

CONTINUED STATEMENT UNDER OATH
OF
DENVER WILFONG

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
Courthouse, 324 West Main Street,
Clarksburg, West Virginia, on
Friday, February 17, 2006, at 8:37
a.m.

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P R O C E E D I N G S

MR. SWENTOSKY:

My name is Dennis Swentosky with the Mine Safety & Health Administration, here at the U.S. Bankruptcy Court in Buckhannon, West Virginia, on February 17th.

ATTORNEY WILSON:

Clarksburg, West Virginia.

MR. SWENTOSKY:

Clarksburg, West Virginia. On February 17th to continue our interview with Mr. Denver Wilfong.

ATTORNEY WILSON:

We'll just remind you --- you realize you're still under oath?

A. Yeah.

DENVER "DICK" WILFONG, HAVING BEEN PREVIOUSLY SWORN, TESTIFIED AS

1 FOLLOWS:

2 -----

3 BY MR. SWENTOSKY:

4 Q. Okay. Yesterday, you went
5 over the --- a lot of the electrical
6 things. And I'll kind of try to stay
7 away from that. And I wonder if we
8 could just kind of go back. And I
9 know you've mentioned some of these
10 things that I'll be reiterating on.
11 But to just kind of get a timeline
12 here. But anyway, what time did you
13 arrive at the mine on the morning of
14 the accident?

15 A. I usually arrive at five
16 o'clock. Right around ---.

17 Q. And did you arrive at that
18 time?

19 A. Right around there, yeah. I
20 don't have an exact time.

21 Q. Okay. That's fine.

22 A. I'm usually there an hour
23 before work time. We start at 6:00,
24 so I'm there at 5:00.

25 Q. And that's your normal time

1 that you arrive?

2 A. Yes, sir.

3 Q. Okay. Okay. From that
4 morning, can you kind of just kind of
5 briefly go through what activities
6 you performed?

7 A. That morning, the midnight
8 shift wasn't working. I mean, they
9 had some fire bosses there, I guess,
10 the pre-shifters.

11 Q. Sure.

12 A. But the crews weren't working
13 as usual, because it was a holiday.
14 And they were off that Sunday. And
15 we were just --- those guys was
16 getting their stuff ready. I was
17 talking to the mechanics, Jackie
18 Weaver and Hoy Keith.

19 Q. I didn't have any --- I didn't
20 know what was going on. I assumed
21 everything was okay and told them if
22 they needed anything when they got in
23 there, if they realized they needed
24 any materials or parts or help,
25 holler at us. Me and Vernon was

1 there --- Vernon Hofer, my
2 maintenance foreman, was there to
3 help them if they needed anything.
4 And then, you know, we was drinking
5 coffee and talking. And then they
6 --- course, they went in around six
7 o'clock.

8 Q. When you say they ---?

9 A. The crews, the mechanics and
10 the boss --- both two crews and the
11 outby people that were out there went
12 in.

13 Q. Okay.

14 A. And then about 6:30, near as I
15 can tell, or I thought it was 6:30,
16 is when the --- Vernon was standing
17 next to the window there and he said,
18 my goodness, what a bolt of
19 lightning, you know, went through
20 there, it looked like.

21 Q. And you were --- at that time,
22 you were in your office?

23 A. Yeah, in there with the
24 window. It lit the sky up out there.
25 I looked out there and it was just

1 all ---. And he said, my, what a
2 bolt of lightning. And a big clap of
3 thunder, like. And that's unusual
4 for January the 2nd, so ---. Then it
5 wasn't but a minute or two is when
6 Bill Chisolm called and said ---.

7 Do you just want the story, or
8 what? Do you want to ask specific
9 questions? I'm sorry.

10 Q. No, no. That's fine. I mean,
11 we're just kind of ---.

12 A. Well, Bill called in, Bill
13 Chisolm, and said that he lost
14 communications on the CO. That's
15 when we thought we had fuses blown.
16 That's what I --- you know, that's
17 what we thought. That's what I said
18 yesterday. It's the same thing. We
19 thought we had those little 200
20 milliamp --- or 250 milliamp fuses in
21 those boxes have blown in storms.
22 And just at times, a spike in the
23 power or anything, they'll blow those
24 fuses.

25 Q. And Bill Chisolm, he ---?

1 A. He's the dispatcher.

2 Q. Right. And he called you?

3 A. Yeah. He called --- yeah. He
4 called me and said the CO system was
5 acting up. He didn't realize what
6 had occurred, I guess. He just
7 thought he had power outages. It
8 turned grey in some areas. And it'll
9 do that when it blows fuses and
10 stuff.

11 Q. Okay. And he called you on
12 the mine phone?

13 A. Huh?

14 Q. Did he call you on the ---?

15 A. Mine phone.

16 Q. Mine phone.

17 A. Yes, sir.

18 Q. That's the pager phone?

19 A. Yes, sir. Yes, sir. That's
20 what he called us on. And I don't
21 have any other phone in my office.

22 Q. Okay.

23 A. I mean, other than an outside
24 telephone.

25 Q. Yeah. I understand.

1 A. And I answered. And that's
2 when I gave Vernon those fuses and
3 told him to go down there and check
4 the system and replace what fuses he
5 needs and be sure to put the spares
6 back in the boxes. And I gave him a
7 handful of fuses.

8 Q. Uh-huh (yes).

9 A. And he mentioned that they
10 wasn't the right fuses and he had to
11 look in his meter and check them and
12 they were and he left. And then he
13 went down on the bottom. It
14 wasn't --- I don't know how many
15 minutes occurred and then Owie ---
16 Owen Jones called and he said he had
17 a problem. He didn't know what
18 happened. But the dust, the smoke,
19 boy, he didn't know what was going
20 on.

21 Q. Did he talk to you?

22 A. I was on the phone when he
23 called. I got Jeff. I hollered at
24 Jeff Toler ---

25 Q. Uh-huh (yes).

1 A. --- to get on the phone, the
2 superintendent. And he got on the
3 phone also. Bill --- or William
4 Chisolm was on the phone. And Owie
5 said he was putting his crew in the
6 intake, and they was coming outside.

7 Q. And what exactly --- do you
8 recall what exactly he said?

9 A. Not word for word, no. I was
10 excited. No, I don't. And as far as
11 the time, according to what they
12 found later, it was like 26 or
13 something like that after I --- when
14 that occurred. I'm not sure. But it
15 was a little bit before he called,
16 because they was in that blast. They
17 felt that, it knocked them off the
18 jeep and all that stuff. They had to
19 get gathered up there.

20 Q. Yeah.

21 A. And I don't know why they
22 didn't try the jeep, but they didn't.
23 I mean, I would have thought they
24 would have tried the jeep, but I
25 guess they was so shook up they

1 didn't. Because the jeep ran and it
2 wasn't off the track, so ---.

3 Q. Okay. Whenever Mr. Jones
4 called --- and I had asked you, do
5 you remember exactly what he said.
6 But what do you remember?

7 A. I just remember him saying
8 something occurred. He didn't know
9 what happened. He just felt a big
10 gush of air.

11 Q. Okay.

12 A. And heck, I've seen big roof
13 falls, you know.

14 Q. Sure.

15 A. I didn't know what happened.
16 And he didn't know what happened for
17 sure. But he said he felt a lot of
18 wind. And that'll happen in a fall
19 and that'll happen in an explosion,
20 you know. And dust. And they got
21 out of the --- and he was putting his
22 crew in the intake. And then I
23 hollered at Jeff. Course, Jeff got
24 on there with him. And I grabbed my
25 stuff, my belt and stuff, my hat.

1 Q. Uh-huh (yes).

2 A. And I hollered at Vernon and
3 told him not to go in the mines. Get
4 a jeep ready, that we was going in
5 the mines to see what had occurred.

6 Q. And you told who not to go in
7 the mine?

8 A. Vernon. I told him not to
9 leave yet.

10 Q. Oh, okay.

11 A. That we wanted to go in with
12 him. Just to get a jeep ready, we
13 was all going in.

14 Q. Okay. And who --- when you
15 say all, who ---?

16 A. That was me. And I didn't
17 know who all was going. I knew Jeff
18 was going. I knew I was going. I
19 didn't know ---.

20 Q. Yeah.

21 A. And Jeff Toler, of course, he
22 come. He was ready to go. And Al
23 Schoonover was ready to go. And I
24 don't know how many detectors --- I
25 didn't have anything.

1 Q. When you say anything,
2 meaning?

3 A. My hands and feet and my belt
4 and hat and light. I didn't have
5 anything. And maybe a Crescent
6 wrench, a little one in my pocket or
7 something. I didn't have anything as
8 far as a detector.

9 Q. Okay.

10 A. You know, anything at that
11 time. I didn't have nothing.

12 Q. Well, did you go in the ---?

13 A. I run down over the hill
14 first. And run to the fan to see.
15 And that little spike was on that fan
16 chart, and I swear I didn't see it.
17 And I mean, I went over to look for
18 it. And it was just a little fine
19 spike plumb up off the chart and
20 back. It went --- just that real
21 thin line.

22 Q. Yes.

23 A. And that fan chart runs a
24 chart about that wide. And I didn't
25 notice that spike. I went down there

1 to see it. But it wasn't big, I
2 guess and I was excited. I didn't
3 see it.

4 Q. So at that time, you didn't
5 see it, but you know it's there now?

6 A. I seen it when I come out.
7 When I come back out of the mine.

8 Q. Okay.

9 A. They wanted the fan chart and
10 I went down there and got it. And I
11 seen it at that time. But when I
12 first run down there, I don't know if
13 it was just excitement or I was
14 looking for something bigger, I
15 guess, you know.

16 Q. Sure.

17 A. Maybe I thought it --- I
18 thought it was going to be out of
19 kilter with what it normally ran.

20 Q. Uh-huh (yes).

21 A. And it had ran over. And I
22 changed it and run over to the jeep,
23 because them guys was getting their
24 stuff. You know, everybody was
25 getting ready to go. And I run over

1 and we all got on the jeep, the four
2 of us.

3 Q. Can we just back up a second?

4 A. Yes, sir.

5 Q. Okay. And that's fine. I
6 appreciate all the information.

7 A. Okay.

8 Q. But I just want to fill in.
9 Once you were getting prepared to go
10 on the ground and you had been on the
11 phone with Mr. Chisolm and ---.

12 A. Mr. Jones, yeah.

13 Q. And Mr. Jones. Okay. But did
14 you go back --- did you go into the
15 lamp house? I assume you did that to
16 get your light?

17 A. No. My light's in my office.

18 Q. Okay.

19 A. And I was carrying it in my
20 hand. I don't even think I had it
21 all on. I was putting it on going
22 down the hill.

23 Q. Did you go into the lamp house
24 trailer at all?

25 A. I might have went in there and

1 stuck my check on the board. I
2 probably jumped up on there and maybe
3 even Bill Chisolm put that on for me.
4 I'm not even sure. Because he'll do
5 that.

6 Q. Okay.

7 A. Because he knows --- he'll
8 say, I'll get your tag. And whether
9 he did or not, I can't answer that.

10 Q. Okay. Do you remember looking
11 at the CO monitor screen?

12 A. No. I didn't go in the --- I
13 didn't look at the screen. I know
14 that.

15 Q. Okay.

16 A. I just run over the hill ---.

17 Q. Did you have any additional
18 conversations with Mr. Chisolm at
19 all?

20 A. Right then?

21 Q. Yes.

22 A. If I did, I don't remember. I
23 don't know --- I know I told him we
24 was going inside.

25 Q. Okay.

1 A. And we'll try to see what was
2 going --- try to get ahold of them
3 crews.

4 Q. Yes.

5 A. I told him to try to get ahold
6 of Two Left. We done heard from One
7 Left. I said, try Two Left and just
8 keep trying Two Left. And then I run
9 down and got on a jeep. I got that
10 chart and then we got on the jeep.

11 Q. What'd you do with the chart?

12 A. I just --- I changed the chart
13 in the fan when I was in there and
14 left the old one lay right there
15 beside of it and run in the mines. I
16 didn't put it up or do nothing with
17 it. I just took off.

18 Q. You just changed it?

19 A. Yeah. I just put a new one in
20 there and took off.

21 Q. Okay. Did you say it ran
22 over?

23 A. It had ran over, yes.

24 Q. Okay. And why is that?

25 A. It wasn't changed on the

1 weekend. It was a miscue, I guess.

2 Q. Okay.

3 A. I think that one ran over.

4 I'm sure it did, or I wouldn't --- I
5 think that's why I changed it.

6 Q. Okay. The fan did operate on
7 the day prior to the accident?

8 A. Oh, yes. Oh, yes.

9 Q. It wasn't shut off?

10 A. No.

11 Q. I see. Okay. When you went
12 underground, did you take any
13 walkie-talkies or anything like that
14 with you?

15 A. I didn't have anything.

16 Q. Nothing?

17 A. And I don't know that --- I
18 don't think anybody else did, because
19 everybody was just excited and run
20 off, I think.

21 Q. Okay.

22 A. I don't even know if Toler had
23 a detector. I can't answer. I don't
24 know. I know I had nothing.

25 Q. Okay.

1 A. And I wish I had some stuff,
2 but I didn't.

3 Q. And there was Mr. Toler, Mr.
4 Jeff Toler?

5 A. Yes, sir.

6 Q. And Mr. Schoonover?

7 A. Yes, sir.

8 Q. And ---

9 A. Hofer ---.

10 Q. Mr. Hofer?

11 A. And myself.

12 Q. And yourself?

13 A. Yes, sir.

14 Q. Okay. And no one had a
15 detector that you can recall?

16 A. Well, if they --- Al might. I
17 don't think anybody did at the time.

18 Q. Okay.

19 A. But anyway, we went in the
20 mine and met Jamison just two or
21 three breaks in there. He was
22 walking up the hill. He's an outby
23 belt man.

24 Q. Would that --- you was talking
25 about two or three breaks in there.

1 That's in by the portal?

2 A. Yeah. We started down the
3 hill. We started in the mine.

4 Q. Okay.

5 A. And he was right there near
6 the top of the hill. But I don't
7 know exactly how far it was. It
8 wasn't very far. And he was headed
9 out. And Jeff asked him if he was
10 all right. We didn't even stop. We
11 just slowed down, asked him if he was
12 okay and he said, yeah, he was going
13 out. He said, okay. Get out of
14 here. And we went on down the hill.

15 Q. Okay.

16 A. And we didn't see anybody else
17 'til we got down to about --- I think
18 it was One Right switch. And I told
19 that Boni boy to come outside when
20 Owen was on the phone and he got on
21 there and said he felt a pop in his
22 ears. I asked him if there was any
23 smoke or dust where he was ---

24 Q. And you're saying ---.

25 A. --- he was in Four drive. Pat

1 Boni.

2 Q. Pat Boni?

3 A. Yeah.

4 Q. And what is his position?

5 A. He's a belt man. He's an
6 outby belt man.

7 Q. So when you were on the phone
8 with Mr. Jones on the surface ---?

9 A. Yeah. When Jones called out,
10 that boy got on the phone. And I
11 asked him if there was any smoke or
12 dust or anything where he was. And
13 he said no. And he was at Four
14 drive, which is right about halfway
15 in there. And I thought, you know,
16 if we had anything severe, he would
17 have seen it. But all he said he
18 felt was a pop in his ears, like he
19 topped a mountaintop.

20 Q. And Four drive is along --- is
21 that called Two North Mains, or what
22 do they call that?

23 A. That's just the mains. I
24 don't know.

25 Q. The mains? Okay.

1 A. I don't know what they call it
2 on the map.

3 Q. Okay. So you had told him
4 just to come outside?

5 A. I told him to get in the
6 intake and come out of there. Yes,
7 sir.

8 Q. Okay.

9 A. And then we picked up his
10 father at One Right switch, or right
11 in that area.

12 Q. Okay.

13 A. John Boni.

14 Q. John Boni.

15 A. And he's a foreman and he had
16 --- he had a detector with him, now.

17 Q. Okay. What conversation did
18 you have with him?

19 A. We just slowed down there and
20 he jumped on the jeep. I asked him
21 if he knew what happened and he said
22 something happened, but he didn't
23 know what happened. He thought we
24 might have had a little explosion or
25 something, he said. So that was at

1 --- when we picked John up and we run
2 right --- he jumped on the jeep with
3 us, which made five people on the
4 jeep. And we run down there to that
5 phone. That's when I was saying we
6 couldn't talk on the trolley. I was
7 saying, stop at the next phone. And
8 I missed it. We went by the supply
9 hole before I could tell Al that.
10 There's a good phone there, you know,
11 where we always talked. And I wanted
12 to stop. That's at Nine block on the
13 Four belt. But we went by that
14 phone. And I said, stop at the next
15 phone. And they said, there's a
16 phone right down the heading here at
17 20-some block. So we stopped at that
18 phone and that's when ---.

19 Q. And where did you see Pat Boni
20 at?

21 A. I never did see Pat Boni 'til
22 I got outside.

23 Q. Okay. So ---.

24 A. I told him to get in the
25 intake and come outside, which he

1 done. And I told John when John got
2 on the jeep that I'd sent his son ---
3 maybe John knew it. I don't know.
4 But anyway, that boy had left there.

5 Q. Okay. So the only people you
6 saw was the gentlemen at the portal?

7 A. Pit mouth there, yeah, close.

8 Q. And ---.

9 A. John Boni.

10 Q. John Boni was ---?

11 A. Yes, sir. At that time,
12 that's all we'd seen, those two
13 people. And we picked John up. Like
14 I said, he got on the jeep with us.

15 Q. Okay.

16 A. Because he's an experienced
17 miner.

18 Q. Sure.

19 A. And a good miner. And he went
20 with us.

21 Q. Okay.

22 A. And then we stopped at that
23 phone. Because I wanted to call the
24 dispatch to see if he'd got ahold of
25 Two Left, if he'd heard anything from

1 anybody else. I stopped at that
2 phone and called Bill Chisolm,
3 because I was setting on the edge of
4 the jeep. I jumped out of there and
5 grabbed that phone, called outside.
6 I said, did you hear from anybody?
7 He said he hasn't heard from another
8 soul.

9 Q. And is that the only person
10 that you spoke to, was Mr. Chisolm,
11 at that point?

12 A. At that point there, I think
13 --- I'm not sure if that's when Owie
14 got on there. I don't know. I
15 talked to Owie one time and I know I
16 told him to get the hell out of
17 there. I don't know exactly how I
18 told him. But I told him to get his
19 butt back there before he got down.
20 Because he was trying to go get his
21 brother, had no rescuer, no hat. He
22 didn't ever put his self-contained
23 self-rescuer on.

24 Q. Okay.

25 A. But I don't think that was

1 when I talked to him. I think it was
2 the next time. I'm not positive,
3 though. But anyway, I asked if he
4 had heard from anybody.

5 Q. So you spoke to him on the
6 surface, but you're not sure whether
7 you spoke to him at Nine block?

8 A. I spoke to him. It wasn't
9 Nine block where I talked. It was
10 20-some block.

11 Q. Or excuse me. Twenty
12 (20)-some block.

13 A. Okay. When I stopped at that
14 phone, I jumped back on the jeep and
15 the jeep just moved a little bit, and
16 that's when Joe Ryan stuck his head
17 out. I don't know how many blocks,
18 you know, how far we moved. But we
19 didn't move very far. And Joe Ryan
20 and the crew had heard our jeep on
21 the track.

22 Q. Okay.

23 A. And they stuck their --- Joe
24 stuck his head through the man door.
25 We hadn't seen anybody until that

1 point, other than John Boni.

2 Q. Okay. At that point there,
3 had you seen any indications of
4 explosion or dust or anything?

5 A. No. No.

6 Q. Everything seemed to be clear?

7 A. It was clear.

8 Q. Okay. It was clear.

9 A. But I didn't --- we had passed
10 some damage, but we didn't know it.
11 You know, we wasn't really looking
12 for it. Because the air was clear.
13 There was no dust or smoke.

14 Q. So when you passed --- you say
15 you passed damage --- when you say
16 you passed damage that you didn't
17 know about, you found that out ---

18 A. That was later.

19 Q. --- later?

20 A. That was later. Yeah. It was
21 clear and we didn't see any smoke or
22 dust or anything outby there. That
23 overcast was definitely damaged, but
24 we didn't realize it at that time.

25 Q. You say that overcast. You

1 mean that One Right?

2 A. Yeah. Somewhere. Two Right.
3 Somewhere in there. Where that
4 overcast was damaged in there. There
5 was damage and we hadn't seen it.

6 Q. Okay.

7 A. And when I --- of course, we
8 wasn't really looking for it.

9 Q. Sure.

10 A. We was looking for people.

11 Q. I understand.

12 A. And the air was clear. And we
13 seen no debris in the track, you
14 know, nothing to indicate a problem.
15 Readily noticeable, we'll put it that
16 way.

17 Q. Okay.

18 A. So then, when we started to
19 move again, that's when Joe hollered.
20 And he --- I said, who all's there?
21 He said, we got the whole crew except
22 for that Paul Avington and there's a
23 belt man with him.

24 Q. Would it be Ron Grall?

25 A. Ron Grall. And they had left

1 them and was ahead of them. And I
2 told them to get out of there.

3 Q. Ahead meaning outby?

4 A. Yeah. Outby. They was at
5 Nine. They was getting close to Nine
6 block. Because when I got on the
7 phone the next time, that's when Ron
8 got on there, said he was at Nine
9 block. And I asked him ---.

10 Q. Sorry to keep interrupting
11 you.

12 A. Okay.

13 Q. But you're going pretty fast
14 for me.

15 A. All right. Well ---.

16 Q. I'm trying to keep up here.

17 A. I thought about this millions
18 of times, you know.

19 Q. Yeah. Yeah. But like I say,
20 I'm sorry. But I'm going to have to
21 do that.

22 A. Okay. All right.

23 Q. Because you're moving.

24 A. I want out of here today.

25 Q. We can guarantee that.

1 A. Well, anyhow --- anyhow,
2 he --- Joe Ryan stuck his head
3 through there and said they was
4 having trouble with Hoy and Roger
5 Perry, that miner operator that has
6 the wooden leg. I said, get
7 everybody out here. It's fresh air.
8 Get out here and we'll get you on the
9 jeep and get you outside.

10 Q. Was Mr. Toler or Mr.
11 Hofer ---?

12 A. All of them was with us.

13 Q. Okay.

14 A. We was still on the jeep.

15 Q. Okay. But did they say
16 anything or did they have any
17 conversation?

18 A. They did, I'm sure. But when
19 I seen them guys, they started
20 telling us about the stopping out at
21 32 break. And they'd come through
22 the stopping and what all they'd
23 felt. You know, what all had
24 happened to them, knocked them off
25 the jeep and all that stuff.

1 Q. And who told you that?

2 A. The crew. Those guys as they
3 was coming in. Which ones, I can't
4 honestly --- I don't know.

5 Q. Okay. And ---.

6 A. I know them all and they was
7 all --- all of them had something to
8 say, you know.

9 Q. Okay.

10 A. I mean just about all of them.
11 Except for old Hoy. He couldn't
12 hardly move. He --- they was getting
13 him out of there.

14 Q. Did they have SCSRs on?

15 A. Yes, sir. Yeah. Joe did when
16 he stuck his head through and I told
17 Toler that I was going to the phone.
18 And I don't know if we stopped at the
19 phone or I run back to the phone to
20 call out. I think I run back to the
21 phone while I told John and them to
22 do a head count and get them men on
23 the jeep. And I went to the phone
24 and called Bill Chisolm and told him
25 we needed to alert both agencies and

1 we need rescue teams and we needed
2 help immediately, we had a problem.

3 Q. Okay. Excuse me. Did any one
4 of those --- the crew members from
5 the One Left that came through the
6 stopping, did any of those people
7 have any walkie-talkies at all; do
8 you recall?

9 A. I'm sure they did. But we
10 didn't even think to get them.

11 Q. Okay.

12 A. I'm sure they did.

13 Q. So then ---.

14 A. They always carry them, you
15 know.

16 Q. Okay. Let me just ask you
17 this question up front, and then we
18 can get rid of this one.

19 A. Okay.

20 Q. Did anyone use --- attempt to
21 use any walkie-talkies to contact Two
22 Left crew at all; do you recall?

23 A. If they did, I did not hear
24 them do so, no, sir.

25 Q. And you didn't do that ---?

1 A. No, sir. I didn't have one.
2 I didn't do that. And we didn't
3 think to get them. I think that was
4 just excitement and oversight. I
5 don't know whether Owen had when he
6 was down there at the switch or not.
7 I think maybe he --- now this is
8 hearsay. I think I heard him say
9 that he did, but he didn't tell me
10 that directly then. I don't know.

11 Q. Who did attempt to call?

12 A. I don't know. I think maybe
13 Owen Jones did. But I don't know
14 that --- the boss. But I don't know
15 that for sure.

16 Q. So anyway, the walkie-talkies,
17 to your knowledge, were never used to
18 contact the Two Left crew?

19 A. I didn't use any. I didn't
20 see anybody else use any in my
21 presence.

22 Q. Okay. Do you recall or has
23 anyone told you that they did or not
24 since that time?

25 A. No. Not definitely, no.

1 Q. Okay. Okay. So you ran back
2 to the telephone?

3 A. Yes, sir.

4 Q. And then what did you do?

5 A. I called Bill Chisolm and told
6 him to notify the two agencies, state
7 and federal, to get rescue teams,
8 that we needed help.

9 Q. Okay.

10 A. We had an explosion and we had
11 a bad situation. We needed help.
12 And I knew ---.

13 Q. And at that point, then ---.

14 A. Ron Grall got on the phone at
15 that point and said they was at the
16 supply hole, Nine block.

17 Q. Okay. And you said explosion.
18 And how did you --- what made you
19 think you had an explosion?

20 A. Those guys --- what they told
21 me.

22 Q. Okay.

23 A. And looking at them, they were
24 dusty, you know.

25 A. Yeah. Sure.

1 Q. It was a lot more severe than
2 what I thought when I seen those men.
3 I didn't realize until I seen that
4 crew how severe the situation was.

5 Q. And I apologize. But getting
6 back to those walkie-talkies, what is
7 their capabilities?

8 A. Those that we had had to be
9 pretty much a straight line. They
10 would talk around 1,000 feet.

11 Q. In a straight line?

12 A. Yes, sir. If you was around
13 corners and stuff, not that good.

14 Q. So someone in Number One entry
15 would not be able to speak to someone
16 in Number Two entry if they were in by
17 the crosscut in some fashion?

18 A. Well, if they was close, they
19 could maybe. But if they was very
20 far, you know, around a couple
21 blocks, no.

22 Q. When you say very far, do you
23 have any ideas?

24 A. No. I don't use them. I
25 never had them. They use them on the

1 section. The boss --- you know,
2 having them for the crew to get ahold
3 of the belt crew and the buggy
4 runners and them carry them. I don't
5 carry one.

6 Q. Okay. So after you spoke to
7 Mr. Chisolm and you informed them to
8 get ahold of the agencies, and did
9 you say mine rescue teams, too?

10 A. Yes, sir. I asked for mine
11 rescue teams, that we needed help.

12 Q. And was that the extent of the
13 conversation at that point?

14 A. With him it probably was.
15 That's when Owie got on there. And I
16 think that's when I told him to get
17 his butt back there before he got
18 down. And I told ---.

19 Q. And where was he at that
20 point?

21 A. He was up around the switch,
22 One Left switch, trying to get up
23 toward his brother, towards Two Left.

24 Q. Is there a ---?

25 A. About 50 block or so.

1 Q. What did he say that made you
2 think that?

3 A. What?

4 Q. That he was trying to get ---.

5 A. Well, he didn't have --- he
6 wanted to go up there and he was
7 telling me how much smoke and stuff
8 he was in.

9 Q. Okay. He was telling you ---?

10 A. And he said it was smoke. He
11 said he was in a lot of smoke, he
12 couldn't hardly see. I said, get the
13 heck back out of there before you go
14 down. And he didn't even have his
15 rescuer on. Course, I didn't know
16 that.

17 Q. Did he tell you that he wanted
18 to go inby?

19 A. Yes. He wanted to go get his
20 brother. And I told him forget it,
21 you know, we'll get him in a minute.

22 Q. Yeah.

23 A. And I don't know exactly what
24 I told him.

25 Q. I understand.

1 A. But I didn't want him going in
2 there.

3 Q. Something to that effect?

4 A. I didn't want him going in
5 there. It wasn't good when I told
6 him to get back.

7 Q. Okay.

8 A. And then that's when Ron Grall
9 got on there at the same time and
10 said he was at Nine block at the
11 supply hole and I told him we was
12 loading the crew up. We had good
13 air. We was going out. And he said,
14 maybe they'll walk in. And Paul
15 Avington, he said something to him.
16 He said no, we'll ride, we'll catch
17 you right here. I said, we'll be
18 right there.

19 And John had them guys head
20 counting, me and John Boni and Vernon
21 took the crew out and Jeff Toler and
22 Al Schoonover stayed there. And I
23 told them to gather Owen Jones up and
24 get with Owen Jones and assess the
25 damages, what they could, get as far

1 as they could get. And that stopping
2 was out at 32 break, which was right
3 inby us a little bit. And we took
4 the crew and went outside.

5 Q. Can we just stop there for a
6 second? Maybe it'd be --- this'd be
7 a good time to maybe move over to the
8 map and you can kind of show me ---

9 A. Okay.

10 Q. --- where we're at and kind of
11 go from there.

12 A. Those boxes numbered, I can
13 show you. If they're spad numbers,
14 we're in trouble.

15 Q. Okay. Just before you start,
16 we want to move this microphone over
17 this way.

18 A. This is the man door. This
19 represents a man door. Yeah. I
20 think that's the one that Joe Ryan
21 come through. I think that's the one
22 they come through.

23 Q. Okay. So you ---.

24 A. I think.

25 Q. Can you circle that with the

1 black marker?

2 A. I think that's the one. I
3 think it's this right here that they
4 come through, I think.

5 Q. Okay. So wait a minute.

6 A. Okay.

7 Q. Okay. So you had circled a
8 stopping in between the track entry
9 and ---?

10 A. The intake.

11 Q. The intake, which is on the
12 right of the track?

13 A. Number Seven entry.

14 Q. Okay. Between Seven ---?

15 A. Six and Seven.

16 Q. Six and Seven entry crosscut
17 inby --- or that's the 27 block?

18 A. Yeah. I think that's the
19 stopping they came through.

20 Q. Okay.

21 A. I think that's where Joe stuck
22 his head through and I told him get
23 the crew out of there. And they told
24 me that that stopping back there was
25 blown out.

1 Q. Which one.

2 A. Thirty-two (32).

3 Q. Thirty-two (32).

4 A. Yeah. That's the first ---

5 Q. Would you circle 32?

6 A. --- that's the first damages.

7 Q. Okay.

8 A. I hadn't --- I didn't see them
9 yet. I couldn't see it from --- I
10 don't think when I took that crew
11 out.

12 Q. Okay. And that's --- you're
13 indicating at 32 block between Six
14 and Seven entry?

15 A. Yeah. That's the first
16 damages I knew of.

17 Q. You circled this stopping with
18 the black marker. Okay. All right.
19 Go ahead.

20 A. Then Owen Jones --- they were
21 right in this track switch here when
22 the explosion occurred. And they
23 would come through a man door --- I
24 think the second one in here. And
25 they said they tried to get through

1 one, I don't know if this one or this
2 one. This one, maybe. They told me
3 that.

4 Q. They meaning who?

5 A. The crew.

6 Q. The crew told you?

7 A. Yes, sir.

8 Q. That they traveled
9 between ---?

10 A. They went through a man door.
11 I think they said they tried the
12 first one and couldn't get through
13 it. It was too smoky or something.
14 And they went to this one, I think,
15 and went through it. And it'd be 48
16 block, I think. That's what they
17 said and they come back down the
18 intake.

19 Q. Okay. But stopping, you're
20 indicating that they --- that the
21 crew, One Left crew traveled through
22 that 48 block?

23 A. Yeah. I'm thinking. I think
24 that's the one.

25 Q. Between Six and Seven entry.

1 A. Yeah.

2 Q. Okay. That's circled with the
3 black marker.

4 A. That may not be accurate, but
5 that's what I understood them to say.
6 They couldn't get through that first
7 door, then they come back a door.

8 Q. Okay. You've got to slow down
9 a little bit.

10 A. Okay.

11 Q. To get this in the record, you
12 have to ---.

13 A. I think ---.

14 Q. Okay. All right. Then what
15 happened?

16 A. Well, I took the crew and left
17 and told Jeff and them to get with
18 Owie, which they did. And I took the
19 crew outside. Me and Vernon, and
20 John Boni went out with us.

21 Q. Did they give you any --- did
22 Mr. Schoonover or Mr. Toler, did they
23 give you any instruction at all?

24 A. Not at that time. I just told
25 them to go get Owie, they ---.

1 Q. So you gave them instructions?

2 A. Well, I asked them to. Yes.

3 I did. And then we went outside.

4 And then when I got outside, I told

5 Vernon to stay there at the --- we

6 got the crew off that jeep and they

7 started up the hill. And I run up

8 the hill to knock the power.

9 Q. To knock the power ---?

10 A. Outside. It was off at Two

11 head, which I didn't even know where

12 it was off at. But I went up to

13 check the substation and the yard,

14 because I knew we had an explosion

15 and I was going to get the power off

16 the mine. I told Vernon to stay

17 there at the air switch.

18 Q. And approximately what time

19 was it? Do you remember?

20 A. I'm thinking --- I never did

21 look at my watch. But I think it was

22 around --- those guys called home,

23 some of them, at 20 after 7:00 or so.

24 Q. When you say them guys, you're

25 talking about One Left crew?

1 A. The crew, yes, sir, called out
2 --- called their families. Ron Grall
3 told me he called before 7:30. Some
4 of them guys called ahead of him. So
5 he thinks --- and that's hearsay. I
6 don't --- honestly, I didn't look.
7 But I know I wasn't in there very
8 long getting that crew and we wasn't
9 very long getting them out.

10 Q. So when you came outside, you
11 went up and knocked ---

12 A. The substation.

13 Q. --- the power to the
14 underground portion of the mine?

15 A. Yes. Knocked the breakers and
16 everything on the monitors and
17 everything.

18 Q. Okay.

19 A. And told Vernon to pull the
20 air switch, disconnect at the pit
21 mouth and lock it out, which he done.
22 Tag it, and he did. And we --- on
23 the way out on the doors, we opened
24 the electric doors and closed the
25 manual doors because we knew we was

1 going to knock the power and we
2 wouldn't be able to use those doors.
3 I mean, I knew I was going to shut
4 that power off as soon as I got
5 outside.

6 Q. So when you got on the
7 surface, you went and knocked the
8 power off at the substation?

9 A. Yes.

10 Q. Mr. Hofer knocked the power at
11 the pit mouth?

12 A. Yeah. He disconnected --- he
13 pulled them after I hollered at him
14 and flagged him and told him to pull
15 them.

16 Q. Okay. What'd you do then?

17 A. I went into my office and
18 about the time I got in there, Jeff
19 Toler called.

20 Q. Okay.

21 A. And there was a couple men in
22 there. One guy was wanting his eyes
23 --- Roger Perry had dirt and debris
24 in his eyes.

25 Q. Okay.

1 A. And he wanted help with his
2 eyes. And I was trying to --- I was
3 getting something to help him with
4 his eyes. And then Jeff hollered on
5 the phone and said he needed curtain,
6 nails, spads, detectors. Because I
7 guess he hadn't --- he didn't have
8 any and maybe just Owie's is the only
9 one they had. He wanted detectors
10 and ---.

11 Q. Let me ask you this. You're
12 talking about detectors. Now, you
13 had Mr. Boni with you, you picked him
14 up on the way in?

15 A. Yes. Yes.

16 Q. Did he have a detector?

17 A. Yes, he did.

18 Q. Okay.

19 A. But I don't know if Jeff got
20 it or who got it.

21 Q. Okay. But I mean, did ---?

22 A. I don't know if he brought it
23 outside with him. I can't answer. I
24 don't know.

25 Q. Okay. Do you recall it ---

1 the alarm going off on it at all?

2 A. No. No.

3 Q. It didn't go off?

4 A. Not as far as I know, it
5 didn't.

6 Q. Okay.

7 A. I didn't hear any alarms on
8 the jeep.

9 Q. Did anybody ask, like check
10 the methane and the --- or make a
11 detection at all?

12 A. Not when we got the crew. We
13 hadn't encountered anything.

14 Q. Okay. Well, we're just ---.

15 A. I assume --- Jeff might have
16 had a detector. I can't honestly
17 say. I know I didn't have one. I
18 did when I went back, but I didn't
19 have any the first trip.

20 Q. All right. Go ahead.

21 A. All right. Then Jeff called
22 and said he needed materials, so I
23 started gathering up telephones.
24 Vernon started gathering up
25 detectors. We started gathering up

1 everything that he had asked for.

2 Q. Okay.

3 A. And the yard man, Marsh, Gary
4 Marsh, gathered up curtain that was
5 down at the jeep. He gathered up
6 nails and spads, put them on the
7 forklift and run them down there and
8 we load --- there's two men that
9 usually start at 7:00, an hour after
10 the crews --- general laborers, like
11 red hats, I think. They helped us
12 load that material. I don't know who
13 they were. Young boys.

14 Q. Okay.

15 A. Young men. And they helped us
16 throw curtain --- we filled that jeep
17 full of curtain and nails, spads,
18 phones, hammers, what materials we
19 could get.

20 Q. Where would those materials
21 have come from?

22 A. The curtain was sitting right
23 there on a pallet in the yard. I
24 don't know if Gary had carried it
25 down there or it was already there.

1 But there was a whole pile of curtain
2 right there by the track.

3 Q. Okay.

4 A. And they keep it there,
5 usually.

6 Q. Okay.

7 A. So them guys can just grab a
8 roll when they go in.

9 Q. Were the nails and all that
10 stuff out there, too?

11 A. They're at the trailer, up at
12 the top in the building. And Gary
13 had taken them boxes. And then we
14 had cans of spads and nails.

15 Q. When you say Gary, Gary ---?

16 A. Gary Marsh.

17 Q. Okay.

18 A. The yard man. And we loaded
19 that jeep full of material with the
20 phones. And Vern said, we'll stop at
21 the supply hole, because he had a
22 tool box there. He'd get a couple
23 more hammers and an axe or something.

24 Q. Well, how many detectors did
25 you have with you at that time?

1 A. I don't know. We had rescuers
2 too, you know. We had self-contained
3 self-rescuers, some extra ones. But
4 how many detectors and how many
5 rescuers we had, I don't know.

6 Q. Were they already there or did
7 you pick them up?

8 A. Vernon gathered most of that
9 up.

10 Q. Gathered that stuff up?

11 A. Uh-huh (yes). I gathered up
12 telephones and hammers and stuff like
13 that.

14 Q. Okay.

15 A. Well, we loaded that material
16 on the jeep and we went in the mine
17 and we stopped at the supply hole at
18 Nine block and Vernon jerked his
19 toolbox open and looked in there. I
20 think he had a an axe or maybe
21 another hammer. I don't know what he
22 did get out of it. He got some tools
23 out of the box, throwed them on the
24 jeep. It's right by the track.

25 Q. And that's Nine block ---

1 A. On Four belt.

2 Q. --- on Four belt?

3 A. Yeah. By the supply hole.
4 His toolbox sits right outside it.
5 He has a couple boxes there. He
6 opened up that box and got a couple
7 more hammers out.

8 Q. Do you have any idea what time
9 that might have been?

10 A. No. It couldn't have been too
11 long. I don't know. I have no idea
12 of the time. I didn't realize it was
13 that late when we came out.

14 Q. But I just want to ask you for
15 the record.

16 A. Yeah. I understand. But I
17 never looked at my watch. I don't
18 have a clue what time it was. I was
19 running as hard as I could. We got
20 on the jeep then and we went down to
21 32 break and Al ---.

22 Q. And 32 break ---?

23 A. That's where the stopping was
24 out.

25 Q. Okay.

1 A. The first one, half out or
2 whatever, had damage.

3 Q. All right.

4 A. We stopped right there and Al
5 and all of them was back there. Owen
6 and them come back there. We hung
7 our first curtain right there. And
8 then we got on the ---.

9 Q. Whoa, whoa. Wait a minute.
10 Let's use a purple marker.

11 A. Okay.

12 Q. And if you could identify ---
13 or just draw where you put the first
14 curtain.

15 A. The first curtain was right
16 there. And I got out my ---.

17 Q. And that's at 32 block between
18 the track entry and ---

19 A. That's the same one the
20 door ---.

21 Q. --- Six and Seven entry at 32
22 block?

23 A. Correct.

24 Q. Okay. You installed that?

25 A. We hung that curtain. And we

1 got on the jeep and we rode to 42
2 block. That was the next curtain.
3 That's where we parked the jeep,
4 unplugged the batteries. And this
5 stopping was out right here.

6 Q. Okay. Was there any other
7 stoppings that you --- or were you
8 checking the stoppings at the inby?

9 A. Yes. Yes, sir. We was trying
10 to keep, you know, on the track. We
11 just wanted to go as far as we could
12 in there on the jeep. And we got to
13 here. That was the next ---.

14 Q. Did you notice any stoppings
15 out between your return and ---?

16 A. No. I didn't look. Because
17 we was going to take the intake. I
18 wasn't concerned about the return. I
19 didn't even look at returns. And
20 there was some out. I know now. But
21 at that time, I didn't look.

22 Q. Did anyone take any methane
23 readings or any CO readings or
24 anything like that?

25 A. The detectors, I think, might

1 have been starting alarming and stuff
2 when we got down in there.

3 Q. Okay. But prior to that, when
4 you arrived at 32 block ---?

5 A. It still didn't go off, as far
6 as I know.

7 Q. Did anybody look at any?

8 A. I didn't. I had one in my
9 belt in my shirt and I didn't look at
10 it.

11 Q. Did anyone have a conversation
12 about, well, I've detected so much
13 methane, or I've detected so much
14 carbon monoxide?

15 A. Owen and Jeff, I don't
16 remember if they did.

17 Q. Okay.

18 A. All I was interested in was
19 getting the curtains up. When we got
20 to 42 block, we took all of our
21 curtains --- a lot of our curtains.
22 I had like two rolls, one under each
23 arm. I had a big coat on. I had it
24 full of spads and nails, the pockets,
25 and I had like a mine axe, I think.

1 And I had a roll of curtain under
2 each arm, a detector on my belt and I
3 went through that stopping. We
4 unplugged the jeep. Vernon and --- I
5 told him to unplug the batteries on
6 the jeep and he unplugged the jeep.

7 Q. And this is 42 block along
8 Four belt?

9 A. Four belt, yes.

10 Q. Okay.

11 A. And then we hung that curtain
12 right there.

13 Q. Will you draw a purple circle
14 around the jeep --- no, the stopping
15 that you --- curtain that you put up.
16 That represents where you installed
17 the curtain?

18 A. Yes.

19 Q. At 42 block, between Six and
20 Seven entry?

21 A. Yes, sir.

22 Q. Okay. And what about the ---
23 was there any blocks laying along the
24 track or ---?

25 A. There was in here a little

1 bit. Back here, there was some next
2 to the track. But we didn't move
3 any.

4 Q. And that circle was indicating
5 at 33 block?

6 A. Yeah. That's the first damage
7 we seen.

8 Q. Okay. And at 42 block, what
9 did you have?

10 A. We had some --- I don't know
11 if they was in the track bed or not,
12 but we stopped there because there
13 was smoke and curtain. You know, the
14 stopping was out. And we was getting
15 some dust. I don't know if it was
16 really smoke ---.

17 Q. Okay. Is that the first place
18 that you found dust or smoke or
19 whatever?

20 A. That had anything to amount to
21 anything, yes. As far as I know.
22 Yeah. We didn't have anything on, so
23 it wasn't too bad.

24 Q. Now, wait a minute.

25 A. We didn't have our SCSRs on.

1 Q. I understand that.

2 A. Okay.

3 Q. Okay. Now, where was the
4 first point that you encountered any
5 smoke or dust or anything like that?

6 A. Near as I can say, right in
7 this area.

8 Q. This area meaning 42 block?

9 A. Yes, sir. If we was in any
10 back in here, it was real thin. And
11 then we started --- we hung that
12 curtain. And then we went up to ---
13 I don't know if the next one was out.
14 I don't think it was. I don't
15 remember. But there was some --- it
16 wasn't as bad down in here as it was
17 when we got on up. But we --- well,
18 all we did was go down the intake
19 then.

20 Q. At 42 block, you were in the
21 intakes?

22 A. We went over in whichever ---
23 Seven Entry.

24 Q. Seven?

25 A. We stayed in Seven Entry. And

1 as we come to a damaged stopping, we
2 would hang a curtain. And we would
3 hang it on the left side so the smoke
4 and the air would --- the dustiness
5 --- and we was getting some CO then
6 when we went up through here.

7 Q. Okay. Where's the first
8 indication that you knew that you had
9 CO?

10 A. I couldn't say exactly where.
11 I don't know. The detectors was
12 going off. And before we got up to
13 where we ended, we ended --- we hung
14 our last curtain at 57 break.

15 Q. Okay. What I want to do is,
16 let's start at 42 block.

17 A. I know. But I can't.

18 Q. Well, to the best of your
19 recollection at 42 block. Just kind
20 of ---.

21 A. I don't think the next
22 stopping was out. I ain't sure. But
23 all we was doing was like hanging
24 this curtain. And the air, at that
25 time, was moving. Was mostly dust,

1 some smoke, but very --- you know,
2 not a lot of CO then. And the air
3 was moving. It seemed to be moving a
4 little bit, pretty good right in
5 there. So we was hanging our ---
6 checking our stopping damage and
7 hanging our curtains. And what I was
8 doing, as soon as they got a curtain
9 up, I was going ahead to the next
10 block, looking what I had and trying
11 to throw a curtain in if it was out.

12 I started hanging it on the
13 left side because that's where the
14 air was. We was hanging it next to
15 the mouth of the entry, you know, so
16 the air would stay with us more or
17 less. And we wasn't in CO a lot.

18 Q. Okay. What's the first
19 indication that you had that you can
20 recall that you had CO? Did anyone
21 ever ---?

22 A. I'd say a little bit right
23 there at 42. But I don't know.

24 Q. Okay. But did anyone ever
25 say, we have 50 parts per million or

1 give a number of ---?

2 A. If they did, I don't know.
3 All I know, the detector went off a
4 couple times. But where the heck it
5 was at, I don't know. I looked at
6 it. And once, it malfunctioned, and
7 I said, I don't know if this thing's
8 hot and messed up or if it's over or
9 what. But in just a minute or two,
10 the air would clear. You know, I
11 mean, we hung the curtain here and it
12 would clear up. Good. And our CO
13 would go down.

14 Q. How do you know that it went
15 down?

16 A. It quit --- didn't alarm as
17 loud. It malfunctioned a time or
18 two, though, on the --- when we got
19 up next to 57 break. But I don't
20 know. That's when we --- about when
21 we got up in here --- of course, we
22 just worked our way up through here
23 and we hung up curtains as good as we
24 could. And somewhere in this area,
25 there was a stopping blowing

1 backwards. All of them had blown
2 toward the track. And then somewhere
3 in this area, one had blown at us.

4 Q. Okay. And just ---.

5 A. And that was the first
6 encounter.

7 Q. When you say somewhere ---

8 A. I don't know.

9 Q. --- you're pointing at ---.

10 A. I don't know.

11 Q. Wait a minute. Near the mouth
12 ---

13 A. Mouth of One Left.

14 Q. --- of One Left?

15 A. Yes.

16 Q. Okay. At some point in there,
17 you had a stopping which was blown
18 out in the direction of the intake?

19 A. Yes, sir.

20 Q. Okay.

21 A. Somewhere in this area. I'm
22 not sure if it was just inby there.
23 But it come the opposite direction.
24 All the rest of them had been going
25 toward the track, the materials.

1 Q. Okay. And you were repairing
2 the stoppings as you went up with
3 curtain?

4 A. Yeah. We wasn't repairing the
5 stoppings.

6 Q. But you don't know exactly
7 which ones?

8 A. No. And all I did was write
9 down where we hung the first one,
10 where we hung the first one in the
11 series. Most of them at 42 break,
12 where we parked the jeep, and then I
13 wrote down on my notepad where we
14 hung the last one so I could tell the
15 inspectors and stuff outside when we
16 went outside, because I knew they was
17 going to want to ask. And I know I
18 get excited then forget. When I got
19 to 57 break, we hung our last curtain
20 and it got so smoky. The air, it was
21 all --- I told them it was
22 devastating in this area. And it
23 was. And you couldn't see your hand
24 in front of you. When we hung this
25 curtain at 57 break ---.

1 Q. And let's circle that one
2 there.

3 A. We walked to --- right there
4 is the last curtain we hung. Oh, I'm
5 sorry, that's ---.

6 Q. Put it --- okay. Wait, wait,
7 wait. Now, you say you put ---.

8 A. I circled the 57, is what I
9 done.

10 Q. We've got to get this right.

11 A. Okay.

12 Q. The initial circle that you
13 made was between Five and Six entry
14 around 57, which indicates the block
15 number.

16 A. Yeah.

17 Q. Okay. Put an X over that,
18 which would indicate that that is not
19 the correct place.

20 A. Right. Right here's where we
21 built.

22 Q. Okay. All right. Now, you've
23 ---.

24 A. Well, we put that ---.

25 Q. Wait.

1 ATTORNEY KILPATRICK:

2 Let him say - - - .

3 A. Okay.

4 BY MR. SWENTOSKY:

5 Q. With the purple marker, you
6 have now indicated at 57 block
7 between Six and Seven entry that that
8 stopping was out and you installed a
9 curtain at that location; is that
10 correct?

11 A. That's very correct. Yes,
12 sir.

13 Q. And that is the last curtain
14 that you installed; is that correct?

15 A. Yes, sir.

16 Q. Okay. At that point there,
17 what was the - - - did you have a lot
18 of smoke or had it cleared?

19 A. We had a lot of smoke. We had
20 charred roof.

21 Q. What was the visibility?

22 A. Visibility was bad. It
23 cleared a little bit here. But as
24 that - - - when we walked up to 58
25 break, as we was going down through

1 here, we was hanging a stopping ---
2 or a curtain, you know, I reckon a
3 temporary stopping, whatever,
4 curtain, and then we'd go to the next
5 one. It would clear up pretty
6 quickly.

7 As we got up in this area, it
8 slowed down. We had to wait a while
9 before it would clear before we could
10 hang these last few curtains. And
11 then when we hung the one at 57
12 break, we waited I don't know how
13 long. But the smoke and the CO and
14 everything got worse. As that air
15 went in, it was bringing it back. It
16 was a dead end --- all this was out
17 here. And it was just forcing air
18 in. It was bringing debris, smoke
19 and CO back.

20 Q. Okay.

21 A. And it was worse.

22 Q. And you're indicating that in
23 the area of the mouth of Two Left
24 section?

25 A. Yes, sir.

1 Q. Okay.

2 A. Fifty-eight (58) break.

3 Q. Well, you said the CO was
4 getting higher. What was the
5 readings at that time?

6 A. It was out of the --- mine was
7 malfunctioning in that area.

8 Q. Okay.

9 A. And so we backed up back down
10 here and waited a few minutes, and I
11 asked Vernon. He went back to get
12 more curtains. And he went clear
13 back to the 42 break to get more
14 curtains.

15 Q. Who?

16 A. Vernon Hofer. He went back a
17 couple times and got materials as we
18 was hanging, because we was running
19 out. You know, like I had two rolls.
20 Everybody had a roll or two. But we
21 ran out of curtain. And he was like
22 a --- he was going back and getting
23 curtains. He got a couple rescuers
24 and brought up there to us, extra.

25 Q. Was there anyone who had a

1 rescuer on at that time? Did you
2 guys put on a rescuer?

3 A. We had them on our belt. We
4 didn't put them on.

5 Q. Didn't put them on?

6 A. Nobody put any on.

7 Q. Why?

8 A. We were stupid, I reckon. I
9 was saving it 'til I needed it, I
10 guess. But I --- when we got here,
11 we stood here ---.

12 Q. And you're pointing at 57
13 block?

14 A. Yeah. We tried to get up here
15 and it was smoky as heck. And it got
16 worse and we backed up back to 57.
17 And we was talking. I asked Vernon
18 and Owen --- Owen was there. I asked
19 him to go back, because we didn't
20 have any velocity. And I knew we
21 were hanging curtains on the intake,
22 and I knew we had missed something
23 behind. That's when I knew for sure
24 we had damage that we hadn't seen
25 behind us on the intake side. But I

1 didn't know where it was at. And I
2 asked them if they would go ---.

3 Q. Let's just stop there.

4 A. Okay.

5 Q. So your furthest travel inby,
6 could you draw me a line with the
7 purple marker across the entries of
8 the furthest travel that you ---?

9 A. In this area here. Maybe Jeff
10 might have went just a little bit
11 further. But I went right in this
12 area here.

13 Q. Okay. Just draw a straight
14 line across.

15 A. Oh, okay. Right there.

16 Q. Okay. So you're in ---?

17 A. And we didn't stay there. We
18 didn't hang any curtain there.

19 Q. Okay. But you've indicated
20 this line across Number Seven entry,
21 and that is just inby 58 block; is
22 that correct?

23 A. Yes. Yeah.

24 Q. Okay. And did you --- was 58
25 block ---?

1 A. Open.

2 Q. That was open?

3 A. Yeah.

4 Q. And you did not hang a curtain
5 at that point?

6 A. No. It was too smoky. It
7 never cleared out enough to get up in
8 there to do it. And we didn't don
9 our stuff. We didn't do that.

10 Q. And at that point there,
11 visibility was ---?

12 A. It was getting worse. When we
13 first got there, we heard some noise.
14 You know, it was quiet. You know,
15 nothing on. And then with debris
16 falling from the roof or from
17 somewhere, and every time it would
18 fall, Jeff would shout. Jeff Toler
19 or myself, to see if we could get a
20 response, like if it was somebody, a
21 person.

22 Q. Okay.

23 A. The noise.

24 Q. What was your conversation at
25 that point there, between the three

1 of you?

2 A. Well, when I sent them guys
3 out, Jeff was --- said he was going
4 to try to go on. I said --- and I
5 told him the damages that I seen and
6 the smoke and the CO that I was
7 seeing ---.

8 Q. And the CO that you were
9 seeing was how much?

10 A. We was --- when we went in
11 there, we was pegged out. I don't
12 know.

13 Q. Okay. Did you ever look at
14 the screen?

15 A. It malfunctioned. Mine was
16 malfunctioning.

17 Q. Did the screen indicate any CO
18 level at all, do you recall?

19 A. I don't know. It had read
20 everything. I don't know. When it
21 malfunctioned, I don't think it
22 showed any. I'm not sure, but I
23 don't think it did. But anyway, I
24 just --- I talked to Jeff and Jeff
25 said --- course, his uncle was up

1 there, which was the section boss,
2 Junior Toler. And he said he wanted
3 to go in. And I said, Jeff, I don't
4 think we can at this time. The best
5 thing we can do is go out and tell
6 them what we have, what we've seen,
7 and where we've been. And that's
8 what we did. And then he concurred
9 after a little bit. But we did hear
10 noises in here of stuff falling. And
11 the guys were in the same location
12 and never --- you know, real close
13 together.

14 Q. Okay. And you tried to make
15 contact by shouting?

16 A. Yeah. But we didn't ---
17 nobody ever did. And like I said,
18 the noise didn't come two times in a
19 row or anything like that. That's
20 when we left ---.

21 Q. How long were you there, do
22 you think?

23 A. I'd say 15 or 20 minutes. But
24 it might have been longer than that,
25 because I sent Vernon and Owen back

1 to check for damages. And like I
2 said, I don't know how, you know, we
3 was --- we talked a little bit, you
4 know, about what we should do and
5 about what we maybe could do. But I
6 had no idea that it was the seals.
7 Never even entered my mind. I
8 assumed it was there. And if it had
9 been in here, ---.

10 ATTORNEY KILPATRICK:

11 When you say there,
12 where do you ---?

13 A. The section, Two Left section.
14 And it would have come back and hit
15 this corner the same way, in a
16 straight line.

17 BY MR. SWENTOSKY:

18 Q. And hit the corner, you mean
19 back in the mains?

20 A. Where we was. Yeah. Where we
21 could see all the damages. You
22 couldn't see everything up in here.
23 But back in here, where we was
24 hanging some of the curtains, you
25 could see over in the track in these

1 areas here that stuff was torn up,
2 you know, outby here.

3 Q. Okay. And you're indicating
4 in the vicinity of block 56, 55?

5 A. Yeah. Up in through here,
6 back --- well, I don't even know if I
7 could see good up in here. Down in
8 here you could see these overcast and
9 stuff. You could see some damages.

10 Q. Okay. And that was just inby
11 One Left?

12 A. Yeah. You could see --- yeah.
13 It was just tore up.

14 Q. Did you ever go over into the
15 track or the belt entry area?

16 A. Jeff got a phone back near the
17 switch, and brought it over there
18 somewhere.

19 Q. Okay. But you never --- were
20 you ever over there?

21 A. I never was, no.

22 Q. Between Two Left ---

23 A. No.

24 Q. --- and One Left ---

25 A. No.

1 Q. --- you were never on the left
2 side?

3 A. I was never out of that
4 intake.

5 Q. Okay.

6 A. I never was once I was in
7 there.

8 Q. Okay.

9 A. Other than --- and like I
10 said, we didn't get a curtain hung up
11 here. We did venture up in there a
12 couple times.

13 Q. All right. So then after you
14 --- the furthest point of travel, and
15 you listened, and you tried to make
16 some contact by shouting. Okay. And
17 then at that point there, did you
18 start outby at that time?

19 A. Yeah. After we talked it
20 over, we didn't think we could do
21 anything. And the only thing we
22 thought we might do is get down to
23 One Entry, down in here, in One
24 entry, and try to go up through
25 there. But with what I had seen and

1 the amount of CO I was seeing, I
2 thought it was time to get out.

3 Q. Then what did you do next?

4 A. Then we left there.

5 Q. You and Jeff?

6 A. Me and Jeff and Al.

7 Q. Okay.

8 A. Al was still with us, yes,
9 sir.

10 Q. Okay.

11 A. And Vernon and Owen had went
12 back checking damages. We went back
13 that direction. And when we got down
14 to them ---.

15 Q. You went in the outby
16 direction from the 58 block outby?

17 A. Yes. We stayed right in this
18 entry, yes, sir.

19 Q. And you're indicating Number
20 Six entry, which is the intake?

21 A. Yes. Yes. Right. We stayed
22 right there in that entry next to
23 these turns. When we got back to 42
24 break, I thought, maybe we'll take
25 that jeep. Well, when I looked

1 through that curtain, I didn't want
2 that jeep. I decided I didn't want
3 that jeep.

4 Q. Why's that?

5 A. It was smoky then. The smoke
6 had come back down in here some. And
7 the dust and - - - .

8 Q. Okay. Okay.

9 A. And it wasn't near that bad
10 when we parked the jeep.

11 Q. Okay. So at 42 block, did you
12 look through the curtain?

13 A. Yes, sir.

14 Q. The curtain that you had
15 installed?

16 A. Yes, sir.

17 Q. And at 42 block, you saw more
18 smoke than what you had seen before?

19 A. Oh, yes, sir. More smoke than
20 when we parked the jeep, a lot more
21 smoke. Where we put this air up
22 through here was, I guess, forcing it
23 back or whatever, what little bit of
24 air we had.

25 Q. Okay. Could you see the jeep?

1 A. Yes.

2 Q. Okay. From that curtain?

3 A. Yes, I could see it. I could
4 see it.

5 Q. But it was smoky?

6 A. Yeah. It was pretty smoky,
7 pretty dusty.

8 Q. Did you ever see any flame or
9 anything like that?

10 A. No.

11 Q. What'd the smoke smell like?

12 A. It was pretty rotten. But I
13 did tell them, when I got outside,
14 that I seen no wedges or wood
15 burning.

16 Q. Okay.

17 A. And the explosions that I've
18 been in before, I've always seen
19 combustible material, like if the
20 flash come this way, this side of the
21 post would be burning. And I've took
22 my hands and rubbed them out before.
23 The wedges that were in these
24 stoppings up in here, even at 57, the
25 last one we hung, weren't charred.

1 What material you could see there,
2 you know, what wood we could see in
3 that there, wasn't none of it burnt.
4 I told them that when we went out.

5 Q. Okay. So you're back at 42
6 block, you look and you don't want to
7 take that jeep.

8 A. No. We walked. We walked and
9 just left it there.

10 Q. You walked. Where did you
11 walk?

12 A. We walked all the way outside.
13 But we come down in here somewhere
14 and got with Vernon and Owen, we
15 caught them, because they was looking
16 for stopping ---.

17 Q. Okay. Do you have any idea
18 where you might have met with them?

19 A. I think it was Two Right area,
20 somewhere in there. But you'd have
21 to ask ---.

22 Q. Okay. When you met up with
23 them, were they on the track or were
24 they in ---?

25 A. No. They were over in there

1 checking those curtains in the intake
2 where we were. And we just got all
3 together and walked the intake out.

4 Q. Okay. You didn't walk any of
5 the track out?

6 A. No.

7 Q. So you walked from the --- in
8 the primary escapeway ---

9 A. All the way.

10 Q. --- all the way to the
11 surface?

12 A. Yes, sir.

13 Q. You never went over onto the
14 track?

15 A. No, sir. Other than looking
16 at that jeep, I didn't go in there,
17 no. I didn't go through there,
18 either. I just looked.

19 Q. Okay. Up around One Right,
20 where the overcasts were --- you had
21 mentioned that earlier --- was there
22 any additional repairs or anything
23 done?

24 A. Those guys had hung some
25 curtains up. I didn't hang anything

1 on the way out. I just came out. I
2 don't know ---.

3 Q. And that's Owen and ---

4 A. Owen and Vernon.

5 Q. --- Vernon?

6 A. But where they hung them,
7 you'd have to ask them. I don't
8 know. Because they didn't hang any
9 when I was with them. We didn't see
10 any more damages after we got --- you
11 know, on Three Belt there, when we
12 done ---.

13 Q. Did they relate anything to
14 you concerning where they ---?

15 A. They did to Jeff. I didn't
16 really --- I was walking with Al.

17 Q. So during this whole episode,
18 did anyone relate to you what the CO
19 levels were at all?

20 A. Yeah. Jeff was saying at
21 times, you know, he had 400 parts per
22 million and once maybe 700. But he
23 did run over in the track and get
24 that phone. I don't know where he
25 got the most CO, whether he got it on

1 up at the --- next to where we quit.

2 Q. And that phone, was that ---?

3 A. The phone, I think, was around
4 the switch. But I'm not sure. He
5 got the phone wherever the phone was
6 hanging there. And he --- maybe he
7 just got wire to it. I don't know.
8 We had a phone. Maybe he just got
9 wire and run a hook on the line, run
10 the phone over. He talked to them
11 somewhere in here.

12 Q. Okay.

13 A. But I didn't go ---.

14 Q. Okay. And you're indicating
15 around the 46 block?

16 A. Yeah. Forty-five (45),
17 somewhere in that area. He had a
18 phone and he talked to --- maybe it
19 was 42 block, too. I don't know.

20 Q. So you say Owen said around
21 400 or 700 or something?

22 A. Yeah. Them guys were giving
23 numbers. I didn't ---.

24 Q. Jeff or Al or Vernon, did they
25 indicate to you any CO levels that

1 they might have detected?

2 A. Everybody was saying numbers
3 but me. I didn't look at mine. When
4 it beeped, I mean, I heard it. And a
5 couple times, I looked at it and it
6 was malfunctioning. I said, mine
7 ain't no account anyway. So I didn't
8 pay any attention to mine. Because I
9 thought it was just a bad ---. And
10 whether it was --- it couldn't have
11 been malfunctioning and high all the
12 time, because I was in the good air a
13 good bit and I didn't ever get down
14 or nothing. So it couldn't have been
15 too awful bad. But Jeff was watching
16 the CO pretty close and Al was
17 watching the CO pretty close. I was
18 trying to hang curtains.

19 Q. Okay.

20 A. And get up there by ---.

21 Q. And you say that they were
22 hanging --- I mean, they were
23 actually looking at their detectors
24 and stuff?

25 A. Yeah. Oh, yeah. Well, they

1 went in --- when we advanced ahead,
2 Jeff would look at his CO as he went.

3 Q. Did he ever pop off any
4 numbers to you?

5 A. He was --- I don't remember
6 him ---. I know he said numbers at
7 times, but I don't remember. You'd
8 have to ask him to find that out.

9 Q. All right. Then you walked to
10 the outside?

11 A. Yes, sir.

12 Q. Okay. And approximately what
13 time did you get to the surface, do
14 you recall? I know you don't know
15 the times.

16 A. I have no idea. I mean, they
17 told me it was after ten o'clock. I
18 can't believe it was that long, but
19 it probably was. It must have been.
20 They said 10:30. I don't know.

21 Q. What was your conversation?

22 A. John Collins and people was in
23 the room. We wasn't there two
24 minutes and they had us in the room
25 like debriefing us or whatever,

1 asking us what had happened. And
2 what time that was, I can't tell you.

3 Q. By the way, that exhibit with
4 the --- that scale map --- okay. I'm
5 going to put the scale map to be
6 exhibit whatever.

7 A. I would like to clarify one
8 thing before ---.

9 Q. Sure.

10 A. Where I said them guys come
11 through, they probably didn't come
12 through that 40-some block there.
13 Because I don't even know if there
14 was a stopping there or not.

15 Q. Okay.

16 A. They might have come on back.
17 I know they tried a door and couldn't
18 get through it because of the smoke
19 they said or something. But I don't
20 know where they come through at,
21 because I wasn't with them. But I
22 did --- they did say they tried
23 somewhere and couldn't get through it
24 and they went to the next one because
25 of the smoke. But now, they was up

1 to One Left Switch, so wherever they
2 found the first door, they tried and
3 couldn't get through, and then they
4 went to the next one.

5 Q. And when you say them guys,
6 you're meaning?

7 A. Well, I'm talking about the
8 One Left crew.

9 Q. One Left crew. Okay. During
10 your re-enter of the mine and so on,
11 were you in charge of that, kind of,
12 that event? Who suggested to go
13 underground?

14 A. Jeff, I suppose. I knew I was
15 going. Jeff said he was going. And
16 I knew I was going. I think Jeff
17 hollered at Al and they went, but I
18 was already getting my stuff. When I
19 talked to Owen, I knew I was going
20 inside.

21 Q. So Jeff Toler is the one that
22 --- was he kind of in charge, then of
23 ---

24 A. He's the superintendent.

25 Q. --- the underground ---

1 entering the mine? He was in charge
2 underground during that episode, or
3 was everybody kind of in charge?

4 A. Me and him, mainly. He's the
5 superintendent, though. He was ---
6 he's the boss.

7 MR. SWENTOSKY:

8 Okay. While I look
9 through this, Brian, do you
10 have any questions?

11 MR. MILLS:

12 Are you going to go on
13 to recovery and rescue?

14 MR. SWENTOSKY:

15 In a little while.

16 MR. MILLS:

17 Well, I'll ask these,
18 then. Just a couple quick
19 ones here.

20 BY MR. MILLS:

21 Q. I think you mentioned you had
22 some mine rescue experience?

23 A. Yes. I was on Badger's rescue
24 team.

25 Q. For?

1 A. Several --- I was captain for
2 15 years or more. Badger Coal
3 Company's rescue team.

4 Q. And did you --- were you ever
5 involved in any mine rescue attempts
6 or mine fires or ---?

7 A. I was in Dola Number Two Mine,
8 Compass Number Two Mine, and carried
9 out the superintendent, Baxter
10 Allison, who was --- that was where I
11 seen the fire, wood a-burning and the
12 posts a-burning. And we recovered
13 his body. I was in the team that
14 recovered his body. I was on the
15 state team at that time. I was not
16 the captain. I was a member of a
17 company team at Compass Number Two
18 Mine. That was in the '60s. '69 or
19 --- one fatality that I --- the
20 superintendent was the ---.

21 Q. Okay.

22 A. Baxter Allison was who got
23 killed. And I brought the body out.
24 I was on the team that brought the
25 body out. And we was in that fire.

1 And then we was in the recovery of
2 building the seals and stoppings in
3 the back and recovery of the mine for
4 a while. And then I've been in
5 several --- I went in mines exploring
6 that wasn't on fire that had high
7 methane and what not under machine at
8 Number Three Mine. And I've been in
9 --- for the rescue team getting
10 bodies out like at Bergoo and some of
11 those places where people's been
12 covered up. Digging them out and
13 recovering bodies. But that wasn't
14 under machine.

15 Q. But you do have some
16 experience under apparatus?

17 A. Yes. We practiced every ---
18 we was on competition teams. And we
19 practiced all the time. We had play
20 smoke. And we went backup several
21 times and never did go in, you know.

22 Q. Of the four guys who were with
23 you that day, do you know if any of
24 those guys had mine rescue ---?

25 A. Al Schoonover. I don't think

1 Vernon does. Al Schoonover was a
2 rescue man.

3 Q. On your way out, you and Toler
4 and Schoonover were in by Owie Jones
5 and Vern? They were headed ---?

6 A. Well, they was with us for ---
7 on our way out?

8 Q. Out. The last trip there.

9 A. No. Owen and Vernon was ahead
10 of us hanging the curtains, checking
11 the stoppings. And then we caught
12 them and we all just went out
13 together.

14 Q. Okay.

15 A. We all five walked pretty
16 much ---.

17 Q. At any time that you were
18 separated from them on your way out,
19 did you feel an increase in the
20 velocities in the entry you were in?

21 A. Where they hung the curtains,
22 you mean?

23 Q. Yeah.

24 A. No. We was --- I think we
25 were about back there by the time

1 they got them hung, you know, because
2 we hustled a good bit when we first
3 started out of there.

4 Q. Okay. At any time on your way
5 out, did you feel an increase in the
6 velocity?

7 A. Well, I don't know if I felt
8 an increase or it just got colder,
9 Brian, as I got ---.

10 Q. Closer to ---?

11 A. Yeah. As I got closer toward
12 the pit mouth, you know, the air was
13 colder, of course. But I can't say
14 that I felt an increase. I'm sure I
15 did.

16 Q. Do you believe all the intake
17 stoppings were intact or repaired
18 from 57 block to the outside?

19 A. I can't answer that because I
20 didn't check them. After I got with
21 Vernon and Owen, we walked out then.

22 Q. At 26 block?

23 A. Yeah. I didn't concentrate on
24 staying. Wherever they were when we
25 met. I don't know exactly where that

1 was .

2 MR. MILLS:

3 Okay. That's all.

4 BY MR. SWENTOSKY:

5 Q. The trolley phones --- and
6 that's the phones on the mantrip ---
7 is that what you call those, the
8 trolley phones?

9 A. Yes, sir.

10 Q. Okay. Were they operating
11 that day?

12 A. They never --- we never talked
13 on them. And I don't know. You'd
14 have to ask William Chisolm when the
15 crews went in if he ---. I don't ---
16 I can't answer that. But I had a
17 dispatcher tell me Saturday they
18 didn't work, and then I had a
19 motorman tell me Sunday they worked.
20 So I don't know.

21 Q. When you say Saturday and
22 Sunday?

23 A. Saturday, Gary Marsh
24 dispatched.

25 Q. Okay. When you say Saturday,

1 BY MR. SWENTOSKY:

2 Q. Okay.

3 A. He said that he talked on them
4 Saturday --- or Sunday, I mean.

5 Q. He said that he used them on
6 Sunday?

7 A. He did, yes.

8 Q. Okay.

9 A. But I wasn't there Sunday or
10 Saturday. I know they worked Friday.

11 Q. They worked Friday and someone
12 had told you they were not working
13 Saturday?

14 A. Yes. And then the motorman
15 told me they were working on Sunday.
16 He talked on them Sunday.

17 Q. Okay. And when did they tell
18 you this?

19 A. Since the accident occurred.

20 Q. Okay.

21 A. I don't know what dates, you
22 know.

23 Q. On the Saturday when they
24 weren't working, whenever he told you
25 that they were not working then, was

1 there an attempt made to fix them?

2 A. I wasn't there. I don't know.

3 Q. Okay. So the last day you
4 worked, then was ---?

5 A. Friday.

6 Q. Friday before the ---.

7 A. Yes, sir.

8 Q. Whenever --- just for the
9 record here, did you, or do you know
10 if there were any controls that were
11 re-established that had been out
12 prior to the accident? Do you want
13 me to repeat that?

14 A. Prior to the accident?

15 Q. Yeah. Were there ---?

16 A. You mean like stoppings?

17 Q. Stoppings or any ventilation
18 controls that may have been out prior
19 to the accident. Did you re-
20 establish any of those, if there were
21 any out?

22 A. No. I don't know.

23 Q. Okay.

24 A. Down in there where we were
25 at, I'm pretty sure they were ---

1 they occurred that day.

2 Q. Okay.

3 A. From 32 block on. If there
4 was anything behind the damage, I'm
5 not aware of it.

6 Q. Okay. And then getting back
7 to these trolley phones. On January
8 2nd, the day of the accident, do you
9 know if the trolley phones were
10 working?

11 A. They weren't working when we
12 went in, because we couldn't talk to
13 them. That's why I had to stop at
14 that mine phone.

15 Q. Okay.

16 A. But now, whether they was
17 working when the crews went in before
18 that, I can't answer that.

19 Q. Okay. And I think you already
20 mentioned that you --- the four of
21 you that went underground did not use
22 an SCSR at any time.

23 A. (Indicates no).

24 Q. Okay. Whenever the crews ---
25 One Left ---.

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ATTORNEY WILSON:

He shook his head.

Make sure the record - - - .

A. Yeah. No. We did not wear an
SCSR. No.

BY MR. SWENTOSKY:

Q. Okay. At any time underground
during your rescue efforts?

A. No.

Q. Okay. Whenever the One Left
crew - - - you met them and you had
mentioned earlier that they had an
SCSR. Some of them had SCSRs.

A. I think they all did.

Q. Okay.

A. But I can't say for sure,
because - - - .

Q. Okay. Did you have any
conversation or do you recall anyone
saying they had trouble with the SCSR
or they worked, they didn't work, or
any type of conversation about the
use of the SCSR, difficulties?

A. I heard that one or two of
them had some trouble. But I didn't

1 talk to them about that.

2 Q. Okay.

3 A. When we got there, I told them
4 there was fresh air there. They come
5 through there and they was jerking
6 them off getting on the jeep,
7 counting their heads and trying to
8 get them on there.

9 Q. Okay. But that conversation
10 that you mentioned about you heard
11 that someone --- was that at that
12 time or was that later on?

13 A. No. It was later on.

14 Q. Later on?

15 A. That was like two or three
16 days --- while the accident recovery
17 was going on, you know.

18 Q. Okay.

19 A. Those guys was around there,
20 you know, a lot. People was talking.
21 But as far as them telling me that
22 morning, I didn't --- we didn't have
23 that much of a conversation then.
24 Just got them on there and got them
25 out and got up there and got them

1 other two men at Nine block and took
2 them outside.

3 Q. Okay. Do you know if there's
4 any self rescuers stored underground,
5 extra SCSRs stored underground?

6 A. I don't think so.

7 Q. Okay.

8 A. I mean, there might have been
9 a couple left on the section where
10 them guys are supposed to carry them
11 who left them. But ---.

12 Q. No. What I mean is there's
13 not ---

14 A. No. Storage area ---.

15 Q. --- a given storage of ---?

16 A. No. Not as far as I know.

17 Q. Okay. You mentioned when we
18 were at the map that you had written
19 some notes down.

20 A. I just wrote down where we
21 hung the first ---.

22 Q. Do you have --- do you still
23 have those notes?

24 A. I think it's in my pocket at
25 work. In my --- it's in my hat now.

1 I put my notes in my hat. But I
2 think it's still in there.

3 MR. SWENTOSKY:

4 Okay. Could we ---

5 ATTORNEY KILPATRICK:

6 We'll consider that.

7 Yes.

8 MR. SWENTOSKY:

9 --- get a copy of that?

10 A. But also on there's where we
11 hung the first stopping, where we
12 seen the first damages. I just wrote
13 that down so I wouldn't forget about
14 it.

15 BY MR. SWENTOSKY:

16 Q. Sure.

17 A. I didn't forget it anyway, but
18 I wrote it down to give the ---.

19 Q. Okay. Did anyone else take
20 any notes while you were underground
21 that you recall?

22 A. I don't know if Jeff did. I
23 did. That's the only ones I took. I
24 was just concerned about what we'd
25 see. I know when we got up there

1 close to the --- to the farthest we
2 went, I rubbed a roof bolt and showed
3 them the soot and stuff on the bolt,
4 the bolt plate. I rubbed the plate.
5 And of course, that's where it was
6 real stinky and real bad, right in
7 that area.

8 Q. Okay.

9 A. And I showed them my fingers.

10 Q. Was there ever any air
11 quantity readings taken?

12 A. Oxygen and stuff?

13 Q. No. Quantity readings. Air
14 measurements.

15 A. No.

16 Q. Okay.

17 A. Not as far as I know.

18 Q. And I'm speaking about during
19 the ---.

20 A. Yeah, I know. CFMs. No.

21 Q. Okay. But I'm speaking of
22 whenever you were installing the
23 curtains and during that period of
24 time.

25 A. I didn't hear them say any. I

1 didn't do any. Only thing I was
2 concerned about was the amount of
3 oxygen we had. And it was always
4 good, you know. It was never any low
5 oxygen. And I never did feel any
6 heat. But I told them that when I
7 got outside. And if there's much of
8 a fire, it'll be sucking the oxygen.
9 Especially if you don't have a lot of
10 air and, you know, a lot of velocity.

11 Q. Okay. You had mentioned
12 earlier about a conversation on a
13 mine phone. Do you recall at any
14 time a conversation concerning a (k)
15 order that was put on the mine?

16 A. Not when I was on the phone.

17 Q. Okay. You don't recall any of
18 those? Or did anyone say that at
19 all? Do you recall those?

20 A. I never talked on the phone
21 after I talked to the --- after I
22 called the dispatcher and told them
23 about the accident and got outside
24 and got back in, I never come back to
25 a phone again. The only one to talk

1 on the phone in our crew that I know
2 of was Jeff Toler.

3 Q. And again, you don't recall
4 --- do you recall what time you
5 exited the mine?

6 A. No, sir.

7 Q. For the last time?

8 A. No, sir.

9 Q. When you --- whenever you
10 exited the mine, did anyone ever go
11 back underground prior to the mine
12 rescue team going underground?

13 A. Not as far as I know. Can we
14 take a break?

15 Q. Take a break?

16 A. It's up to you guys.

17 SHORT BREAK TAKEN

18 BY MR. SWENTOSKY:

19 Q. The detectors that you had
20 with you, what was the model of those
21 detectors? Do you recall?

22 A. No, I don't know what it would
23 be.

24 Q. What color were they?

25 A. We had three or four different

1 kinds.

2 Q. Okay. What color were they?
3 Describe them to me.

4 A. I don't even know if I can or
5 not. It's just --- which one is it?

6 Q. Is it silver?

7 A. Yeah. Silver and red. Silver
8 and dark blue-like ink, I think, you
9 know, where it prints out. It's a
10 digital, whatever.

11 Q. But the case of the
12 instrument?

13 A. The machine was silver, yes.

14 Q. Silver in color?

15 A. I think.

16 Q. Okay. Just going back to your
17 furthest point of travel, again, just
18 to kind of nail this down, the
19 visibility at --- and I believe you
20 said you went just inby 58 block. At
21 that point there, you had mentioned
22 the smoke was thick.

23 A. Uh-huh (yes).

24 Q. Could you see like two feet,
25 three feet approximately?

1 A. You couldn't hardly see at
2 all. You know how that soot and
3 stuff is on the mine.

4 Q. Yes.

5 A. And then with the smoke that
6 was there, there was no visibility.
7 That's why we were just hollering in
8 the direction of the sound. You
9 couldn't see anywhere in that
10 direction to amount to anything.

11 Q. Okay.

12 A. But it was like there. You
13 could just barely see.

14 Q. Barely see, like ---?

15 A. Yeah.

16 Q. Put it in feet. Like five
17 feet?

18 A. I don't think you could see
19 that far.

20 Q. Okay. Less than that.

21 A. Maybe when we first got there,
22 you could. But then after a few
23 minutes, it got worse.

24 Q. So when you left, it was,
25 would I be safe in saying, less than

1 five feet?

2 A. Yes.

3 Q. Okay. And then whenever you
4 looked through the curtain and looked
5 at the jeep ---?

6 A. You could see --- I could see
7 the jeep. So it was ---.

8 Q. Okay. So ---.

9 A. So it was probably 20 feet
10 away or 15, maybe.

11 Q. Okay. And could you see
12 beyond that or is that pretty much
13 the limit of visibility?

14 A. That's all. I didn't try to
15 look any further. Because it was
16 that old, yellow-looking smoke and
17 dust and stuff. All that dark
18 gold-looking color. It wasn't real,
19 real black yet like it was up there.
20 It was yellow and black or whatever.

21 Q. Yeah. And that was at the
22 jeep?

23 A. Yes, sir.

24 Q. And the jeep was approximately
25 20 feet away, you said?

1 A. Yes. Probably.

2 Q. Okay. And was that pretty
3 much the limit of the visibility at
4 that point?

5 A. I'd say. I didn't go over in
6 there to ---.

7 Q. Yeah, I understand.

8 A. I just looked for the jeep
9 because I thought maybe we might take
10 it. And then when I seen the smoke
11 and the dust, that was ---.

12 Q. Which it was like a gold
13 color?

14 A. Yeah. Gold, yellow-looking.
15 That old, yellow-looking,
16 dirt-looking stuff. And some black
17 dust.

18 Q. When you were on the surface
19 and you were speaking to Mr. Chisolm,
20 did the --- and you said the
21 lightning. Were you on the phone at
22 that time, when the lightning struck?

23 A. No. That was before we talked
24 to Bill Chisolm.

25 Q. Okay. Well, at any time you

1 way. Let's just start at the top.
2 And I've numbered those pages
3 sequentially.

4 A. Okay.

5 Q. From number one to number
6 eight.

7 A. Okay.

8 Q. And those numbers appear in
9 the bottom right-hand corner.

10 A. Yes.

11 Q. Okay. In the first fan chart,
12 which is Number One, it's dated
13 October 14th.

14 A. Yes, sir.

15 Q. And is that your ---

16 A. Yes, sir.

17 Q. --- initial and name?

18 A. Yes, sir.

19 Q. Okay. And if you look at the
20 --- and does that represent the day
21 that you installed the fan chart?

22 A. Yes, sir.

23 Q. Okay. And then if you look at
24 page two.

25 A. Yes, sir.

1 Q. And it's identified as October
2 24th of 2005; is that correct?

3 A. Yes, sir.

4 Q. Okay. And right below the
5 date in the center of the chart,
6 there's a W.A. What does that
7 represent?

8 A. Willard Anderson.

9 Q. Okay. Does that represent
10 ---?

11 A. He's a maintenance foreman.

12 Q. Okay. Is that who changed
13 this chart?

14 A. Yes, sir.

15 Q. Or installed this chart?

16 A. Yes, sir.

17 Q. Okay. And do you notice the
18 time between the two charts are ---
19 represents about ten days?

20 A. Yes, sir.

21 Q. Okay. And I notice, even
22 though that's ten days, if you notice
23 that there's a little --- where the
24 pressure increased, and that was
25 around noontime, between noontime and

1 about six o'clock on Sunday?

2 A. Yeah.

3 Q. On that chart.

4 A. Yes, sir.

5 Q. Do you know what that
6 represents?

7 A. No, sir. I don't know whether
8 that's --- that was a Sunday. I
9 don't know whether the weekend crew
10 had the doors open. I can't answer
11 that. I don't know.

12 Q. Okay. And I see that that
13 chart was removed about six o'clock
14 p.m. on that Sunday, which would have
15 been the 30th?

16 A. Yes, sir.

17 Q. Of October. And then it ---
18 and why would that chart have been
19 removed at that time, before the full
20 revolution?

21 A. I don't know ---

22 Q. Okay.

23 A. --- whether they was just
24 trying to keep it from running over
25 or what.

1 Q. Okay. If we look at page
2 three.

3 A. Yes, sir.

4 Q. And that date on there is
5 October 30th; is that correct?

6 A. Yes, sir.

7 Q. Of 2005?

8 A. Yes, sir.

9 Q. And it says 5:00 p.m. And
10 then W.A. What does that represent?

11 A. Willard Anderson again.

12 Q. Okay. Would he have been the
13 person that changed ---

14 A. Yes, sir.

15 Q. --- installed this chart?

16 A. Yes, sir.

17 Q. Okay. Then you look at page
18 four?

19 A. Yes, sir.

20 Q. And that chart is dated
21 November 8th of 2005; is that
22 correct?

23 A. Yes, sir.

24 Q. And the initial there, P.C.,
25 who does that represent?

1 A. Pete Capaldo.

2 Q. Pete Capaldo. And what is his
3 position?

4 A. Maintenance foreman.

5 Q. Okay. And if you notice, the
6 chart on 10/30 on 2005, and then the
7 next chart that was put on was the
8 one we just looked at on page four.
9 It was 11/8. And that represents
10 approximately nine days. So there
11 --- I guess my question, there was an
12 overrun on the chart which is dated
13 October 30th; is that correct?

14 A. Yes.

15 Q. And why would that be?

16 A. I was on vacation. Pete was
17 taking my place. And I don't know.
18 We had a big turnover of people, is
19 all I can tell you, at our mine. And
20 the guys from Spruce --- when I was
21 at Spruce, I had one man take care of
22 the fan chart. We just got enough
23 people on board here recently at this
24 mine to get things where we get them
25 halfway right. Because we've been

1 short. We've lost all kinds of
2 people. Trainees, they get their
3 cards. People leaving.

4 I know the coal industry, as a
5 whole, is hard to get employees and
6 hard to get electricians. And we've
7 trained several. And we've lost
8 several. And a lot of that's
9 turnover and people leaving and some
10 of these things that have occurred is
11 because a guy knows he ain't going to
12 stay. You ain't going to do your
13 best work if you're going to --- if
14 you know you're going to leave. And
15 some of this stuff that we have has
16 been going on for that.

17 And then when I see --- we was
18 in bankruptcy with Anker. And it was
19 hard to get materials, let alone
20 people. Nobody wants to come to work
21 for a company that's in bankruptcy.
22 And some of this stuff, I guess, is
23 probably --- we never had the people.

24 And then when I --- I was
25 trying to take care of this fan

1 chart. And then when I took
2 vacation, then Pete tried to take it
3 over. And nobody was ever really
4 assigned to it. And that's been
5 remedied, but it's too late for these
6 charts. But it's been taken care of.

7 And ICG, as soon as they took
8 over, they had a drug test. I lost
9 some people through that test. But I
10 mean, that's no excuse for this. But
11 that --- I'm just --- we're short on
12 people. Or were short on people.

13 Q. Okay. Let me just ask you
14 another question.

15 A. Okay.

16 Q. Okay. If you notice the chart
17 on --- that's dated November 8th of
18 2005, I believe that's our last one
19 we looked at. And that's on page
20 four.

21 A. Yes, sir.

22 Q. Okay. And if you notice, the
23 day it was taken off would have been
24 Monday at 8:00 a.m. Do you notice
25 that?

1 A. Yes, sir.

2 Q. Okay. And that was on ---
3 that would have been the 14th?

4 A. Yes, sir.

5 Q. Okay. And if you look at page
6 five.

7 A. Yes, sir.

8 Q. And this chart here, which is
9 dated November 14th of 2005.

10 A. Yes, sir.

11 Q. Okay. And if you notice that
12 the first indication of pressure is
13 11:00 p.m. on the 14th. So there's a
14 gap between 8:00 a.m. and 11:00.
15 Okay?

16 A. Yes.

17 Q. All right. And who would have
18 changed this chart? Who would have
19 put the chart on on the 14th on page
20 five?

21 A. That's my writing.

22 Q. Okay.

23 A. I put that chart on.

24 Q. You put this chart on?

25 A. Yes, I did. I just didn't

1 initial it, but that's mine.

2 11/14/05.

3 Q. Okay. And why would there be
4 a gap? Since it was taken off at
5 8:00 a.m., and then it shows that the
6 first indication of pressure is 11:00
7 p.m. on that evening?

8 A. I don't know, unless it
9 skipped. This is --- whether the
10 thing didn't make it when I put it on
11 there. You know, whether it hung up
12 a little bit. I don't know if it
13 shows you back --- well, we've had
14 --- we had charts when we first
15 changed this fan chart to this new
16 --- we changed the fan chart and the
17 anemometer or whatever you call it.
18 We changed everything and had the fan
19 stepped up after ICG took over. And
20 that --- when we first put that on,
21 that thing wasn't --- there's a
22 little screw on there you have to set
23 to make that ink cartridge hit that
24 fan chart. That thing wasn't
25 adjusted properly and we had some

1 skipping. I don't know if that's
2 what happened right there or not.
3 But we did have that problem. And
4 one chart we was short and looking
5 for, I think is one of them that was
6 a blank, is why we didn't find it. I
7 think it ran like four or five days
8 and didn't mark anything because of
9 that. When we first put that chart
10 on there, it marked a little bit and
11 then it just skipped. I mean, it
12 skipped a lot. And I had --- I
13 didn't know what --- I had to adjust
14 it. It took me a little bit to get
15 it to where it was marking it. So I
16 didn't know what was going on with it
17 for a little bit. You'd put it on
18 one time, it'd mark a little bit,
19 then it wouldn't. So we had that
20 problem, also.

21 Q. So looking at the 14th,
22 November 14th chart on page five ---.

23 A. Yes, sir.

24 Q. And it shows that it was put
25 on. Or the first indication of a

1 line was 11:00 p.m.

2 A. Yes, sir.

3 Q. On the 14th. And then the
4 last indication of a pressure line is
5 on the 17th, which is Monday, at
6 12:00 midnight. Okay. Was that ---
7 are you indicating that chart was
8 taken off early?

9 A. I'd say so.

10 Q. Or it didn't have a line?

11 A. I don't know. I don't know.
12 I know we was having trouble there
13 for a little while.

14 Q. Okay. Then the next chart,
15 which is page six?

16 A. Yes, sir.

17 Q. Now, that one there doesn't
18 have a date on it.

19 A. Yes, sir.

20 Q. And so I guess we don't really
21 know ---.

22 A. I don't know who did --- who
23 changed that chart.

24 Q. Okay. But from 11/14, which
25 is on page five, and then we have the

1 chart which is page six.

2 A. Yes.

3 Q. And then the next one is
4 12/14. So we only have one chart for
5 those 30 days. So there'll be some
6 weeks missing; would that be correct?

7 A. Yeah.

8 Q. Was there a certain period of
9 time that there wasn't a chart put
10 on?

11 A. No. Not as far as I know. We
12 left them down there in the fan
13 building and they got --- but I don't
14 know where they're at. I tried to
15 find them when this --- when they
16 asked for them. I searched
17 everywhere and I couldn't --- I found
18 all the charts I could find.

19 Q. Okay. Is it possible that
20 there wasn't a chart put on for those
21 other weeks?

22 A. I guess it's possible, you
23 know.

24 Q. Okay. All right. Let's look
25 at the last chart, which is page

1 eight. And the date on that is
2 12/24; is that correct?

3 A. Yes, sir.

4 Q. Of 2005?

5 A. Yes.

6 Q. Okay. Then this was the chart
7 that was on during the explosion; is
8 that correct?

9 A. Yes, sir. That's the one that
10 has the spike, yes, sir.

11 Q. And I believe you mentioned
12 that right after the explosion, you
13 went down and took this chart off?

14 A. Yes, sir. You can see where
15 it overlapped right here.

16 Q. Yes. Okay. So there is an
17 overlap there.

18 A. Yeah.

19 Q. This chart was on
20 approximately nine days?

21 A. Yes, sir.

22 Q. And when these people --- who
23 would have put that chart on?

24 A. I put that chart on.

25 Q. Okay.

1 A. On the 24th.

2 Q. And you say this condition's
3 been corrected?

4 A. (Indicates yes).

5 Q. Okay.

6 A. It's been corrected.

7 Q. Okay. When you came to the
8 surface --- let's go back to when you
9 came to the surface and kind of pick
10 it up from there. What did you do?

11 A. Well, when I got outside, we
12 went in the superintendent's office.

13 Q. Sure.

14 A. And told him what we'd seen
15 and what occurred. And then we went
16 to get ---

17 Q. And who was there at that
18 time?

19 A. --- maps, I think. Huh?

20 Q. Who was there at that time?

21 A. I can't --- I know John
22 Collins was there. I know the guys
23 that were with me were all in there.

24 Q. Uh-huh (yes).

25 A. And I honestly don't know who

1 all was in there. I think Tyrone was
2 in there. But I don't know. I was
3 in there several times that day, you
4 know. They asked me to hook up a
5 pager on the phone to where it would
6 loud speak all the time so that all
7 of them could hear the conversations
8 and stuff when they got going. That
9 was later that night or whatever when
10 they started using the rescue teams.
11 They wanted to be able to hear the
12 mine phone over the loudspeaker so
13 everybody in there could hear it.

14 Q. Okay. But whenever you got on
15 the surface and you went into the
16 room and there was several people in
17 there ---?

18 A. Yeah.

19 Q. Okay. And what was that
20 conversation about?

21 A. What we had seen underground
22 and where we had went and all that.

23 Q. Okay.

24 A. What we had done and, you
25 know, what we had seen. I tried to

1 tell them everything that I seen. As
2 a matter of fact, John Collins asked
3 me to ---.

4 Q. When you say John Collins ---.

5 A. He's a state mine inspector.

6 Q. State mine inspector. Okay.

7 A. He's the one that asked me to
8 speak.

9 Q. Okay. Is there any --- was
10 there any federal inspectors there at
11 that time?

12 A. Oh, yes. Yes. But I don't
13 know who they were.

14 Q. Okay.

15 A. I mean, I don't remember them.
16 I don't remember who was in there.

17 Q. Yeah, I understand. Okay.
18 Well, then what was the extent of
19 that conversation?

20 A. I just told them what --- like
21 I told you guys. What we'd done and
22 what we had seen, where we'd hung the
23 last curtain, where we hung the first
24 curtain and that's it.

25 Q. Okay.

1 A. And we had good air into that
2 point.

3 Q. Okay.

4 A. On the intake side.

5 Q. Okay. After that
6 conversation, then what did you do?

7 A. Mainly started gathering up
8 maps, drawing them ---

9 Q. No.

10 A. --- where all the scoops were.

11 Q. I mean what you did.

12 A. I don't know. I don't know.
13 I don't know what I did first. We
14 left there. I don't know. They
15 wanted to know where all the battery
16 equipment was.

17 Q. Okay.

18 A. And we were working at getting
19 --- trying to tell them where all the
20 scoops were, where all the charging
21 stations were. And that stuff moves
22 and we didn't work the weekend. And
23 we didn't really know. We were
24 assuming where they usually were.
25 And I --- we spent most of the day

1 map --- you know, trying to get maps
2 and marking up where everything was
3 to tell the teams and the
4 investigators what was going on.

5 Q. Okay.

6 A. And just ---.

7 Q. So your activities that day
8 was to provide information with maps
9 and so on?

10 A. Try to, yes. Mostly, yes,
11 sir.

12 Q. Okay. Was there --- did
13 anyone ask you to do any monitoring
14 of any sort? And I mean monitoring
15 --- by that I mean making any methane
16 or CO test down in a pit at all or
17 any other ---?

18 A. No.

19 Q. Okay. Were you involved at
20 all in any of the decisions for
21 drilling the boreholes or anything
22 like that?

23 A. No, sir.

24 Q. So after preparing the maps
25 and providing information there to

1 the rescue command center, what other
2 work did you do?

3 A. I went up to the MSHA trailers
4 powering them and hunting extension
5 cords and hooking up phones to them
6 and hooking up another communication
7 --- extension cords by the hundreds
8 and hooking up compressors for the
9 rescue teams and air stations and
10 what not. Helping them with their
11 trailers. Everybody was coming in, I
12 mean, you know, one after another.
13 And everybody was wanting power. And
14 we had to unhook our supply trailer
15 we keep our parts in to give power to
16 --- give one of those boxes to MSHA
17 so they can --- and the state and
18 everybody. We was hooking up
19 equipment for all these teams. And
20 if they didn't have a big thing, they
21 wanted an extension cord for an air
22 compressor or for something. And
23 getting heaters in the building and
24 just stuff like that to accommodate
25 the teams and the people.

1 Q. Okay. Were you involved in
2 any of the decision making of the
3 rescue efforts?

4 A. No, sir. I was in --- they
5 had a command center set up with all
6 these people in there. I wasn't one
7 of them.

8 Q. The old Two Left Mains, the
9 seals that blew out, were you ever
10 involved in any of that?

11 A. No.

12 Q. Were you ever up there?

13 A. No. Not until after this
14 accident. I walked up there to look
15 where they were, but ---.

16 Q. Yes, yes.

17 A. No, sir.

18 Q. Prior to that, you were never
19 actually in where the seals are at?

20 A. No. No, sir.

21 Q. Okay. Even after they were
22 put in?

23 A. No. There at that charger in
24 the spur, that's as far as I've been.

25 Q. How was the high voltage cable

1 hung when they were up in the old Two
2 Left main area?

3 A. It just hung on those hooks,
4 those insulators. The ones where you
5 block ---.

6 Q. You didn't have a messenger
7 wire or anything?

8 A. No, sir.

9 Q. Okay. Do you know anything
10 about the methane history for the
11 Sago Mine? Meaning, you know, how
12 many ---?

13 A. We don't liberate a lot of
14 methane. And here --- I don't know
15 how --- sometime back before the
16 accident, they called up, they had a
17 bunch of methane in there one
18 evening. That's all I know about it.
19 As far as myself seeing it, I haven't
20 seen a lot of methane.

21 Q. When you say a bunch of
22 methane ---.

23 A. Well, they called up. They
24 had a problem with methane one night
25 --- one afternoon.

1 Q. When was that?

2 A. I don't know what the date
3 was, but it was ---.

4 Q. A month ago? Two months ago?

5 A. Before --- well, a month
6 before the accident or so. Somewhere
7 in that area. I'm not sure even when
8 that was. But I did hear them
9 talking about that.

10 Q. Okay. Just tell me a little
11 bit about that. Just what you know
12 about it.

13 A. That's all I heard. That's
14 all I know about it. You know, I
15 just heard them say they hit it up on
16 Two Left.

17 Q. Two Left meaning?

18 A. The section where the ---
19 well, not on the seals, but up at the
20 face. Where the men were running
21 coal.

22 Q. Okay. The present Two Left
23 section?

24 A. Yes, sir.

25 Q. Okay.

1 A. But now, what block that was,
2 I can't say.

3 MR. SWENTOSKY:

4 Do you have any, Brian?

5 MR. MILLS:

6 Yes.

7 BY MR. MILLS:

8 Q. Dick, when you get outside on
9 the 2nd for the second time ---

10 A. Yes, sir.

11 Q. --- did you see mine rescue
12 teams there?

13 A. Shortly thereafter. I don't
14 know if I seen them right off the bat
15 or not, Brian. When I first went in
16 that room, I didn't get to see
17 anything. It was no time that I seen
18 them. But I don't know --- I can't
19 say what time I seen the first rescue
20 person, no, sir.

21 Q. You mentioned Toler had a
22 phone in the intake. Do you remember
23 where that was at?

24 A. It was down around where we
25 started hanging those curtains, 42

1 block. Somewhere in that first
2 couple, three blocks there, he hung a
3 phone.

4 Q. But that was in the intake,
5 not the track head?

6 A. Yeah. He went over and got a
7 wire and attached it to --- and
8 brought it over through the curtain
9 so he could talk on it.

10 Q. Okay. There was some
11 discussion then, and a decision made
12 to go outside from 57 block.

13 A. Yes, sir.

14 Q. Who all was part of that?

15 A. Me and Jeff and Al.

16 Q. And go through that again for
17 me.

18 A. Well, when we first arrived at
19 57 block and hung that curtain, and
20 the air didn't move, you know, as
21 good. And we went up to 58 block and
22 it was black. And as we --- and then
23 we backed back to 57, where the
24 curtain was. And the smoke, if
25 anything, come back to us more. But

1 we did run up in there when we heard
2 those sounds and hollered in those
3 directions of where we thought the
4 sounds were. But we never did hear,
5 like I said, two sounds at one time.
6 And Jeff was reluctant to go out.

7 And with the smoke and stuff
8 as heavy as it was and the damage
9 that I seen, the place was
10 devastated. I didn't think we could
11 get any further. One of us would go
12 down. We was going to have to ---
13 well, I knew we was going to have to
14 put our self-contained self-rescuers
15 on. And we didn't have but a couple
16 extras with us. And there was three
17 of us there at that time, after Owen
18 and them had went out. And I knew if
19 we put those --- if we all put our
20 rescuers on and tried to go in there
21 with no line or no ways to
22 communicate other than hollering at
23 each other, that we would ---
24 somebody would --- maybe all of us
25 would perish or one of us, at least.

1 I was concerned about that.

2 I told Jeff that we didn't
3 know what we had. You couldn't see
4 where the damn --- you know, you
5 couldn't see to go. And I didn't
6 think it was a good idea to stay
7 there. And Al concurred with me.
8 And we left at that point. And then
9 Jeff, reluctantly, he decided to go.

10 But I would not have left him
11 there, but I didn't think we could do
12 any more at that time. And I knew if
13 we did, we definitely was going to
14 have to put those on. And even if we
15 went in there and found somebody,
16 what was we going to do then?

17 Say if we would have found six
18 men or five men or four men. Then
19 you got two rescuers and you've got
20 one on yourself, you know. Who do
21 you give them to, you know, if you've
22 got more people than you've got
23 rescuers? What do you do in a case
24 like that? But that didn't happen.

25 But I knew, you know, if we

1 did find anybody, we was in a bad
2 situation. But I did hope every time
3 we heard something that there would
4 be somebody stumbling out of there.
5 There never was.

6 Q. Okay. Denny talked a little
7 bit about fan charts. Is there a
8 daily exam book kept of the fan
9 charts?

10 A. Yes. Yes, sir.

11 Q. And who does those exams?

12 A. Whoever checks them.

13 Q. Certified electrician, maybe?

14 A. Yeah. And then Carl co-signs
15 it, I think.

16 Q. And those are done every day?

17 A. Yes, sir.

18 Q. Do you guys have a U-tube at
19 that fan?

20 A. Yeah.

21 Q. A U-tube?

22 A. Yes.

23 Q. Is it working?

24 A. Yes, sir.

25 Q. You don't rely just on your

1 fan charts? You use a ---?

2 A. No. We've got a U-tube. Yes,
3 sir.

4 Q. Do you record the U-tube
5 readings or the fan chart pressure?

6 A. Well, they put the reading on
7 the fan chart, yes.

8 Q. In the book?

9 A. In the book, yes, sir.

10 MR. MILLS:

11 That's all.

12 BY MR. SWENTOSKY:

13 Q. Okay. Well, I have a photo
14 here of the roof area. And we'll
15 mark it Exhibit Five.

16 ATTORNEY WILSON:

17 Six.

18 MR. SWENTOSKY:

19 Six. Okay.

20 (Wilfong Exhibit Number
21 Six marked for
22 identification.)

23 BY MR. SWENTOSKY:

24 Q. And if I could just show you
25 this? There's some streaks on a roof

1 and a roof bolt. Have you ever seen
2 anything like this in the Sago Mine?

3 A. No. I haven't been up in that
4 area. And I don't know ---.

5 Q. Have you ever seen anything
6 like this in the Sago Mine anyplace
7 in the past? And I'm referring to
8 the streaks on the roof.

9 A. I don't know if that's clay.
10 I don't know what that is. I don't
11 know that I have or haven't. I can't
12 really --- I can't tell much about
13 this picture. So I don't know.

14 Q. Okay. Okay. What I'm going
15 to do is ask you some training
16 questions. And then after I'm done
17 there, we'll take a very --- a couple
18 minute break, just to get to the
19 last, see if anybody else has any
20 questions they need to ask you.
21 Okay?

22 A. Okay.

23 Q. Do you recall when the last
24 annual retraining class that you
25 participated in was?

1 A. Last year. But I don't know
2 when.

3 Q. Last year meaning 2005?

4 A. Yes, sir.

5 Q. Okay. Do you recall if it was
6 the first part of the year, last part
7 of the year?

8 A. Well, our electrical
9 retraining was --- I think it was in
10 February or March. And I don't know
11 when the other retraining was.

12 Q. Did you participate in an
13 annual retraining, other than the
14 electrical, in other words?

15 A. I don't know. We have one
16 every year. I'm sure I did, but I
17 don't remember it specifically.

18 Q. Okay. If you don't recall
19 when, do you recall what was covered
20 in that training session?

21 A. Well, they covered first aid
22 and everything. Mining practices and
23 everything.

24 Q. Who would have been training
25 during that time --- the trainer

1 during that training session?

2 A. If we had one, it would have
3 been Schoonover, I would assume, or
4 Johnny Stemple. One of those two.
5 Al Schoonover or John Stemple.

6 Q. You say if you had one. What
7 do you mean by if you ---?

8 A. Well, if I was there, that's
9 who would have been teaching. That's
10 who teaches them, is Johnny and ---.

11 Q. Okay. Do you recall whether
12 the mine emergency and evacuation
13 plan was covered during that
14 training?

15 A. Every retraining it's covered.
16 The escapeways and what not, yes,
17 sir.

18 Q. All right. As part of that
19 plan, that being the firefighting and
20 evacuation plan, as part of that
21 plan, do you know who the responsible
22 person is at the mine? That would be
23 the responsible person meaning the
24 person who is in charge of the
25 evacuation of the mine in case of an

1 explosion?

2 A. The dispatcher.

3 Q. Dispatcher?

4 A. Yes, sir.

5 Q. He is the one that takes
6 control and orders the mine for
7 evacuation?

8 A. Yes, sir.

9 Q. Do you know where the
10 emergency materials are underground?

11 A. They was down there around the
12 switch. I don't know. And then
13 outby the section, there's emergency
14 materials within --- I don't know how
15 many breaks, but they're always right
16 up at the face.

17 Q. Okay. But there's a ---.

18 A. And then there's another one
19 down there about One Left switch.
20 There's a ---.

21 Q. Okay.

22 A. I don't know exactly what
23 block it is, but it's right there
24 close to that switch. And there's
25 stuff on each section.

1 Q. Okay. Are you familiar with
2 the evacuation procedures at the
3 mine?

4 A. Yeah. About the escapeways
5 you mean?

6 Q. No. I mean, in this case, an
7 explosion. Can you just describe
8 that to me a little bit?

9 A. Well, they was to go to the
10 phone and the dispatchers would tell
11 them what to do, I guess.

12 Q. During the training, was the
13 procedures that you were to follow in
14 case of an explosion, was that
15 covered during the training session?

16 A. I don't know.

17 Q. Do you recall whether the
18 procedures for barricading were
19 covered during that training?

20 A. No, I don't. Barricading used
21 to be in every training. I'm not
22 sure that it was in the last one I
23 had or not. But it used to be a big
24 part of it.

25 Q. Okay. And what were those

1 procedures when they were discussed?

2 A. About barricading?

3 Q. Yes.

4 A. You'd get all the materials
5 needed, get all the men together.
6 First, you try to escape, unless it's
7 --- you know, you don't barricade
8 only as a last resort. You try to
9 escape any way you can. And then as
10 a last resort, you barricade. And
11 when you barricade, you take all the
12 materials that you can find, your
13 brattice materials and stopping off
14 as large an area as possible and seal
15 yourself the best you can using
16 block. Anything you can find to make
17 a good seal with. And if you have
18 oxygen, take the oxygen with you and
19 all. That's the way I would
20 barricade if I was going to
21 barricade.

22 Q. Okay. Are you certified to
23 make methane and oxygen tests?

24 A. Yes, sir.

25 Q. Okay. And where would that

1 have been that you have been
2 certified?

3 A. I'm a certified mine foreman
4 in West Virginia and have been for
5 several years.

6 Q. So you did that during ---?

7 A. Well, I did. And then I've
8 retrained, you know.

9 Q. Okay.

10 A. But I've been one since '72, I
11 think.

12 Q. Okay. Have the hazards of
13 carbon monoxide been discussed with
14 you?

15 A. Oh, yeah.

16 Q. During the training and any
17 time?

18 A. Oh, yeah. And all my rescue
19 training and everything. Yes, sir.

20 Q. Did they discuss the
21 escapeways with you?

22 A. Oh, yeah.

23 Q. And how was the primary
24 escapeway marked?

25 A. Primary's in green, I think.

1 Q. Okay. And the alternate?

2 A. Red.

3 Q. Did you ever travel the --- or
4 walk the escapeway from any of the
5 sections?

6 A. No. I walked the main line
7 there from the second, but I never
8 walked the sections.

9 Q. Okay. The primary escapeway
10 from the sections, you never walked
11 those?

12 A. No. No.

13 Q. Did you ever participate in
14 any fire drills?

15 A. No, sir.

16 Q. As part of the training, did
17 they --- or did you participate in
18 training sessions with the SCSRs?

19 A. Yes.

20 Q. And how to put those on, don
21 those SCSRs?

22 A. Oh, yes, sir.

23 Q. Okay. And kind of explain
24 that to me a little bit, will you
25 please? What training they provided

1 you concerning ---.

2 A. Well, they have a mock version
3 of an SCSR, and they instruct you how
4 to open it and put it on and
5 everything. And getting down on your
6 knees and opening the thing up. It's
7 just a bag --- you open the canister
8 up and pull it out of there. Pull
9 the activator, put your thing in your
10 mouth and your nose clip on and then
11 your goggles last and your hat.

12 Q. Okay.

13 A. Just put the strap around you.

14 Q. Okay. And how do you activate
15 it?

16 A. You pull the ring. It's got a
17 ring on it.

18 Q. Is that on the bottom or the
19 top?

20 A. It's on the side like right at
21 the top where you've got to pull it
22 out.

23 Q. Okay. Did they discuss the
24 roof control plan and ventilation
25 plan?

1 A. Yes, sir.

2 Q. And I think you already
3 mentioned first aid.

4 A. Yes.

5 Q. Is there anything additional
6 that you think should be covered
7 during the training that they didn't
8 cover?

9 A. Well, I asked them after this
10 explosion --- I think they ought to
11 get them some smoke training in a
12 smoke atmosphere, for the men that
13 has never seen it. There's some
14 people, you know, that's never been
15 in smoke, and I think you ought to
16 get the mock smoke room. And put the
17 people in there and let them put
18 their self-contained self-rescuers on
19 in a mockup of being smoked. And I
20 asked Al and them to do that, if they
21 could do that.

22 Q. Okay.

23 A. And I think they're going to
24 do so.

25 Q. Have you ever been searched

1 for smoking articles?

2 A. Oh, yeah.

3 Q. And how did they do that?

4 A. They just pat you down
5 usually. But I don't --- I never
6 have smoked, so they can pat on
7 forever.

8 Q. Okay. All right. Have you
9 ever observed anyone smoking
10 underground?

11 A. No. Not in the --- everything
12 where I've ever worked, I've never
13 seen nobody smoke underground. I've
14 heard of it, but I never have seen
15 anybody with any smoking materials,
16 either.

17 Q. Have you ever found smoking
18 articles underground?

19 A. At Badger a few years ago. I
20 didn't find them, but my mechanics
21 found them, some cigarettes on a
22 section one time at Badger. That was
23 in the '80s.

24 Q. Okay. How about Sago Mine?

25 A. No.

1 MR. SWENTOSKY:

2 Okay.

3 MR. WILSON:

4 Denny, let me just ask
5 one thing.

6 BY MR. WILSON:

7 Q. You said you had never
8 participated in the fire drills. Do
9 you know ---?

10 A. Oh, I have in the past. Not
11 this year.

12 Q. Well, at Sago. But are you
13 aware of whether or not fire drills
14 were given at the mine?

15 A. I assume they've had them for
16 the section. Them guys is assigned
17 like the mechanic's assigned to break
18 a waterline and get the --- you know,
19 help them get the water up there and
20 knock the power and stuff like that.
21 Each one of them's got an assignment.
22 I have heard them discussing that.
23 Now, whether they've actually had the
24 drill, I've never been there when
25 they had it. I can't say. But I do

1 know the maintenance man, his job's
2 to knock the power, get tools to the
3 guys, and to break the waterline,
4 help them if they need it to get the
5 firefighting material, you know, the
6 waterline and whatever. They can get
7 their fire extinguishers and what
8 not. But if there's a serious fire,
9 he's to knock the power and all that
10 stuff. That's what my people are
11 assigned to do. But now, a buggy
12 runner, one of them mans the phone.
13 You know, and one of them helps get
14 the waterline and all that stuff.

15 Q. Well, did you say --- your
16 people are assigned to do that. Did
17 you ever have a fire drill with your
18 people?

19 A. No. They're on the crews.
20 They have the section foremen and
21 them does that.

22 Q. Okay.

23 A. But that's what my men's
24 responsibilities are.

25 Q. Okay.

1 A. And I heard them talking about
2 it and stuff like that.

3 MR. SWENTOSKY:

4 Okay. Just before we
5 get into the closing statement
6 here, we'll go off the record
7 for two minutes.

8 SHORT BREAK TAKEN

9 BY MR. SWENTOSKY:

10 Q. At one point during the rescue
11 effort, the teams indicated that
12 there was a red light on on the CO
13 monitoring system underground. Do
14 you recall that?

15 A. Yes, sir.

16 Q. Can you describe your
17 involvement in that or what went on?
18 Just tell me, you know, what someone
19 told you and then through that
20 process?

21 A. Well, the 1703s are powered
22 from the outside in the dispatcher's
23 office.

24 Q. The 1703s, what is that?

25 A. That is the CO monitors

1 themselves.

2 Q. The sensors?

3 A. Yes, sir.

4 Q. Okay.

5 A. And then the belt bosses are
6 powered from the belt boxes.

7 Q. And the belt ---.

8 A. And the belt boss has got a
9 backup battery that keeps it going
10 for like four hours or whatever after
11 the power is removed. But when the
12 power's off, it doesn't have any more
13 power other than that little battery.
14 And they can shut that off from
15 outside on the computer.

16 Q. Okay.

17 A. And Mr. Brown, Virgil Brown,
18 went in there and had the dispatcher
19 shut off each belt boss.

20 Q. When you say went in
21 there ---.

22 A. Went in the dispatcher's
23 office. That's where it's at.

24 Q. Okay.

25 A. They had to get on the

1 computer and have a password and all
2 that and go in there and do that.
3 Everybody can't do that. And I can't
4 do it. I don't know what the
5 password is.

6 Q. Okay. So the main power, it
7 was off?

8 A. The main --- yeah, the mine
9 power was off.

10 Q. Okay.

11 A. And that's where those belt
12 bosses get their power, from each
13 location where they're located. But
14 then the CO monitors themselves, this
15 is a two-pair system. There's four
16 wires. And two of those wires are
17 powered from the dispatcher's office.
18 And that was the red light those guys
19 were seeing.

20 Q. Okay. And that battery, that
21 battery is on the surface or is that
22 an individual battery underground?

23 A. No. This is a 110-120 volt
24 supply that puts out a signal. It's,
25 I think, 24 volts and 12 volts or

1 whatever. It puts out different
2 voltages. It's like a power pack or
3 whatever.

4 Q. Okay. But that's located on
5 the surface?

6 A. Yes, sir.

7 Q. There aren't any batteries
8 physically underground?

9 A. Not in those boxes, no, sir.

10 Q. Okay.

11 A. They are in the belt bosses,
12 but not in those 1703s, the sensors,
13 your alarm box, whatever you want to
14 call it.

15 Q. Okay.

16 A. It's the one that senses the
17 CO.

18 Q. Well, the batteries --- those
19 batteries that you're telling me are
20 physically underground in the belt
21 bosses ---?

22 A. Yes.

23 Q. Are those able to be
24 disconnected on the surface?

25 A. Yes, I think they --- that's

1 what they was doing. That's what
2 they wanted done.

3 Q. Okay. So that battery
4 underground was what you were
5 disconnecting?

6 A. Yes. That's what they
7 disconnected, yes, sir. But I don't
8 think Virgil understood the system.
9 And I think they unhooked the wrong
10 thing. They wanted to unhook the
11 1703.

12 Q. Okay. So this initial
13 disconnect that you're talking
14 about ---.

15 A. Yeah. They brought those guys
16 out and they shut the computer ---
17 they shut all the belt bosses off,
18 took them off line and whatever.
19 But that didn't do anything to the
20 1703s. They were still energized.

21 Q. They were still energized?

22 A. Yes, sir.

23 Q. Okay. That --- so the initial
24 attempt to disconnect ---?

25 A. Didn't ---.

1 Q. Was not successful?

2 A. That's correct.

3 Q. Okay.

4 A. Then later, when they found
5 out the others was on, we
6 disconnected them at the power source
7 outside.

8 Q. Okay. And is that ---?

9 A. Unhooked the wires.

10 Q. Is that the point ---?

11 A. When I got involved or
12 whatever.

13 Q. Okay. Just so I can
14 understand ---. You're going ahead
15 of me.

16 A. All right, sir. Okay.

17 Q. So the initial attempt to
18 disconnect did not disconnect the CO
19 boxes?

20 A. The 1703s. They disconnected
21 the belt bosses, but didn't
22 disconnect the 1703s.

23 Q. Okay.

24 A. There was still power going
25 from the dispatcher's office through

1 them wires into those boxes.

2 Q. Okay. Do you know
3 approximately what time that was?

4 A. It was like the next morning
5 or late that night or whatever.

6 Q. Late that night meaning ---?

7 A. The day of the accident. I
8 don't know if it was the next day. I
9 don't know. I was there two days.

10 Q. Okay. So then that first
11 attempt was not successful. Okay.

12 A. Yeah.

13 Q. Then the rescue teams saw a
14 red light; is that correct?

15 A. Yes, sir. Yes, sir.

16 Q. Okay. And then --- and that's
17 whenever Mr. Brown --- or how was
18 that done, once you found out about
19 the red light?

20 A. Mr. Brown --- I think that may
21 be when he unhooked the belt bosses
22 and he still failed to unhook the
23 1703s. I think that was the initial
24 attempt right there.

25 Q. Okay.

1 A. When they first seen the
2 light, they unhooked the wrong thing.

3 Q. All right. So then you were
4 --- who told you to go further?

5 A. It was later. It was later,
6 when --- I don't know. Well, they
7 talked about unhooking them, not
8 unhooking them, because they was
9 showing CO, you know.

10 Q. When you say they ---?

11 A. The team. I don't know.

12 Q. Okay.

13 A. But you'd have had to've been
14 there.

15 Q. Okay. I'm glad I wasn't.

16 A. Yeah. Well, I mean, it was
17 --- I mean, decisions were made and
18 cancelled and made and cancelled.

19 Q. Okay.

20 A. And some of that was in that.
21 They had me cutting all the belt
22 control line, the CO line at times,
23 you know, they was going to cut all
24 those wires. And then, five minutes
25 later, no, no, no. Don't want to cut

1 nothing.

2 Q. All right. But let's get back
3 to this CO system.

4 A. Okay.

5 Q. Okay. So the rescue team then
6 saw a light?

7 A. Uh-huh (yes).

8 Q. And then what were you told
9 after that?

10 A. I don't know.

11 Q. Okay. Well, ---.

12 A. Oh, one time I was ---. I
13 don't know when. But after Mr. Brown
14 and them unhooked the battery, then
15 the light --- that didn't fix the
16 light.

17 Q. Right.

18 A. And I don't know when they
19 found out it didn't, but ---.

20 Q. Okay.

21 A. When they did find out it
22 didn't, then at one point, they asked
23 to unhook them. So I went in there
24 and unhooked all the wiring in the
25 box.

1 Q. Who asked you to do that?

2 A. I don't know.

3 Q. Okay.

4 A. I don't know. I don't know
5 what ---.

6 Q. And do you know when that was?

7 A. No, I don't.

8 Q. Okay. Was that the next day?

9 All right. What'd you do then?

10 A. I don't know.

11 Q. Okay. So you then went
12 into ---.

13 A. If I knew, I'd tell you. I'd
14 like to have the minutes of all this
15 stuff.

16 Q. All right. That's fine. So
17 then you went in the dispatcher's
18 office?

19 A. Yes, sir. I don't know who
20 was in there when I done it. There
21 was inspectors in there, though.

22 Q. All right. Then just tell me,
23 then, what you did.

24 A. I opened up that box and
25 disconnected all of the wires.

1 Q. Okay.

2 A. Physically from the thing.
3 Because I couldn't --- we tried to
4 find the plug. And my God, we'd have
5 had to move everything. And I said,
6 it's easier just to take them wires
7 off. So I took the wires off.

8 Q. Okay.

9 A. And then they were hooked up
10 later. But it was --- I don't even
11 know when that was.

12 Q. Okay. And did anyone ever ask
13 you, then, after that was done, did
14 you unhook these or was the power
15 off?

16 A. Yes. Yeah. We knew that ---
17 they knew that it was off then, but I
18 don't know ---.

19 Q. Okay. No one ever questioned
20 you after that, then, whether it was
21 on or off?

22 A. I don't think so. Not until
23 the recovery team come. They started
24 checking it.

25 Q. Okay.

1 A. But as far as I know,
2 that's ---.

3 Q. Whenever the --- when we were
4 at the map and you had mentioned, for
5 clarification --- the CO readings,
6 you had mentioned 400, 700. Just to
7 the best of your recollection, what
8 was the highest number that you had?

9 A. Mine would malfunction.

10 Q. And I understand that.

11 A. That had been the highest. I
12 don't know ---.

13 Q. You had mentioned the 400 or
14 700.

15 A. Well, we was in 400 a good bit
16 hanging them curtains. I'll tell you
17 that.

18 Q. Okay.

19 A. Before it malfunctioned.

20 Q. And how do you know that?

21 A. 'Cause that's what they was
22 reading.

23 Q. Okay.

24 A. They was reading 350, 400.

25 Q. Who was reading that?

1 A. Jeff mostly, I think.

2 Q. Okay. And he related those
3 numbers to you?

4 A. Yeah.

5 Q. Or you saw those numbers on
6 his detector?

7 A. He related them most of the
8 time. He was saying --- I had asked
9 him how much he had had.

10 Q. Okay.

11 A. And he told me 400. And at
12 times, it was 700 when he went over
13 in the track. That's --- I might
14 have --- I don't know when he got the
15 700.

16 Q. And you say he went over in
17 the track?

18 A. He went over and got wire.
19 That's when he hooked up that phone
20 once.

21 Q. Oh, okay. That was --- okay.

22 A. Yeah. But he never went in
23 the track after that. I mean ---.

24 Q. Yeah. Okay.

25 A. Other than when we'd run in

1 there to hang a curtain, we never
2 went into the track. But he went in
3 there and freed the wire at one
4 point, when he put that phone in.

5 Q. Okay. So in the intake entry,
6 where you were hanging the curtains,
7 so it was somewhere around 400 to 450
8 was the highest that you --- am I
9 correct in saying that's what you
10 said?

11 A. Well, not all the time.

12 Q. I understand.

13 A. Because it had to be higher
14 than that to malfunction. But I
15 never tried to get in any more than
16 that. I'll tell you that.

17 Q. I understand.

18 A. I didn't want to. And I
19 didn't want to stay in it no period
20 of time. But ---.

21 Q. And I understand all that. I
22 was just trying to get, you know,
23 what may have been the highest that
24 Mr. Toler had mentioned to you. And
25 I believe you said ---.

1 A. The highest, I'm sure, is
2 where we ended up up there at 57, 58
3 break.

4 Q. And what was that?

5 A. I don't know.

6 Q. Okay.

7 A. I don't know what the highest
8 he had there was.

9 Q. What's the highest he ever
10 told you?

11 A. I think 700 maybe.

12 Q. Okay. And that was Mr. Toler?

13 A. I think so.

14 Q. All right. When you were at
15 the furthest point of travel that you
16 went, at 58, we talked about the 58
17 block ---.

18 A. Yes.

19 Q. At that point there, you were
20 concerned with fire or another
21 explosion or anything; would that be
22 correct?

23 A. Well, I hadn't --- I didn't
24 feel any heat and we had no low
25 oxygen. I didn't know what was up at

1 the face, you know, up the Two Left.
2 I assumed it came off of Two Left
3 section. And I didn't know what they
4 might have up there and what we might
5 run to them.

6 Q. Uh-huh (yes).

7 A. And then I done told those
8 guys to try to hang that curtain.
9 And we might have got more velocity
10 up there. I didn't know what we
11 might do there. And I didn't think
12 that was a good thing to do.

13 Q. Because - - -.

14 A. That's when I decided to leave
15 and talked to Jeff and Al. And we
16 chose to leave at that time. But I
17 didn't think - - - I didn't feel that
18 we had a fire because of the oxygen
19 content.

20 Q. Okay.

21 A. And no more air than we had,
22 if we had much of a raging fire, it
23 would have been sucking the oxygen
24 out of the atmosphere where we were.
25 And our oxygen was never low. And I

1 never did feel any heat and I had
2 nothing on my hands or my face. And
3 there was never any heat. And those
4 guys --- but I didn't know it at the
5 time. But those guys said they only
6 just felt warmth for just (snaps his
7 fingers) a little bit, just right a
8 little bit, the crew. That One Left
9 crew. So ---.

10 Q. So one of the reasons you
11 didn't want to go up ---?

12 A. I couldn't see is why I didn't
13 want to. I didn't know where I was
14 going. I couldn't tell where I was
15 going. And I didn't know if it was
16 going to --- you know, if there was
17 any life in there, to be honest with
18 you. And I thought the best thing I
19 could do is transfer --- is go out
20 there and tell the crew --- the
21 inspector or investigator that. The
22 inspectors and what not.

23 Q. Okay.

24 A. But I couldn't tell what was
25 there, buddy. I couldn't see. I

1 didn't know.

2 Q. I understand.

3 MR. SWENTOSKY:

4 And before I go into
5 the ending, anything else?

6 MR. MILLS:

7 No. Go ahead.

8 BY MR. SWENTOSKY:

9 Q. Okay. Has anyone offered you
10 anything or made any promise to you
11 in exchange for your appearing here
12 today?

13 A. No.

14 Q. Okay. Do you have anything
15 that you would like to add that may
16 be relevant to the investigation at
17 this point?

18 A. No, sir.

19 MR. SWENTOSKY:

20 Okay. On behalf of
21 MSHA, I would like to thank
22 you for appearing here today
23 and answering questions. Your
24 cooperation is very important
25 to the investigation as we

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

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

24 A. The cards.

25 MR. SWENTOSKY:

1 - - - two cards that we
2 provided to you.

3 A. Yes.

4 MR. SWENTOSKY:

5 The Mine Act provides
6 certain protections to miners
7 who provide information to
8 MSHA, and as a result are
9 treated adversely. If at any
10 time you believe that you have
11 been treated unfairly because
12 of your cooperation in this
13 investigation, you should
14 immediately notify MSHA. If
15 you wish, you may now go back
16 over any answer that you have
17 given during the interview and
18 you may also make any
19 statement at this time. Do
20 you have anything that you
21 would like to say?

22 A. I'd like to say - - -. I'd like
23 to know if I ever told Art Wooten
24 that I thought them systems were tied
25 together, the grounding systems. And

1 if I did, I made a mistake. But I
2 don't think they are. I don't think
3 I said that. If I've said that, I
4 want to clarify. I do not believe
5 that they are. And as far as that
6 grounding, I don't know nothing about
7 it. And I hope I got that across
8 correctly. And he asked me one
9 question about the wire, which is the
10 trolley wire. The phone, the trolley
11 phone wire.

12 MR. SWENTOSKY:

13 Yes.

14 A. And I said it was number
15 eight. And I'm not positive it's all
16 number eight, because I thought about
17 that last night. And there could be
18 --- that may not be all accurate. I
19 mean --- and I don't want to --- I
20 mean, I ain't going to --- I don't
21 know that there ain't some ten or
22 something else in it. I hope it's
23 number eight, but ---.

24 MR. SWENTOSKY:

25 Okay.

1 A. So that's all I have to ---
2 those two things right there. That
3 grounding. That grounding out there,
4 I know nothing about that. And as
5 far as isolating those belts and all
6 that, I don't know. They checked
7 that out, Mr. Wooten and his team,
8 and our engineer, and Mr. Dave Mason.
9 And I know nothing about that outfit,
10 you know, nothing about that system.
11 And if I got confused yesterday and
12 admitted to something I didn't want
13 to, I want to correct it now.

14 MR. SWENTOSKY:

15 Okay. Anything else?

16 A. That's all.

17 MR. SWENTOSKY:

18 Okay. We thank you.

19 A. Thank you, sir.

20

21

22 * * * * *

23 SWORN STATEMENT

24 CONCLUDED AT 10:52 A.M.

25 * * * * *