

STATEMENT UNDER OATH

OF

JOHN B. STEMPLE, JR.

Taken pursuant to Notice by Miranda
D. Elkins, a Court Reporter and
Notary Public in and for the State of
West Virginia, at the U.S. District
Courthouse, 500 West Pike Street,
Clarksburg, West Virginia on
Wednesday, February 22, 2006, at 1:58
p.m.

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

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P R O C E E D I N G S

MR. SWENTOSKY:

My name is Dennis Swentosky. I am an accident investigator with the Mine Safety and Health Administration, an agency of the United States Department of Labor. With me is Tim Williams from the Solicitor's Office, and John Collins and Dave Stuart with the West Virginia Office of Miners' Health, Safety & Training.

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

1 gather information to
2 determine the cause of the
3 accident. And these
4 interviews are an important
5 part of the investigation.

6 At this time, the
7 accident investigation team
8 intends to interview a number
9 of people to discuss anything
10 that may be relevant to the
11 cause of the accident.

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

1 also be used in other
2 enforcement proceedings.

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

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

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

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

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

1 any statements that you make
2 in response to the questions.
3 After we have finished asking
4 questions, you will also have
5 an opportunity to make a
6 statement and provide us with
7 any other information that you
8 believe may be important.

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

21 Your statement is
22 completely voluntary. You may
23 refuse to answer any question
24 and you may terminate the
25 interview at any time. If you

1 need a break at any time, just
2 please let us know.

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

15 If any part of your
16 statement is based not on your
17 own first-hand knowledge, but
18 on information that you
19 learned from someone else,
20 please let us know. Please
21 answer each question as fully
22 as you can, including any
23 information that you learned
24 from someone else. We may not
25 ask the right question to

1 learn the information that you
2 have, so do not feel limited
3 in the precise questions that
4 we ask. If you have
5 information about the subject
6 area of a question, please
7 provide the information to us.

8 At this time, Mr.
9 Collins, do you have anything
10 that you would like to add on
11 behalf of the Office of
12 Miners' Health, Safety &
13 Training?

14 MR. COLLINS:

15 Yes. Thank you. Mr.
16 Stemple, the West Virginia
17 Office of Miners' Health,
18 Safety & Training is
19 conducting this interview
20 session jointly with MSHA and
21 are in agreement with the
22 procedures outlined by Mr.
23 Swentosky for these interview.

24 But the Director
25 reserves the right, if

1 necessary, to call or subpoena
2 witnesses or require the
3 production of any records,
4 documents, photographs or
5 other relevant material
6 necessary to conduct this
7 investigation.

8 And also after the
9 interview today, if you wish
10 to --- have questions or wish
11 to provide additional
12 information, here's a card for
13 Mr. Brian Mills.

14 MR. STEMPLE:

15 Thank you.

16 MR. COLLINS:

17 Thank you, Mr. Stemple.

18 MR. SWENTOSKY:

19 Mr. Stemple, are you
20 aware that you may have a
21 personal representative with
22 you during the taking of this
23 statement?

24 MR. STEMPLE:

25 Yes.

1 MR. SWENTOSKY:

2 Do you have a
3 representative with you today?

4 MR. STEMPLE:

5 Yes.

6 MR. SWENTOSKY:

7 And who might that be?

8 MR. STEMPLE:

9 I can't think of his
10 name.

11 ATTORNEY RAJKOVICH:

12 Marco - - - .

13 MR. STEMPLE:

14 Marco. Thank you.
15 Rajkovich.

16 ATTORNEY RAJKOVICH:

17 Rajkovich (corrects
18 pronunciation).

19 MR. STEMPLE:

20 Rajkovich (confirms
21 pronunciation).

22 ATTORNEY RAJKOVICH:

23 Close enough.

24 MR. SWENTOSKY:

25 Okay. Are you aware

1 that your representative may
2 have a conflict of interest in
3 representing you while being
4 provided by someone else, such
5 as the company?

6 MR. STEMPLE:

7 Can you repeat that
8 again, please?

9 MR. SWENTOSKY:

10 Sure. Are you aware
11 that your representative may
12 have a conflict of interest in
13 representing you while being
14 provided by someone else, such
15 as that company?

16 MR. STEMPLE:

17 I really don't know how
18 to answer that. Am I aware
19 that there may be a conflict?

20 MR. SWENTOSKY:

21 Yes.

22 MR. STEMPLE:

23 I don't foresee a
24 conflict.

25 MR. SWENTOSKY:

1 Okay. Have you been
2 pressured in any way to accept
3 this person as your
4 representative?

5 MR. STEMPLE:

6 No, sir.

7 MR. SWENTOSKY:

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

12 MR. STEMPLE:

13 Yes.

14 ATTORNEY RAJKOVICH:

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

24 ATTORNEY WILLIAMS:

25 Yes.

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ATTORNEY RAJKOVICH:

Thanks. Except me.

MR. SWENTOSKY:

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

MR. STEMPLE:

No, sir.

MR. SWENTOSKY:

Could you swear in Mr. Stemple, please?

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

BY MR. SWENTOSKY:

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

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

1 Q. And could we have your address
2 and telephone number, please?

3 A. My address is Route 2, Box
4 112F, Philippi, West Virginia 26416.
5 My phone number is area code
6 304-457-4310.

7 Q. Thank you. Are you appearing
8 here today voluntarily?

9 A. Yes.

10 Q. And how many years of mining
11 experience do you have?

12 A. I started in the mines January
13 of 1987, so I guess that would be 19
14 years.

15 Q. And could you give us a brief
16 description of your coal mine
17 employment history, please?

18 A. In 1987 I started as a
19 surveyor/draftsman. I worked for two
20 years in that capacity. In 1990 ---
21 I'm sorry, 1980 --- I started in the
22 mines in '85. 1987 is when I went to
23 Black Diamond Energy as a beltman. I
24 worked as a beltman and utility man
25 on a section for approximately two

1 years. In 1990, I went to work for
2 Anker at the same mine, when they
3 purchased the mine, in the safety
4 department. And been in the safety
5 department and I've been a foreman or
6 superintendent ever since in one of
7 those capacities.

8 Q. And what is your present
9 position?

10 A. My current title is Assistant
11 Director of Safety and Employee
12 Development.

13 Q. And how long have you worked
14 in that position?

15 A. I got that title in August of
16 2005.

17 Q. Okay. And what other
18 positions have you held at the Sago
19 Mine?

20 A. I was superintendent for a
21 two-month period prior to August,
22 June and July.

23 Q. And prior to that?

24 A. Approximately a year before
25 that I was a safety --- well, I

1 wasn't listed as safety director
2 there, but I was in the safety
3 department involved with the mine, in
4 the plans and initializing the mine
5 reopening.

6 Q. And did you hold the same
7 position on January 2nd, 2006, the
8 day of the accident?

9 A. Yes. Assistant Director of
10 Safety and Employee Development, yes.

11 Q. Okay. And what mining
12 certifications do you have?

13 A. I have a West Virginia miner's
14 card. I have a shot fires card in
15 West Virginia. I have my West
16 Virginia mine foreman's
17 certifications papers. I have an EMT
18 certification in West Virginia.

19 Q. Okay. Do you have any
20 certifications in any other states?

21 A. No, sir.

22 Q. And who is your immediate
23 supervisor?

24 A. At this time, Sam Kitts.

25 Q. And who was your immediate

1 supervisor prior --- on the day of
2 the accident, prior to the accident?

3 A. Ty, Tyrone Coleman. Harrison
4 Tyrone Coleman.

5 Q. Okay. And he's no longer your
6 immediate supervisor?

7 A. After the accident occurred, I
8 was told that I was to answer to Sam
9 Kitts and they took me from my
10 current office and put me at the mine
11 site in an office at the mine site as
12 part of the investigation.

13 Q. Where was your office prior to
14 the accident?

15 A. Buckhannon.

16 Q. Okay. And how long was Mr.
17 Coleman your supervisor?

18 A. Since August 2005.

19 Q. Who was your supervisor prior
20 to that?

21 A. Chuck Dunbar.

22 Q. Can you just kind of describe
23 the safety department operations at
24 the Sago Mine?

25 A. The safety department

1 operations at the Sago Mine ---.

2 Q. Let me make one clarification
3 before you start. And the question
4 I'm asking --- when I ask the
5 questions, I'm referring to prior ---
6 on the day of the accident and prior
7 to that.

8 A. Okay. James Allen Schoonover
9 is the safety director at the mine
10 and then we are support group for him
11 if he needs us.

12 Q. And were you working on the
13 day of the accident?

14 A. No, sir.

15 Q. Okay. Can you tell us when
16 you learned of the explosion at the
17 Sago Mine?

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

20 Q. Okay.

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

23 Q. That's fine. The event.

24 A. Yes.

25 Q. Okay. And where were you at

1 when you were notified of that?

2 A. At home.

3 Q. At home? Okay. And who ---
4 well, you said when, but who notified
5 you of the event?

6 A. Bill Chisolm. He was the
7 dispatcher.

8 Q. And how did he notify you of
9 that?

10 A. Telephone.

11 Q. Telephone, okay. And what was
12 the information that he provided to
13 you at that time over the telephone?

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

25 Q. Okay. Was that the extent of

1 the conversation?

2 A. No.

3 Q. Just tell me what he said.

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

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

18 A. It was a very eventful
19 morning.

20 Q. Yes, I would imagine.

21 A. I made 46 phone calls from
22 basically seven o'clock in the
23 morning 'til approximately 10:45.
24 And this being the first phone call
25 and trying to understand what Bill

1 was trying to tell me being that I
2 was at home and couldn't understand
3 the magnitude of what was going on in
4 the mine.

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

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

20 And when he finally got ahold
21 of Dick Wilfong, he patched the land
22 line phone into the mine phone and I
23 talked to Jeff Toler, which at that
24 time was approximately 7:15. And I
25 asked Jeff what was going on. And he

1 said that they had lost power. He
2 wasn't sure what was going on at that
3 time. He had just ran into the crew
4 from One Left. They were exiting the
5 mine. And that they said they had
6 noticed several intake stoppings out
7 along the way.

8 And I said, do you have any
9 idea what may have happened. And he
10 said, no, I don't. And I said, have
11 you been able to get ahold of the Two
12 Left crew, which Bill had told me he
13 had not had contact with the Two Left
14 crew at that time.

15 And Jeff (sic) said, no, he
16 had not. And I said, well, being
17 that there are stoppings out, you
18 need --- and they had also said there
19 was some smoke and dust in the air.
20 Being that there's stoppings out and
21 smoke and dust in the air, you need
22 to re-establish ventilation as deep
23 as you can into the mine to try and
24 prevent the air from being short-
25 circuited from the Two Left section

1 since we can't get ahold of those
2 men.

3 And Gary Marsh, who's the
4 outside yard man was also on a mine
5 phone and overheard this conversation
6 and he proceeded, from my
7 understanding, to put together some
8 ventilation controls, curtain, nails
9 and stuff to take down to the pit
10 mouth.

11 And from my understanding,
12 Dick Wilfong left that group and
13 exited the mine with the One Left
14 crew via the mantrip, track mantrip,
15 returned to the surface and gathered
16 up the supplies that Gary Marsh had
17 prepared. And Dick went back into
18 the mine and there was five
19 individuals that proceeded to install
20 ventilation controls into the mine.

21 In the meantime, I was trying
22 to decipher what type of problem we
23 may have based on the information
24 that I was given. And I proceeded to
25 make phone calls that morning. I

1 started with our company people
2 calling phones and leaving messages
3 on answering machines. Then I tried
4 to call the state office and there
5 was no answer of course at the state
6 office. That was at approximately
7 7:50 --- 7:40, I'm sorry. 7:40.

8 I got Mark Wilfong and Brian
9 Mills' phone numbers of the answering
10 machine. I called Mark Wilfong's
11 home phone number. I let it ring ten
12 times and there was no answer. I
13 called Brian Mills' number that was
14 on the answering machine and got a
15 message that the number had been
16 disconnected.

17 My wife was there helping me
18 and I'm asking her to look up phone
19 numbers in the phonebook. I then
20 called John Collins at home, left a
21 message on his answering machine. I
22 then tried to call --- I made so many
23 phone calls, I don't want to get them
24 mixed up.

25 I then called back to the mine

1 to get an update, because I'm calling
2 and leaving messages on answering
3 machines and I'm really not knowing
4 what type of message to leave.

5 So I believe at that time, I
6 called back to the mine to get an
7 update to see if there was any type
8 of update. And I also requested the
9 phone number of the mine rescue team
10 station off the bulletin board and I
11 tried to call the mine rescue team
12 numbers that were on the board and
13 was not having any luck with that.

14 I made a phone call to Jeff
15 Rice's home. He was not there. I
16 made a phone call to the mine rescue
17 station. This was approximately
18 eight o'clock, maybe five minutes
19 after 8:00. Their answering machine
20 had been turned off. There was no
21 answering machine. It had been turned
22 off.

23 I then call back to the mine
24 by my best recollection and asked for
25 any more phone numbers posted with

1 the mine rescue team, and got ahold
2 of Chris Height (phonetic) finally at
3 home. And explained to Chris that we
4 had a problem at the mine.

5 In my earlier conversation
6 with Jeff Toler, he said that Dick
7 Wilfong recommended that we contact a
8 mine rescue team and get them started
9 toward the mine.

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

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

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

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

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

25 I had got ahold of John

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

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

19 After that, I made numerous
20 phone calls as far as mine rescue
21 goes. Our employees, our other
22 safety personnel, mine-related people
23 and once I felt confident that I
24 could finally leave my phone to head
25 toward the mine, which was about

1 10:45 in the morning, then I headed
2 --- actually I went to the Buckhannon
3 division office first. And then from
4 the division office in Buckhannon, I
5 collected some things I needed, then
6 I went on to the mine. I arrived at
7 the mine approximately 11:30.

8 Q. Okay. Boy, you had quite a
9 phone call history there and some
10 times. Okay. You were notified at
11 7:00 a.m., you said, on January 2nd,
12 and that was Mr. Chisolm, ---

13 A. Yes.

14 Q. --- the dispatcher?

15 A. Yes.

16 Q. And just briefly again, what
17 was --- you said you were on the
18 phone for 20 minutes with him
19 approximately?

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

22 Q. Okay. And do you know
23 approximately what time you spoke to
24 Mr. Toler?

25 A. 7:15.

1 Q. 7:15. And that was patched
2 through the pager phone that's
3 underground?

4 A. Yes.

5 Q. And just again, what
6 instructions did you give him?

7 A. I asked him what he knew at
8 that time.

9 Q. Okay.

10 A. And he told me what the One
11 Left crew had told him.

12 Q. Okay.

13 A. And I asked him, had he been
14 able to get ahold of the Two Left
15 crew. Had we made contact with the
16 Two Left crew. And he had not. And
17 I said being that the intake
18 stoppings had been breached, the
19 statements made by the One Left crew,
20 that I told him that he needed to
21 replace those stoppings with
22 curtains. Being that there was smoke
23 and dust in the air, that I felt that
24 the ventilation was definitely
25 disrupted. And being a blowing

1 ventilation system, I understand how
2 that works and a stopping out means
3 your air is short-circuited. I
4 instructed him to gather up what
5 ventilation controls he could and re-
6 establish ventilation into the mine
7 to the Two Left crew.

8 Q. Okay. At any time, did Mr.
9 Chisolm indicate that he had ordered
10 the mine evacuated or anything like
11 that? Or who made the --- did
12 anybody instruct that the mine be
13 evacuated?

14 A. I'm not aware of that.

15 Q. Okay. After you had that
16 initial discussion with Mr. Toler ---
17 and was that the end of the
18 conversation, that first
19 conversation, by telephone with
20 anyone or ---?

21 A. Underground, yes.

22 Q. And the surface, did your
23 conversation continue then with Mr.
24 Chisolm or someone else?

25 A. No.

1 Q. Is that when you hung the
2 phone up then?

3 A. Yes.

4 Q. Okay. And you said at that
5 point then, you --- and who was the
6 person that you called next?

7 A. Chuck Dunbar.

8 Q. Chuck Dunbar. And what was
9 the extent of that conversation?

10 A. I left a message on his
11 answering machine letting him know
12 what we had at the mine, what I knew.

13 Q. And then do you know the
14 approximate time of that?

15 A. 7:23.

16 Q. Okay. Do you have a log or
17 something that you have those ---
18 would we be able to have a copy of
19 that? Or maybe we already have. I'm
20 not sure.

21 ATTORNEY RAJKOVICH:

22 We'll look, take it
23 under advisement.

24 MR. SWENTOSKY:

25 Okay.

1 BY MR. SWENTOSKY:

2 Q. After you spoke to --- or you
3 didn't speak to Mr. Dunbar, but you
4 left him a message on his machine.
5 And then who was it that you
6 attempted to phone next?

7 A. Raymond Coleman.

8 Q. Coleman. And what is his
9 position?

10 A. I believe his title is
11 production coordinator.

12 Q. Okay. And did you speak with
13 him at all?

14 A. No. Left a message.

15 Q. Message. Okay. And then who
16 did you call next?

17 A. Tyrone Coleman.

18 Q. Tyrone Coleman. Did you speak
19 to him?

20 A. No, sir.

21 Q. You were having a tough time?

22 A. I was having a tough time.

23 Q. Okay. And then who did you
24 try next?

25 A. Chuck Dunbar then returned my

1 phone call and I basically told him
2 the same thing I did on the message,
3 that there was a problem underground
4 and I asked him to help me make some
5 phone calls because I was having a
6 rough time.

7 Q. And did he give you any
8 instructions at all?

9 A. No, sir.

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

16 A. To his supervisors, people
17 above him.

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

21 A. No.

22 Q. Okay.

23 A. No.

24 Q. All right. And then who did
25 --- after your discussion with Mr.

1 Dunbar, - - - ?

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

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

21 Q. And did he give you any
22 instructions?

23 A. No.

24 Q. Going back for a second to
25 your phone call with Chisolm, did he

1 indicate anyone that he had called,
2 MSHA or the state?

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

10 Q. But he didn't tell you whether
11 he called MSHA or state or ---

12 A. No, he did not.

13 Q. ---- company people or
14 anything?

15 A. No, he did not.

16 Q. Okay. So then after you spoke
17 with Mr. Coleman, then who did you
18 attempt to call?

19 A. That's when I called Jerry
20 Waters to get more phone numbers.

21 Q. And Jerry Waters, what is his
22 position?

23 A. He's purchasing manager.

24 Q. Okay. And you obtained those
25 various phone numbers ---

1 A. Yes.

2 Q. --- that you were attempting?
3 And what phone numbers were you
4 attempting to get through that
5 conversation?

6 A. Tyrone Coleman's home phone
7 number. I guess I did call Jerry
8 before I called Raymond evidently
9 because I got Raymond's phone number
10 as well from Jerry.

11 Q. Okay.

12 A. Called Raymond and got ahold
13 of him. I called Ty's home, still no
14 answer. And after that, I just made
15 a series of phone calls.

16 Q. And what was that series? Do
17 you recall?

18 A. As I said, first I called
19 Kenny Tenney's phone, left a message.
20 I called the state office, that whole
21 ---.

22 Q. And you mentioned you called
23 the state around 7:40, I believe you
24 said?

25 A. Uh-huh (yes).

1 Q. And what time --- do you have
2 any idea what time you attempted to
3 call Mr. Tenney?

4 A. 7:50.

5 Q. 7:50?

6 A. Yes.

7 Q. Okay. And then you --- I know
8 you said you tried a series of MSHA
9 calls and then you finally was able
10 to get ahold of Mr. Satterfield at
11 8:28. You thought ---

12 A. 8:28.

13 Q. --- it was somewhere around
14 there.

15 A. It was 8:28.

16 Q. Okay. And between those MSHA
17 calls, had you made any other calls
18 or did you just start down the line
19 with MSHA?

20 A. Yes, I made several calls. I
21 was just making efforts at the state.
22 I would make an effort at MSHA. I
23 would make an effort at the mine
24 rescue team. And then I would no
25 particular reason or rhyme, then I

1 would go back again. As my wife was
2 looking up phone numbers in the
3 phonebook, I was trying the numbers
4 that she was giving me and I was
5 directing her what numbers and who to
6 give me, who to look up.

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

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

10 Q. And after those --- when was
11 the mine rescue teams or how did you
12 get in --- how did you get into that
13 if you would fill that in for me?

14 A. Tried to call Jeff Rice first
15 at his home phone.

16 Q. Okay. And who is Jeff Rice?

17 A. He is the team trainer. I
18 believe he's their trainer, is his
19 title.

20 Q. Okay. And did you --- your
21 first attempt at the mine rescue
22 team, was that after the (k) order
23 was issued or was that ---
24 approximately what time was that?

25 A. That was before.

1 Q. That was before?

2 A. I do believe it was before.

3 Q. And what time did you say that
4 was?

5 A. It seemed like it was 8:04 by
6 my best recollection. When I tried
7 to call Jeff Rice at home it was
8 8:04, yes.

9 Q. And what led you to attempt a
10 call to Mr. Jeff Rice?

11 A. By Jeff Toler stating that
12 Dick Wilfong had recommended we
13 contact the mine rescue team.

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

25 A. Well, I hung up the phone with

1 Mr. Chisolm at 7:23, then I called
2 back at approximately 20 'til 8:00
3 I'm guessing, because I don't
4 remember that time exactly. And I
5 tried to call the mine rescue team,
6 Jeff, at 8:04. I do remember that
7 time.

8 Q. Okay. And you were not able
9 to get ahold of him. And then who
10 did you try and call?

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

16 Q. Okay.

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

25 Q. When you asked for those

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

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

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

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

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

16 A. Chris Height.

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

19 A. He is affiliated with the
20 Barbour County Mine Rescue. I'm not
21 sure what his title is, but he's
22 affiliated with the Barbour County
23 Mine Rescue Team. He may be the
24 president. I think he's the
25 president.

1 Q. And were you able to get ahold
2 of him?

3 A. Yes.

4 Q. And what information did you
5 provide Mr. Rice --- or excuse me,
6 ---

7 A. Mr. Height.

8 Q. --- Mr. Height?

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

16 Q. Okay. And did he ask you for
17 any additional information or ---?

18 A. No.

19 Q. That was the extent of that
20 conversation?

21 A. Yes.

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

24 A. I would say around 8:10 to
25 8:15, just guessing. I don't

1 remember that time.

2 Q. Okay. And after that
3 conversation then, who did you ---
4 start at that point and tell me what
5 occurred.

6 A. I then called the mine rescue
7 station and Jeff Rice and answered
8 the phone. And I told Jeff Rice at
9 that time what we had and that I had
10 got ahold of Chris and Chris was on
11 his way to the station. Jeff told me
12 that he was in the process of calling
13 his mine rescue team members. And
14 that he had not got ahold of all of
15 them, but he had enough for one team.
16 He then asked me if I knew anything
17 about Roger Hedrick, which is one of
18 his team captains. If Roger had
19 worked that night. He works at the
20 Sago Mine on midnight shift. And I
21 told him I would call the mine and
22 see. Maybe he is there. So then I
23 called the mine to see if Roger had
24 worked that night. And they said,
25 no, no one had worked on midnight

1 shift that night.

2 Q. When you called back to Jeff
3 Rice and he said he was getting
4 things prepared, had he heard
5 something from someone else?

6 A. That was ---

7 Q. And that was your ---?

8 A. --- obvious. Evidently.

9 Q. Okay. But you're not aware of
10 ---

11 A. I'm not aware.

12 Q. --- how that occurred? Okay.
13 Then you tried to get ahold of the
14 captain for Sago and he had --- or
15 excuse me, you had called back to the
16 mine and he did not work that
17 evening. Then what did you do?

18 A. I called back and told Jeff
19 Rice that, that he had not worked
20 that evening. And Jeff told me that
21 he would continue trying to get ahold
22 of the other members, that he had
23 enough people there now for one team
24 and he was going to go ahead and send
25 them to the mine at that time.

1 Q. And approximately what time
2 was it?

3 A. It was before 8:30.

4 Q. Okay. So that was actually
5 prior to finally getting ahold of Mr.
6 Satterfield?

7 A. Yes.

8 Q. And after that, what happened?

9 A. Just numerous phone calls
10 there. I mean, I can tell you the
11 phone calls but as far as putting the
12 in order, I've made so many, that's
13 it's just hard to put them in order.
14 I know I called Greg Nestor, who's
15 one of our safety department people
16 and told Greg that we were going to
17 need his assistance. I wasn't really
18 sure what assistance at that time we
19 would need - - -

20 Q. Sure

21 A. - - - but we would need his
22 assistance. I called Ed Ranenberg
23 (phonetic), another member of our
24 safety department. And I told him to
25 make sure he kept his cell phone with

1 him, that I'd be calling him back
2 with direction, just to head toward
3 the mine. I then called the pastor
4 at the Sago Baptist Church and asked
5 him if we could use the church as an
6 area for assembly of the families and
7 news media and mine rescue teams.

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

20 Q. And Jeff is ---?

21 A. He's an engineer with the
22 company.

23 Q. Thank you. An engineer that
24 works for ICG?

25 A. Yes.

1 Q. Okay.

2 A. Yes. He told me --- well,
3 actually I called Jeff to see if
4 there was anyone available at the
5 Anker office that could print off
6 maps for us for the mine rescue
7 teams. And Jeff at that time
8 volunteered his assistance.

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

21 Q. Ty then got to the mine much
22 earlier than you?

23 A. Yes.

24 Q. Okay. So then ---.

25 A. Several hours I'm sure.

1 Q. Several hours before, okay.

2 A. Yes.

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

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

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

20 A. No. No.

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

23 A. No.

24 Q. Okay. Did you have any other
25 conversations with MSHA or the state

1 prior, any additional ones, other
2 than what you've told me so far?

3 A. Yes.

4 Q. From that time until the time
5 you left ---

6 A. Yes.

7 Q. --- your home?

8 A. Yes.

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

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

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

21 A. No, I don't.

22 Q. And ---.

23 A. Probably around nine o'clock
24 but I don't remember exactly.

25 Q. Okay. And I guess my next

1 question, was there any other
2 conversation with MSHA or the state
3 prior to you leaving for the mine?

4 Q. No.

5 Q. The mine rescue, now there's
6 --- the first team has been sent to
7 the mine. And were there any other
8 teams that were mobilized that you're
9 aware of prior to you leaving from
10 home?

11 A. Yes. When I talked with Ron
12 Wyatt, he told me that he had
13 contacted Consol's mine rescue team
14 people, whoever that is.

15 Q. Okay.

16 A. And he had contacted Tri-State
17 Mine Rescue Team and he had both on
18 the way.

19 Q. Okay. Had anyone asked them
20 to --- are you aware of anyone asking
21 Mr. Wyatt to make those contacts at
22 all?

23 A. No.

24 Q. Did anyone from ICG request
25 any additional teams up until the

1 time you left from home?

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

3 Q. At that time though, were you
4 aware of ---?

5 A. No, I was not.

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

8 A. Tim Martin, who's one of our
9 safety managers out of the Ashland
10 office in Kentucky, had made phone
11 calls trying to acquire mine rescue
12 teams.

13 Q. How did he become aware of the
14 --- was that just part of the
15 telephone ---?

16 A. I believe I called him.

17 Q. Oh, you did?

18 A. Yes.

19 Q. And what did you tell him?

20 A. Just that there was a problem
21 at the mine and what Bill Chisolm had
22 told me and what Jeff Toler had told
23 me on the phone.

24 Q. And do you recall
25 approximately what time that was?

1 A. It was before nine o'clock.

2 Q. And what rescue teams again,
3 did he notify?

4 A. Tim had contacted a mine
5 rescue team at one of the ICG
6 operations. I believe it's in
7 Illinois. They're called Viper. I
8 believe the name of the mine is Viper
9 Mine. And Tim told me that he had
10 contacted the Viper team. He had
11 them in a charter jet on their way
12 and we would need to make
13 arrangements to pick them up at 1:30
14 in Charleston.

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

17 A. Yes.

18 Q. And did he relate any --- or
19 this is just information that you
20 have come to learn after?

21 A. No. He told me that on the
22 phone.

23 Q. Oh, okay. Did he --- was
24 there any other mine rescue teams
25 that he related to you that he might

1 have requested?

2 A. Not to my knowledge.

3 Q. Did anyone request any
4 additional teams that we haven't
5 discussed yet?

6 A. Not to my knowledge.

7 Q. Were there any mine rescue
8 teams that had arrived prior to you
9 leaving your home that you're aware
10 of?

11 A. I was told in one of my phone
12 conversations that the Barbour Mine
13 Rescue Team was on the property. And
14 that was probably 9:30, quarter 'til
15 10:00, sometime in that time frame.

16 Q. Okay. And who did you have
17 that discussion with?

18 A. I believe Brad Phillips.

19 Q. And who is Brad Phillips?

20 A. At that time, he was assistant
21 superintendent at the mine, at Sago
22 Mine.

23 Q. When you say at that time,
24 what do you --- you're just relating
25 that he --- is he still?

1 A. On January the 2nd.

2 Q. The 2nd?

3 A. Uh-huh (yes).

4 Q. And what was the extent of
5 that conversation?

6 A. I wanted to know if there was
7 smoke coming out of the drift mouth
8 of the return entry. That's why I
9 called and he answered the phone and
10 he went and looked and told me no,
11 there was not.

12 Q. Was there any instructions to
13 anyone up to that point to check the
14 returns to determine what the
15 constituents might have been?

16 A. It was already being done.
17 Whenever I talked to John Collins
18 earlier, he told me that they had
19 already checked the return and there
20 was 42 parts per million coming out
21 the return. And that he had the
22 sheriff's department at the gate to
23 monitor the gate. I had already
24 given Gary Marsh instruction to go
25 out and monitor the gate and not to

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

11 Q. Okay. And did the say who was
12 doing the monitoring?

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

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

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

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

25 A. No.

1 Q. All right.

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

11 Q. Greg Nestor, who is he?

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

14 Q. Safety department at Sago?

15 A. Sentinel.

16 Q. Sentinel?

17 A. Uh-huh (yes).

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

20 A. Correct.

21 Q. Okay. What had you --- you
22 had made --- or spoke with him or ---

23 A. Yes.

24 Q. --- he called you? You called
25 him?

1 A. I called him.

2 Q. And that's prior to you
3 leaving home again?

4 A. Yes.

5 Q. Okay. And his --- the
6 instruction that you had given him
7 was to organize mine rescue, to pick
8 up ---?

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

15 Q. So that was the extent of his
16 instruction, at that point anyway?

17 A. Yes.

18 Q. Okay. When you left your
19 residence, what caused you to leave
20 your residence? And maybe that
21 sounds like a dumb question, but I
22 mean, do you ---? You had everything
23 organized at that point that you felt
24 you needed?

25 A. Yes.

1 Q. Or did someone instruct you to
2 come to the mine at that point?

3 A. No.

4 Q. I guess that's what I'm
5 questioning.

6 A. No. I felt at that time, I
7 had contacted the people that I
8 needed to contact and could leave and
9 go to assist.

10 Q. Okay. Did you make a final
11 call to the mine prior to leaving
12 your residence?

13 A. I made several calls to the
14 mine prior to leaving my residence.

15 Q. Okay. What was that
16 conversation, that last one?

17 A. I don't know that that was the
18 last call that I made.

19 Q. Do you recall what information
20 was given to you at the last
21 conversation with the mine?

22 A. That the state was at the
23 property, the federal was at the
24 property. And again, I asked was
25 there smoke coming out of the pit

1 mouth and the answer was no.

2 Q. And who did you speak to at
3 the last, do you recall?

4 A. No, I do not. I spoke with
5 several people on my various phone
6 calls. I don't remember who the last
7 person was I talked to.

8 Q. Okay. When you left your
9 residence to go to the mine, did you
10 make any additional calls on a cell
11 phone on your ---

12 A. Yes, sir.

13 Q. --- route to the mine? And
14 who might that have been?

15 A. Yes. Some of them are what I
16 already mentioned, conversations with
17 Tim Martin, conversations with Greg
18 Nestor, conversations with Jeff
19 Kelly, conversations with Tyrone
20 Coleman.

21 Q. And those --- you say that
22 some of those calls are the ones that
23 you've already mentioned?

24 A. Yes. Yes.

25 Q. And when you arrived at the

1 mine, what did you do?

2 A. When I arrived at the mine, I
3 walked over to the office building to
4 see what was going on.

5 Q. And you say the office
6 building, you mean the ---

7 A. The mine office.

8 Q. --- the mine office, the large
9 building, the bathhouse ---

10 A. Yes.

11 Q. --- combined with offices?

12 A. Yes.

13 Q. And who did you speak to at
14 that location?

15 A. I spoke with several people,
16 Brad Phillips, Bill Ponceroff, Carl
17 Crumrine, Jim Satterfield.

18 Q. Okay. And when you arrived
19 and you went to the office and spoke
20 with them, what were the extent of
21 those conversations or what
22 instructions did you give or did you
23 get at that time?

24 A. It was very chaotic. I did
25 not give any instructions and I did

1 not receive any instructions. I
2 guess the first instructions that I
3 received was for my company to
4 provide information to Gene Kitts and
5 Roger Nicholson. Gene Kitts is a
6 senior engineer and Roger Nicholson
7 is senior counsel.

8 Q. And what information did you
9 provide?

10 A. What was going on, what
11 efforts were being made.

12 Q. Okay. And just kind of lead
13 me through that. What did you tell
14 them?

15 ATTORNEY RAJKOVICH:

16 First of all, anything
17 with Counsel, we're going to
18 invoke the privilege. Roger
19 Nicholson. So he won't be
20 able to discuss anything he
21 talked to Mr. Nicholson about.

22 MR. SWENTOSKY:

23 And who is Roger
24 Nicholson?

25 ATTORNEY RAJKOVICH:

1 He's Counsel for ICG,
2 in-house Counsel.

3 MR. SWENTOSKY:

4 Oh. Okay.

5 ATTORNEY RAJKOVICH:

6 Yeah.

7 BY MR. SWENTOSKY:

8 Q. What about Mr. Kitts?

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

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

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

3 A. No.

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

7 A. No.

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

11 A. Yes, I did.

12 Q. Okay. And when was that?

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

21 Q. Okay. And who were --- who was
22 making those --- or who made those
23 examinations in the pit of those
24 levels?

25 A. The mine rescue teams. I

1 believe it was Barbour County Mine
2 Rescue Team, but I'm not a hundred
3 percent sure.

4 Q. Okay. And you were told that
5 it was 61 parts per million in the
6 building. Who told you that?

7 A. Carl Crumrine. He had the
8 detector right in front of him.

9 Q. Okay. And did --- how did he
10 come to know that? I know you said
11 he saw it.

12 A. Uh-huh (yes).

13 Q. But how did he come to
14 actually observe it? I mean, usually
15 you don't look at that.

16 A. At 50 parts per million, the
17 detectors that we have, they're set
18 to alarm at 50 parts per million.

19 Q. Okay.

20 A. Visual and audible alarm.

21 Q. And did the alarm alarm?

22 A. Yes.

23 Q. And that's how you came to
24 know that?

25 A. Yes. There were several

1 alarms alarming. Several detectors
2 alarming.

3 Q. And what type of detectors
4 were those?

5 A. The one that Carl had was a
6 Industrial Scientific iTX.

7 Q. Is there a number that goes
8 with that iTX ---?

9 A. No.

10 Q. And did you personally make
11 any examinations?

12 A. No.

13 Q. You just --- but you did
14 observe Mr. Crumrine's detectors?

15 A. Yes.

16 Q. And at that point, what
17 occurred?

18 A. Bill Ponceroff was making a
19 statement that he felt we should
20 evacuate the mine property.

21 Q. Okay. And did you do that?

22 A. No.

23 Q. Okay. And why didn't you do
24 that?

25 A. It was very chaotic and no one

1 else was listening and it was like,
2 who's in charge.

3 Q. Who was in charge?

4 A. I don't have a clue.

5 Q. Well, then --- so he had asked
6 that everyone --- or suggested that
7 everyone leave the property?

8 A. There were approximately 80
9 people in that area I would say
10 between the parking lot and inside of
11 the building and outside of the
12 building. And as I went him by him in
13 passing, he said I think we should
14 evacuate the property.

15 Q. Okay. And then what happened?

16 A. I did go out and round up the
17 people that I felt were nonessential,
18 employees that were around, family
19 members that were around, and asked
20 them to either meet at the Sago
21 Baptist Church or to go on up to the
22 preparation plant to the training
23 room that we have available up there.

24 Q. Okay. And did they do that?

25 A. Yes.

1 Q. And after you asked them, what
2 did you do next?

3 A. Just walked around like
4 everybody else was doing, trying to
5 see if there was some way I could
6 help or something I could do.

7 Q. Did you ever make any methane
8 or CO examinations?

9 A. No, I did not.

10 Q. So you were not involved in
11 any way of the --- concerning the
12 monitoring of the CO levels?

13 A. No.

14 Q. Did you happen to ask anyone
15 to or direct anyone to make any
16 examinations or monitoring at any
17 time?

18 A. No.

19 Q. Who was making those requests
20 or giving those instructions?

21 A. I don't know.

22 Q. At that --- were there any
23 additional mine rescue teams
24 contacted after you arrived at the
25 mine that you're aware of?

1 A. I don't know that they were,
2 but they were pulling in routinely
3 into the parking lot, Consol teams
4 were pulling in routinely.

5 Q. And were you involved in any
6 of the instruction of those teams or
7 where to go, what to do or anything
8 like that?

9 A. Not at that time, no.

10 Q. Okay. And I believe you ---
11 you did not notify the police; is
12 that correct?

13 A. No, sir.

14 Q. And do you know who did then?

15 A. No, I do not. I was told John
16 Collins had inquired the deputy
17 sheriff --- or sheriff department to
18 watch the gate.

19 Q. And when was that done, do you
20 know?

21 A. Between 8:30 and 8:40 time,
22 sometime in that time frame.

23 Q. Did you notify EMS?

24 A. No, sir.

25 Q. And who did that?

1 A. I believe Bill Chisolm did,
2 but I'm not sure.

3 Q. Okay. They were at the mine
4 whenever you arrived?

5 A. Yes.

6 Q. Okay. After you were
7 instructed by Mr. Ponceroff and we
8 talked about that, what were your
9 duties then from that point on?

10 A. As I stated before, to gain
11 information to give to Gene Kitts and
12 Roger Nicholson.

13 Q. Okay. Did you have any
14 specific duties, other than that?

15 A. No.

16 Q. Did you do any other specific
17 duties?

18 A. No.

19 Q. You just walked around?

20 A. Just like everybody else was
21 doing, in my opinion.

22 Q. Do you know if the power to
23 the outside ever was off during the
24 ---?

25 A. I learned later that it was

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

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

11 A. Not to my knowledge.

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

14 A. Right.

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

18 A. No.

19 Q. And when I say any
20 involvement, I'm talking about the
21 planning of where the hole would be
22 drilled or where we should drill a
23 borehole or should we drill a
24 borehole, anything --- did you have
25 any involvement in that?

1 A. No.

2 Q. Did you hear anyone else that
3 was involved in that?

4 A. Yes.

5 Q. Were you in the command
6 center?

7 A. Yes. I was in and out of the
8 command center, yes.

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

15 A. No.

16 Q. You never spoke to any of them
17 about ---?

18 A. Drilling the boreholes?

19 Q. Yes.

20 A. No, sir, I did not.

21 Q. Do you know anything about the
22 drilling companies that were selected
23 for the boreholes?

24 A. No.

25 Q. Were you ever at the

1 boreholes?

2 A. Probably three weeks after
3 they were drilled.

4 Q. During the drilling of them,
5 you were never up there?

6 A. No, sir.

7 Q. How many boreholes were
8 drilled? Do you know that?

9 A. Five that penetrated the coal
10 seam and one that did not.

11 Q. Do you know when the borehole
12 went through into the mine ---?

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

14 Q. Okay. And that's --- we're
15 speaking about the initial hole in
16 Two Left?

17 A. Correct.

18 Q. And what can you --- when it
19 went through, do you know what they
20 did?

21 A. Yes.

22 Q. And can you describe that to
23 me, please?

24 A. What I was told is that
25 shortly after they pulled through,

1 they had a moment of quiet to listen.
2 They said that after the quiet, they
3 struck the drill steel with a hammer
4 and then listened again. They
5 removed the drill steels and dropped
6 a camera into the hole. On the way
7 down the camera acquired some mud on
8 the lens. They looked around with
9 the camera, didn't see anything.
10 They then cleaned the lens off --- or
11 pulled it back off, cleaned the lens,
12 dropped it again and looked around
13 again for a better view. And the
14 information that I was given was that
15 there were still rock dust on the
16 miner cable and the water line, the
17 yellow mine waterline for the miner.
18 That the Jabco cable was still hung
19 across the feeder and the area was
20 well rock dusted and that there was
21 no damage, no visible damage and no
22 visible sign of anybody in the area.
23 Q. And were you in the room
24 whenever it was decided to drill the
25 borehole in Two Left?

1 A. I was in the room as those
2 conversations were being held. I
3 don't know that I was in the room
4 when the final decision was made to
5 drill the borehole.

6 Q. And did you know who made that
7 final decision?

8 A. No, I don't.

9 Q. Did you come to find out
10 later?

11 A. No.

12 Q. Do you know anything about the
13 surveying of the hole?

14 A. I know that they had trouble
15 with surveying the hole due to the
16 weather conditions.

17 Q. Okay. And when you're
18 relaying to me this information, is
19 this something you learned after the
20 event or during the day that when
21 they were actually doing the survey?

22 A. What I was asked to do was to
23 provide information to Gene Kitts and
24 Roger Nicholson, so I was trying to
25 acquire as much information without

1 bothering anybody as I could. So I
2 was trying to look over shoulders,
3 look at notes of people as they were
4 in the command center, listen to
5 conversations, what was being said,
6 and try to write that down to create
7 a timeline to give to Roger and Gene
8 so they could pass that on to the
9 families and the news media.

10 Q. Okay. And you say you were
11 taking some notes?

12 A. Yes.

13 Q. And would we be able to get a
14 copy of those notes?

15 ATTORNEY RAJKOVICH:

16 We'll take it under
17 advisement.

18 MR. SWENTOSKY:

19 Okay.

20 BY MR. SWENTOSKY:

21 Q. Okay. Continue about the
22 surveying.

23 ATTORNEY RAJKOVICH:

24 Do you want to take a
25 break or anything?

1 A. I'm good. The surveying, I
2 was told that they were having
3 trouble due to the weather
4 conditions. They were having trouble
5 with their GPS, working with
6 satellites. I know this was late at
7 night, it was dark out. It was
8 foggy. And from what I understand, I
9 guess they had to go as far away as
10 the Spruce Mine, which is behind the
11 Buckhannon Upshur High School, to get
12 a permanent survey location and start
13 from there to get the coordinates. I
14 also learned later that their
15 original GPS location was about 200
16 feet off from the actual survey
17 location that they finally acquired
18 after midnight January 3rd.

19 BY ATTORNEY SWENTOSKY:

20 Q. Okay. And this was
21 information that you had learned
22 looking over shoulders?

23 A. Yes.

24 Q. Okay. And I guess that would
25 be some of the delay in starting the

1 drilling of the hole because of the
2 GPS and trying to get an actual
3 proper location?

4 A. Yes.

5 Q. Do you know when the survey of
6 the hole was completed?

7 A. Sometime between midnight
8 January 3rd and 2:30 a.m. January
9 3rd.

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

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

19 Q. Okay. Do you recall when it
20 was completed?

21 A. Sometime between 2:00 p.m. and
22 midnight.

23 Q. Okay. And do you know if
24 there were any logistical problems
25 encountered during that site

1 development?

2 A. Yes.

3 Q. And what would that be?

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

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

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

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

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

20 Q. Okay. I guess I won't ask a
21 follow-up, then. So you had already
22 said that you weren't involved in the
23 activities at the borehole at all?

24 A. No, sir.

25 Q. Were you involved in the

1 decision to send the first mine
2 rescue team underground at all?

3 A. No, sir.

4 Q. And who would have made that
5 decision?

6 A. The command center.

7 Q. And did you hear any
8 discussions about when to send that
9 by looking over someone's shoulder?

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

13 Q. And do you recall what was
14 involved in making that decision at
15 that time?

16 A. They felt that the level of CO
17 and methane and oxygen coming out of
18 the mine was at safe level to allow
19 mine rescue teams to enter the mine.

20 Q. Okay. And was there any
21 attempt or any discussions to send
22 rescue teams in earlier than that?

23 A. I heard several discussions,
24 but I can't really say who they were
25 because I don't remember.

1 Q. Okay. And not saying who they
2 were but can you relate to me the
3 extent of those discussions?

4 A. Consol wasn't sure if they
5 were going to allow their teams to
6 participate.

7 Q. And why?

8 A. You'd have to ask Consol.

9 Q. Okay. Go ahead.

10 A. We finally got word that yes,
11 they were going to be allowed to
12 participate. I knew two of the men
13 on that team from having worked at
14 Consol previously. And they were
15 wanting to go in the mine.

16 Q. The team members themselves
17 were wanting to go in?

18 A. Yes. Yes.

19 Q. But the top officials --- and
20 who might that have been?

21 A. I don't know.

22 Q. Okay. But they, the top
23 officials, would not permit them to
24 go underground as far as you know?

25 ATTORNEY RAJKOVICH:

1 Top officials of who?

2 MR. SWENTOSKY:

3 Consol.

4 A. No. Consol had made a
5 decision to allow their teams to
6 participate. They were there, they
7 were on site, but we were still
8 waiting on word from, I guess,
9 Pittsburgh where their headquarters
10 is located as to whether or not they
11 were going to be allowed to
12 participate in the rescue efforts.
13 And it was well before 5:51 p.m. that
14 we got word that they were going to
15 be allowed to participate.

16 I had never been a part of a
17 mine rescue in my life. I had never
18 seen a mine rescue team. I had never
19 been in an operation that had mine
20 rescue efforts performed and in my
21 opinion, I felt that when federal
22 took control of the mine and the
23 state took control of the mine, that
24 they were the ones to say, yes or no.
25 BY MR. SWENTOSKY:

1 Q. Do you recall like maybe what
2 the earliest time was that any mine
3 rescue teams or anyone said that,
4 hey, we can --- we should be going in
5 the mine or anything like that?

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

7 Q. Based on everything you knew
8 at the --- when you arrived at the
9 mine, what did you think happened at
10 the mine?

11 ATTORNEY RAJKOVICH:

12 I'm instructing him not
13 to answer that.

14 BY MR. SWENTOSKY:

15 Q. I mean, you personally at that
16 time, did you have any idea what had
17 happened based on what Mr. Toler had
18 told you?

19 A. I didn't have any idea what
20 happened until the mine rescue team
21 reached where the Number Nine seal
22 was supposed to be and it was gone.
23 That's when I had an idea of what
24 happened.

25 Q. Okay. And what did you think

1 happened at that time, just yourself?

2 A. I didn't know. I didn't know
3 what had happened. What I knew was
4 that we'd lost power in the mine due
5 to the severe lightning storm on the
6 surface. That's what I knew.

7 Q. When the mine rescue team
8 arrived and you said at that seal,
9 then you thought something. What was
10 that?

11 A. The seal, there was absolutely
12 nothing left of the seal, so I felt
13 that it must have been an explosion.

14 Q. And who was in charge of the
15 mine rescue efforts for ICG, to your
16 knowledge?

17 A. I would have to say Ty
18 Coleman.

19 Q. Do you know when the power was
20 removed from the underground portion
21 of the mine?

22 A. Sometime in the morning,
23 January the 2nd. I would say before
24 noon January 2nd.

25 Q. And just judging from what you

1 have already told me, you were not
2 involved in any decision to
3 systematically explore the mine from
4 the portal?

5 A. No.

6 Q. You weren't involved in any of
7 those discussions?

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

11 Q. Did you learn anything looking
12 over the shoulder of someone?

13 A. No.

14 Q. Do you recall power being
15 established to some part of the mine
16 for pumping operations?

17 A. Yes.

18 Q. And can you explain that to me
19 a little bit, please?

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

1 back once they reached the man door
2 and said we don't have to open the
3 door to tell how deep it is because
4 it's coming through the man door.
5 And at that time, the --- a request
6 was typed up to allow the operator
7 --- allow us to be able to put power
8 on into the mine to the Number Two
9 Belt power center and then put power
10 on the pump that was in the return at
11 that location, and that was granted.

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

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

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

21 A. To prevent the return from
22 filling up with water and restricting
23 ventilation in the mine.

24 Q. Okay. Do you know whether One
25 Right or Two Right was explored by

1 the teams?

2 A. No, I do not.

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

9 A. Yes.

10 Q. And why was that?

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

23 Q. That was ---?

24 A. The One Right area.

25 Q. Okay. And they, whoever,

1 consulted you about that?

2 A. Did not consult me, no. I was
3 ---.

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

7 A. I guess I put my two cents in.
8 They didn't come to me and ask me,
9 but I put my two cents in.

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

12 A. I felt that we had already
13 spent enough time. I felt that we
14 needed to get into the mine to try
15 and make a rescue effort.

16 Q. Okay. And you also put that
17 two cents in?

18 A. Yes.

19 Q. Do you know whether the One
20 Left area was explored as the teams
21 progressed into the mine?

22 A. To break Number Six of the
23 belt entry.

24 Q. Okay. And why was it not ---
25 why was that decision made not to

1 explore?

2 A. We felt if the constituent
3 levels were at a low enough level on
4 the intake and return and the airflow
5 direction was in correct direction,
6 intake and return, that there was no
7 need to explore that area, as there
8 was no one felt to be in that area.

9 Q. So then I guess during this
10 period you had become somewhat
11 involved in the exploration
12 activities?

13 A. I was learning more about the
14 process, and felt more comfortable
15 about adding what I felt possibly
16 should be done.

17 Q. Okay. At what part of the
18 exploration did you finally become
19 comfortable and where were the mine
20 rescue teams at that point?

21 A. When mine rescue teams had
22 reached 32 break on Number Four Belt
23 entry and the intake stopping at 32
24 break was gone and the air from the
25 intake was short-circuiting into the

1 track entry, and fishtailing, some of
2 it was going inby and some of it was
3 going outby, John Urosek at that time
4 made the statement he felt we should
5 replace that curtain, replace the
6 stopping with a curtain. And I made
7 the statement we feel we should leave
8 it down. If the air is fishtailing,
9 we could use the track as the intake
10 and progress faster into the mine as
11 opposed to putting the track on
12 airflow back out of the mine and
13 putting smoke and dust over the top
14 of our mine rescue teams.

15 Q. Okay. And then what?

16 A. And that decision then was
17 made to leave that open.

18 Q. And that's the point where you
19 did become somewhat involved in the

20 ---

21 A. Yes.

22 Q. --- rescue efforts? Okay.

23 And then was the Two Left in the seal
24 location, was it --- I'm talking
25 about the old Two Left now, the seal

1 location, teams progressing into the
2 mine, how far did they travel in
3 there, do you recall?

4 A. The fresh air base made it as
5 far as 58 break of the Number Four
6 Belt, which is near the Number Four
7 Belt tailpiece, Number Six Belt drive
8 area.

9 Q. Okay. And do you know whether
10 the old Two Left and the seal
11 location was explored as the teams
12 progressed into the mine? Was that
13 area explored?

14 A. I believe that was the last
15 area to be explored.

16 Q. And how --- and why was that
17 decision made --- or how far in did
18 they go?

19 A. When they went to where the
20 Number Ten, which was the Number Nine
21 entry, when they went to where the
22 Number Ten seal should have been,
23 they went approximately a break and a
24 half inby where the seal was supposed
25 to be and they described the seam

1 height as being 12 to 14 feet high,
2 two coal seams with a rock binder in
3 between. And that's when we realized
4 that they had went beyond the seal
5 and they were given direction to back
6 up and look for the seal where it
7 should have been, and they said there
8 was no sign that a seal had ever been
9 built there.

10 Q. Okay. And they did not
11 explore any further than that; is
12 that correct?

13 A. They just continued on across
14 where the seals had been built.

15 Q. And the area --- then the area
16 inby that further was not examined;
17 is that correct?

18 A. Give me a minute to think
19 here.

20 Q. Okay.

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

23 Q. Okay. They at that time then
24 started into the Two Left?

25 A. Yes. Yes.

1 Q. And why was that decision
2 made?

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

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

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

22 Q. Okay. But did you have some
23 discussion in the command center to
24 --- after not exploring in by the
25 seals, to make a so-called run to the

1 Two Left face?

2 A. No.

3 Q. Okay. What do you know about
4 that?

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

17 Q. Okay.

18 A. They called back, and I
19 believe at that time they were at 16
20 break. And the statement was made at
21 that time in the command center that
22 they were only given permission to go
23 as far as 12 break. To get ahold of
24 them and instruct them not to go
25 beyond 12 break.

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

9 Q. Okay. And at some point, a
10 decision was made for the mine rescue
11 team to go the Two Left faces?

12 A. They were told to retreat and
13 go to the return and check the
14 stopping line on the return side of
15 the belt entry and as they progressed
16 up the return side and found no
17 damage to the ventilation controls,
18 then we decided, the decision was
19 made, let's go to the faces, where
20 they were possibly at and quit
21 checking ventilation controls.

22 Q. Okay. When you say they were
23 asked to retreat, now at that point,
24 they were at 16 block, I believe you
25 said; right?

1 A. They were supposed to go to 12

2 ---

3 Q. Yeah.

4 A. --- and when they called out,
5 at first they said we're at 16, then
6 they said, no, we're at 14 and then
7 they weren't really sure where they
8 were at.

9 Q. Okay. But you said that they
10 were asked to retreat?

11 A. Yes.

12 Q. Okay. At that point there,
13 where were they? Well, you didn't
14 know because they didn't know; is
15 that correct?

16 A. Right.

17 Q. Okay. And where were they
18 asked to retreat to?

19 A. They were asked to retreat to
20 the fresh air base.

21 Q. Oh, okay. And did they?

22 A. I think they were on their way
23 down to the fresh air base when a
24 decision was made to check the return
25 stopping line.

1 Q. Okay. So then you stopped
2 them from the --- or I say you, but I
3 mean the command center stopped them
4 ---

5 A. Uh-huh (yes).

6 Q. --- from retreating? Okay.
7 And do you recall where they were at
8 at that point?

9 A. It seems like about break six.

10 Q. And what instruction --- what
11 was the thought process in the
12 command center of the reason why they
13 should go to the faces?

14 A. I can only guess. I don't
15 know.

16 Q. You were not part of that
17 discussion?

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

20 Q. Okay. Well, listening in,
21 what did you --- listening over the
22 shoulder then again.

23 A. It sounded to me like we
24 wanted to learn to see if the return
25 stopping line was intact, and if it

1 was, then we possibly had some
2 ventilation going up the belt and
3 track entry and possibly intake entry
4 to ventilate the faces with.

5 Q. And that was the basic
6 discussion in the group?

7 A. I don't know that was even
8 discussed. I was going on 48 hours
9 at that time without any rest.

10 Q. So you weren't really involved
11 in the actual discussion to make that
12 run to the face?

13 A. No. What I felt like I was
14 doing at that time, and again from
15 the time that John Urosek was going
16 to make a, what I felt was a poor
17 decision, I just wanted to listen to
18 make sure there weren't any poor
19 decisions made, so I never was really
20 at any post in the command post. I
21 was just kind of in there.

22 Q. Do you know who made that
23 decision to make that run to the
24 face?

25 A. No, I don't.

1 Q. And were you in the command
2 center whenever the miscommunication
3 came out that all the men were alive?

4 A. No, sir, I was not.

5 Q. Where were you at that time?

6 A. In my truck asleep.

7 Q. And did you sleep during that
8 whole event, or did someone come and
9 wake you up or ---?

10 A. No, I heard people yelling and
11 screaming, and I woke in the parking
12 lot.

13 Q. Okay. And did you then go to
14 the --- exit the vehicle and go to
15 the office or what happened?

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

24 I went down in the pit mouth
25 and got mantrips arranged and

1 supplies as far as first-aid, the
2 oxygen-type materials, backboards,
3 stretchers to go into the mine, those
4 were loaded onto a flatcar. And we
5 sent those people into the mine as
6 part of the rescue efforts.

7 Q. When you say those people, who
8 were they?

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

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

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

25 Q. Okay. And when did it become

1 MR. STUART:

2 Yeah, let's take a
3 minute.

4 MR. SWENTOSKY:

5 Take a break.

6 SHORT BREAK TAKEN

7 BY MR. SWENTOSKY:

8 Q. Okay. We were talking about
9 whenever the --- you learned that
10 unfortunately there was only one
11 alive. And do you remember
12 approximately what time that was?

13 A. About 45 minutes after the
14 time that I learned that they were
15 thought to be alive.

16 Q. And who did you find that out
17 from?

18 A. Brad Phillips, a foreman.

19 Q. And during the --- which we've
20 come to find out --- we know it was
21 an explosion. And do you have any
22 idea whether or not there was methane
23 involved or, you know, what --- in
24 your own --- in your own opinion, not
25 the company's opinion, whether or not

1 methane might have been involved?

2 And I say might. Coal dust or
3 anything like that?

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

5 Q. Okay. Do you have any idea
6 why the seals may have failed?

7 A. My best guess is due to an
8 explosion.

9 Q. Going back to the initial ---
10 and I just wanted to follow up here,
11 a follow-up question, and we'll go
12 back to whenever you had your
13 conversation with Mr. Chisolm
14 initially from your home, the initial
15 conversation that you had. And I
16 believe --- did you ask him at all
17 whether the fan was operating or ---?

18 A. Yes.

19 Q. And what did he say?

20 A. He said that the fan had never
21 quit operating.

22 Q. Okay. There was a command
23 center set up; correct?

24 A. Yes.

25 Q. And who was all in that

1 command center, agencies, agency-
2 wise?

3 A. The Consol had a team
4 involved. They always had --- well,
5 there were two people I believe in
6 there.

7 Q. Okay. And ---?

8 A. And state and MSHA normally
9 had one to two people in there and
10 then ICG also had one to two people
11 in there.

12 Q. Okay. And whenever decisions
13 were being made, were those decisions
14 made jointly?

15 A. They had to be jointly, yes.
16 Everyone had to agree on the
17 decisions, yes.

18 Q. In other words, everyone had
19 input in it, into the decisions?

20 A. Yes.

21 Q. And any time the decision was
22 made, it was made based on everyone's
23 best knowledge and you pulled --- all
24 pulled together to make those final
25 decisions of what was to be done?

1 A. Yes.

2 Q. Made jointly?

3 A. Yes.

4 Q. Okay. You spoke about a
5 stopping at 32 block and that
6 stopping was out.

7 A. Uh-huh (yes).

8 Q. And there was some discussion
9 of whether or not to put that curtain
10 up?

11 A. Yes.

12 Q. And the air was short-
13 circuiting at that point?

14 A. The air was fishtailing at
15 that point.

16 Q. At that point, at 32 block,
17 ---

18 A. Splitting.

19 Q. --- at Number Four --- or
20 excuse me, along Number Four Belt?

21 A. At that time, it wasn't
22 splitting. At that time, the air was
23 leaving the intake entry coming into
24 the track and going inby, I'm pretty
25 sure. And in an outby area, there

1 was no airflow. I think that the
2 mine rescue team said that they
3 couldn't detect any airflow outby

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

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

7 Q. Well, during the initial
8 repair of controls by Mr. Toler and
9 Mr. Schoonover and Mr. Hofer or
10 Wilfong, whatever --- whoever was
11 involved in that, had they not put a
12 curtain up at 32 block?

13 A. Yes, they did, you're right.
14 Yes, they did, you're right. We had
15 that curtain removed, you're right.

16 Q. And who removed that curtain?

17 A. Mine rescue team.

18 Q. Okay. So then the curtain was
19 removed?

20 A. Yes.

21 Q. And why was that decision
22 made?

23 A. To allow intake air to come
24 into the track entry.

25 Q. Okay. And the decision was

1 made to leave that down?

2 A. To allow air to go into the
3 track entry, yes.

4 Q. And that was a decision that
5 was made jointly by everyone on the
6 --- in the command center?

7 A. Yeah, that decision took some
8 time. I remember that one had some
9 discussion involved with it.

10 Q. And everybody decided it
11 jointly to leave that curtain down?

12 A. Yes.

13 Q. You had mentioned Mr. Brad
14 Phillips. He was the assistant
15 superintendent at that time?

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

23 Q. Okay. When was the --- do you
24 recall the last time he was at the
25 --- or when that decision was made or

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

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

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

7 A. Yes.

8 Q. Okay.

9 MR. SWENTOSKY:

10 John?

11 MR. COLLINS:

12 Yes.

13 BY MR. COLLINS:

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

18 A. Sure.

19 Q. I think maybe you clarified a
20 couple of them. But one of them is
21 when you first mentioned that when
22 you talked to Bill Chisolm, he said
23 that the fan was down, you said that
24 first. But then Dennis just asked
25 that question and you confirmed that

1 the fan had not been down. Can you
2 ---?

3 A. He never once said that the
4 fan was down.

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

10 A. Yeah, if I said the fan was
11 down then that was mistake, because
12 it was not down, no.

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

19 A. Uh-huh (yes).

20 Q. And you're a certified mine
21 foremen in the State of West
22 Virginia?

23 A. Yes.

24 Q. And then you're a certified
25 shot fire?

1 A. Yes.

2 Q. EMT?

3 A. Yes.

4 Q. And are you a certified
5 trainer - - -

6 A. Yes.

7 Q. - - - with MSHA?

8 A. Yes.

9 Q. And that training, is it all
10 certified to conduct annual
11 retraining, that's required by MSHA?

12 A. Yes.

13 Q. Then also when you stated that
14 you called the state office on
15 January 2nd about 7:40 a.m., and did
16 you leave a message at the state
17 office?

18 A. No, I did not.

19 Q. I think you said you obtained
20 some different phone numbers from
21 there, though?

22 A. Yes.

23 Q. And then you called Mark
24 Wilfong, no answer. You called Brian
25 Mills, the number had been

1 disconnected. You called my house,
2 got an answering machine. And then I
3 called you right back?

4 A. Yes.

5 Q. And you reported this event,
6 what you knew, to me?

7 A. Yes.

8 Q. As a matter of record, do you
9 remember what you told me?

10 A. I tried to tell you what Bill
11 had told me, that there had been an
12 electrical storm and that we had lost
13 power underground. That the One Left
14 crew stated that they felt there was
15 a problem with the ventilation and
16 possibly that the fan was down. That
17 the One Left crew was exiting the
18 mine and had noticed several
19 stoppings out along the intake. And
20 that was about the extent of what I
21 knew other than we could not
22 communicate with the Two Left crew.

23 Q. So at that time, I'm sure you
24 considered that state notification.
25 I think that as a matter of record, I

1 told you I was heading for the mine?

2 A. Yes. Yes, I did.

3 Q. Okay. I think it was Mr.
4 Coleman yesterday that said that when
5 he was talking with you, he
6 instructed you to maintain a
7 timeline. He said that. Is that the
8 same as these notes that's been
9 discussed earlier today that --- that
10 you have?

11 A. He instructed me to go to the
12 mine, and I told him that I had
13 started this timeline and making ---
14 of making phone calls and that I
15 would like to stay at my house and
16 continue making these phone calls.

17 Q. If we request the notes that
18 you've made of your phone calls that
19 morning, that will be this timeline
20 thing, in your opinion?

21 A. Yes.

22 Q. Mr. Stemple, do you know if
23 the Sago Mine has an emergency mine
24 plan?

25 A. Yes. It does, yes.

1 Q. And you've held positions with
2 this company in the safety
3 department, you know, prior to this
4 and stuff. Did you assist in the
5 development of that plan?

6 A. Yes, I did.

7 Q. And this, the plan at the
8 mine, does it cover setting up a
9 command center?

10 A. No, it does not.

11 Q. So it's more of an evacuation
12 plan or an emergency evacuation plan
13 or ---?

14 A. It's called program of
15 instructions and there's several
16 components to this plan. The first
17 part of it lists responsible person.
18 The next part is a table of contents
19 of what's inside of the plan, and
20 then it goes on for notification. It
21 has a notification chart in there,
22 who to notify in case of an
23 emergency. It had SCSR donning
24 procedures and when to don. It has
25 barricading instructions. It has

1 fire suppression and fire
2 extinguisher instructions and their
3 locations. It has evacuation
4 instructions, when to evacuate a mine
5 and how. It has notification of
6 personnel in the mine, where they're
7 at and that the responsible person
8 knows where these people are at. It
9 does not mention anything about the
10 command center.

11 Q. Okay. When you -- I think
12 we're pretty clear on the phone calls
13 that you made that morning and how
14 tough all that was. I think you said
15 you arrived at the mine at about
16 11:30.

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

18 Q. And when you arrived, had a
19 command center been set up?

20 A. I don't know if one had or
21 not. I don't know, John. I didn't
22 know what to look for, didn't know
23 what a command center was.

24 Q. And then, John, I think you
25 said you have never been a member of

1 a mine rescue team?

2 A. Correct.

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

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

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

15 A. That I learned, yes.

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

19 A. That was my understanding.

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

23 A. Yes. That was what Bill
24 Chisolm had told me.

25 Q. Bill told you that at that

1 time?

2 A. Yes.

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

6 A. Right.

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

11 A. No.

12 Q. That was between the track and
13 the intake?

14 A. Correct.

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

18 A. No. I felt that it should be
19 made, I felt that we should open up
20 the intake air and allow it to come
21 into the track entry, to allow intake
22 air to go up inby in the track entry.

23 Q. And then a little bit of a
24 question on the --- when the teams
25 made it to Two Left and they were

1 attempting to explore Two Left, and
2 we asked --- the command center asked
3 that team to withdraw back to the
4 fresh air base, do you know why they
5 were required to --- were asked to
6 come back to the fresh air base?

7 A. I would have to say the reason
8 they were asked to come back to the
9 fresh air base is because they did
10 not follow their instructions.

11 Q. Did you hear any discussion
12 about a low man? Do you know what I
13 mean by a low man on a mine rescue
14 team?

15 A. Yes.

16 Q. And that would be what?

17 A. You know, learning in this
18 process several times it was asked
19 what the low man's reading was on his
20 tanks, on his air tanks. And I guess
21 you have to go by the lowest man for
22 the team. If someone's air is at a
23 certain level then everyone has to
24 retreat.

25 Q. Do you know if during the time

1 that this team was asked to come back
2 to the fresh air base, had one of
3 those team members reported a low air
4 reading?

5 A. You know, John, there were
6 several times that that was asked but
7 I don't remember any specific case.

8 Q. You made a statement that when
9 the federal and state took control of
10 the mine, I felt that they should
11 have said when the team could go
12 underground.

13 A. What my understanding was,
14 when they took control of the mine, I
15 thought that that's what they did,
16 was take control of the mine. When
17 an order was issued that you have to
18 request permission from them before
19 you're allowed to do anything, then
20 they have control of the mine.
21 You've just given them the mine.

22 Q. And the state issued you a
23 control order ---

24 A. Yes.

25 Q. --- or the company ---

1 A. Yes.

2 Q. --- a control order? And then
3 that control order is to --- is
4 issued after serious accidents. We
5 did this in the past; is that
6 correct?

7 A. Yes.

8 Q. So you have an understanding
9 of that order and what you're still
10 allowed to do, or the company is
11 understanding of that?

12 A. Yes.

13 ATTORNEY RAJKOVICH:

14 Object to ---.

15 BY MR. COLLINS:

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

18 A. Yes.

19 Q. And what does that order still
20 allow you to do, John?

21 A. You're not allowed --- you're
22 not allowed to affect any part of the
23 mine that's under the order.

24 Q. Except to the extent what? If
25 you know.

1 A. There is a part on that. I
2 believe if you're able to rescue an
3 individual. I don't remember the
4 exact wording of that part of the
5 law. But I believe that if you are
6 able to perform first-aid on an
7 individual, then you can continue
8 with what you're doing as far as
9 first-aid efforts go.

10 Q. Do you know if that control
11 order allows you to protect property
12 or to protect people?

13 A. Yeah. I believe it does state
14 that, yes.

15 ATTORNEY RAJKOVICH:

16 Was that --- that was
17 two questions and you said
18 yes. Does that mean to both
19 property and people or what
20 was the question?

21 A. Yeah, I believe that's what he
22 stated.

23 MR. COLLINS:

24 I believe that's the
25 way I intended, both, yes.

1 BY MR. COLLINS:

2 Q. So dealing with the command
3 center, do you know of any requests
4 that the company made that we weren't
5 allowed to do, that they weren't
6 allowed to do?

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

16 Q. And would there be times whey
17 they would say, well, we're going to
18 make this change, but we already have
19 the verbal approval? Do you recall
20 that?

21 A. No.

22 Q. It was always wait until the
23 written?

24 A. It was always written. While
25 I was in there it was always written.

1 Q. That referred to when you were
2 in there?

3 A. Yes.

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

8 A. Yes.

9 Q. That someone felt like they
10 should have --- that everyone should
11 have evacuated?

12 A. Yes.

13 Q. You don't recall anyone
14 leaving that building?

15 A. No, I don't.

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

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

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

24 A. No. I didn't notice any less
25 people after that was made than I did

1 before.

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

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

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

10 A. Yes.

11 Q. And who would that be?

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

22 Q. That was after their agency
23 --- or their company agreed ---

24 A. Yes.

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

1 A. Yes.

2 Q. You may have already been
3 asked this, but do you have a time on
4 that?

5 A. I don't remember the time.

6 Q. And why were they not allowed
7 to go?

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

14 Q. I'd like to revisit. I
15 actually missed it a little bit,
16 John. But you said something about a
17 ventilation decision that was going
18 to be made and you didn't agree with
19 it. It think you said it was Bill
20 Ponceroff?

21 A. No, John Urosek.

22 Q. John Urosek?

23 A. Yeah. John felt that if we
24 removed that curtain that it would
25 short circuit all of the air and send

1 it back out the track in the belt
2 entry. And I made the statement that
3 there's a box check in the belt entry
4 and there are track doors in the
5 track entry and in my experience any
6 time an intake stopping has been
7 breached on a blowing ventilation
8 system, the air goes into the track
9 and it goes inby as opposed to outby.

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

12 A. Yes.

13 Q. Between the track and the
14 intake?

15 A. Correct.

16 Q. I remember some of that
17 discussion actually. So John, this
18 command center you were in it on and
19 off during this event and the doors
20 were open to this command center. A
21 lot of people came in and out.

22 A. Most of the time the doors
23 were open. At times they were
24 closed. When they were closed, I
25 respected that and stayed out.

1 Q. But you know, would it be fair
2 to say that the command center was
3 not in a lock-down mode, that most
4 times people could go in or out of
5 there?

6 A. Yes, that's a very fair
7 statement.

8 Q. John, if I could revisit,
9 please, the --- I think, and correct
10 me, I think you said you called the
11 mine at approximately 7:20 on January
12 the 2nd?

13 A. That's when I --- probably
14 7:23, I believe, is when I hung up
15 from talking with Jeff Toler.

16 Q. The first, the first call;
17 right?

18 A. Yes.

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

20 A. 7:01 basically or seven
21 o'clock to 7:23.

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

25 A. Sometime around 7:30 to 7:40,

1 sometime right around in there.

2 Q. And those times would be on
3 this timeline?

4 A. Yes.

5 MR. COLLINS:

6 I thank you, Mr.

7 Stemple.

8 BY MR. SWENTOSKY:

9 Q. Okay. After the --- Mr.
10 Satterfield had mentioned to you that
11 he had placed a (k) order on the mine
12 and you then relayed that information
13 to Mr. Chisolm, or who did you relay
14 that information to?

15 A. Yes, I believe Bill Chisolm
16 was the person I spoke to, yes.

17 Q. Okay. And what did you tell
18 him at that time?

19 A. That I had gotten ahold of the
20 state and had got ahold of MSHA and I
21 got ahold of the mine rescue teams.

22 Q. And what did you tell him
23 specifically about the order?

24 A. That MSHA had issued an order
25 that was a control order and no one

1 was to enter the mine.

2 Q. Okay. And at that time, Mr.
3 Toler and the crew, which involved
4 Mr. Schoonover, I believe, Mr.
5 Wilfong, Mr. Hofer, they were
6 underground at that time; right?

7 A. Yes.

8 Q. And did you know that?

9 A. Yes.

10 Q. Did you give Mr. Chisolm any
11 instruction as to what to do in
12 relation to staying underground and
13 the (k) order?

14 A. Can you say that again,
15 please?

16 Q. Sure. Those people that I
17 just described were underground at
18 that time?

19 A. Yes.

20 Q. Okay. And when you informed
21 Mr. Chisolm of the (k) order, did you
22 give him, Mr. Chisolm, any
23 instruction as to what to do because
24 of that order?

25 A. No.

1 Q. Okay. And so all you told Mr.
2 Chisolm was that there was (k) order
3 on the mine

4 A. Yes.

5 Q. And did you explain to him
6 what that order meant or what he was
7 to do based on that order?

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

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

18 A. No, I did not.

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

25 A. Yes.

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

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

8 Q. Okay.

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

22 Q. Did anyone require oxygen?

23 A. No.

24 Q. And the conversations you had
25 with Mr. Toler or did you speak - - -

1 let me put it this way.

2 Did you speak with Mr. Toler,
3 Mr. Schoonover, Mr. Wilfong, Mr.
4 Hofer any time after they exited the
5 mine?

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

10 Q. And I understand that. When
11 you arrived at the mine, did you have
12 a conversation with them though ---

13 A. Yes.

14 Q. --- concerning what they did
15 underground or what they didn't do
16 underground?

17 A. Yes.

18 Q. And what was the extent of
19 that conversation?

20 A. They told me that they had
21 made it as far as 58 break on Number
22 Four belt installing curtains. And
23 that --- I asked them, did they feel
24 was there a fire in the mine, and
25 they said no. I asked them just to

1 describe the conditions and Al
2 Schoonover made the statement that it
3 was like opening an old coal potbelly
4 stove and looking inside of it with
5 all the smoke just lingering in the
6 air and moving slowly in circles
7 around in the air. And that they had
8 conversation amongst themselves what
9 to do and whether to continue on.
10 And based on Dick Wilfong's
11 experience in the mines, they decided
12 that it was probably best for them to
13 exit the mine.

14 Q. And did you speak to them as a
15 group or individually?

16 A. Individuals, but not to the
17 point where I had more than two
18 minutes to even talk to them.

19 Q. And do you remember
20 approximately what time during the
21 day that might have been?

22 A. I would say between 12 o'clock
23 and three o'clock sometime.

24 Q. You had mentioned when Mr.
25 Collins asked you about a command

1 center and you said that you didn't
2 really know what a command center
3 was?

4 A. True.

5 Q. Okay. Did you become aware at
6 some point that --- you became aware
7 of what a command center is?

8 A. Yes.

9 Q. Okay. And when would that
10 have been?

11 A. As the January evening,
12 January 2nd evening progressed.

13 Q. Have you ever been around mine
14 rescue contests?

15 A. I've been around contest, yes.
16 This was nothing like a contest.

17 Q. I understand that. But you
18 have been to mine rescue contests?

19 A. I've been to two contests and
20 if you added both those times
21 together, I may have been there for a
22 total of 45 minutes.

23 Q. Okay.

24 MR. SWENTOSKY:

25 Do you have anything

1 else, John?

2 MR. COLLINS:

3 I don't believe we do
4 right now. Thank you.

5 BY MR. SWENTOSKY

6 Q. Okay. Are you familiar with
7 the old Two Left main seals?

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

10 Q. You've never been underground
11 to those seals?

12 A. No, sir, I have not.

13 Q. Okay. When's the last time
14 you were underground at Sago Mine
15 prior to the accident?

16 A. Either late July or early
17 August of 2005.

18 Q. Do you know when those seals
19 were started and finished?

20 A. I believe they were finished
21 sometime in middle part of December
22 and I'm really not sure when they
23 were started.

24 Q. Who was in charge of building
25 those seals? Do you know?

1 A. No, I do not.

2 Q. Do you know when the mining
3 was stopped inby the seal area,
4 that'd be up in the Old Two Left
5 area?

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

8 Q. Okay. Do you know why it was
9 stopped?

10 A. Due to roof conditions and
11 water.

12 Q. How do you know that?

13 A. Because that's why they
14 stopped it due to roof conditions and
15 water, poor roof conditions and a
16 large amount of water.

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

19 A. Yes.

20 Q. And who might that have been?

21 A. Just by working in the
22 division office, having learned that
23 they'd stopped the section due to
24 poor roof conditions and a large
25 accumulation of water.

1 Q. Were you involved at all in
2 the training of the persons were to
3 install those seals?

4 A. No, sir.

5 Q. You never talked to anyone
6 about how those seals would be
7 installed?

8 A. No, sir.

9 Q. As far as the ventilation
10 plan, can you explain to us your
11 responsibility for preparing,
12 evaluating the plans for MSHA. Are
13 you involved with that at all?

14 A. Yes.

15 Q. Okay. Were you involved in
16 the preparation for the plan to
17 install those seals at all?

18 A. Not the initial plan.

19 Q. And when you say not the
20 initial plan, ---?

21 A. The initial plan was to add
22 this type of seal to the ventilation
23 plan. There were other types of
24 seals already approved in the
25 ventilation plan.

1 Q. And I guess I should say the
2 plan for installing the seals, we're
3 talking about the Omega - - -

4 A. Yes.

5 Q. - - - seals?

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

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

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

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

23 A. Correct. Correct.

24 Q. And you were involved in
25 helping put that together?

1 A. Not the initial plan, no.

2 Q. The one I just spoke about?

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

6 Q. Which one were you involved in?

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

17 And there was a plan for 10
18 feet and a plan for 12 feet of
19 height, what you do, what pilaster
20 you have to build, what size pilaster
21 or what size base that you have to
22 put underneath this seal prior to
23 building it. That plan I signed off
24 on.

25 Joe got the information from

1 Clete and we put a letter with that
2 requesting permission to use pilaster
3 for a seal higher than eight foot and
4 sent it in to MSHA for approval.

5 Q. All right. The initial plan
6 for installing the seals, the Old Two
7 Left main seals, that plan, that's
8 the eight-foot high ---

9 A. Correct.

10 Q. --- 20-feet wide ---

11 A. Correct.

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

13 A. Correct.

14 Q. Okay. And that plan was
15 submitted, but you were not involved
16 in that plan; is that right?

17 A. No, I was not.

18 Q. Okay. And do you know when
19 that plan was approved?

20 A. I believe October 24th was the
21 approval date on the letter.

22 Q. And when were those seals
23 started?

24 A. I said, I do not know when the
25 seals were started.

1 Q. Okay. And so then it was
2 determined that the Number One seal
3 was going to be a little wider and a
4 little --- and a little higher; is
5 that correct?

6 A. I was told Number One and
7 Number Two entries where the seals
8 would have been built would have been
9 higher than eight feet.

10 Q. Okay.

11 A. So they were going to need
12 permission to do something additional
13 to the seal in order to build seals
14 at those two locations.

15 Q. Okay. And where did you get
16 that information?

17 A. I believe Joe Myers told me
18 that.

19 Q. Do you know where he got that
20 information?

21 A. From the mine, probably Jeff
22 Toler would be my assumption.

23 Q. Okay. But nobody ever told
24 you who?

25 A. No.

1 Q. Just that - - -?

2 A. No.

3 Q. Okay. And were there any
4 other seals that were to be higher
5 than that?

6 A. Not to my knowledge, no.

7 Q. And based on that information
8 from Mr. Myers, then what happened?
9 What took place?

10 A. We submitted a new request for
11 different type of seals, you know,
12 with the pilaster to be approved and
13 with that plan, is also a map of
14 where those seals are to be located s
15 as well. So we had to show instead
16 of being entries One through Nine as
17 initially was submitted, we had to
18 put a seal between entries Two and
19 Three perpendicular to the row of
20 seals that had been proposed earlier
21 and move Number One and Number Two
22 seal in by one block.

23 Q. Okay. And so then by doing
24 that, then you were able to install
25 the seals 20 feet and 8 foot?

1 A. Correct. By doing that, that
2 enabled us to do that, correct.

3 Q. So the --- so if I follow you
4 correctly, that the location that the
5 Number One seal was finally
6 installed, that location presumably
7 was 20-feet wide and no more than
8 eight feet high?

9 A. Correct.

10 Q. No more than 20 feet wide?

11 A. Correct.

12 Q. Okay. So then you were ---
13 based on that, then you were able to
14 use the October 24th approved plan?

15 A. Correct.

16 Q. Okay. And who all contributes
17 to the ventilation plan submittals to
18 MSHA?

19 A. The engineering group and the
20 safety group and I guess in part
21 also, you know, the superintendent at
22 the mine.

23 Q. And in what section of the
24 plan does those individuals
25 participate?

1 A. The superintendent signs the
2 front of the roof control plan with
3 his approval --- the ventilation plan
4 with his approval. And then someone
5 in authority, you know, will sign the
6 request letter.

7 Q. Okay. I guess when you have a
8 submittal then, it kind of goes
9 through the departments and makes
10 suggestions. Do I have that? And
11 that final plan is put together? Is
12 that basically what happens?

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

15 Q. Do you ever have any joint
16 meetings concerning submittals that
17 you'll make to MSHA?

18 A. Sure.

19 Q. And who is ultimately
20 responsible for making sure that all
21 aspects of the ventilation plan to be
22 submitted is correct?

23 A. Who is ultimately responsible
24 for making sure that all the aspects
25 of the ---

1 Q. Yes.

2 A. --- approval is correct?

3 Q. Of the submitted --- of the
4 proposed plan?

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

9 Q. Okay. Who submits the plans
10 to MSHA?

11 A. The company.

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

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

19 Q. Once a plan is approved by
20 MSHA, ---

21 A. Uh-huh (yes).

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

25 A. I would have to put that on

1 the superintendent.

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

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

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

9 A. He would oversee it, yes.

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

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

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

16 A. Sure.

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

23 A. Yes.

24 Q. And when would that have been?

25 A. When we made the air change at

1 One Right and changed part of the
2 escapeway system, we made a major
3 ventilation change and also changed
4 part of the escapeway system as a
5 part of that, and the work force was
6 explained what that change was.

7 Q. Okay. Was the entire work
8 force made aware of that change?

9 A. Yes.

10 Q. And who reviewed that with
11 them?

12 A. Al Schoonover went over it
13 with them. Jeff Toler was present
14 while he did it. I believe Carl
15 Crumrine was present as well, the
16 mine foreman.

17 Q. Okay. And do you remember
18 what date that change was made?

19 A. Sometime in September, I do
20 believe, of 2005.

21 Q. And the initial plan that was
22 submitted for Omega seals, that's the
23 40-inch plan?

24 A. Uh-huh (yes).

25 Q. And do you know why they

1 wanted to use the Omega seal?

2 A. Jeff Toler had used them in
3 the past and Brad Phillips, who was
4 assistant at that time, assistant
5 superintendent, had also used them in
6 the past at mines that they worked
7 at. They each worked at different
8 mines and they had each used them at
9 those different mines that they had
10 worked at.

11 Q. And were you involved at all
12 in that decision?

13 A. No.

14 Q. And how did you become aware
15 that that's the plan that they wanted
16 to submit?

17 A. Listening to them discuss it.

18 Q. And do you know where they
19 acquired the information to submit in
20 that plan, that initial plan, the
21 40-inch plan?

22 A. No, I do not.

23 Q. And so you're not involved in
24 all the submittals that are submitted
25 to MSHA?

1 A. Correct.

2 Q. Are you familiar with any
3 other seals that are built
4 underground at Sago Mine?

5 A. I know their location. I've
6 not been to them or I don't know what
7 type they are, but I do know their
8 location on the map.

9 MR. SWENTOSKY:

10 Do you want to inject
11 anything before I go on?

12 MR. COLLINS:

13 Just a couple quick
14 questions on the seals, if I
15 may, John.

16 BY MR. COLLINS:

17 Q. Do you know, if you've already
18 answered this, I apologize before.
19 But do you know the approval date of
20 the second seal plan?

21 A. It was December, but I'm not
22 sure of the exact date.

23 Q. And that's saying that seal
24 plan number one was for the old Two
25 --- old Two Northeast Mains?

1 A. Yes. Ye.

2 Q. And then so seal Number One
3 and seal Number Two was installed in
4 a different location than originally
5 proposed?

6 A. Correct.

7 Q. But in a location submitted
8 and approved?

9 A. Correct.

10 Q. This seal plan number two, was
11 it only approved for a particular
12 location, for example in One Left, at
13 those One Left, A-1 rooms, or would
14 it have been mine-wide?

15 A. I would take it as mine-wide.
16 That type of seal to be built, I
17 would say would have been a mine-wide
18 seal, yes.

19 Q. So submittal number two, was
20 it intended to be used on the seals
21 in old Two Northeast Mains?

22 A. Yes.

23 Q. But it was submitted after
24 those seals were installed, John; is
25 that ---?

1 A. These seals were not installed
2 yet. The seals --- when the second
3 plan that included the pilaster for a
4 higher area, when that second plan
5 had been submitted, the seals were
6 already in progress of being built as
7 intended.

8 Evidently, there evidently was
9 a third plan that I was not aware of
10 submitted to show the seals moved
11 inby in Number One and Two entry and
12 then the seal between Number Two and
13 Number Three entry, because that
14 surprised me that the seals were
15 completed and we --- I was still
16 concerned whether we had permission
17 with the pilaster or not. But then I
18 learned that we did not use the
19 pilaster.

20 MR. COLLINS:

21 Okay. Thank you, John.

22 A. You're welcome.

23 MR. COLLINS:

24 Oh, if I might, Dennis.

25 I'm sorry.

1 BY MR. COLLINS:

2 Q. John, the notes or timeline,
3 if we want to call it a timeline that
4 you were maintaining at home, when
5 you came to the mine, did you
6 continue that?

7 A. Yes.

8 Q. But in the request if you
9 decide to give that to us that will
10 all be in there; right?

11 A. Much of that I have passed on
12 to Roger Nicholson and Gene Kitts and
13 they kept much of it.

14 Q. Okay.

15 MR. COLLINS:

16 Thank you, Dennis.

17 BY MR. SWENTOSKY:

18 Q. And you say they kept much of
19 it, does that mean all of it or just
20 some of it?

21 A. They kept most of it.

22 Q. Most of it?

23 A. What I would do is I would
24 basically write down what I knew at
25 that time or what I could learn at

1 that time and give it --- hand it to
2 Gene or Roger so when we addressed
3 the family and the media, they read
4 from that and then Roger kept those.

5 Q. Okay. I'm going to ---.

6 MR. SWENTOSKY:

7 We'll call this Exhibit
8 One. This is a copy of the
9 plan that was submitted to
10 MSHA and was subsequently
11 approved, and that is for the
12 40-inch thick seals, 8-foot
13 wide or excuse me, 8-foot wide
14 and 20-foot wide.

15 (Stemple Exhibit Number
16 One marked for
17 identification.)

18 A. Uh-huh (yes).

19 BY MR. SWENTOSKY:

20 Q. Does that appear to be the
21 plan that was submitted? And there's
22 five pages to that?

23 A. Yes.

24 Q. Okay. And that is --- you
25 recognize that as the plan that they

1 used underground to install those
2 seals; is that correct?

3 A. Yes.

4 Q. Okay. And that there is a
5 plan that you did not have anything
6 to do with submitting; is that
7 correct?

8 A. Correct.

9 Q. Okay. But you're aware of
10 that plan?

11 A. Yes.

12 Q. And when did you become aware
13 of that plan?

14 A. I guess when I looked in the
15 ventilation file and saw that it was
16 in there. I knew --- I had learned
17 through conversation that this plan
18 was going to be submitted, probably
19 even learned that it was submitted,
20 but wasn't really involved with that.

21 Q. Are you an MSHA approved
22 instructor?

23 A. Yes, sir.

24 Q. And you teach new miner or
25 experienced miner training annual

1 refresher?

2 A. Yes, sir.

3 Q. You do all that?

4 A. Yes, sir.

5 Q. Are you a limited instructor
6 or a full instructor?

7 A. Full instructor.

8 Q. Full instructor?

9 A. Unlimited.

10 Q. And I believe you did say
11 during the opening part of the
12 question that you've run various
13 machines underground over the years?

14 A. Yes.

15 Q. Is that correct?

16 A. Yes.

17 Q. And do you personally conduct
18 task training?

19 A. I have, yes.

20 Q. Underground?

21 A. Yes.

22 Q. At the Sago Mine?

23 A. Yes. I believe I have, yes.

24 Q. Okay. And when would that
25 have been?

1 A. When we were transferring
2 employees from Spruce to Sago, and
3 also hiring new hires at the Sago
4 Mine. That would have been in
5 probably May or --- April, May, March
6 2004, that time frame.

7 Q. Okay. And you --- I believe
8 you did say you've taught experienced
9 miner training?

10 A. Yes.

11 Q. Okay. During the experienced
12 miner training, can you tell us what
13 you covered with the employees?

14 A. During experienced miner
15 training?

16 Q. Yes.

17 A. Everything that's required by
18 the plan.

19 Q. And what might that be?

20 A. Check-in, check-out
21 procedures, smoking material,
22 evacuation, firefighting, health and
23 safety aspects, mine emergency
24 preparedness. I keep an outline
25 whenever I do my retraining, so that

1 I can follow my outline.

2 Q. Would that be in that training
3 plan and that's part 48, 6 and that's
4 the information that you use that's
5 in that training plan?

6 A. Yes.

7 Q. And during the evacuation and
8 escape portion of the training, do
9 you teach that?

10 A. Uh-huh (yes).

11 Q. What information do you
12 provide them during that particular
13 training?

14 A. The location of the primary
15 and secondary escapeway, location of
16 SCSRs.

17 Q. Location of SCSRs?

18 A. Uh-huh (yes).

19 Q. Do they store SCSRs
20 underground at Sago Mine?

21 A. Yes, sir.

22 Q. Okay. So would that be part o
23 the training for Sago Mine?

24 A. Yes.

25 Q. Do you tell them where they're

1 stored at Sago?

2 A. I tell them where they're
3 located at. They're to be located
4 within arm's reach at all times.

5 Q. Oh, okay. I'm sorry. I
6 thought you were talking about
7 stored. I'm sorry.

8 A. Nope.

9 Q. And do you talk to them about
10 barricading at all, escape ---?

11 A. Yes.

12 Q. Okay. And what do you tell
13 them about barricading?

14 A. That's the last resort.

15 Q. And do you explain to them how
16 to build a barricade?

17 A. Use whatever material that you
18 have available.

19 Q. And how do you describe that
20 to them?

21 A. If you have stopping material
22 available, you can build a stopping.
23 If you have --- whatever material you
24 have available, and to take whatever
25 you can in there that may provide

1 oxygen, such as an oxygen tank or
2 spare tire that's on the section.
3 And then once you do barricade,
4 you're to sound on the roof and
5 listen for shocks.

6 Q. Did you perform any of the
7 miner training at Sago Mine?

8 A. Sure. Yes, I did.

9 Q. And I believe I did ask you
10 that and I think you said that the
11 last time you did any training was
12 2004 ---

13 A. Yes.

14 Q. --- at the Sago Mine?

15 A. Yes.

16 Q. And so you haven't done any
17 training at Sago Mine after ICG took
18 over?

19 A. No, sir.

20 Q. And actually before that, too?

21 A. Maybe. I've possibly been
22 involved in some hazard training.

23 Q. Okay. And who does that
24 training at Sago Mine?

25 A. The newly-employed and

1 experienced miner training?

2 Q. Yes.

3 A. Al Schoonover.

4 Q. Okay. Have you ever observed
5 any of his training?

6 A. No, sir.

7 Q. And who would do that, any
8 monitoring? Does anybody do any
9 monitoring of the training?

10 A. No.

11 Q. Okay. When you talk about the
12 SCSR training, and you train
13 individuals, can you explain to me a
14 little bit how you do that?

15 A. I do hands-on SCSR training.

16 Q. Okay. And explain that to me,
17 what do you do?

18 A. I use the three-plus-three
19 method. I first open up --- I first
20 explain the unit to the individual. I
21 explain their checks. I explain the
22 checks that the company makes on a
23 90-day period. Then I explain the
24 unit to them. I open up the unit,
25 put it on, simulate the mouthpiece.

1 Then I package it all back up and I
2 have them repeat it all to me, the
3 checks that they make, and then I
4 have them don the unit as well.

5 Q. Okay. And do they actually
6 assume a position and take the hat
7 off, if they have a hat on, and you
8 go through all that with them?

9 A. Yes, I do.

10 Q. And that's what they do?

11 A. Yes, they do.

12 Q. Does the company have
13 evacuation procedures in place and do
14 you discuss that with the miners?

15 A. Yes.

16 Q. And what do you tell them
17 during that discussion?

18 A. Your first line is the primary
19 intake escapeway. As far as
20 evacuation goes, when do you evacuate
21 the mine? If you found a fire or an
22 explosion in the mine or you've been
23 notified there's a fire and explosion
24 in the mine, then you don your SCSR
25 and you evacuate the mine using the

1 primary or secondary escapeway.

2 Q. Do you talk about assembly of
3 any --- you know, assembly of the
4 people, make that sure everyone's
5 together?

6 A. If they're on the section,
7 they're to assemble at the section
8 power center. I explain the method
9 for communication if you have your
10 mouthpiece in and you can't talk on
11 the mine phone.

12 Q. What about instruction for
13 supervisors, annual refresher
14 training you did, do you do that at
15 all?

16 A. What we have is our --- most
17 of our instructors or most of our
18 supervisors are EMTs, and that covers
19 that portion of that part of the law.

20 Q. When's the last time that
21 you've conducted any training? And
22 I'm not talking about the Sago Mine,
23 I'm just --- when's the last time
24 you've done that?

25 A. I would say probably in April

1 of 2004.

2 Q. Okay. Do they teach any
3 hoisting --- and I'm talking about
4 Sago Mine. Hoisting refresher class?

5 A. We have.

6 Q. At the Sago Mine?

7 A. At the Sago Mine, not that I'm
8 aware of at the Sago Mine, no. If we
9 covered hoisting, we would state that
10 there is no hoist at the mine, just
11 the same as explosives.

12 Q. The reason I ask that
13 question, it's in the training plan,
14 but I just wondered if you ---.

15 A. It's the same as explosives,
16 explosives is in there, but we have
17 no explosives at the mine.

18 Q. But you still go over that
19 with them?

20 A. Yes.

21 Q. Yes, okay.

22 A. Yes.

23 Q. And have you ever taught the
24 course for qualified persons in the
25 performance of a task, which they

1 perform as a qualified person,
2 methane, you know?

3 A. Yes.

4 Q. Any ---?

5 A. Yes.

6 Q. You've done that in the past?

7 A. Yes.

8 Q. Okay. And the last time
9 again, would have been around 2004
10 sometime, that you've done that?

11 A. Yes.

12 Q. The supervisors at Sago Mine,
13 there's a certain amount of those
14 people who are EMTs. I think you did
15 say all of your supervisors are ---?

16 A. No. There are a certain
17 amount that are.

18 Q. Certain amount?

19 A. I'm going to say 90 percent,
20 in the ballpark figure. At least 90
21 percent of them are EMTs.

22 Q. Okay. And is there a
23 temporary transfers from one mine to
24 the other? Do you go back and forth
25 people or do you basically just ---?

1 A. I never considered them
2 temporary. If someone transferred
3 from one mine to the other, they were
4 considered a new employee at that
5 mine and were trained as such.

6 Q. Okay. But you don't have
7 people that, let's say, on a weekly
8 or monthly basis, will go back and
9 forth, or on a daily basis or
10 anything like that?

11 A. Yes. Yes, at that time we
12 did. In 2004 when I was less
13 involved with that, yes.

14 Q. Okay. But at Sago Mine at
15 this point here, let's say, in 2005,
16 that type of thing doesn't exist or
17 does it?

18 A. Well, the Spruce Mine was the
19 one that we transferred people back
20 and forth, from Spruce to Sago. And
21 the Spruce Mine was shut down in
22 September of 2005, so since September
23 2005, not to my knowledge.

24 Q. Okay. Whenever you do that,
25 what type of training do you provide

1 to people, the miners?

2 A. We gave them new employee/
3 experienced miner training.

4 Q. If they do that monthly, do
5 you do it every time they do that?

6 A. Yes.

7 Q. And what about every week, do
8 you so the same thing?

9 A. If an individual had it within
10 the past 12 months and had been
11 trained at that mine, then no. If
12 they went back and forth month to
13 month or week to week, no.

14 Q. Okay. Were you working at the
15 Sago Mine when ICG bought the mine?

16 A. No.

17 Q. But you were part of ---?

18 A. Tell me the date that you're
19 referring to.

20 Q. Okay. Well, when did ICG ---

21 A. My understanding ---

22 Q. --- take over ---?

23 A. --- November 18th, 2005. It
24 was either the 18th or the 21st. I've
25 heard both dates.

1 Q. Okay. And were you
2 responsible for the Sago Mine at that
3 point?

4 A. No, sir, I was not.

5 Q. When did you become
6 responsible for Sago Mine?

7 A. The month of June 2005, up
8 through the month of July 2005 and
9 Jeff Toler came the first week of
10 August 2005, and I spent a week with
11 him.

12 Q. I apologize, but could you
13 kind of --- I lost it there somewhere
14 and I apologize.

15 A. I was put at the Sago Mine in
16 the month of June of 2005.

17 Q. Okay.

18 A. And I was there ---.

19 ATTORNEY WILLIAMS:

20 Was that as a
21 superintendent?

22 A. Yes. I was there all of June
23 and all of July. And Jeff Toler came
24 the first week of August 2005. And I
25 spent a week with him in the

1 transition.

2 BY MR. SWENTOSKY:

3 Q. Okay. And then from that
4 point then, you assumed your duties
5 as ---?

6 A. As Assistant Director of
7 Safety and Employee Development at
8 the division office in Buckhannon.

9 Q. Okay. Do you know what
10 training was provided to employees
11 whenever ICG took over?

12 A. Some of them were given new
13 employee/experienced miner training,
14 but to my understanding not all of
15 them were.

16 Q. Would they have been just
17 informed of a change of management or
18 anything like that?

19 A. Yeah, that's part of the
20 training is the management status. I
21 believe, and what I learned is, that
22 escapeway systems were gone over, any
23 changes in the plans were gone over.

24 Q. Okay. And that would have
25 been Mr. Schoonover that ---

1 A. Yes.

2 Q. --- did that?

3 A. Yes.

4 Q. Okay. And would he have
5 documented that training?

6 A. Yes, on 5023 forms, yes.

7 Q. Have you conducted hazard
8 training?

9 A. Yes.

10 Q. What do you use for that type
11 of training? Use a checklist or an
12 outline of some ---?

13 A. I've used a checklist. I've
14 used an outline. I've used the
15 training plan itself.

16 Q. And have you conducted hazard
17 training at the Sago Mine?

18 A. Yes.

19 Q. And when would that have been?

20 A. Numerous occasions.

21 Q. Numerous occasions.

22 A. Visitors would come to the
23 mine and being that I was an
24 instructor, I would go ahead and
25 perform that training.

1 Q. So you do that on a routine
2 basis at Sago?

3 A. Now? Well, ---.

4 Q. Okay. I'm talking about ---
5 I'm talking about prior to the
6 accident.

7 A. Not on a routine basis. The
8 two months that I was there as
9 superintendent, I probably did it
10 several times, maybe five.

11 Q. Between that time, that time
12 meaning after you left Sago as a
13 superintendent, until the day of the
14 accident, did you conduct any hazard
15 training during that period?

16 A. No.

17 Q. No?

18 A. Not that I can recall.

19 Q. Is there a copy of the safety
20 policy, the company's safety policy.
21 at the mine?

22 A. Yes.

23 Q. Okay. Is it physically at the
24 mine?

25 A. Yes, the policies are posted

1 on the bulletin board.

2 Q. Okay. Were there safety
3 policies posted at the mine on the
4 day of the accident and prior to?

5 A. Yes.

6 Q. And as part of the annual
7 refresher training or even new miner
8 training, do you use videos or DVDs
9 at all?

10 A. Yes.

11 Q. And how much of that training
12 is provided by DVDs and videos?

13 A. I'd have to look at the
14 outline to tell you.

15 Q. Okay. Do they use it more for
16 --- more than just SCSR training?

17 A. Oh, yes.

18 Q. Can you tell me approximately
19 how much time is spent with video or
20 DVDs during the training, like in
21 hours?

22 A. I would say possibly three to
23 four hours, just as a guess.

24 Q. And during that --- during the
25 annual refresher training, is section

1 110 (a) and (f) discussed with the
2 miners?

3 A. You'll have to refresh me.

4 Q. That's the miners' rights?

5 A. Yes.

6 Q. Okay. Good. And is that
7 documented on the 5023?

8 A. It's on the 5023, yes.

9 Q. Okay. The training for
10 evacuation of the mine --- and you
11 discussed earlier about the
12 firefighting evacuation plan and who
13 the responsible person is. Who is
14 the responsible person at Sago Mine?

15 A. The dispatcher.

16 Q. Okay. And what type of
17 training is he provided as the
18 responsible person?

19 A. He's explained that two-page
20 list, and then also the part of the
21 evacuation plan that deals with the
22 dispatcher, that part is gone over
23 with him as well.

24 Q. And what is his
25 responsibilities, as far as the

1 firefighting evacuation plan is
2 concerned?

3 A. In the part of the
4 firefighting evacuation plan are
5 program instructions that list that
6 when the CO levels reach a certain
7 point, what he is to do, what he's
8 instructed to do, ten parts per
9 million, alert, and 15 parts per
10 million, an alarm.

11 Q. Okay. And what else is he ---
12 as far as the responsible person?

13 A. As the responsible person,
14 it's his duty to determine when to
15 evacuate the mine.

16 Q. Okay. And is that discussed
17 with him?

18 A. Yes.

19 Q. And what is he told during
20 that training?

21 A. When I've trained them, I've
22 just read it to them word for word,
23 provided them with a copy of it.
24 I've even laminated it and put it on
25 the computer, the AMS computer module

1 system for them to have available for
2 them.

3 Q. Okay. Has there been occasion
4 to just do more than just read it to
5 them and discuss with them what
6 situations he might want to evacuate
7 the mine, or just more in-depth,
8 should I say?

9 A. Yes.

10 Q. You have done that?

11 A. Yes.

12 Q. Okay. Did you do that at the
13 Sago Mine?

14 A. No, not at Sago.

15 Q. Okay. Who would have done
16 that at the Sago Mine?

17 A. Al Schoonover would have
18 conducted that training.

19 Q. And do you know that he did
20 that?

21 A. I do not know.

22 Q. And who would follow up to see
23 that Mr. Schoonover would do that?

24 A. I guess MSHA.

25 Q. As part of the safety

1 department, do you follow up on any
2 training?

3 A. Not specifically, no.

4 Q. So you didn't follow up on
5 that at all ---

6 A. No, sir.

7 Q. --- to see if that was done?

8 A. No, sir.

9 Q. And has Mr. Schoonover
10 indicated to you at all that he has
11 done that?

12 A. No, sir.

13 Q. Did you ask him?

14 A. No, sir.

15 ATTORNEY WILLIAMS:

16 Can we take a break for
17 a second?

18 MR. SWENTOSKY:

19 Yeah.

20 ATTORNEY WILLIAMS:

21 Go off the record.

22 SHORT BREAK TAKEN

23 BY MR. SWENTOSKY:

24 Q. Mr. Schoonover, when did he
25 arrive at the mine? And you may have

1 said this, and I apologize for asking
2 again if you did. But how did Mr.
3 Schoonover arrive at the mine, and
4 when?

5 A. At the Sago Mine?

6 Q. Yes, sir.

7 A. I believe in early 2004 is
8 when he started there.

9 Q. Okay. Was that prior to your
10 involvement?

11 A. I guess I was involved with
12 the Sago Mine, I'm trying to think
13 when Al came back to work. He was
14 off with an injury. He came back
15 either late 2003 or early 2004. I
16 don't really recall when he came
17 back.

18 Q. Okay. I guess he was there
19 then whenever you --- during your
20 involvement at Sago Mine?

21 A. Yes. Yes.

22 Q. It wasn't someone that you
23 brought in? He was already there?

24 A. Yes.

25 Q. Okay. Are you aware of anyone

1 at the mine that is not properly
2 qualified and they're doing tests
3 that they're not qualified for?

4 A. No, sir.

5 Q. Have you ever seen any
6 document related to the approval of
7 Omega seals at the Sago Mine that has
8 Mr. Stephan's name on it?

9 A. No.

10 Q. Okay. If you haven't seen any
11 of those documents, how did it come
12 about that you knew or thought that
13 Mr. Stephan provided that
14 information?

15 A. Joe Myers told me that he
16 acquired the information from Clete
17 Stephan.

18 Q. So from your personal
19 knowledge, you don't know or have not
20 seen anything with Mr. Stephan's name
21 on it?

22 A. No, I have not.

23 Q. Have you ever personally
24 contacted Mr. Stephan about Omega
25 seals?

1 A. No, sir, I have not.

2 Q. The information, do you know
3 if Mr. Myers obtained that
4 information in writing or by phone?
5 How was that obtained? Do you know?

6 A. I don't know. That I don't
7 know. It would be my understanding
8 that it was faxed to Joe.

9 Q. And how would you --- why
10 would you think that?

11 A. Because to do those detailed
12 drawings and the plan as it is, I
13 don't think that Joe did that.

14 Q. Okay. And did you do any
15 documentation of the conversation
16 that you had with Mr. Myers
17 concerning the information that was
18 given to Mr. Myers from Mr. Stephan?

19 A. Yes.

20 Q. And could we have a copy of
21 that?

22 A. I don't have it with me.

23 ATTORNEY RAJKOVICH:
24 We'll take it under
25 advisement.

1 BY MR. SWENTOSKY:

2 Q. What is it?

3 A. Conversations that I had with
4 Tom Hlavsa over the phone and Ed
5 Parrish concerning this plan's
6 approval.

7 Q. Okay.

8 A. And Tom's questioning of the
9 plan and my statement was that Tom
10 said that he was going to have to
11 have this looked at by tech support
12 ---

13 Q. Okay.

14 A. --- and that's when we had
15 acquired this information from tech
16 support and he said well, we would
17 have to have the specialist, Clete
18 Stephan, look at it.

19 Q. Okay.

20 A. And I said, that's who we got
21 the information from so there
22 shouldn't be any delay.

23 Q. Okay. And did you have any
24 documentation with your conversation
25 with Mr. Myers concerning that plan?

1 A. Say that again. I didn't ---.

2 Q. Did you document any
3 conversations that you had with Mr.
4 Myers concerning the information that
5 he had supposedly gotten from Mr.
6 Myers ---

7 A. No, I never have.

8 Q. --- or Mr. Stephan?

9 A. No.

10 Q. Okay. And what would --- the
11 information that you got from Mr.
12 Hlavsa and that documentation, okay,
13 is that just a --- is that a written
14 notes that you have?

15 A. Yes. What I did was, anytime
16 I contacted him, I would write down
17 the date and the time that I
18 contacted him, and what my question
19 was and what his answer was.

20 Q. Okay. And that's the
21 information that we'd like to have.

22 ATTORNEY RAJKOVICH:

23 We'll take it up.

24 BY MR. SWENTOSKY:

25 Q. Who chooses the location ---

1 or who chose the location for the
2 seals to be built at Sago?

3 A. I don't know.

4 Q. Do you know if anyone made any
5 actual measurements of the seal
6 location, the ten seals, Omega seals,
7 that, you know, were blew out?

8 A. Evidently, they measured where
9 Number One and Number Two were
10 initially to go because they moved
11 them. Other than that, I don't know.

12 Q. Okay. The present location,
13 do you know if the measured that
14 present location?

15 A. I don't know.

16 Q. And I guess after that, then,
17 you wouldn't know what those
18 measurements might have been?

19 A. Correct.

20 Q. Okay. Do you know if there
21 was any documentation of measurements
22 of those seals ---

23 A. No.

24 Q. --- seal locations?

25 A. No, I do not.

1 Q. Do you know who made the
2 decision to move those seals based on
3 the --- that they would be two wide
4 and two high?

5 A. I do not.

6 Q. Did you have any conversations
7 with Mr. Toler concerning that?

8 A. No, I did not.

9 Q. And Mr. Myers then, would have
10 been the person you had a
11 conversation about submitting that
12 plan ---

13 A. Yes.

14 Q. --- for higher?

15 A. Yes.

16 Q. That would be a higher seal
17 and a wider seal?

18 A. Yes.

19 Q. Okay. And again, what did
20 that conversation entail?

21 A. We were going to need to
22 submit a plan to include a pilaster,
23 due to the fact that the Number One
24 and Number Two entries we exceeded
25 eight foot in height.

1 Q. And did he say who he had that
2 conversation with?

3 A. No, he did not.

4 MR. SWENTOSKY:

5 John?

6 MR. COLLINS:

7 I don't think we have
8 anything further. Thank you,
9 John.

10 MR. SWENTOSKY:

11 We have come to the
12 end. On behalf of MSHA, I
13 would like to thank you for
14 appearing and answering the
15 questions today. Your
16 cooperation is very important
17 in the investigation as we
18 work to determine the cause of
19 the accident.

20 We ask that you not
21 discuss your testimony with
22 any person who may have
23 already been interviewed or
24 who may be interviewed in the
25 future. This will ensure that

1 we obtain everyone's
2 independent recollection of
3 the events surrounding the
4 accident. After questioning
5 other witnesses, we may call
6 you if we have any follow-up
7 questions that we feel that we
8 need to ask.

9 If at any time you have
10 additional information
11 regarding the accident that
12 you would like to provide to
13 us, please contact us at the
14 contact information that we
15 previously discussed with you,
16 and you have in a letter.

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

1 immediately notify MSHA.

2 If you wish, you may
3 now go back over any answer
4 that you have given during
5 this interview and you may
6 also make a statement that you
7 would like to make at this
8 time.

9 Do you have anything
10 additional to add or any
11 statement that you would like
12 to provide to us?

13 A. Just one thing that I don't
14 understand is why we weren't
15 listening for the men when they were
16 barricaded. They did what they were
17 trained to do and in my opinion, we
18 didn't follow up on our end for
19 listening.

20 MR. SWENTOSKY:

21 Okay. Anything else,
22 Mr. Stemple?

23 A. No.

24 MR. SWENTOSKY:

25 Okay then, we thank you

1 for your cooperation in this
2 matter.

3 A. Thank you.

4 MR. SWENTOSKY:

5 And thanks for coming
6 in.

7 A. Thank you.

8 MR. SWENTOSKY:

9 We really appreciate
10 it.

11 A. Thank you.

12

13 * * * * *

14 SWORN STATEMENT

15 CONCLUDED AT 5:14 P.M.

16 * * * * *

17

18

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25

4
Addition of Omega Seal to
Plan 8' high by 20' wide

OK

U.S. Department of Labor

Mine Safety and Health Administration
604 Cheat Road
Morgantown, West Virginia 26508



OCT 24 2005

UNDERGROUND MINE FILE	
DATE	10-24-05
INITIALS	aw

SENT TO AND/OR DISCUSSED WITH FIELD OFFICE:

SURNAME	DATE
Parrish	10/13/2005
REVIEWED BY:	
Parrish	10/19/2005
Brooks for TH	10/20/05
Smith	10-20-05
Mosley	10-20-05

Mr. Jeffrey K. Toler
Superintendent
Anker WV Mining Company, Inc.
Route 9, Box 507
Buckhannon, West Virginia 26201

Dear Mr. Toler:

The request filed October 12, 2005, and revision filed October 19, 2005, to add an alternative method of seal construction to the ventilation plan for the Sago Mine, I.D. No. 46-08791, has been reviewed. The alternative method seal made with nonhitched-style Omega blocks is approved and will be included in your currently approved mine ventilation plan.

You are reminded that all changes or revisions to the mine ventilation plan, as specified in 30 CFR 75.370(d), must be submitted to and approved in writing by this office before they are implemented.

If you have any questions, please feel free to contact this office.

Sincerely,

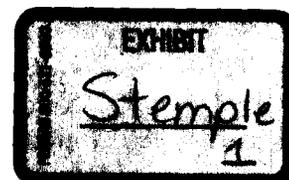
Kevin G. Stricklin

Kevin G. Stricklin
District Manager

EParrish:aw

bcc:
Bridgeport F/O (2)
W. Ponceroff
E. Parrish
Health Section
Map File
Main File

T44



**Anker West Virginia
Mining Company**

Rt. 9 Box 507
Buckkannon, WV 26201

SAFETY AND
HEALTH ADMINISTRATION
MORGANTOWN, WV

di
10-13-05

October 12, 2005

2005 OCT 12 PM 3:18

Kevin Stricklin, District Manager
Mine Health and Safety Administration
604 Cheat Road
Morgantown, WV 26508
Attn: Tom Hlavsa

RECEIVED
cm

RE: Sago Mine's Ventilation Plan Changes

Mr. Stricklin:

Anker West Virginia Mining Company wishes to add an Omega Concrete Block Seal Method and Plan to our current Ventilation Plan for our Sago Mine, MSHA ID # 46-08791. It should be noted, that at this time, we only wish to add the non-hitched style to our plan. (See attached diagrams).

If you have any questions on this matter, please feel free to contact me at 304-471-3300.

Sincerely,

Joe Myers
For *Al Schoonover*
Safety Director

Guidelines for installation of Omega Block Concrete Seals

1. All loose material will be removed from the roof, ribs, and floor to accommodate seal construction and supplemental supports. The seals will be constructed at such a location so that a permanent block seal can be installed in front of the omega seal, if required in the future.
2. The seal will be constructed with Omega blocks using one of the following Methods:
 - A) Total thickness of 40"
 - B) No hitching required.
 - C) Joints must be staggered.
 - D) A bonding agent (Blockbond #122551), will be used to seal between each layer and joining edges of blocks at least ¼" thick and will be applied to the front and back of the seal.
 - E) The Omega blocks will be either be sawed or constructed so as to bring the top blocks to within 2" of the mine roof.
 - F) Three rows of wood planks running the entire length of the seal shall be installed across the top of the seal.
 - G) Wedges will be placed on 1 Foot centers or less, with an approved sealant used to fill the gaps.
 - H) An approved sealant shall be used as full face coating on both sides of the seal.
 - I) Seals shall be installed at least 10 feet from the corner of the pillar.
 - J) Sample pipes shall be installed as per 75.335.
 - K) Water traps will be installed within 12" of the bottom or floor.

REMOVED

2005 OCT 19 PM 12:47

A. ALTON

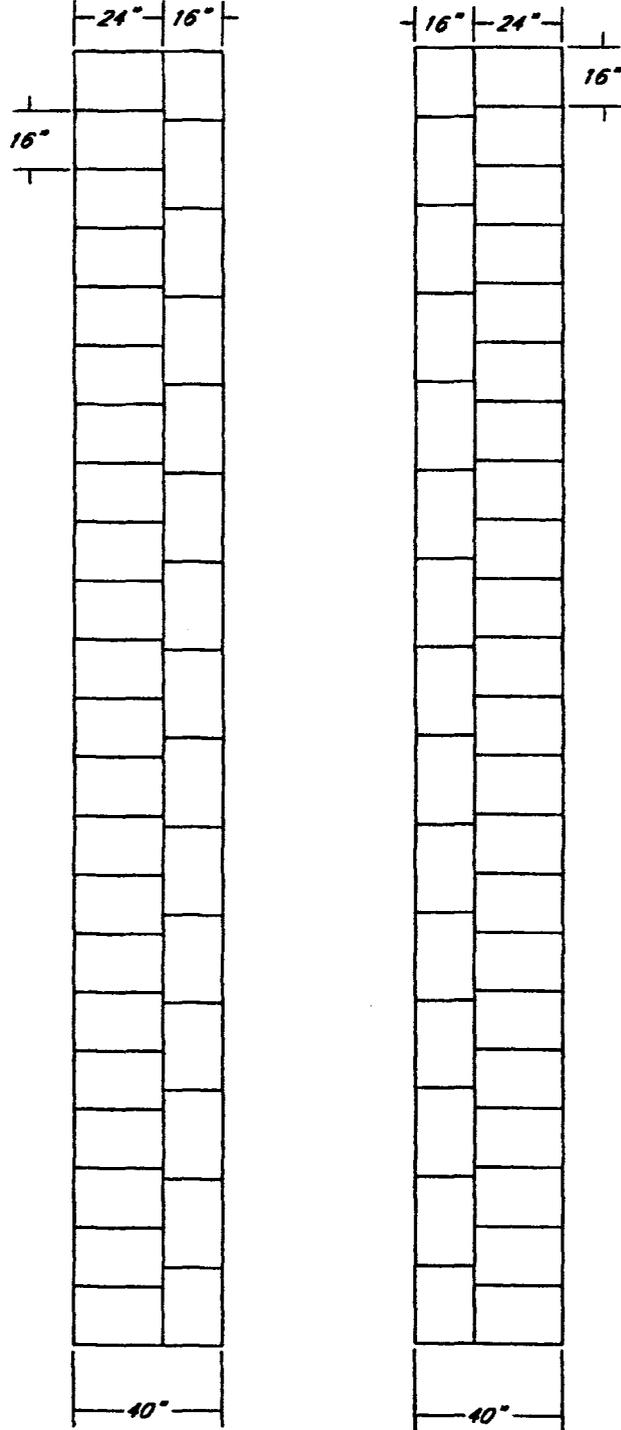
SAGO MINE

40" THICK OMEGA BLOCK SEAL

CONSTRUCTION PLAN

FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE

ALTERNATE COURSES TO STAGGER JOINTS

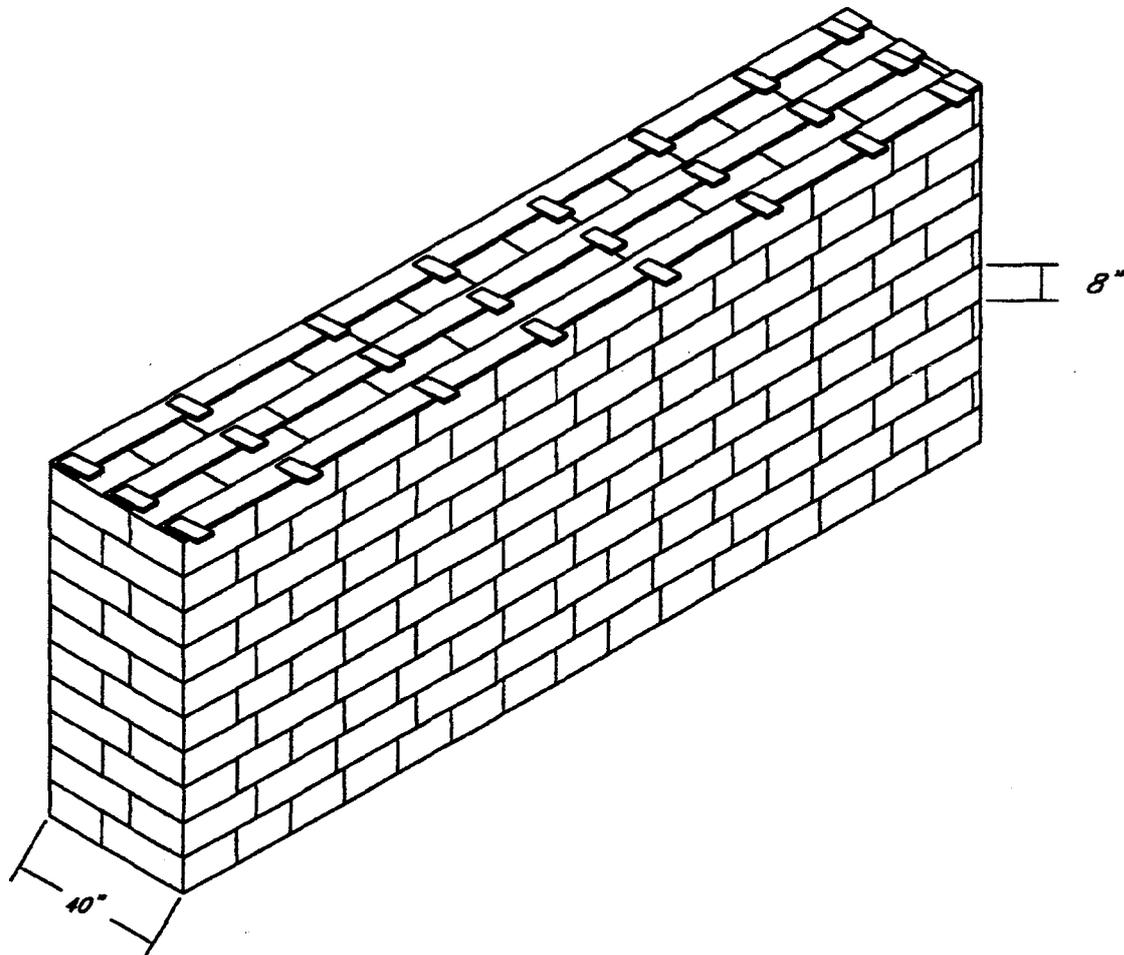


SAGO MINE

40" THICK OMEGA BLOCK SEAL

FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE

1. Total thickness 40 inches
2. No hitching required
3. Joints must be staggered
4. All joints shall be a minimum $\frac{1}{4}$ inch thick and be motared using an approved mortar/sealant
5. Three rows of wood planks running the entire length of the seal shall be installed across the top of the seal
6. Wedges will be placed on 1' centers or less with an approved sealant used to fill the gaps
7. An approved sealant shall be used as full face coating on both sides of the seal.



- Seals shall be at least 10 feet from the corner of the pillar
- Sampling pipes shall be installed as per 75.335

Notes of Johnny Stemple concerning the request and approval sequence of the Omega Block Seals containing pilasters:

Ty Coleman left a note on my desk (mid to late October 2005) asking me to amend the Sago – Seal plan for Omega block to address 9.5’ height by adding pilasters. He stated in his note that this was a priority. He also stated in his note that Joe Myers will have amended drawings for a pilaster.

I drafted the request letter and checked with Joe concerning the drawing. Joe told me that he had contacted an engineer he had worked with in the past and this engineer would pass the information he had received from Clete Stephan (MSHA Tech Support) concerning this type of Omega block seal.

Once Joe gave me the drawings I put them with the request letter and faxed to Tom Hlavsa at the MSHA District 3 Division Office on 10-31-05.

11-1-05 I called Tom Hlavsa and left a message on his voice mail questioning the seal approval and asked him to call me back concerning this.

11-4-05 I called Tom Hlavsa concerning the amended seal plan approval, he informed me that he had forwarded the plan as an e mail attachment to the MSHA Tech Support Seal Expert, Clete Stephan. Tom told me that Clete was currently out and he had no idea why he was out or when he would return, but the approval was based on Clete reviewing this plan.

11-30-05 I called and Tom Hlavsa was out so I talked to Ed Parrish concerning this plan, Ed told me that we’d have to change item 7 test pipe: to reflect 30 CFR 75.335. He said once this was changed it should be approved. I made this change on this day and faxed it to him.

The approval letter was dated and signed on December 8, 2005.

