17 A. Those were two --- I set with
18 those individuals at one end of the
19 mantrip. And we just shot the breeze
20 on the way in. And I can't speak to
21 who was in the other end. I don't
22 know. I'm sure --- I don't know if
23 we had any Virginia --- West Virginia
24 officials there or not. I don't
25 think so.

0065

1 Q. Okay. And you had your ---
2 one Viper team member stayed at the
3 fresh air base; is that correct?
4 A. Briefly, for a while. And
5 like I said earlier, when we started
6 to lose communication, we proceeded
7 on and that individual come on up
8 with us.
9 Q. Okay. Was there backup teams
10 in the mine?
11 A. There was a backup team in the
12 mine, yes. There was a backup ---
13 there was a team on deck, and there
14 was a backup team at the fresh air
15 base.
16 Q. Were they already in there
17 when ---?
18 A. No.
19 Q. They came in with you or ---
20 A. Yes.
21 Q. --- right behind you?
22 A. Behind us.
23 Q. Okay. So then there was more
24 than the Viper team underground?
25 A. Yes.

0066

1 Q. Okay.
2 A. Yes.
3 Q. All right. And who were those
4 teams that came in ---?
5 A. I don't know. I can't recall
6 where they are from or who they were.
7 Q. Okay. So you arrived at the
8 fresh air base and one of your team
9 members stayed at the fresh air base?
10 A. Yes.
11 Q. And there was a backup, also a
12 backup team ---
13 A. I believe so, yes.
14 Q. --- at the fresh air base?
15 A. Yes.
16 Q. Okay. Were there any other
17 teams there?
18 A. I don't think so.

19 Q. So then you proceeded --- your
20 six team members proceeded with the
21 escorts, as you call them, the ---?
22 A. Seven members and two escorts.
23 Q. Seven members and two escorts?
24 A. Yeah. Seven Viper team
25 members and two escorts proceeded to

0067

1 the barricade.
2 Q. Okay. And who stayed --- what
3 Viper team member stayed at the fresh
4 air base?
5 A. Well, once we stayed --- Ty
6 Hunt was the one that stayed at the
7 fresh air base. And then once we
8 started losing communications with
9 the fresh air base, he proceeded to
10 come with us.
11 Q. Okay. And then who was at the
12 fresh air base on the phone then?
13 A. I can't recall who the backup
14 team was. I don't remember who that
15 was.

16 Q. Okay. But there was still
17 some communication with someone at
18 the fresh air base ---
19 A. Yes.
20 Q. --- with your team?
21 A. Yes. We were in communication
22 with those until we started losing
23 radio communications. Then we
24 continued to proceed on to the
25 barricade. It was imperative for us

0068

1 to get up there.
2 Q. Okay. And you mentioned that
3 you went to an area where you started
4 picking up CO and you decided, at
5 that point, to don your machines?
6 A. Correct.
7 Q. Okay. And what was those CO
8 readings there, do you recall?
9 A. Yes. Varied between 225 to
10 235 parts per million CO. And that
11 was about two crosscuts inby the Two
12 Left switch.
13 Q. On the track entry?
14 A. On the track entry, yes.
15 Q. And before I forget, can you
16 identify your team members for us?
17 A. Brad Kauffman, Ty Hunt, Paul
18 Perrine, Brett Bushong, Brandon
19 Sanson, Alan Setzer. And I think
20 that's it. That's seven?

21 MR. SWENTOSKY:
22 I wasn't counting.
23 MR. RUTLEDGE:

24 That's seven.

25 BY MR. SWENTOSKY:

0069

1 Q. Okay. You donned your
2 machines and then at that point
3 there, did you have the seven team
4 members?

5 A. Yes.

6 Q. Okay. So the individual that
7 was initially left at the fresh air
8 base, he had already --- he had
9 joined you at that point?

10 A. Yes.

11 Q. And you donned your
12 machines ---

13 A. Correct.

14 Q. --- and proceeded inby?

15 A. Correct.

16 Q. And that would have been your
17 team and two escorts?

18 A. Correct.

19 Q. And then at some point you
20 mentioned previously --- and I
21 thought you said you actually turned
22 off your detectors?

23 A. The detectors, we had like
24 seven detectors. And they were all
25 going off on high concentrations of

0070

1 CO. And with one, it's pretty
2 tolerable, but seven going off, ---

3 Q. Yeah.

4 A. --- you can't hear individuals
5 communicate with one another. So I
6 instructed everyone to turn them off
7 until we needed to check the
8 constituents at another location.

9 Q. Did you leave one on or just
10 turned them all off?

11 A. We turned them all off.

12 Q. Turned them all off? Okay.
13 And you proceeded up the track. Do
14 you recall where about that was?

15 A. Well, it was probably two
16 crosscuts inby the Two Left switch at
17 the track.

18 Q. When you turned those off?

19 A. Uh-huh (yes). When we turned
20 them off, yeah.

21 Q. Okay. Then you proceeded
22 inby, the seven members and the two
23 escorts. And kind of take it from
24 there.

25 A. Well, as I said earlier, two

0071

1 of the escorts had kind of forged on
2 ahead, because we stopped to put our

3 apparatus on.
4 Q. Did they already have their
5 apparatus on?
6 A. Yes.
7 Q. Where did they don their
8 machines?
9 A. I don't know, ---
10 Q. You don't know?
11 A. --- because they were kind of
12 a little further ahead of us.
13 Q. Could you see their light or
14 anything?
15 A. Well, for quite a while. And
16 then they were out of sight, like I
17 said earlier.
18 Q. All right.
19 A. And apparently they went
20 straight up the track. We didn't
21 know that, but we put our apparatus
22 on and we walked up the track until
23 we got to the location of what
24 appeared to be very deep water, you
25 know, to the belt entry.

0072

1 Q. And do you have any idea where
2 that crosscut might have been?
3 A. No, I'm sorry.
4 Q. That's fine.
5 A. And of course, we walked up
6 kind of homemade bridges along the
7 belt entry. The belt entry had, you
8 know, some water in it. And we, you
9 know, continued down the belt line
10 for two or three crosscuts, jogged
11 back over to the track.
12 Q. And at that point you didn't
13 have any conversations --- or you had
14 no communications with the fresh air
15 base?
16 A. No.
17 Q. No. Okay.
18 A. It wasn't very long after we
19 got our apparatus on that we kind of
20 lost communications totally with
21 those folks.
22 Q. All right. Okay. Go ahead.
23 A. We got back over to the track,
24 went down a ways and we eventually
25 kind of caught up with the guys.

0073

1 Q. And when you say the guys,
2 you're talking about the escorts?
3 A. The escorts, yeah.
4 Q. Yes.
5 A. And we jogged over to the belt
6 line, one last --- right at the
7 feeder location, isolation line at

8 the feeder location. And we were
9 going to go up the belt entry in the
10 neutrals. And once we turned the
11 corner, the location of the feeders,
12 we stepped in mud that was --- didn't
13 seem like it had a bottom to it. And
14 that was the location of the bore
15 hole they drilled. And we determined
16 that was then an impassable
17 situation, so we went back to the
18 track, continued on past that
19 location up to the last open crosscut
20 and directly across there towards the
21 barricade.

22 Q. Okay. And when you say,
23 arrived at that last one, the
24 crosscut, that's in the track entry
25 or the belt entry?

0074

1 A. The last open crosscut is the
2 entry that connects all the entries
3 together at the face area.

4 Q. I mean the --- yeah, I realize
5 that.

6 A. Yeah.

7 Q. But what I was meaning, you
8 say you got up to the face area and
9 last open crosscut. Was that the
10 last open crosscut of the track
11 entry ---

12 A. Yeah.

13 Q. --- or the beltway?

14 A. We went up the track entry to
15 I think at least the second opening
16 or so, ---

17 Q. Okay.

18 A. --- then we jogged back over
19 to the belt, to the last open ---.

20 Q. Okay.

21 A. That's my recollection.

22 Q. And ---?

23 A. Pretty vague. I'm sorry.

24 Q. No, that's fine.

25 A. That's not specific.

0075

1 Q. That's fine. And had you
2 turned on your CO detectors at that
3 point at all?

4 A. Yeah. I turned mine on
5 periodically to take constituent
6 readings and turned it back off.

7 Q. And what were those ---?

8 A. The levels stayed pretty
9 consistent, ---

10 Q. And those levels ---?

11 A. --- 235, 245, 225. They'd
12 fluctuate.

13 Q. Okay. And the oxygen and the
14 methane?
15 A. Oxygen content seemed, I
16 think, pretty normal, for the
17 constituents that would indicate that
18 there was no methane, that I recall,
19 on the instruments at all.
20 Q. Okay. Then you went over to
21 the barricade? At the barricade,
22 what were the CO levels at that
23 point, do you know?
24 A. In the barricade, I'm thinking
25 the CO levels was like 215, 220,

0076

1 something like that. That was inby
2 the barricade. Of course the
3 barricade had been breached, and I
4 don't know ---
5 Q. I understand.
6 A. --- by how long. And then the
7 disruption of the ventilation, I
8 mean, that's not clearing out right
9 away. So I'm sure --- what the
10 constituents were behind the
11 barricade before it was breached, I
12 can't speak to that.
13 Q. Okay. But at that point
14 there, you say around 225, ---
15 A. Yes.
16 Q. --- parts per million?
17 A. Yes.
18 Q. And the methanes and the
19 oxygen?
20 A. Didn't indicate any methane.
21 Oxygen levels were, you know, normal,
22 considering the constituents of the
23 CO levels.
24 Q. Okay. And your guys made an
25 assessment of the victims?

0077

1 A. Yes.
2 Q. And they determined that they
3 were gone?
4 A. Yes. I went around to each
5 individual and made an assessment, as
6 the captain. But the real assessment
7 was done by our EMT members. They
8 were the ones that made the
9 determination that were no signs of
10 life in any of the guys.
11 Q. Okay. And your escorts were
12 there also at that point?
13 A. They were there, yes.
14 Q. Yes. And then what did you
15 do?
16 A. Well, we assisted the escorts
17 in making identifications of the

18 miners. They were doing some
19 painting along the ribs and on the
20 floor, where the location of the guys
21 were at. And then we proceeded to
22 make the identifications, tried to ID
23 the tags. After the ID was
24 completed, then we started doing the
25 preparation of putting the guys into

0078

1 the body bags.

2 Q. Okay.

3 A. The first one I think we put
4 in was the individual by --- located
5 directly behind the barricade and
6 intersection. And I put his lunchbox
7 in the bag. Of course, I looked in
8 the lunchbox at that particular time
9 to see if there was any
10 identification. And of course, there
11 was none in there. And I
12 unconsciously put the bucket in the
13 bag.

14 And then he was the only one
15 where we had put their personal
16 effects inside the bag. We left the
17 others out. Of course, we were
18 instructed to leave them where they
19 were at by our escorts. And it was
20 an unconscious act on my part to put
21 that bucket in there.

22 And then we pretty much got
23 them all ready to go. Put them on
24 Stokes baskets shortly thereafter.

25 Q. Who was that individual, that

0079

1 the bucket went in, do you recall?

2 A. I can't recall.

3 Q. Okay.

4 A. Yeah, I don't know who that
5 was.

6 Q. Okay.

7 A. It wasn't much long after we
8 were getting close to finishing the
9 task that the other team members, the
10 backup team, had come into the mine.
11 Because they hadn't had communication
12 with us for quite a while ---.

13 Q. When you say, come into the
14 mine, what do you mean?

15 A. Come into the barricade, from
16 the fresh air base to the barricade.
17 They come up to assist us.

18 Q. Okay. And how many team
19 members were there, do you know?

20 A. From the other team?

21 Q. Yeah.

22 A. I would say probably at least

23 seven. We needed a backup, one for
24 each man that was inside, so I'm just
25 assuming there were seven folks.

0080

1 Q. Yeah.

2 A. I don't know.

3 Q. And do you know what team that
4 was?

5 A. No, I don't. I don't recall.

6 Q. All right. Go ahead.

7 A. And they finished assisting us
8 with putting the rest of the guys in
9 the bags. I think there was only two
10 or three left that we had to do. We
11 were originally supposed to help
12 bring the --- there was a scoop that
13 was stuck in the intake entry.

14 Q. Uh-huh (yes).

15 A. The instructions was to bring
16 the scoop up with so we could, you
17 know, put the guys in the scoop to
18 make it easier to transport them out
19 to the mantrips.

20 Q. And who gave you that
21 instruction?

22 A. That was --- I believe ---
23 that was from the command center, I
24 believe.

25 Q. When did you receive that

0081

1 instruction?

2 A. I can't recall.

3 Q. Was it before you went
4 underground?

5 A. I think it was after we went
6 underground.

7 Q. Okay.

8 A. I believe it was after we went
9 underground, but I am real vague on
10 that. I can't speak specifically to
11 that.

12 Q. And who gave you that ---?

13 A. I can't ---.

14 Q. Okay. Go ahead.

15 A. But it was determined, we
16 weren't going to be able to get the
17 scoop out. And our focus was to get
18 --- instead of spending the time at
19 the scoop, our focus was to get to
20 the barricades. And that's why we
21 proceeded to the barricade.

22 After the second team got
23 there, we were able to break a couple
24 guys away so they could go back and
25 get the scoop. And we were pretty

0082

1 much in a standby mode at that time.

2 When they weren't getting back
3 with the scoop, it started becoming
4 obvious to us that our team needed to
5 get out. We had a couple guys low on
6 oxygen. And we didn't want to be
7 caught up there running out of
8 oxygen.
9 Q. Did any of your team members
10 go to the scoop to help out?
11 A. No.
12 Q. No, your guys stayed there?
13 A. The other team --- the other
14 team sent a couple of their folks to
15 get the scoop out. And like I say,
16 there was a considerable delay. A
17 couple of our guys was getting low on
18 oxygen, so it was imperative that we
19 needed to get those folks out.
20 We had already put one of the
21 individuals in the Stokes basket and
22 had put one of the other gentlemen on
23 a backboard. And it was our
24 determination that it looked like we
25 were going to have to carry them all

0083

1 out individually. And since we were
2 on the way out, because of the
3 conditions of a couple of guys
4 getting low on air, we were going to
5 start carrying one of the guys out
6 with us. So we took one of the
7 individuals out as we exited the
8 mine.
9 Q. When you say you put them in
10 baskets, was that something that you
11 took in with you?
12 A. Yes. The Stokes basket had
13 all the emergency first aid
14 equipment, stethoscopes, extra EBAs,
15 loaded down pretty good.
16 Q. Okay. And that's the only
17 basket that you took in with you?
18 A. Yes.
19 Q. Okay. So then you say your
20 team, all seven members ---
21 A. Yes.
22 Q. --- carried out the person
23 that you had loaded in the Stokes
24 basket?
25 A. Yes.

0084

1 Q. And you exited mine?
2 A. Yes.
3 Q. Did you have any conversation
4 with the team that stayed --- the
5 other team had stayed in there?
6 A. Yes. They stayed in there,

7 yes. And it looks like they weren't
8 going to get the scoop out. They
9 started dragging --- dragging, that's
10 a really ---. They started carrying
11 one of the other guys out shortly
12 after we took off.

13 Q. Okay. So you carried that
14 individual back to the barricade, the
15 whole way back?

16 A. No, no. We carried him from
17 the barricade to the fresh air base.

18 Q. Okay. Well, okay, that's what
19 I mean.

20 A. Yeah.

21 Q. But you took him --- you
22 carried him from the barricade out to
23 the mouth of the ---?

24 A. From the barricade towards the
25 fresh air base.

0085

1 Q. Okay.

2 A. In the meantime, it was
3 obvious that they got the scoop out.
4 And they were bringing the scoop up
5 to the barricade. And they were
6 going to make preparations and load
7 the guys up.

8 A couple of our guys was
9 getting low on oxygen and we made the
10 determination to leave the man we
11 started carrying out next to the
12 travel way that the scoop would be
13 coming by and they could load him on
14 the scoop and bring him out with the
15 rest of the men. And our job was to
16 get our folks out as soon as
17 possible, at least to the fresh air
18 base.

19 Q. So you left the individual at
20 the location you described. And then
21 did you have any conversation with
22 anyone before you left that area?

23 A. Well, there was a little bit
24 of conversation amongst us, because
25 we were kind of holding back a little

0086

1 bit, because a couple of our guys
2 broke away and went back to help the
3 other team. They were having some
4 difficulty.

5 Q. Difficulty meaning?

6 A. Carrying one of the men out.

7 Q. Uh-huh (yes).

8 A. And we didn't want to proceed
9 on to the fresh air base without our
10 team members, so we stayed there at a
11 particular location where we were

12 going to leave the individual we
13 carried out until our members caught
14 up with us and we'd come out. Well,
15 in the meantime, they had gotten the
16 scoop out of the mud and they were up
17 at the barricade. And I can't speak
18 to what went on after that, but we
19 immediately started exiting towards
20 the fresh air base.

21 Q. After your seven guys ---

22 A. Yeah, regrouped.

23 Q. --- regrouped?

24 A. Yes.

25 Q. And where were you at when you

0087

1 regrouped?

2 A. Gosh, I'm going to say
3 probably --- well, I don't know. I
4 can't speak to that.

5 Q. Around the tail of the belt
6 area?

7 A. Yeah, could have been. Could
8 have been. Maybe a little
9 further ---.

10 Q. In general, that ---

11 A. Yeah.

12 Q. --- general area?

13 A. They carried him --- we
14 carried him quite a ways out. And it
15 was a pretty good struggle for the
16 guys because it was --- you know,
17 your stumbling hazard's obvious, your
18 visibility is restricted.

19 Q. Was this on the track entry,
20 you were carrying ---?

21 A. Partially. And then I think
22 eventually we were in the intake
23 entry for a while. And I know that's
24 vague and not really site specific,
25 but I can't really be any more ---.

0088

1 Q. But you did carry him a
2 distance outby ---

3 A. Yes.

4 Q. --- the tail of the belt?

5 A. I can't say as we did, outby
6 the tail of the belt, ---

7 Q. Okay.

8 A. --- no.

9 Q. All right.

10 A. But it just seemed like a long
11 ways, I don't know.

12 Q. Sure. And then once you
13 exited the Two Left area, back to the
14 fresh air base, and that was without
15 incident or anything?

16 A. Well, we were over in one of

17 the neutral entries, I think, because
18 it was ---. I'm assuming it was the
19 intake entry, because we got to a
20 location where there were like
21 explosion debris in the travel
22 way, ---

23 Q. Uh-huh (yes).

24 A. --- and one of the officials
25 with us asked us to help throw some

0089

1 of the blocks out of the travel way
2 and make it easier for a scoop to
3 come through with the guys. So we
4 spent a few minutes at that location,
5 you know, removing block from that
6 travel way so the scoop could come
7 through.

8 Q. So you had your seven Viper
9 team members. And then you just
10 mentioned officials. So there was
11 someone else besides you?

12 A. Yes. One of our escorts. But
13 I don't know who that was, that had
14 asked us to remove the stuff.

15 Q. Okay. But there was one other
16 official with you, so there was eight
17 of you that was actually exiting?

18 A. I'm saying there was. I mean,
19 there could have been --- there could
20 have been both of them there, you
21 know.

22 Q. All right. I understand.

23 A. I mean, you've got to
24 understand, I mean, you're all fogged
25 up and ---

0090

1 Q. Sure.

2 A. --- trudging out and ---.

3 Q. Exactly.

4 A. And you're walking through mud
5 and water. And it's pretty physical.
6 We were trying to get out.

7 Q. I understand.

8 A. And it was a pretty exhausting
9 experience for me.

10 Q. Sure. So then you traveled
11 back to the fresh air base; is that
12 correct?

13 A. That's correct.

14 Q. Okay. Who did you meet back
15 there and what was ---?

16 A. On the way back, we run into a
17 backup team that was sent
18 underground.

19 Q. Was that inby the fresh air
20 base that you met them?

21 A. Yeah. That was inby the fresh

22 air base. And their official was ---
23 I don't know who that was, was pretty
24 upset that we had broke
25 communications with the fresh air

0091

1 base and command center, and that we
2 should have maintained certain
3 protocols by dropping people off in
4 sequence and talking radio to radio.
5 But here again, I need to
6 stress the fact that our purpose was
7 to get to the barricade to determine
8 if those folks was still alive. And
9 the fact that we lost communication
10 was to me irrelevant because we
11 didn't feel like we were in danger
12 because the area had already been
13 assessed by the previous teams.
14 We didn't sense or feel
15 danger. I know that's not proper
16 procedure, but our focus was to get
17 to the barricade. And we took the
18 berating and pretty much didn't ---.
19 We tried to explain that we couldn't
20 maintain communication because of the
21 radios just weren't like that
22 reliable. We didn't feel it was
23 imperative to break our guys up. We
24 wanted all our guys at the barricade.
25 Because I knew if we had to

0092

1 carry folks out, we were going to
2 need everybody we had to get those
3 folks out. And I stand by that even
4 setting here now, the fact that we
5 --- you know, we broke protocol,
6 broke communications with the fresh
7 air base. I didn't think that was
8 the important thing at that time.
9 Q. Okay. Do you know who the
10 team was that you met coming in?
11 A. No, I don't.
12 Q. And you don't know the
13 official that so-called, got on your
14 case?
15 A. Give us an ass heating, no.
16 No.
17 Q. Okay. And after you spoke
18 with those people, then you continued
19 to proceed to the fresh air base; is
20 that correct?
21 A. That's correct.
22 Q. And who did you speak to out
23 there?
24 A. Well, there was one of the
25 captains of a team that was out

0093

1 there. And they were putting folks
2 together, kind of a team together so
3 they could go back in and finish the
4 recovery efforts.

5 A couple of our guys was
6 willing to go back in. I was willing
7 to go back in, a couple of our other
8 guys. We had a couple extra bottles
9 of oxygen, extra bottles of oxygen
10 that we could supplement a couple
11 other guys. But it was determined at
12 that time that we would remain as
13 backup for those guys while they went
14 in and finished the recovery effort.

15 Q. Okay. And you don't know who
16 that team was either?

17 A. No. I'm sorry.

18 Q. No problem. So then at that
19 point you stayed at the fresh air
20 base?

21 A. We stayed at the fresh air
22 base. And it must have been several
23 hours, as backup mode. And I'm going
24 to say somewhere around 5:30 in the
25 morning is when we were called to

0094

1 come out of the mine.

2 Q. During that period, is there
3 any conversations that you had with
4 the outside or, you know, anything?

5 A. No. When we got back to the
6 fresh air base, the backup team had
7 performed a task that we were
8 initially sent in to recover the
9 first miner that they located.

10 And he was on a stretcher that
11 was loaded in another scoop in the
12 intake, but he wasn't in a body bag.
13 So our team took a bag over and
14 prepared him to be brought out.
15 Otherwise he was just covered up with
16 a blanket. And it wasn't very --- I
17 don't want to paint a disparaging
18 comment. It wasn't really a
19 professional, I guess, way of
20 bringing the gentleman out. He was
21 strapped on this backboard with a
22 blanket covering him up.

23 So we took him off the
24 backboard and put him in a body bag,
25 put him back on the stretcher. And I

0095

1 said backboard, but I think it was a
2 stretcher. Put him back on the
3 scoop. And then we waited for
4 further instructions from command.

5 Q. Okay. At that point, after

6 you waited, I think you said
7 somewhere around five o'clock, 5:30
8 or whatever that time was, then you
9 received word to exit the mine?

10 A. Yeah. The Viper team was
11 instructed to come out of the mine.

12 Q. At that time, had the bodies
13 been brought back down to ---?

14 A. No.

15 Q. No?

16 A. No.

17 Q. Had any of the other team
18 members come out at that point?

19 A. No.

20 Q. You were left up there to
21 perform those duties?

22 A. The other team was back ---
23 had went in to assist the team that
24 was there with us at the barricade.

25 Q. Okay. But they hadn't

0096

1 brought ---?

2 A. I'm not understanding your
3 situation --- question, I guess.

4 Q. Okay. You were the backup
5 team. And during that period that
6 you were waiting, until 5:30, had any
7 other teams come out of the Two Left
8 section?

9 A. No.

10 Q. No? Okay. And then whenever
11 you left, who was providing backup?
12 Had there been another backup team
13 come in?

14 A. I can't recall. I'm sorry. I
15 know it's vague.

16 Q. Sure. Okay. Then you were
17 ordered to exit the mine?

18 A. Correct.

19 Q. And you did that?

20 A. We exited the mine. The map
21 that we was given originally, we left
22 it with the individual at the fresh
23 air base on the track because he
24 didn't have a map. And we left our
25 map with him.

0097

1 We, of course, didn't know at
2 the time that that was not the proper
3 thing to do. We needed to bring our
4 map out. But we didn't think about
5 it. At the time, we thought it was
6 the right thing to do, to leave him
7 with a map.

8 Our initial assessment of that
9 situation was that a map was really
10 more designed as our escapeway map

11 more than to try to use it for
12 documentation. Because it is such a
13 small map, there wasn't room for, you
14 know, the necessary documentation
15 that you'd need.

16 Q. And who was at that fresh air
17 base during those hours?

18 A. I really can't say. I don't
19 know.

20 Q. But there was someone
21 there, ---

22 A. Yes.

23 Q. --- from one of the teams that
24 were inby?

25 A. Yes.

0098

1 Q. Okay. So then when you exited
2 the mine, you left your map there ---

3 A. Yes.

4 Q. --- at the fresh air base and
5 you came outside. Did you travel the
6 whole way out unstopped or did you
7 have any conversations with anyone?

8 A. We come all the way out.

9 Q. Come all the way out. And who
10 met you outside?

11 A. I don't recall anybody did.
12 We got off the mantrip and walked up
13 the hill.

14 Q. Okay.

15 A. And I can't recall any
16 conversations I had --- we had with
17 anybody.

18 Q. Was there --- at any time, was
19 there a debriefing?

20 A. We had a debriefing later on
21 that morning with MSHA and ---.
22 There were several people in the
23 room. And I can't be specific of who
24 they all were. And we had --- you
25 know, the debriefing lasted maybe 15

0099

1 minutes, kind of give a snapshot of
2 what we did and what we saw.

3 Q. Do you remember what time you
4 arrived outside?

5 A. I'm thinking about six
6 o'clock.

7 Q. Okay. And you went up to the
8 office and you didn't speak to anyone
9 up there, ---

10 A. No.

11 Q. --- you just ---? Where did
12 you go from there?

13 A. We were in the changing house
14 area. We started, you know,
15 disassembling our equipment and

16 everything.
17 And then we got word that we
18 were going to attend a debriefing.
19 And I can't speak to what time that
20 was. We just kind of waited around
21 until that time frame come around.
22 Q. And you said you were
23 debriefed by MSHA officials?
24 A. Yes. The reason I know that,
25 because several of the folks in there

0100

1 had the labels on their shirts, the
2 MSHA labels. And I don't know who
3 they all were.
4 Q. Was it a combination of MSHA,
5 ICG and the State, or ---?
6 A. I really don't know. I'm
7 thinking --- I'm assuming there was
8 but I don't know.
9 Q. Okay. And you say that was
10 somewhere around eight o'clock, you
11 thought?
12 A. Probably. I'm guessing. I'm
13 sorry I can't be more specific.
14 Q. That's fine.
15 A. I should have documented ---
16 done a little more documentation,
17 been more specific, but ---. I
18 tried, but I just give up on it
19 because there was more things that
20 was more important to me at the time.
21 Q. Okay. Then after the
22 debriefing, what did you do?
23 A. We pretty much loaded --- put
24 our stuff away and went back to the
25 hotel then.

0101

1 Q. Okay. And did you ever go
2 back to the mine after that?
3 A. Yeah. We went back to get our
4 equipment. Other than that, there
5 was really nothing that was ---
6 nothing really official that was
7 going on, dialogue with anybody else.
8 Q. Okay. Do you happen to know
9 where that scoop was located?
10 A. In the intake somewhere. I'm
11 saying probably somewhere in the
12 intake not too far outby the unit,
13 you now, supply hole.
14 Q. Okay. But you don't know
15 specifically ---
16 A. No.
17 Q. --- where it might have been?
18 A. No. If I had a map, maybe I
19 could probably recall it, but I don't
20 know where it was at.

21 Q. Okay.
22 A. And actually when we come back
23 out the second time, there was a
24 scoop out at the fresh air base and
25 there was one that was inby, so ---.

0102

1 MR. SWENTOSKY:
2 Mike, do you have
3 anything?
4 MR. RUTLEDGE:
5 A couple of things,
6 please.

7 BY MR. RUTLEDGE:
8 Q. And I need to go back, and I
9 apologize for being repetitive, but
10 just so that I can get it clear. You
11 originally went in with instructions
12 to recover the first miner that had
13 been located, ---

14 A. Yeah.

15 Q. --- the first fatality had
16 been located? You had reached that
17 area. Okay.

18 Q. And had started to do
19 anything ---

20 A. No.

21 Q. --- with that individual ---

22 A. No.

23 Q. --- or not?

24 A. We hadn't started anything.
25 Once we reached that area, that's

0103

1 when like all hell broke loose, to
2 coin a phrase.

3 Q. Uh-huh (yes).

4 A. An individual said, drop what
5 you're doing, plans have changed,
6 they've found them, they're walking
7 out right now, they need help with an
8 injured man. And command center
9 wanted to speak to Viper. And
10 so ---.

11 Q. Okay. And again, I apologize
12 for being repetitive but --- and I
13 know I've experienced the exact same
14 things that you're talking about,
15 with the emotion, the excitement and
16 so on. But to the best of your
17 ability, can you, again, repeat what
18 this person told you about, stop what
19 you're doing, plans have changed?

20 A. Yeah. That's where I just
21 indicated. It's stop what you're
22 doing, plans have changed. They
23 found them, they're walking out and
24 they need help carrying the injured
25 man, get up here right now.

0104

1 Q. Okay. They found them or they
2 found items or ---?

3 A. They said, stop what you're
4 doing, plans have changed, one of
5 those combinations of wording.
6 They're walking out now, get up here,
7 they need help with an injured man.
8 And that's not --- you know, when I'm
9 repeating this, this is not like word
10 for word each time, but that's pretty
11 much the meat of the context.

12 Q. Okay. Prior to your going
13 underground, had your team --- you or
14 your team been briefed on any type of
15 code words to use ---

16 A. Yes.

17 Q. --- as opposed to just ---?

18 A. Yes.

19 Q. Can you explain that to us
20 or ---?

21 A. Yeah. Apparently, there was
22 some concern about the media
23 intercepting communications in some
24 fashion or another. And they didn't
25 want the media intercepting any

0105

1 dialogue that would indicate there
2 were maybe persons alive or dead. So
3 in order to kind of protect that
4 confidentiality, they instructed us
5 to use, if you find someone, to use
6 the word item. And from what I
7 understand, each individual was
8 assigned a number, item number 1
9 through 13. And that's how we were
10 to identify those folks.

11 Q. Okay. Did you have any kind
12 of written list of this number 1
13 through 13 or ---?

14 A. No.

15 Q. None of your team members or
16 --- you never saw such a list?

17 A. I just heard through word of
18 mouth.

19 Q. Uh-huh (yes). Okay. So this
20 individual came down. And, again,
21 you don't know who that was, ---

22 A. No.

23 Q. --- that came and told you
24 that? You all went back to help them
25 carry the survivor out? Okay.

0106

1 A. A couple --- three of our guys
2 did, yeah.

3 Q. All right. And the rest of
4 you stayed at the fresh air base?

5 A. What's odd about this, there's
6 a misperception. The fresh air base
7 was located in the intake entry.

8 Q. Okay.

9 A. And there was a communication
10 reel that was located there with the
11 headset going to the track entry.

12 Q. About Two Left switch there?

13 A. Yes. And then I went to the
14 fresh air base and the intake. My
15 briefing officer went to the headset.
16 And he thought he would be talking to
17 someone on the surface. I think that
18 was his assumption. But, in fact, he
19 would be communicating to someone at
20 the fresh air base.

21 There was no one on the
22 headset at the other end because he
23 couldn't get anybody. And that's
24 what he indicated, he tried to get
25 somebody, nobody was responding there

0107

1 answering, so he just took the
2 headset off to be there and assist
3 the other guys.

4 Q. Okay. And when your team and
5 the other team members that were
6 carrying out the survivor, when they
7 came back, can you describe, again,
8 what went on then? They came to like
9 Two Left switch?

10 A. Yeah. See, I don't know the
11 sequence of events that happened in
12 relation to our guys going up to
13 assist the other team bringing Randal
14 McCloy out, because when the
15 statement was made, they're coming
16 out, they need help carrying an
17 injured man, I was instructed that
18 the command center wanted to talk to
19 me. So there was a time frame in
20 there of several minutes where what
21 was going on in the track entry, in
22 that area, I can't speak to that.

23 Q. So you don't know, then, that
24 Mr. McCloy was brought out and put on
25 a mantrip there at Two Left or ---?

0108

1 A. I know he was, but I could see
2 --- you know, when I come back, I
3 could see him coming by. And I don't
4 know ---. See, I can't really offer
5 much testimony in regards to that,
6 because I was kind of separated from
7 the whole event, being at the command
8 center.

9 Q. And you mentioned something

10 earlier before about a doctor that
11 would have met this trip coming out.
12 I mean, he apparently was coming in
13 and they were coming out.

14 A. Yeah. That's the story I
15 heard about.

16 Q. That was just more or less
17 word of mouth from other ---

18 A. Yes.

19 Q. --- team members and such?

20 A. Yeah. And I didn't see it.
21 And I didn't encounter it.

22 MR. RUTLEDGE:

23 Okay. That's all I
24 have for now. Thanks.

25 BY MR. SWENTOSKY:

0109

1 Q. You had mentioned that you had
2 some documentation. Do you still
3 have that documentation? I mean, I
4 know you said you kept getting less
5 and less, but whatever documentation
6 you have ---?

7 A. I'd have to talk with my
8 representative. I mean ---.

9 ATTORNEY RAJKOVICH:

10 We'll take it under
11 advisement.

12 MR. SWENTOSKY:

13 Okay.

14 BY MR. SWENTOSKY:

15 Q. And the map that you left
16 before exiting the mine, did you ever
17 get that map back?

18 A. No.

19 Q. Do you know where it's at?

20 A. I don't.

21 Q. Okay.

22 A. Whoever we give it to, and I
23 can't identify that individual ---
24 and of course, it may be in the
25 company possession. I mean, I don't

0110

1 know. He may have taken it home.

2 Q. Okay.

3 A. You know, I don't know.

4 MR. SWENTOSKY:

5 Okay. Could you check,
6 just to see ---?

7 ATTORNEY RAJKOVICH:

8 We can.

9 BY MR. SWENTOSKY:

10 Q. And you may have answered
11 this, but do you know who of your
12 team members it was that helped carry
13 Randal?

14 A. I'm going to say Paul Perrine,

15 Brett Bushong, Brandon Sanson.

16 MR. SWENTOSKY:

17 Okay. We'll take a
18 five-minute break.

19 SHORT BREAK TAKEN

20 MR. SWENTOSKY:

21 Mike, do you have some
22 clarifying questions?

23 MR. RUTLEDGE:

24 Yeah. Again, just to
25 clarify some stuff.

0111

1 BY MR. RUTLEDGE:

2 Q. We've talked several times
3 about you taking a mantrip in the
4 mine, about loading Mr. McCloy on the
5 mantrip, or getting on the mantrip
6 and coming outside.

7 A. Yeah.

8 Q. Where was that mantrip at that
9 you would ride to or put McCloy on or
10 go to on your way out of the mine?

11 That mantrip was quite a ways from
12 the fresh air base or ---?

13 A. No, no, it was pretty close.
14 I'm going to say within maybe five or
15 six crosscuts from the fresh air
16 base.

17 Q. Okay.

18 A. The fresh air base is in the
19 intake entry, so obviously the
20 mantrip can't be ---. The mantrip
21 would have been perpendicular, ---

22 Q. Uh-huh (yes).

23 A. --- to the fresh air base.
24 But from the communications reel,
25 from the headset in the track, I'm

0112

1 thinking the mantrip was four or five
2 crosscuts outby.

3 Q. Okay. And was there always
4 another mantrip setting there?

5 A. Well, there was one already
6 there. We had brought one in.

7 Q. Uh-huh (yes).

8 A. So if that's what you're
9 asking.

10 Q. Yeah. The one that was
11 already there, okay, it stayed there
12 all the time you were back and forth
13 in and out of the mine?

14 A. Well, the one that was already
15 there had --- yes, it had to stay
16 there until we come out, because they
17 brought him out on the one we come in
18 on. Does that answer your question?

19 Q. Well, no. I'm thinking that

20 the original One Left crew's mantrip
21 was left setting there at the time.
22 A. Okay. Yeah, I see. I see
23 what point you're going to get ---.
24 Yeah. That one was there. That one
25 was there, because we made note of

0113

1 the fact that there was obvious signs
2 of paper and particulars that were
3 kind of imbedded and wrapped around
4 the screen, protective screen in
5 there, the men set. And, you know,
6 just making kind of a off-the-cuff
7 comment that obviously it was a
8 direct line of part of the ---

9 Q. Okay.

10 A. --- ignition, yeah.

11 Q. So that mantrip set there the
12 entire time ---

13 A. Yeah, ---

14 Q. --- you went in and out, ---

15 A. --- it stayed there, kind of.

16 Q. --- and everything that you
17 took in or out was outby that
18 mantrip?

19 A. Right.

20 Q. Also, on the Two Left switch,
21 when you started up the track entry
22 toward the section, there was a line
23 of overcast there, just a break or
24 two from that Two Left switch.

25 A. Right.

0114

1 Q. How much debris was in the
2 track entry there?

3 A. Boy, I can't recall. I really
4 can't recall. I can remember
5 stepping over some rail that to me
6 seemed to be part of the decking
7 material of overcast, stepping over
8 some corrugated panels, some block.
9 There was some area where the belt
10 --- there was some belt that was in
11 the track was kind of all bunched up
12 together.

13 And it did seem to me to be
14 really unusual because of the
15 situation that transpired. But as
16 far as to give you a specific amount
17 as a truckload or semi load, yeah, I
18 couldn't speak to the quantity.

19 Q. In all the trips in and out,
20 that material was there? You don't
21 recall any of it being moved? Or was
22 there any effort at any time ---

23 A. There was ---.

24 Q. --- to clean it out?

25 A. Okay. But see, in reference
0115
1 to that, when we come out, after
2 being at the barricade, we come up
3 one of the entries where we were
4 instructed to move some blocks ---
5 Q. Uh-huh (yes).
6 A. --- off the travel way, so it
7 would make it easier to run the scoop
8 through there, ---
9 Q. Right.
10 A. --- with the miners.
11 Q. Okay. But that ---?
12 A. But that's the only time we
13 had moved any material at all.
14 Q. And you don't ---?
15 A. Now, apparently, during the
16 process, from what I understand, one
17 of the other teams had moved some
18 stuff off the track, to get it out of
19 the way to bring a mantrip up closer.
20 But I can't speak to that.
21 Q. Okay. And you also said that
22 you were sitting back to do a
23 thorough assessment of the miners
24 that were located up there, to
25 determine if there any life signs.

0116
1 A. Yes.
2 Q. But in getting up there to the
3 face, that you lost communications.
4 So after the EMTs and yourself made
5 the assessments of the people in the
6 barricade, did you ever report those
7 assessments to anybody?
8 A. We couldn't report those
9 assessments to anybody because we
10 didn't have communication.
11 Q. Okay.
12 A. Obviously, if we could just
13 kind of back up a little bit, there
14 was two --- a couple of our escorts
15 that were there.
16 Q. Uh-huh (yes).
17 A. And those would have been the
18 only officials that, you know, could
19 have documented those findings.
20 Q. Just for general information,
21 I would have done the same thing in
22 your situation. The fact that that
23 happened is not in question.
24 A. Right.
25 Q. I just wanted you to be aware

0117
1 of that. And after you all got low
2 on oxygen, you were back up at the
3 fresh air base for a long time.

4 Okay. And then you said like 5:30 or
5 whatever time it was you were told to
6 come outside?
7 A. I think that's the time frame.
8 Q. Okay. And you disassembled
9 equipment. You went back to the
10 hotel.
11 A. We had a debriefing before we
12 went back to the hotel.
13 Q. And you went back to the mine
14 after that just to pick up equipment?
15 A. No, not that day, though.
16 Q. Right. Yeah.
17 A. Yeah. Right.
18 Q. The only other time you went
19 back to the mine, after you went to
20 the hotel, was just to pick up your
21 equipment?
22 A. Yes.
23 Q. You hadn't been back
24 underground there?
25 A. Yeah. We've been back

0118

1 underground, consequentially, after
2 the event.
3 Q. Several days ---?
4 A. A couple weeks later we come
5 back, yeah.
6 Q. A couple weeks later, right.
7 Yeah, when the rest of the teams were
8 called back to do the ---?
9 A. The recovery, correct.

10 MR. RUTLEDGE:

11 I don't have anything
12 else. Thanks.

13 MR. SWENTOSKY:

14 Do you have anything
15 that you would like to add
16 that may be relevant to the
17 investigation, at this point?
18 A. My first indication is, I
19 don't have any comments, but I just
20 have to say that I take offense to
21 the media ---. On a personal note, I
22 take offense that the media tried to
23 portray this mine being an unsafe
24 mine. My personal assessments and
25 opinion that this was not an unsafe

0119

1 mine, by talking to some of the
2 family members that we've
3 encountered, when we were there the
4 first time and then when they spoke
5 of their relatives and friends that
6 they knew, this was not an unsafe
7 mine.
8 The people --- I don't believe

9 those people would work in this kind
10 of environment if they thought it
11 was. And the media trying to portray
12 those violations as indicative of
13 something that implied that it might
14 have been an outlaw rogue gold mine,
15 that's not the case at all.

16 I've been a mine examiner for
17 a number of years. Part of my job
18 was to make assessments like that,
19 unsafe situations and dangerous
20 situations. And my personal
21 assessments of this coal mine going
22 in, that this was not the case at
23 all.

24 And, you know, the media kind
25 of took some information and tried to

0120
1 blow it out of proportion, instead of
2 really looking at the facts. They
3 done a disservice to a lot of folks
4 in the industry by making certain
5 implications. That's all I got to
6 say to that.

7 MR. SWENTOSKY:
8 Okay. On behalf of
9 MSHA, I would like to thank
10 you for appearing and
11 answering questions today.
12 Your cooperation is very
13 important to the investigation
14 as we work to determine the
15 cause of the accident.

16 We ask that you not
17 discuss your testimony with
18 any person who may have
19 already been interviewed or
20 who may be interviewed in the
21 future. This will ensure that
22 we obtain everyone's
23 independent recollection of
24 the events surrounding the
25 accident.

0121
1 After questioning other
2 witnesses, we may call you if
3 we have any follow-up
4 questions that we feel that we
5 need to ask you. If at any
6 time you have additional
7 information regarding the
8 accident that you would like
9 to provide to us, please
10 contact us at the contact
11 information that was
12 previously provided to you.
13 The Mine Act provides

14 certain protection to miners
15 who provide information to
16 MSHA and as a result are
17 treated adversely. If at any
18 time you believe that you have
19 been treated unfairly because
20 of your cooperation in this
21 investigation, you should
22 immediately notify MSHA.
23 If you wish, you may
24 now go back over any answer
25 you have given during the

0122

1 interview. And you may also
2 make any statements that you
3 would like to make at this
4 time.
5 A. No. I don't have anything to
6 say.

7 MR. SWENTOSKY:
8 Okay. We thank you for
9 your cooperation in this
10 matter.
11 A. Sure.

12 * * * * *
13 SWORN STATEMENT
14 CONCLUDED AT 11:00 A.M.
15 * * * * *

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