

STATEMENT UNDER OATH

OF

PAUL AVINGTON

Taken pursuant to Notice by Miranda
D. Elkins, a Court Reporter and
Notary Public in and for the State of
West Virginia, at the U.S. Bankruptcy
Court, 324 West Main Street,
Clarksburg, West Virginia, on
Tuesday, February 14, 2006, at 8:59
a.m.

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A P P E A R A N C E S

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

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P R O C E E D I N G S

MR. SWENTOSKY:

My name is Dennis Swentosky. I'm an accident investigator with the Mine Safety and Health Administration, an agency of the United States Department of Labor. With me is Bob Wilson from the Solicitor's Office, Brian Mills with the West Virginia Office of Miners' Health, Safety and Training, and Mr. Dave Stuart, with the West Virginia State.

I've been assigned to conduct an investigation into the accident that occurred at the Sago Mine on January 2nd, 2006 in which 12 miners died and one was injured. The investigation is being conducted by MSHA and the West Virginia Office of Miners'

1 Health, Safety & Training to
2 gather information to
3 determine the cause of the
4 accident. And these
5 interviews are an important
6 part of the investigation.

7 At this time, the
8 accident investigation team
9 intends to interview a number
10 of people to discuss anything
11 that may be relevant to the
12 cause of the accident. After
13 the investigation is
14 completed, MSHA will issue a
15 written report detailing the
16 nature and the causes of the
17 accident.

18 MSHA accident reports
19 are made available to the
20 public in the hope that
21 greater awareness about the
22 causes of accidents can reduce
23 their occurrence in the
24 future. Information obtained
25 through witness interviews is

1 frequently included in these
2 reports. Your statement may
3 also be used in other
4 enforcement proceedings.

5 I would like to thank
6 you in advance for your
7 appearance here today. We
8 appreciate your assistance in
9 this investigation. The
10 willingness of miners and mine
11 operators to work with us is
12 critical to our goal in making
13 the nation's mines safer.

14 We understand the
15 difficulty for you in
16 discussing the events that
17 took place and we greatly
18 appreciate your efforts to
19 help us understand what
20 happened.

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

1 of an investigation by 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 February 14th, 2006.

18 Questioning will be
19 conducted by representatives
20 of MSHA and the Office of
21 Miners' Health, Safety &
22 Training. This is not an
23 adversarial proceeding,
24 therefore Cross Examination
25 will not be permitted.

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

17 If at any time after
18 the interview, you recall any
19 additional information that
20 you believe may be useful in
21 the investigation, please
22 contact Richard Gates at the
23 phone number or e-mail address
24 provided to you. And this is
25 a business card for Mr. Gates.

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

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

23 If any part of your
24 statement is based not on your
25 own first-hand knowledge, but

1 on information that you
2 learned from someone else,
3 please let us know.

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

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

23 MR. MILLS:

24 Here's our card, Paul.
25 Paul, the West Virginia Office

1 of Miners' Health, Safety &
2 Training is conducting this
3 interview session jointly with
4 MSHA and are in agreement with
5 the procedures outlined by Mr.
6 Swentosky for these interviews
7 that will be conducted here
8 today.

9 But the Director
10 reserves the right, if
11 necessary, to call or subpoena
12 witnesses or require the
13 production of any record,
14 document, photograph or other
15 relevant materials necessary
16 to conduct this investigation.

17 MR. SWENTOSKY:

18 Thank you. Are you
19 aware that you may have a
20 personal representative
21 present during the taking of
22 this statement?

23 MR. AVINGTON:

24 Yes.

25 MR. SWENTOSKY:

1 And who would that be?

2 MR. SWENTOSKY:

3 Who is your
4 representative?

5 MR. AVINGTON:

6 Joe. I don't know ---.

7 ATTORNEY YUHAS:

8 Yuhas.

9 MR. AVINGTON:

10 Pardon?

11 ATTORNEY YUHAS:

12 Yuhas.

13 MR. AVINGTON:

14 Yuhas.

15 MR. SWENTOSKY:

16 Has anyone suggested
17 that you use this
18 representative?

19 MR. AVINGTON:

20 No.

21 MR. SWENTOSKY:

22 Are you aware that your
23 representative may have a
24 conflict of interest in
25 representing you while being

1 provided by someone else, such
2 as the company?

3 MR. AVINGTON:

4 Say that again.

5 MR. SWENTOSKY:

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

12 MR. AVINGTON:

13 Yes.

14 MR. SWENTOSKY:

15 With this
16 understanding, do you still
17 want this person to be your
18 representative?

19 MR. AVINGTON:

20 Yes.

21 MR. SWENTOSKY:

22 Have you been pressured
23 in any way to accept this
24 person as your representative?

25 MR. AVINGTON:

1 No.

2 MR. STUART:

3 May I inquire and
4 clarify? Just for the record,
5 so we all understand each
6 other because of some inquiry
7 that was made, Mr. Yuhas
8 represents you here today; is
9 that correct?

10 MR. AVINGTON:

11 Yes.

12 MR. STUART:

13 And he does not
14 represent the company, nor
15 does he represent the United
16 Mine Workers, is that your
17 understanding?

18 MR. AVINGTON:

19 Yes.

20 MR. STUART:

21 And do you understand
22 you're also responsible for
23 whatever remuneration may be
24 due Mr. Yuhas?

25 MR. AVINGTON:

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Yes.

MR. STUART:

Thank you, sir.

MR. SWENTOSKY:

Do you have any questions regarding the manner in which this interview will be conducted? Do you have anything at this time?

MR. AVINGTON:

No.

MR. SWENTOSKY:

Will you please swear in Mr. Avington?

PAUL AVINGTON, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

BY MR. SWENTOSKY:

Q. Could you please state your full name and spell your last name for us, Mr. Avington?

A. Paul Avington,
A-V-I-N-G-T-O-N.

Q. Could we have your address and

1 telephone number, please?

2 A. 125 Minnich Street. It's in
3 Weston. The phone number is 269-
4 5459.

5 Q. Are you appearing here today
6 voluntarily?

7 A. Yes.

8 Q. How many years of mining
9 experience do you have?

10 A. Twenty-eight (28).

11 Q. Could you kind of give us a
12 brief description of your mining
13 experience?

14 A. You mean like where I started
15 mining?

16 Q. Yes, that'd be fine.

17 A. 1977, I think '77, started at
18 Appalantic Coal in Lewis County. Do
19 you want to know other companies I
20 worked for?

21 Q. Yes. Yeah, just kind of give
22 us a brief description.

23 A. Well, let's see, Appalantic
24 six or seven years and then I went to
25 Continental Coal. I worked for

1 Bethlehem. I worked for Bass Energy.
2 Alton Coal, Anker and I guess that's
3 about all of them. I can't remember.
4 I've worked for quite a few different
5 companies.

6 Q. Okay. How much time have you
7 spent at the Sago Mine?

8 A. I started there in May.

9 Q. May of?

10 A. This year --- or past year,
11 May last year.

12 Q. 2005?

13 A. Right. Yeah.

14 Q. What is your present position?

15 A. Shuttle car operator.

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

19 A. Yes.

20 Q. Could you give me a --- just a
21 description of your job duties or
22 what they would have been on that
23 day?

24 A. Well, shuttle car operator
25 hauls the coal from the continuous

1 miner to the belt line.

2 Q. Okay. How long have you held
3 your present position, shuttle car
4 operator?

5 A. Oh, ever since I started
6 there.

7 Q. Okay. That would have been in
8 May of 2005?

9 A. Yeah.

10 Q. So you didn't hold any other
11 positions during that period of time?

12 A. No.

13 Q. Do you have any mining
14 certifications?

15 A. No.

16 Q. You have the miner's papers to
17 do general, but not any
18 certifications as far as
19 examinations?

20 A. No, I don't have no bossing
21 papers or anything like that, no.

22 Q. Who was your immediate
23 supervisor?

24 A. Owen Jones.

25 Q. And how long would Mr. Jones

1 have been your supervisor? That
2 whole time or how long has he been
3 your supervisor?

4 A. Well, when I first started at
5 Sago, I had a different supervisor.
6 I can't remember when I started
7 working for Owen.

8 Q. Okay. Who was the initial
9 supervisor?

10 A. I can't --- I don't remember
11 his name. I didn't work for him very
12 long. Then I started working for
13 Owie.

14 Q. What time do you normally
15 start your shift?

16 A. 6:00.

17 Q. That's the time that you go
18 underground?

19 A. Right.

20 Q. And you were working on the
21 day of the accident?

22 A. Yes.

23 Q. Can you kind of just --- if
24 you would just start whenever you
25 arrived at the mine and kind of go

1 through the entire day and give me a
2 description of what occurred that
3 day? And I'll not interrupt you.

4 A. You want me to start as soon
5 as I entered the parking lot or ---

6 Q. Yeah.

7 A. --- from the bathhouse or ---?

8 Q. Sure, that will be fine, as
9 soon as you got on the mine property.

10 A. Well, it was probably around
11 ten after 5:00, 15 after, somewhere
12 around there. Go in the bathhouse,
13 get dressed, get ready for my shift
14 and wait for starting time. Go down
15 to the pit mouth about six o'clock.
16 We was waiting for the boss to bring
17 in the mantrip. The mantrip he
18 brought in the pit mouth was too
19 small for all of us, so he took it
20 back and got a bigger mantrip for us.
21 Then we all got in the mantrip and
22 headed for the section.

23 We got up to First Left switch
24 and Roger Perry got out to throw the
25 switch. I don't know, it was about

1 6:25, 6:30, I don't know what time it
2 was when we got to the switch. Roger
3 got out and threw the switch, got
4 back in the mantrip, and the
5 explosion happened.

6 We all got out of the mantrip
7 and started headed down the track.
8 And I don't know how many blocks we
9 walked before we got over into the
10 intake, the fresh air. I don't know
11 how many blocks it was. And started
12 toward the outside.

13 Me and Ron Grall were ahead of
14 the other guys on the crew. I don't
15 know how many blocks we walked before
16 we got over onto the track. We heard
17 a mantrip coming in as we was
18 walking. I stopped three or four
19 different times and called back to
20 the other guys to come on. You know,
21 they was kind of waiting back there
22 for some reason. I don't know why.
23 But we went on down and got over onto
24 the track and we was over there maybe
25 three, four minutes and the mantrip

1 come by with --- everybody else was
2 already in the mantrip. And me and
3 Grall got in the mantrip and went
4 outside. And that's about it.

5 Q. What I wanted to do is --- and
6 I thank you for that description ---
7 is just kind of back up a little bit,
8 ---

9 A. Okay.

10 Q. --- and then we'll just kind
11 of start and we'll kind of fill in
12 some blanks ---

13 A. Okay.

14 Q. --- we may have. Again, what
15 time did you arrive at the mine?

16 A. Ten after 5:00, 15 after,
17 somewhere around there.

18 Q. Okay. When you got --- or
19 arrived at the mine, then you went
20 --- did you go --- what did you do
21 then?

22 A. I went in the bathhouse and
23 got dressed, got ready for work.

24 Q. Okay. And after that, where
25 did you go?

1 A. Well, I went into the lamp
2 room, into the dispatcher in the
3 trailer, got my light, put my light
4 on, had a cup of coffee.

5 Q. Okay. Do you recall any
6 conversations that you might have had
7 with anyone?

8 A. Well, yeah, I mean, I talked
9 to a lot of people that morning, I
10 can't remember any conversations we
11 had.

12 Q. Okay.

13 A. We talked.

14 Q. Anything unusual or --- that
15 you discussed?

16 A. No, nothing unusual.

17 Q. And approximately what time
18 did you enter the mine?

19 A. 6:00, a little after 6:00
20 because Owie had to get the other
21 mantrip, so it was like maybe ten
22 after, seven after, I don't know. It
23 wasn't right at 6:00, but ---.

24 Q. And why did you have to change
25 out mantrips?

1 A. Because the first one was too
2 small, all of us couldn't get in it.

3 Q. Did the Two Left section enter
4 the mine before you?

5 A. Yeah, they was ahead of us.

6 Q. And approximately how much
7 time was ---?

8 A. I don't know, maybe ten
9 minutes. I don't know for sure.
10 Maybe ten minutes ahead of us.

11 Q. The number of people --- you
12 said you had to change mantrips. Was
13 that number more than normal?

14 A. No. The mantrip was just too
15 small, the one he first brought. I
16 don't know why he brought the small
17 mantrip he did.

18 Q. Okay. So that's a regular
19 number of people?

20 A. Yeah. Yeah.

21 Q. After you entered the mine,
22 did you let anyone off on your way
23 in?

24 A. Well, John Boni and Pat was
25 --- I don't remember whether they

1 rode in with us or not. Sometimes
2 John would ride in and we'd let him
3 off before we got to the switch. I
4 don't remember that morning whether
5 they was with us or whether they
6 walked in. I don't remember.

7 Q. And your first point of travel
8 was the One Left switch; is that ---?

9 A. Yeah, One Left.

10 Q. And when you got to the --- or
11 was there any conversations over the
12 phone that's on the mantrip? Do you
13 recall any phone conversations or
14 anything like that on the way in?

15 A. No. No, we just called for
16 clearance and we went in, that's the
17 only thing.

18 Q. That was the only
19 conversation?

20 A. Yeah, I don't remember no
21 conversation on the way in.

22 Q. Okay. When you got to the One
23 Left switch, you said that Mr. Perry
24 got out of the switch (sic), can you
25 describe that?

1 A. Got out of the mantrip, throw
2 the switch into the section, yeah.

3 Q. Okay. And then what occurred?

4 A. Then he got in the trip and
5 then the explosion happened.

6 Q. Okay.

7 A. Yeah, he no sooner got in and,
8 you know, it happened.

9 Q. Okay. And whenever that
10 occurred, can you kind of describe
11 that a little bit?

12 A. The --- what?

13 Q. Yeah, the --- was there any
14 smoke?

15 A. Yeah, there was a lot of
16 smoke, debris and heat.

17 Q. Okay. What about --- you say
18 the heat, what kind of heat, burning
19 heat or just a light heat?

20 A. I would say a pretty strong
21 heat. Yeah, you know, I crouched
22 down in the trip, you know, and felt
23 the heat.

24 Q. Which end of the mantrip were
25 you in?

1 A. I was in the outby.

2 Q. Outby end of the mantrip. And
3 which way were you facing?

4 A. I was facing inby.

5 Q. Okay.

6 A. I was in the corner, left hand
7 corner of the trip.

8 Q. That would be the wide side or
9 the tight side? The door side?

10 A. No, the tight side.

11 Q. The tight side?

12 A. Yeah.

13 Q. Okay. When that occurred, did
14 it knock your hat off or your glasses
15 off?

16 A. No. No, it didn't knock my
17 hat off.

18 Q. Did your ears pop or anything
19 like that?

20 A. I don't remember. I just felt
21 the heat and we, you know, started
22 getting out of the trip.

23 Q. Okay. So the other guys had
24 to exit before you, though?

25 A. Yeah. They exited. I might

1 have been the last one out on that
2 side. I don't know.

3 Q. Okay. When you got out of the
4 mantrip, did you have a detector with
5 you?

6 A. No.

7 Q. Do you recall anyone that may
8 have had a detector and what was
9 happening with that detector or
10 anything?

11 A. Yeah, Ron Grall had one.

12 Q. Okay.

13 A. I heard it going off.

14 Q. What, that's the beeping
15 sound?

16 A. Yeah.

17 Q. Okay.

18 A. It either went off there or it
19 went off when we got down to the
20 stopping, where we went over into the
21 intake. I know it went off
22 somewhere. It might have been going
23 off all the way down through there.

24 Q. Did anyone take any readings
25 or discuss any readings or what ---?

1 A. No, I think everybody was just
2 ready to get out of there, you know.
3 We didn't want to --- you know, it
4 was really smoky, it was heavy,
5 couldn't see where we was going.

6 Q. When you get out of the
7 mantrip then, describe that to me a
8 little bit. Who may have --- was
9 there anyone that kind of took charge
10 or anything like that? Or just
11 describe that to me, if you would,
12 please.

13 A. Well, when I got out, Ron was
14 going down the track and I followed
15 him.

16 Q. Okay.

17 A. I followed Ron Grall down the
18 track. Ron is --- you know, has his
19 bossing papers and so I followed Ron
20 down the track.

21 Q. Okay. Did you just get out of
22 the mantrip and take off, or was
23 there any discussion amongst ---?

24 A. No, we all just got out and
25 took off. You know, too much smoke

1 and you know, just wanted to get out
2 of there, wanted to get to fresh air.

3 Q. Yeah. You say the smoke, what
4 did it smell like, if you can recall?

5 A. I don't know what it smelled
6 like. I can't describe the smell.

7 Q. Was there ever a second rush
8 of air?

9 A. No, I don't recall any second
10 rush of air.

11 Q. And how long did that last,
12 this blowing or rush of air with the
13 debris and so on?

14 A. I don't know.

15 Q. Okay.

16 A. I don't know how long it
17 lasted.

18 Q. So when you got out of the
19 mantrip and you say you just --- you
20 and Ron just took off?

21 A. Yeah. I followed Ron down the
22 track, yeah. And then we got down to
23 where we got over into the intake,
24 fresh air, went through a stopping
25 and Ron went back on the track and he

1 yelled at the rest of the guys, come
2 on down here, we found a way --- you
3 know, found fresh air. So we waited
4 down there for everyone to come over
5 into the intake.

6 Q. Okay. Before you guys took
7 off, there was no discussion or
8 anything with any of the others, you
9 just got out of the mantrip and ---?

10 A. Yeah, we just got out and took
11 off.

12 Q. Okay. What about the SCSR,
13 did you ---?

14 A. My rescuer?

15 Q. Your rescuer, did you put your
16 rescuer on?

17 A. No.

18 Q. Did Ron put his rescuer on?

19 A. No.

20 Q. No. Did any of the others put
21 their rescuers on?

22 A. Yeah, some of them put them
23 on, yeah.

24 Q. Okay. Right there at the
25 mantrip?

1 A. I don't know where they put
2 them on.

3 Q. Okay. Because you had taken
4 off?

5 A. Yeah.

6 Q. Okay. Why didn't you put the
7 SCSR on?

8 A. I just didn't think I needed
9 it.

10 Q. Why was that?

11 A. Well, I don't know. I just
12 --- I remember asking Ron, I said, do
13 you think we better stop and put our
14 rescuers on. And he said, no, let's
15 keep going. So I --- we just kept
16 going, didn't put it on.

17 Q. Do you recall where that might
18 have been, where you were at, at that
19 time?

20 A. It might have been three, four
21 breaks from the mantrip. I don't
22 know how many breaks, but ---.

23 Q. Before you went into the ---

24 A. Yeah.

25 Q. --- into the intake?

1 A. Yeah, before we went into ---
2 yeah.

3 Q. And you said some of the
4 others put theirs on. When did you
5 find that out?

6 A. When I was on the outside.
7 When we was outside, I found out some
8 of them put theirs on.

9 Q. Okay. Could you --- after you
10 left the mantrip and Ron, I guess,
11 you said found the door.

12 A. Yeah, found the way over into
13 the --- right.

14 Q. Okay.

15 A. Well, it wasn't doors, it was
16 a hole in the stopping.

17 Q. Yeah, right.

18 A. Yeah, it must have been blowed
19 out, I don't know.

20 Q. Okay. And at that point
21 there, you made some contact with the
22 people behind you?

23 A. Right. Yeah, Ron went back
24 out on the track, he yelled this way,
25 you know, we found a way over into

1 the --- yeah.

2 Q. Were you able to see their
3 lights at that time?

4 A. No, I didn't see their lights
5 until they come over into the intake.
6 That's when I seen them. I wasn't
7 out on the track. I waited in the
8 intake and Ron was out on the track.

9 Q. Okay. And then after he
10 yelled at the other individuals, then
11 what happens?

12 A. Well, they all come over into
13 the intake.

14 Q. At that point there, were you
15 all together at that point, all the
16 crew members?

17 A. Yeah, I think --- yeah, I
18 think so. Yeah.

19 Q. Okay. Let me --- just let me
20 ask you one other question. I know
21 you said you got out of the mantrip
22 and then you guys just took off. But
23 do you recall anyone talking on the
24 telephone or making any calls or
25 anything like that?

1 A. I made one over in the intake.
2 I had the walkie-talkie with me.

3 Q. Oh, you did?

4 A. Yes. And ---.

5 Q. Was the that first attempt
6 that you had made to use the
7 walkie-talkie?

8 A. Yeah, because the other buggy
9 runner had one with him, and they
10 was, like I say, kind of holding back
11 and I yelled at him on the radio, you
12 know, asking him, telling him, you
13 know, come on, let's go or whatever I
14 said. And ---.

15 Q. Did he --- was he able to hear
16 you, do you know?

17 A. Yeah, he heard me one time on
18 it.

19 Q. Okay. And ---.

20 A. Pardon?

21 Q. I was going to say, did he
22 speak back to you or anything?

23 A. Yeah. I don't recall what he
24 said though. We just used it the one
25 time, that's all.

1 Q. Okay. And what was when you
2 were ---?

3 A. Going down the intake, I'd
4 say, yeah.

5 Q. When you first got to the
6 intake or later on?

7 A. Later on, going down. Yeah,
8 walking down through there, I stopped
9 and called him on the radio.

10 Q. Okay. So Ron went over and
11 called the other individuals and the
12 entire crew come up there and you met
13 there in the intake?

14 A. Yeah.

15 Q. Okay. And you were all
16 together at that point?

17 A. Yeah.

18 Q. And then what happened?

19 A. Well, I started walking down
20 the intake, you know, it was fresh
21 air. I wanted to get into better
22 fresh air. I started walking.

23 Q. Okay. Were you all together
24 at that time, do you know?

25 A. No, we wasn't. I don't know

1 --- the other guys was --- I don't
2 know what they was doing, holding
3 back. I don't know, talking to Owen.
4 Someone said that Owen wanted to go
5 check on his brother. And I guess
6 they was trying to talk him --- you
7 know, tell him he can't do that, you
8 know. They was trying to talk him
9 out of it. I don't know what they was
10 doing.

11 Q. Okay. So you started walking
12 outby.

13 A. Yeah.

14 Q. And you and Mr. Grall, did you
15 say ---?

16 A. Yeah, me and Ron, yeah, Ron
17 Grall, started walking. He was ahead
18 of me, I was behind him.

19 Q. Okay. Did you have any
20 conversations about where the other
21 individuals were or anything like
22 that?

23 A. Yeah, I stopped three or four
24 times and looked back and hollered at
25 them.

1 Q. Okay. Could you see their
2 lights or anything?

3 A. Yeah.

4 Q. So they were within visual ---

5 A. Yeah.

6 Q. --- visual distance?

7 A. Yeah.

8 Q. Okay. And where --- and you
9 said you had this walkie-talkie and
10 you had a conversation or ---

11 A. Yeah, I talked ---.

12 Q. --- just a brief discussion.

13 A. Yeah, just a brief --- yeah,
14 just a brief --- yeah.

15 Q. On the way out?

16 A. Yeah.

17 Q. Okay. You started --- you and
18 Mr. Grall were ahead of the others
19 and ---

20 A. Right.

21 Q. --- and kind of take it from
22 there.

23 A. Yeah, we was ahead of the
24 others and as we was walking out, we
25 heard a trip come in. I don't know

1 how many breaks we walked 'til we got
2 back out on the track and the time we
3 got back on --- got on the track and
4 seen the trip coming, and they
5 stopped and picked us up.

6 Q. Okay. When you first heard
7 that trip, was that --- was that the
8 trip going in or ---?

9 A. Yeah, the trip going in.

10 Q. Okay. Then you --- where were
11 you at whenever you come out on the
12 track?

13 A. There's a mechanics shanty, we
14 keep spare parts and everything in,
15 along the track.

16 Q. Okay.

17 A. That's where we come out. I
18 don't know what block it was. I
19 don't know, but anywhere that's where
20 we come out.

21 Q. Okay. When you heard this
22 trip going by, did you then
23 immediately go to the track or what
24 happened?

25 A. No. We walked a few more

1 blocks and then went out on the
2 track.

3 Q. And did you have to wait a
4 period of time for the trip to come
5 back?

6 A. No, it was just a few minutes
7 and it was there beside of us. You
8 know, we got on the trip and headed
9 outside.

10 Q. And who was all on that trip?

11 A. Well, the whole crew.

12 Q. Was Mr. Owens (sic) on that?

13 A. I don't remember.

14 Q. Okay. Whenever you got on the
15 trip them, could you relate any
16 conversations that you might have
17 had?

18 A. No, I didn't talk to nobody.

19 Q. You just wanted to get out?

20 A. Yeah, I just --- yeah, I
21 didn't talk --- I know I didn't hear
22 anybody talk.

23 Q. And so then you never did don
24 your SCSR?

25 A. No.

1 Q. Okay. And on your way up
2 through the intake there, was --- Mr.
3 Grall's detector, was it still
4 beeping or did it discontinue beeping
5 at any point?

6 A. Yeah, I don't think it was
7 beeping going down the intake. Yeah,
8 it wasn't. The only time I believe I
9 heard it beeping when we was going
10 over into the intake and maybe there
11 at the mantrip when the explosion
12 happened.

13 Q. Okay.

14 A. I'm not real sure.

15 Q. Okay. And there was never ---
16 or was there ever any reading taken
17 or Mr. Grall relate to you any
18 readings of ---

19 A. No, he didn't.

20 Q. --- too much CO or anything?

21 A. No, he didn't relate any
22 readings to me.

23 Q. Okay. So then you got on the
24 mantrip and you didn't have any
25 conversations with anyone?

1 A. Not that I recall, no.

2 Q. Okay.

3 A. I don't recall talking to
4 anybody. I don't think anyone was
5 talking.

6 Q. Who was operating the mantrip?

7 A. Vern, the mechanic. Vern
8 Hofer? I don't know his last --- I
9 can't remember his last name. He's a
10 mechanic.

11 Q. Then you started to the
12 surface then?

13 A. Yeah, we stated outside.

14 Q. Did you make any stops on the
15 way out?

16 A. No.

17 Q. Okay. Do you recall --- would
18 you be able to identify any stoppings
19 that may have been knocked out or
20 anything like that? Or did you
21 notice any stoppings being --- that
22 were knocked out from the mantrip up?

23 A. From where we got onto the
24 mantrip?

25 Q. No. Let's back up a second.

1 From the mantrip where the explosion
2 --- where you were at, at One Left
3 switch, ---

4 A. Okay.

5 Q. --- outby?

6 A. Okay.

7 Q. Do you recall any of those
8 stoppings that might have been out?

9 A. Yeah, there was --- yeah,
10 there was some out. I don't know how
11 many.

12 Q. But you don't know which ones?

13 A. No.

14 Q. Okay. Whenever you --- and
15 then you went to the surface without
16 making any stops?

17 A. Right.

18 Q. Okay. And when you got to the
19 surface, who was there?

20 A. I don't --- you mean like
21 right on the outside?

22 Q. Yes.

23 A. I don't remember.

24 Q. Okay. When you go to the
25 surface then what did you do?

1 A. Walked up to the bathhouse.

2 Q. Okay. Did everyone walk up
3 there or ---?

4 A. Yeah.

5 Q. Were there some individuals
6 wearing SCSRs at that point?

7 A. I don't remember.

8 Q. Okay. When you walked up to
9 the bathhouse then what did you do?

10 A. Well, I just went in and put
11 my light up and --- you know, in the
12 dispatcher's trailer there where we
13 keep the lights, I put my light up
14 and walked over into the bathhouse
15 and stood around, you know, just
16 trying to figure out why it happened,
17 you know, and worrying about the
18 other guys inside, you know, yeah.

19 Q. Do you recall any
20 conversations that anyone --- did
21 anyone ask you what happened or
22 anybody, so-called, debrief you or
23 talk to you about what had occurred?

24 A. No. No. There was some
25 medics there, you know, from --- EMTs

1 whatever you are, from the ambulance.
2 I don't recall no boss coming up to
3 me.

4 Q. Okay. Did the medics examine
5 you at all?

6 A. Yeah.

7 Q. What was the extent of that
8 examination?

9 A. It was very brief, you know. I
10 wasn't hurt or nothing.

11 Q. Yeah.

12 A. Yeah, so they just looked at
13 me and they put a blood pressure or
14 whatever it is on your finger, yeah.
15 That was about it.

16 Q. Do you recall any
17 conversations that the company may
18 have had while you were outside
19 discussing what happened or anything
20 like that, maybe not to you but any
21 others?

22 A. Company?

23 Q. Anyone.

24 A. Talking to me about it?

25 Q. Or any others. You or any

1 other conversations?

2 A. No, I don't think so. No. We
3 was all talking to one another, but I
4 don't remember any company personnel
5 talking to me. Just the crew, you
6 know.

7 Q. And what were you guys talking
8 about?

9 A. Oh, what just happened.

10 Q. Yeah.

11 A. And you know, what just
12 happened.

13 Q. Did anyone go back underground
14 afterwards?

15 A. After we got out?

16 Q. Yeah.

17 A. I don't know.

18 Q. I know you said you didn't
19 have any conversation with company
20 personnel or anything, but did
21 anybody ask you to go down, take any
22 methane readings or CO levels or take
23 any examinations - - -

24 A. No.

25 Q. - - - down near the pit mouth or

1 anything?

2 A. No.

3 MR. SWENTOSKY:

4 Mr. Mills?

5 BY MR. MILLS:

6 Q. Paul, are you a certified
7 underground miner in West Virginia?

8 A. Right.

9 Q. You mentioned you saw smoke.
10 Do you remember the color of that
11 smoke?

12 A. No. I don't know what color
13 it was.

14 Q. You mentioned Vern was
15 operating the mantrip on the way out.
16 Vern, One Left crew was in there. Do
17 you remember anybody else being on
18 the mantrip besides One Left crew and
19 Vern?

20 A. No.

21 MR. MILLS:

22 That's all I got for
23 now, Denny.

24 BY MR. SWENTOSKY:

25 Q. The old, do you know what I

1 mean by the old Two Left Main seals?
2 That's the ones that I'm sure you
3 know about that?

4 A. Yeah. Yeah.

5 Q. Okay. Did you have any
6 occasion to assist in building those
7 seals or anything?

8 A. No.

9 Q. Were you ever up at them, at
10 those seals?

11 A. No.

12 Q. What kind of methane do you
13 recall seeing on the continuous miner
14 on the monitor?

15 A. Every now and then it'd have a
16 reading, a small reading, you know,
17 not very --- just every now and then.
18 We didn't have any methane that I
19 knew of, you know, on our section.

20 Q. And what type of readings did
21 they have in tenths?

22 A. Oh, I don't know. Every once
23 in a while you might have two, three.
24 I never seen much above that and like
25 I said, that wasn't very often.

1 Q. Did you do any mining up in
2 that old Two Left --- old Two Left
3 area inby the sealed area?

4 A. Yeah, when I first started
5 there. When I first started at Sago
6 I worked up in there a little bit.

7 Q. Okay. Was there any --- was
8 there any additional methane up
9 there, more than, say, the Two Left
10 or what type of methane did you have
11 up there?

12 A. I don't really remember. I
13 don't know. I don't think it was
14 much up there either that I recall.
15 You know, I was running the shuttle
16 car, and I wasn't taking no gas
17 readings. I don't know.

18 Q. Yeah, I understand. Did you
19 ever hear of anyone talk about on
20 occasion more methane than usual?

21 A. No.

22 Q. Do you ever recall anyone
23 talking about cutting into any gas
24 wells or boreholes of any sort,
25 uncharted boreholes, ---

1 A. No.

2 Q. --- charted boreholes?

3 A. No. No.

4 Q. Any of those discussions?

5 A. No.

6 Q. Do you recall when the last
7 annual retraining class that you may
8 have had?

9 A. I had one over at Spruce, the
10 mine. I hadn't had one at Sago.

11 Q. Okay. When you came to Sago
12 Mine ---

13 A. Yeah, May.

14 Q. --- in May of 2005, ---

15 A. Yeah.

16 Q. --- did anyone --- was there
17 any training sessions held with you
18 on your initial day there?

19 A. Yeah, we had a company
20 meeting, one company meeting, when I
21 first started there.

22 Q. Okay.

23 A. It wasn't what you call annual
24 retraining or anything. It was ---.

25 Q. Can you describe that for me a

1 little bit and your first day?

2 A. My first day at work there?

3 Q. Yes.

4 A. Well, it was like any other
5 day.

6 Q. Well, what I mean is --- maybe
7 I didn't make myself clear. The
8 first day that you were at Sago Mine
9 ---

10 A. Yeah.

11 Q. --- in May of 2005.

12 A. Yeah.

13 Q. Okay. What I was alluding to
14 was the training that you may have
15 had on that first day, like you know,
16 going over escapeway maps or --- you
17 know, describe that.

18 A. Yeah, I don't remember having
19 any training.

20 Q. Did anyone talk to you about
21 escapeway or show you any escapeways
22 out of the mine or ---?

23 A. Well, I don't recall. They
24 might have went over escapeways on
25 the map with me. I don't recall.

1 Q. Your last training --- the
2 last annual refresher training would
3 have been while you were at --- well,
4 you tell me when.

5 A. I don't remember.

6 Q. Okay. Whenever you had
7 training, do you recall anyone
8 signing the paper, you signing a ---
9 they call them 5023s, signing the
10 paper?

11 A. Well, I had retraining since
12 I've been in Philippi, you know, just
13 a few weeks ago, but I haven't had
14 any at Sago, you know, annual
15 retraining. I had it for this year,
16 but I don't remember having it for
17 2005.

18 Q. Did you have any --- you
19 worked at Spruce prior to Sago;
20 right?

21 A. Yeah.

22 Q. Okay. Do you recall the
23 training that you had at Spruce Mine?

24 A. Well, the annual retraining,
25 that's all I had at Spruce.

1 Q. Do you know when that was?

2 A. No. I'd have to look and read
3 it. I don't know when it was.

4 Q. Okay. Was the --- do you
5 recall any time whenever the mine
6 emergency evacuation plan was
7 discussed with you, the plan that you
8 would follow in case of an emergency?

9 A. No. They probably went over
10 it with us. I don't remember, you
11 know, what date or nothing. Yeah, I
12 don't remember, but ---.

13 Q. Do you know who the
14 responsible person is on the surface?
15 In other words, the person who would
16 direct the emergency responses, you
17 know, getting the people out of the
18 mine and instructing the people what
19 to do? Do you know who that person
20 is?

21 A. Dispatcher.

22 Q. Dispatcher, okay. And who
23 told you that?

24 A. No one told me. I just know
25 it's the dispatcher.

1 Q. Okay. Are you familiar with
2 the --- do you know where those
3 emergency materials are located,
4 that's the thousand board feet of
5 cords and there's nails, saws ---?

6 A. The emergency shed?

7 Q. Yes.

8 A. On the section.

9 Q. Okay. Is that the only one in
10 the mine that you're aware of?

11 A. That the only one I'm ---
12 yeah. There might be more. I just
13 know where the one in the section is,
14 you know, where I work

15 Q. Are you familiar with the
16 evacuation procedures like if an
17 explosion occurs or anything?

18 A. Yeah.

19 Q. You're familiar with those.
20 Can you describe that to me a little
21 bit?

22 A. Well, the emergency escapeway,
23 if something happens, you head for
24 emergency escapeway. You know, if
25 it's --- if you can't go down it, you

1 use the secondary escapeway.

2 Q. Okay. Do you recall anyone
3 talking to you about the procedures
4 to follow in case of an explosion?

5 A. Well, my training is just, you
6 know, go until you get out and then
7 head for the fresh air and emergency
8 escapeway and ---.

9 Q. Is that something they
10 discussed during the training that
11 you did have?

12 A. Yeah. Yeah.

13 Q. Do you recall anyone talking
14 to you about --- during training
15 session about barricading, procedures
16 for barricading?

17 A. Yeah, I've heard that all my
18 years in the mines, you know,
19 barricading.

20 Q. During your training sessions?

21 A. Yeah. Sure, yeah.

22 Q. Are you certified for methane
23 and oxygen tests?

24 A. No.

25 Q. Do you recall any time

1 whenever the hazards of carbon
2 monoxide might have been discussed
3 with you?

4 A. My training, yeah, we go over
5 it.

6 Q. You go over the hazards of
7 carbon monoxide?

8 A. Yeah. Yeah.

9 Q. And I think you've already
10 mentioned, escapeways are discussed
11 as part of that training?

12 A. Sure. Yeah, they're always,
13 yeah.

14 Q. Have you participated in
15 escapeway drill?

16 A. Not at Sago, no.

17 Q. Do you know what I mean? What
18 I mean is where a boss or someone
19 walks with you the escapeway out to
20 the surface?

21 A. Yeah. I don't remember
22 walking the escapeway at Sago.

23 Q. Not at Sago but ---

24 A. At Spruce I did. But I
25 haven't walked it at Sago.

1 Q. Are you familiar with the
2 markings of the escapeway?

3 A. Yes.

4 Q. And how are they marked?

5 A. Green reflectors.

6 Q. Green for the intake?

7 A. Yeah.

8 Q. And what's the alternate's
9 markings?

10 A. Well, that's the track. I
11 don't remember. I don't know.

12 Q. Okay. Have you participated
13 in any fire drills? Have they had
14 any fire drills on the section?

15 A. Yeah, we had fire drills. You
16 know, Owen would go over the --- what
17 we supposed to do before we started
18 the shift.

19 Q. And kind of --- can you
20 describe that a little bit how
21 you ---?

22 A. Well, my job would be
23 communication.

24 Q. Okay. And others would have
25 other ---

1 A. Different, yeah.

2 Q. --- different jobs?

3 A. Yeah.

4 Q. Did you like simulate a fire
5 or something or anything like that?

6 A. No.

7 Q. Just more or less going over
8 the duties in case of ---

9 A. Right.

10 Q. --- a fire? Okay. How about
11 SCSRs. Was there any ever training
12 given to you on how to don an SCSR?

13 A. Yes.

14 Q. Can you describe that a little
15 bit to me, please?

16 A. The donning of the SC --- the
17 donning, just put it on ---.

18 Q. The training that you
19 received.

20 A. Well, in the annual
21 retraining, we'd have that. We'd
22 practice how to put it on.

23 Q. And how did they show you to
24 do that?

25 A. Well, you'd kneel, take your

1 hat off, put your light towards the
2 SCSR, break it apart, put your
3 mouthpiece in, your nosepiece, your
4 goggles, strap it on you and head
5 out.

6 Q. Okay. And what did they use
7 --- did you have to go through that
8 procedure?

9 A. Yes.

10 Q. And did they have like a ---?

11 A. The training thing, yes.

12 Q. --- the training model?

13 A. Yeah.

14 Q. And you used that?

15 A. Right.

16 Q. Okay. And during that
17 training, did they tell you like when
18 you should put your SCSR --- when to
19 don your SCSR? Did they tell you
20 anything about that?

21 A. Yes.

22 Q. Okay. What did they --- what
23 did they tell you about that?

24 A. Well, it was put it on when
25 you need it, you know.

1 Q. They didn't describe anything
2 else, just put it on when you need
3 it?

4 A. Well, yeah, fire, smoke,
5 whatever we had, yeah.

6 Q. Was first aid part of the
7 training?

8 A. Yeah, we had first-aid.

9 Q. Do you recall what was covered
10 in the first aid?

11 A. I don't know, a little bit of
12 everything on first aid, you know,
13 talk about your wounds and your burns
14 and shock.

15 Q. One other question on the ---
16 if I back up for a second here. The
17 SCSR, did you receive that hands-on
18 training while at Sago Mine at all?

19 A. No, just in my annual
20 retraining. You know, I hadn't had
21 the annual retraining yet at Sago.

22 Q. Okay. So you received that at
23 Spruce, am I correct in saying that?

24 A. Yeah, Spruce, yeah I had ---
25 yeah.

1 Q. Okay. Do you recall, was a
2 roof control plan reviewed with you
3 for the Sago Mine?

4 A. Yes.

5 Q. For the Sago Mine?

6 A. Yeah, we went over roof
7 control.

8 Q. And the ventilation plan?

9 A. Yeah.

10 Q. And you say that was done at
11 Sago?

12 A. Yeah, I'm pretty sure that was
13 done at Sago, yeah. I remember,
14 yeah.

15 Q. Do you recall when that might
16 have been?

17 A. No. It might have been some
18 time when I first started there,
19 yeah.

20 Q. The training that you did
21 receive, do you feel it was adequate?

22 A. Yes.

23 Q. Was there anything else that
24 you think should have been part of
25 the training?

1 A. No.

2 MR. SWENTOSKY:

3 Do you have anything,
4 Brian?

5 MR. MILLS:

6 Just a couple.

7 BY MR. MILLS:

8 Q. You talked about the
9 walkie-talkie. Did you bring it
10 outside with you?

11 A. Yeah.

12 Q. And there was only one
13 communication on the walkie-talkie,
14 and that was between you and the
15 other shuttle car operator?

16 A. Yeah, just the one.

17 Q. You didn't hear any other
18 conversations on it?

19 A. No.

20 Q. You mentioned that you worked
21 on the old Two Left section. Did you
22 do any roof bolting in that area?

23 A. I didn't work on the Two Left
24 section.

25 Q. The old Two Left, inby where

1 the seals were?

2 A. Inby the seals, yeah, I worked
3 there. Yeah.

4 Q. Did you do any roof bolting?

5 A. No.

6 Q. Did you do any work with
7 setting pumps, taking water pumps
8 out, hanging water pump cables, any
9 type of work in the old Two Left?

10 A. No.

11 MR. MILLS:

12 That's all I have
13 again.

14 MR. SWENTOSKY:

15 Can we take a
16 five-minute --- just like a
17 five-minute break real quick
18 here?

19 SHORT BREAK TAKEN

20 BY MR. SWENTOSKY:

21 Q. Mr. Avington, I just have some
22 follow-up questions and I'll try and
23 move on as quickly as possible for
24 you. The walkie-talkie that you were
25 using, where do you usually use that

1 walkie-talkie?

2 A. On the section.

3 Q. Okay. So inby the feeder?

4 A. Yeah. Inby the feeder, yeah.

5 Q. And use them up in the face
6 area?

7 A. Right.

8 Q. Okay. So you just carry it
9 with you on the shuttle car all the
10 time ---

11 A. Right.

12 Q. --- as you go back and forth?
13 And you use that to communicate
14 between the other shuttle car driver
15 I think you said; right?

16 A. Yeah, between the other
17 shuttle car and the miner operators,
18 the boss.

19 Q. Okay. When you were --- you
20 said you made that --- or had that
21 conversation with the other shuttle
22 car operator on your way out, was
23 there any attempt to contact the
24 Second Left crew ---

25 A. No.

1 Q. --- that you recall?

2 A. No, it was just too far away.

3 Q. Okay. So there was never any
4 attempt to do that?

5 A. No. It wouldn't have reached.

6 Q. Okay. After the explosion
7 occurred, was there any attempt to
8 use the mantrip that you came in on?
9 Did you attempt to use that to get
10 out at all? Was there any attempt?

11 A. No.

12 Q. And why was that?

13 A. I don't know.

14 Q. Okay. We spoke about the
15 training and talked about the
16 certificates that you have to sign or
17 you sign after you receive the
18 training. Where did you sign those
19 certificates that you spoke about?

20 A. Where did I take the training?

21 Q. Okay. You said you took it at
22 Spruce; is that correct?

23 A. Yeah.

24 Q. And is that where you signed
25 your certificate?

1 A. Yeah.

2 Q. Okay. And who else signed
3 that certificate?

4 A. The man teaching the class. I
5 don't know who it was. I don't
6 recall. I don't remember who had the
7 class.

8 Q. Okay. When you were up in the
9 old Two Left section, which ---
10 that's the area inby the seals we
11 spoke about earlier.

12 A. Right.

13 Q. Okay. When you were up there,
14 do you recall any unusual roof
15 conditions, such as --- maybe like
16 was there fossils or you know, any
17 unusual roof conditions, as far as
18 marks on the roof or anything like
19 that, do you recall?

20 A. No, I don't recall none, no.
21 I don't --- no.

22 Q. Nothing more than what you
23 usually see?

24 A. Right. Yeah.

25 Q. Did you ever have an

1 opportunity to assist in installing
2 belt at any time?

3 A. No.

4 Q. Like stretching belt out and
5 ---

6 A. Yeah.

7 Q. --- and hanging it?

8 A. No, I didn't do any of that
9 work.

10 Q. Okay. Did you ever observe
11 anybody else doing that job?

12 A. Well, no. You mean at the
13 Sago Mine?

14 Q. Yes.

15 A. No.

16 Q. Okay. The barricading we
17 spoke about earlier and you said you
18 had heard --- have been instructed on
19 barricading over the years actually
20 and during those training sessions,
21 was when and how to construct those
22 barricades, was that discussed?

23 A. Yes.

24 Q. And how --- do you recall
25 those instructions?

1 A. Well, find anything you can to
2 barricade, whether it be cement
3 blocks or Omega blocks or whatever,
4 you know, just try to make it the
5 best you can.

6 Q. Okay. And was there ever any
7 discussions on when not to --- not to
8 barricade?

9 A. Well, it's a last resort type
10 thing.

11 Q. Okay. You mentioned about the
12 SCSR training that you had and I
13 believe you said that they told you
14 whenever you have fire or smoke ---

15 A. Right.

16 Q. --- that that's when you ---.
17 And did they mention explosion at
18 all?

19 A. Yeah. Yeah.

20 Q. And why didn't you don your
21 SCSR?

22 A. I just didn't feel I needed
23 it.

24 Q. Okay. When was the last day
25 and shift that you worked at Sago

1 Mine?

2 A. Well, it would have been
3 Thursday, you know, before the New
4 Year's - - - .

5 Q. Okay. The Thursday before the
6 1st?

7 A. Yeah, whatever date, yeah.

8 Q. Whatever date that was?

9 A. Yeah.

10 Q. Okay. And what shift would
11 that have been?

12 A. Day.

13 Q. Dayshift?

14 A. Yeah.

15 Q. Have you ever been searched
16 for smoking materials?

17 A. Yes.

18 Q. Okay. And how do they do
19 that?

20 A. They just pat you down, you
21 know.

22 Q. And was that at the Sago Mine?

23 A. Yes, I've had it at Sago.

24 Q. Okay. How often do they do
25 that?

1 A. I don't know.

2 Q. Have you ever observed anyone
3 smoking underground?

4 A. No.

5 Q. Have you ever found smoking
6 materials underground?

7 A. No.

8 MR. SWENTOSKY:

9 Do you have anything?

10 MR. MILLS:

11 Yeah.

12 BY MR. MILLS:

13 Q. While you worked at Spruce,
14 right before you came to Sago, what
15 was your job title or occupation
16 there?

17 A. Shuttle car.

18 Q. Shuttle car. You mentioned
19 Omega blocks. Have you ever worked
20 with Omega blocks?

21 A. Yes.

22 Q. What kind of work have you did
23 with those?

24 A. Build the stoppings.

25 Q. Just ventilation stoppings?

1 A. Right.

2 Q. And was that at Sago or ---?

3 A. Yeah, I've built --- helped
4 build some at Sago, stoppings.

5 Q. With Omega blocks?

6 A. Yeah, Omega blocks.

7 Q. How about any seals? Have you
8 helped build any seals with Omega
9 blocks?

10 A. No.

11 BY MR. SWENTOSKY:

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

16 A. No.

17 MR. SWENTOSKY:

18 Let's go off the record
19 for a minute.

20 OFF RECORD DISCUSSION

21 BY MR. SWENTOSKY:

22 Q. Mr. Mills had just spoken to
23 you about building Omega block
24 stoppings. Could you describe how you
25 built those stoppings --- or let me

1 ask you this first, I'm sorry. Where
2 did you build those stoppings? Do
3 you recall?

4 A. Well, I helped build them at
5 Spruce and Sago on the section.

6 Q. On the section at Sago Mine
7 what ---

8 A. Yeah.

9 Q. --- what section?

10 A. The One Left.

11 Q. One Left?

12 A. Yeah.

13 Q. Okay. And can you describe
14 how you built those stoppings? Just
15 the procedure you used.

16 A. We just laid down the blocks
17 and, you know, plaster and mortar and
18 wedge them in on the sides and the
19 top.

20 Q. Okay. Whenever you prepared
21 for a stopping, did you --- what did
22 you --- how did you prepare that, the
23 bottom, you know, to make it level
24 and ---?

25 A. Well, just shoveled out the

1 best you could to make it level and
2 ---.

3 Q. Do you sprinkle, like, dry
4 mortar?

5 A. Rock dust.

6 Q. Rock dust?

7 A. Yeah, I've used rock dust
8 before to try to make it level.

9 Q. To level it out?

10 A. Yeah.

11 Q. And how about like maybe
12 mortar?

13 A. Yeah, mortar, yeah.

14 Q. Dry, wet?

15 A. Wet.

16 Q. Okay. You ever use dry mortar
17 to level it up?

18 A. Oh, maybe. I don't remember.

19 Q. Okay. Whenever you --- and
20 how did you prepare the blocks? Did
21 you use mortar on the vertical ---
22 the vertical sides and the horizontal
23 ---?

24 A. Yeah, just the sides and the
25 top and then plastered the rest of

1 it.

2 Q. Okay. Did you wet the blocks
3 at all whenever you were doing that?

4 A. No.

5 Q. No. What type of mortar did
6 you use?

7 A. B-Bond I think it's called.

8 Q. BlocBond?

9 A. Yeah, B-Bond, BlocBond. I
10 don't know what it's called. That's
11 ---.

12 Q. Okay. The color bags it comes
13 in? Yeah, I know ---.

14 A. I don't know.

15 Q. Like a blue bag, blue striped?

16 A. Blue, red, yeah, I don't know
17 what color it is. I don't know.

18 Q. Okay. Let me ask you this,
19 the material that you used to ---
20 when you say B-Bond, did it have
21 little styrofoam balls in it or is it
22 just ---?

23 A. I believe it was fiberglass.

24 Q. Okay. So it didn't have ---

25 A. Slivers.

1 Q. --- it didn't have any little
2 balls in it?

3 A. No.

4 Q. Okay. And whenever you built
5 the stoppings, and I had asked you
6 this a moment ago, but just for
7 clarification, did you use --- would
8 you dry stack them or would you use
9 ---?

10 A. Yeah, dry stack them.

11 Q. Okay.

12 A. Yeah.

13 Q. And then you used the ---
14 plastered them with the BlocBond; is
15 that correct?

16 A. Yeah.

17 Q. Okay.

18 MR. SWENTOSKY:

19 Did you have anything
20 else?

21 MR. MILLS:

22 That's okay. You got
23 them.

24 BY MR. SWENTOSKY:

25 Q. Do you have anything else that

1 you would like to add or anything you
2 want to tell us or think that you may
3 --- think that might be helpful?

4 A. No.

5 MR. SWENTOSKY:

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

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

1 you if we need to ask follow-
2 up questions that we feel that
3 we need to ask you. If at any
4 time you have additional
5 information regarding the
6 accident that you would like
7 to provide to us, please
8 contact us at the contact
9 information that was
10 previously provided to you,
11 and that was the business card
12 with Mr. Gates' number on it.

13 A. Okay.

14 MR. SWENTOSKY:

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

25 If you wish, you may

1 now go back over any answer
2 you have given during the
3 interview and you may also
4 make a statement that you
5 would like to make at this
6 time. Do you have anything to
7 add?

8 A. No.

9 MR. SWENTOSKY:

10 Again, we thank you for
11 your cooperation in this
12 matter. Thank you.

13

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15 * * * * *

16 SWORN STATEMENT

17 CONCLUDED AT 10:09 A.M.

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