STATEMENT UNDER OATH

OF

CHRISTOPHER LILLY

Taken pursuant to Notice by Miranda D. Elkins, a Court Reporter and Notary Public in and for the State of West Virginia, at the U.S. Bankruptcy Court, 324 West Main Street, Clarksburg, West Virginia, on Thursday, March 23, 2006, at 2:53 p.m.

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

2 JOSEPH R. O'DONNELL, JR.
3 Supervisory Coal Mine S&H Inspector
4 U.S. Department of Labor
5 Mine Safety & Health Administration
6 District 11
7 3867 Pine Lane, Suite 205
8 Bessemer, AL 35022
9
10 JOSEPH W. PAVLOVICH
11 588 Higgins Branch Road
12 Gray, KY 40734
13
14 DAVE STUART
15 1507 Stonehenge Road
16 Charleston, WV 25214
17
18 JAMES BROOKS CRAWFORD, ESQUIRE
19 Senior Trial Attorney
20 Mine Safety and Health Division
21 U.S. Department of Labor
22 Office of the Solicitor
23 1100 Wilson Boulevard
24 Suite 2231
25 Arlington, VA 22209-2296

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1 P R O C E E D I N G S

2 ----------

3 MR. O'DONNELL:

4 My name is Joe

5 O'Donnell. I'm an accident

6 investigator with the Mine

7 Safety and Health

8 Administration, an agency of

9 the United States Department

10 of Labor.

11 With me is James

12 Crawford from the Solicitor's

13 office, Mike Rutledge and Dave

14 Stuart, with the West Virginia

15 Office of Miners' Health,

16 Safety ---.

17 MR. PAVLOVICH:

18 No. I'm Joe.

19 MR. O'DONNELL:

20 Wait a minute. It's

21 not Mike Rutledge, it's Joe

22 Pavlovich and Dave Stuart with

23 the West Virginia Office of

24 Mine Safety & Training.

25 I've been assigned to

1 conduct an investigation into
2 the accident that occurred at
3 the Sago Mine on January the
4 2nd, 2006, in which 12 miners
5 died and one was injured.
6 The investigation is
7 being conducted by MSHA and
8 the West Virginia Office of
9 Miners' Health, Safety &
10 Training, to gather
11 information to determine the
12 cause of the accident. These
13 interviews are an important
14 part of the investigation.
15 At this time the
16 accident investigation team
17 intends to interview a number
18 of people to discuss anything
19 that may be relevant to the
20 cause of the accident. After
21 the investigation is complete,
22 MSHA will issue a written
23 report detailing the nature
24 and causes of the accident.
25 MSHA accident reports

are made available to the public in the hope that greater awareness about the causes of accidents can reduce their occurrence in the future. Information obtained through witness interviews is frequently included in these reports. Your statement may be used in other enforcement proceedings.

I'd like to thank you in advance for your appearance here. We appreciate your assistance in this investigation. The willingness of miners and mine operators to work with us is critical to our goal of making the nation's mines safer. We understand the difficulty for you in discussing the events that took place, and we greatly appreciate your efforts to help us understand

1 what happened.
2 This interview with Mr.
3 Chris Lilly is being conducted
4 under Section 103(a) of the
5 Federal Mine Safety and Health
6 Act of 1977, as part of an
7 investigation by the Mine
8 Safety and Health
9 Administration and the West
10 Virginia Office of Miners'
11 Health, Safety & Training into
12 the conditions, events and
13 circumstances surrounding the
14 fatalities that occurred at
15 the Sago Mine owned by
16 International Coal Group in
17 Buckhannon, West Virginia on
18 January the 2nd, 2006.
19 This interview is being
20 conducted at the U.S.
21 Bankruptcy Courthouse in
22 Clarksburg, West Virginia on
23 March 23rd, 2006. Questioning
24 will be conducted by
25 representatives of MSHA and

1 the Office of Miners' Health,
2 Safety & Training.
3 Mr. Lilly, this
4 interview will begin by my
5 asking you a series of
6 questions. If you do not
7 understand a question, please
8 ask me to rephrase it. Feel
9 free at any time to clarify
10 any statements that you make
11 in response to the questions.
12 After we've finished
13 asking questions, you will
14 also have an opportunity to
15 make a statement and provide
16 us with any other information
17 that you believe may be
18 important. If at any time
19 after the interview you recall
20 any additional information
21 that you believe may be useful
22 in the investigation, please
23 contact Mr. Richard Gates at
24 the phone number and e-mail
25 address provided to you.

1 Your statement is
2 completely voluntary. You may
3 refuse to answer any question
4 and you may terminate the
5 interview at any time. If you
6 need a break for any reason,
7 please let us know.
8 A court reporter will
9 record your interview and will
10 later produce a written
11 transcript of the interview.
12 Please try and respond to all
13 questions verbally since the
14 court reporter cannot record
15 nonverbal responses.
16 Also, please try to keep your
17 voice up. Copies of the
18 written transcript will be
19 available at a later time.
20 If any part of your
21 statement is not based on your
22 own firsthand knowledge but on
23 information that you learned
24 from someone else, please let
25 us know. Please answer each

1 question as fully as you can,
2 including any information you
3 have learned from someone
4 else.
5 We may not ask the
6 right questions to learn the
7 information that you have, so
8 don't feel limited by the
9 precise question asked. If
10 you have information about the
11 subject area of a question,
12 please provide us with that
13 information.
14 At this time, Mr.
15 Pavlovich, do you have
16 anything you'd like to add on
17 behalf of the State of West
18 Virginia?
19 MR. PAVLOVICH:
20 Chris, I have a short
21 statement here to read. The
22 West Virginia Office of
23 Miners' Health Safety &
24 Training is conducting this
25 interview session jointly with

1 MSHA and is in agreement with
2 the procedures outlined by Mr.
3 O'Donnell for these interviews
4 that will be conducted here
5 today.
6 But the Director
7 reserves the right, if
8 necessary, to call or subpoena
9 witnesses or require the
10 production of any record,
11 document, photograph or other
12 relevant materials necessary
13 to conduct this investigation.
14 Also, as Joe O'Donnell
15 said, if you have any
16 additional information later
17 or would want to contact
18 anyone with the State, I'll
19 give you a card for Brian
20 Mills, who's the Inspector at
21 Large for Region One here in
22 Fairmont.
23 MR. O'DONNELL:
24 Mr. Lilly, are you
25 aware that you may have a

1 personal representative with
2 you during the taking of this
3 statement?
4 MR. LILLY:
5 Uh-huh (yes).
6 MR. O'DONNELL:
7 And do you have a
8 representative?
9 MR. LILLY:
10 No.
11 MR. O'DONNELL:
12 Do you have any
13 questions regarding the manner
14 in which the interview will be
15 conducted?
16 MR. LILLY:
17 Not at this time.
18 MR. O'DONNELL:
19 Okay. Would you please
20 swear in the witness?
21 ----------
22 CHRISTOPHER LILLY, HAVING FIRST BEEN
23 DULY SWORN, TESTIFIED AS FOLLOWS:
24 ----------
25 BY MR. O'DONNELL:

1 Q. Would you please state your
2 full name and spell your last name?
3 A. Christopher Charles Lilly,
4 L-I-L-L-Y.
5 Q. And please state your address
6 and telephone number.
7 A. Home?
8 Q. Yes.
9 A. 1045 College Avenue in
10 Morgantown, West Virginia 26505.
11 Telephone number, 304-296-1214.
12 Q. And are you appearing here
13 today voluntarily?
14 A. Yes.
15 Q. Now, what mining company do
16 you work for?
17 A. Redbone Mining Company,
18 Morgantown, West Virginia.
19 Q. And how long have you worked
20 for Redbone?
21 A. Five or six years thereabouts,
22 since I was 18. Six years.
23 Q. Okay. And you're a member of
24 the mine rescue team?
25 A. Yes.

Q. And how long have you been on the mine rescue team?
A. Four or five years. Four years, thereabouts.
Q. Okay. And what's your position on the team?
A. At the time, I was a captain.
Q. You're the team captain?
A. One of them. There's two teams. One of the team captains.
Q. Okay.
A. But serving as the captain on that. We just have one team in the mine.
Q. Now, how were you notified of the explosion?
A. We have a director and I was called at --- it was January 2nd about ten o'clock in the morning, thereabouts. I was just on my way home from work, essentially pre-shifting the mine on an idle shift.
Q. Okay. Who was it that notified you?

A. Joe Prebola with Kingwood Coal.
Q. Now, this Redbone, ---
A. Uh-huh (yes).
Q. --- now, this is a company-owned team that you belong?
A. No. I refer to it as a conglomerate team. We provide service for 12 or 15 mines. And different mines have --- you know, you get a break on your association fee if you have people on the mine rescue team.
Q. Okay.
A. So, no, it's not company owned. It's an association of teams.
Q. I understand.
A. And the association is only there for mine rescue coverage.
Q. What do you do at Redbone?
A. I'm shift foreman on second shift.
Q. Okay. So you were notified about ten o'clock. About what time did you get at the mine?

A. At Sago?
Q. Yeah.
A. I believe 1:30.
Q. Do you have some kind of central location where you pick up your equipment?
A. Yes.
Q. Tell me a little bit about that.
A. Well, it's in Kingwood, West Virginia, which is central within the two hour time frame of all of our mines. And with everybody coming from different locations --- everybody knows that was a holiday, first off.
Q. Right.
A. So I mean, it's just lucky ---. We had 12, 13 members --- no 12 members and 12 for 12 were able to make it. But as for the location, it's just ---. It's the mine rescue station. It's in the back of a plaza in Kingwood. Kingwood is a fairly small town. It's at Ames plaza there

is what it was. It's a tractor supply store now.

Q. Okay.

A. We all met there and then left together as a group.

Q. You left as a group?

A. Yeah.

Q. And you got at the mine at 12:30, or you said 1:30?

A. About 1:30, I think, was a little closer.

Q. What kind of activities were going on at the mine when you got there? Was there other teams already there?

A. Yeah. We were most --- there were a large amount of Consol teams, the State was there. I know the State team was there before us. I know a couple people on that. But as far as the activity, I mean, at that point they were ---. What I found out later on ---. That they had apparently just come back to the mine site because they evacuated it from

high CO. And we were probably there right after we were allowed back on the property.

Q. Okay.

A. And there was more or less confusion, which would be expected.

Q. So where did you stage at?

A. At that point, we were, from the entrance on to the mine property, 100 yards to the right by some crib blocks. Actually, they were rail ties.

Q. Okay.

A. So we were just waiting right there as a group.

Q. Who was directing the activities at the mine?

A. When I got there? I can't tell you that. I don't know. I mean, I don't remember the names.

Q. Okay. Was it somebody from ICG?

A. Kevin Strickland was there for sure.

Q. That would be from MSHA.

A. From MSHA, yes. Of course, I believe the mine foreman from Sago was there. I don't remember his name, but I think who it was. Toler who was the superintendent was still there, and there was Coleman, the safety director, he was the larger guy. He was there. You know, there was --- that's all I can really recall.

Q. Okay. So here's what I want you to do. From the time that you got on the mine property --- just I'm going to let you just go through your involvement, what your team did, what you did, what you observed, where you traveled through the mine, until the time that you left the property. Just give me a rundown of everything, with as much detail as possible. Times and dates would be good.

A. Do the whole ordeal, on January 2nd?

Q. The whole ---.

A. Okay.

1 Q. Give the whole works to me and
2 then we'll go back; all right?
3 A. Yeah. We'll just start, we
4 got there --- call it 1:30, that's
5 close enough. And we went --- the
6 director or the trainer and I went up
7 to figure out who was in charge and
8 ask them. We got around the command
9 center, I think, is where we went and
10 asked what they wanted us to do. And
11 they said, just hold tight for a
12 little while. And that's what we did
13 for probably an hour or two, let's
14 just say. You know, because at the
15 time the CO readings were still too
16 high to go into the mine.
17 And then once they begun to
18 drop, there was a push to get people
19 in the mine. We were under the
20 assumption --- or they told us to
21 just hang tight, the Consol teams
22 were going to go in first, because
23 they have --- you know, they've been
24 exposed to that far more than we
25 have.

1 And then after that ---.
2 After a while, there was some problem
3 with corporate Consol about having
4 their teams go into the mine. And
5 they point to us, Tri-State. We were
6 going to be the first team in the
7 mine.
8 And then we got briefed on
9 that. And then since they --- like I
10 said, they told us just to wait, wait
11 a while, we weren't going to go in
12 for a good while. We didn't have our
13 machines ready, so they --- we
14 started checking out our machines.
15 And during the time we were checking
16 our machines, apparently the Consol
17 teams got permission to go into the
18 mine. And then we were put back on
19 --- or we were put back to go into
20 the mine at a later time.
21 I believe it was supposed to
22 be --- well, let's say at that point,
23 once we were told that, we stayed
24 around there for a while until they
25 told us we could go and they got us a

hotel at the Hampton there off Route 33. We went home. It was --- I got to see the last like quarter and a half of the bowl game for WVU, so what was that, maybe midnight, 11:30, you know.

And then, you know, went to sleep woke up the next morning, we were supposed to be at the mine, I believe at 12:00 to be outside on deck waiting. We were called out at like 9:30 to go back to the mine, early. And we got there about ten o'clock. With the team that was supposed to be there, half the people got there. They were going to be the first group, so let's say ten o'clock --- 9:30, ten o'clock we got back to the mine site, got our machines checked out.

And we were the team outside on deck, but we kept getting bumped back, staying on deck outside each time. So at four o'clock we were supposed to be the backup team

1 underground but we were still outside
2 doing the same thing, taking ---.
3 And all this while we were taking gas
4 samples. Two members of the team
5 were taking gas samples in the
6 return. The track --- I believe it
7 was a track heading to the right of
8 return number two, but I'm not sure
9 what it was exactly now.
10 And we monitored that until
11 about 8:00 p.m., when half of our
12 team went in. They told us that we
13 were going to be a one-group team, so
14 we took the people with the most
15 experience and formed one team out of
16 our two and went underground at
17 approximately ---. It was supposed
18 to be eight o'clock, but I believe it
19 was closer to 11:00. You know, the
20 time tables ---. They had a rough
21 schedule. It was about 11 o'clock
22 when we went in, underground.
23 And at that point when we went
24 underground, we traveled the track,
25 heading to the fresh air base. It

1 was, I think, at 58 block on Four
2 Belt, 56 block. I'm not sure.
3 Q. I have a map over here. Do
4 you want to go over?
5 A. Yeah. We can ---. From this
6 point, this is late Tuesday night;
7 correct?
8 Q. Yeah.
9 A. And everybody was found on
10 Wednesday, early Wednesday morning;
11 is that ---? Do I have the day right
12 in my head?
13 MR. O'DONNELL:
14 We'll call this Lilly
15 Exhibit One.
16 (Lilly Exhibit One
17 marked for
18 identification.)
19 BY MR. O'DONNELL:
20 Q. Here is the map of the First
21 and Second Left parallel sections.
22 A. Yeah.
23 Q. We're going to mark on here.
24 Part of your team advanced. And
25 where was the fresh air base?

A. The fresh air base. Right there it is. Right here is where we advanced to underground. We couldn't quite go to the 58 block.

Q. And you are referring to ---

A. We were at the entrance right there.

Q. --- survey station 3903?

A. On the map, yes. It has near the reserve.

Q. Okay. So go on.

A. Well, we traveled the track, heading to where the man bus was. There was an overcast there. There was a stopping blow out. It's off this map.

Then when we got into the primary escapeway and walked up to survey station --- we'll just say, 3892 or 3893, where the fresh air base was at that time. And I recall advancing to the fresh air base, just outby 58 block, which would be the survey station we just discussed, 3903. And at that time there was ---

1 we had low oxygen. There was low
2 oxygen. We were the backup team.
3 When the backup team was in the fork,
4 I think or Bailey, one of the two.
5 When the backup team came for us, we
6 were told to explore in Number One
7 and Two, looking for stoppings, the
8 return stoppings that were blown out
9 in that area.
10 We didn't advance very far.
11 We only advanced about a break or two
12 before they pulled us back.
13 Then after getting pulled
14 back, we ---. Well, I'm sorry, it
15 was McElroy. McElroy came and went
16 back onto the track having advanced
17 up to this working section on Two
18 Left. And after that they found the
19 ---.
20 Once McElroy came and was
21 under oxygen, they had --- we had an
22 equipment failure in the mine of
23 mask. The nose came out of ---. So
24 we had one member short and so they
25 had to leave one member behind when

they went under oxygen. So the fresh air base that left us --- there was a Federal man, a State man, one member from the McElroy team and our six-men team, thereabout the fresh air base.

We had communication two blocks inby. The fresh air base was where the hard line --- or where we had a radio man and then the hard line. The mine rescue telephone was there relaying back to the fresh air base through another member. And then another person and myself on the mine phone to outside.

And the McElroy team, they advanced up. They were supposed to go to, I believe it was 19 block or something, or 15 block and check oxygen. And then they advanced up past that.

And then we got a message that they found 12 alive, at that point --- was what was radioed back to us. And we asked them to confirm. They confirmed it. And then we reported

1 it outside to the control center.
2 Then after that, they were
3 wanting help. You know, they wanted
4 first aid supplies, help, stretchers,
5 whatever. So we asked for permission
6 to go up there from the control
7 station or command center. And they
8 were hesitant. And then we all just
9 went ---. But we left two men back
10 at the fresh air base and went up to
11 assist the McElroy team in getting
12 what was to be 12 survivors out.
13 Then when we got up there, it was
14 just 1 survivor and 11 deceased.
15 Then after that, we carried
16 the survivor back. And then at that
17 point, McElroy, captain, and Mike
18 were up there. And by that time we
19 had --- what would the manpower be,
20 maybe 11 people, several of whom had
21 been under oxygen for a good while, a
22 couple of the inspectors. So we were
23 very limited on manpower and, you
24 know, the McCloy boy, he's not a
25 light individual and it was a dead

1 load. So to carry him back, we were
2 up there and we were getting ready to
3 kind of identify some of the bodies
4 with the codes that were given to us
5 by ICG.
6 And at that point I told the
7 McElroy captain that we really didn't
8 have time to do that, we had to get
9 that guy outside. And it was --- if
10 I remember correctly, it was about
11 1,500 feet back to fresh air. And it
12 was just too hard to carry somebody
13 with the amount of manpower we had
14 under oxygen and everything. So we
15 did not tag --- did not identify any
16 of the deceased. Which we checked
17 them several times for vital signs,
18 you know, and then we left, to carry
19 out the survivor.
20 We carried him out on the
21 stretcher. I believe we used two or
22 three rescuers on him, just trying to
23 keep a good one going while they had
24 a full battery in them, to keep him
25 alive.

When we got back to the fresh air base, I mean, as far as time, I have no idea of time. But when we got back to the fresh air base, at that time the Viper team had gotten in there, ICG's team from Illinois. And they kind of spelled out several of the members to help carry the guy out. And carried him back, I believe it was another 1,200 or 1,500 feet back to the mantrip from there.

Carried him back down the track heading. And all this was conducted in the track heading, all the carrying of the individual.

And once they got back, McElroy helped --- the captain from the McElroy team was on --- the command center wanted to talk to him on the phone. He was over on the phone and I was bouncing back and forth, seeing where everybody was. And they were carrying him down towards the manbus. And I forget what block that was, maybe 40 block.

1 And when we got down there
2 with the --- they were ahead of me.
3 And I got down there to where the
4 mantrip was. And there was --- one
5 of the members of my team was going
6 to ride out with them and several
7 others, I believe ---. One of the
8 --- there were a couple other people
9 to carry him out that weren't in the
10 best shape at that point, as far as
11 breathing ability and everything.
12 You know, several of them were
13 showing signs of serious distress.
14 We sent them out on the
15 mantrip with them, or they
16 volunteered and were sent out with
17 that. And the one member of my team
18 went out with the survivor. And
19 there was one member of the --- I'm
20 sorry, Viper team that had EMT on his
21 hat. And I asked him if he was an
22 EMT and how skilled he was. And I
23 sent him out with the individual also
24 for a little bit better technical
25 care. I think there might have even

1 been two EMTs from that team, just in
2 case something would happen along the
3 way.
4 Then we regathered back up
5 near the fresh air base, did a head
6 count several times and headed
7 outside for the night by way of the
8 mantrip at the track heading. And
9 then when we got outside, we went
10 back, dropped our machines off to get
11 serviced. And the two captains from
12 the McElroy team and myself, or the
13 captain from the McElroy team and
14 myself were interrogated or debriefed
15 in the command center. And we were
16 told after that to stay put for a
17 little while, you know, our team, the
18 Tri-State team that is, to stay put
19 on-site for a little while in case
20 they needed anything.
21 And I think it's 2:30, 3:00 in
22 the morning now. We asked if we
23 could leave. We told them we were
24 done, we were leaving for the night.
25 And we went back to the hotel and got

1 some rest for that night. And they
2 told us they'd call us in the
3 morning.
4 And we just --- and they never
5 ended up calling us and we stayed
6 around the hotel for the remainder of
7 the day. And then the following
8 morning we had a meeting with the ICG
9 guys, as far as if they would need us
10 to help rehabilitate the mine later
11 on. And then we left Buckhannon
12 somewhere around nine o'clock in the
13 morning, on Thursday that would be.
14 Q. Thanks. You know, you guys
15 started off by monitoring gas in the
16 return.
17 A. Uh-huh (yes).
18 Q. Tell me about what kind of
19 readings over what period of time.
20 You got there at 12:30 or 1:30 ---.
21 A. At ten o'clock. Oh, I'm
22 sorry.
23 Q. The first day.
24 A. Okay. Yes.
25 Q. Okay. When they kept backing

1 you up. And how many guys did you
2 send into the return?
3 A. Just two. That was Tuesday,
4 though, the 3rd, when we started
5 monitoring the gas samples. It was
6 at ten o'clock on Tuesday, on the
7 3rd.
8 Q. Ten o'clock. You didn't do it
9 the first day that you got called up?
10 A. No, the other team was doing
11 that ---
12 Q. Okay.
13 A. --- those two days.
14 Q. So what kind of readings did
15 you get then?
16 A. Well, myself and the other ---
17 the captain from our B team were the
18 first people to start taking samples.
19 And at first we were --- you know,
20 oxygen was always okay, in the mid to
21 low 20s, you know, not quite perfect,
22 but it was perfectly livable.
23 CO was rather high. It was, I
24 believe, when we started it was in
25 the low thousands maybe. And by that

time --- I might be wrong there. And the methane was negligible, a couple tenths.

Q. You mean low thousands?

A. 1,100, a thousand.

Q. What kind of detector did you have?

A. That was an iTX, Industrial Scientific iTX. It was one of Sago's, one that was given to us for that. And then we were also taking air readings, as far as velocity readings.

Q. What kind of velocities were you getting, do you remember?

A. They were in the 900s.

Q. Did you have record ---?

A. 900s for linear feet per minute.

Q. Okay.

A. We never did an area. The area didn't change.

Q. Right. How were those measurements recorded?

A. We took them --- I was doing

1 the CO checks. And I took those to
2 the mine foreman's office. We were
3 also taking bottle samples, and they
4 were going to the trailer on the back
5 side of the company offices there.
6 Q. Okay. Is all that information
7 part of the record?
8 A. I just delivered it. I don't
9 know what they did with it. I'm sure
10 they were tabulating and figuring out
11 what --- they were watching the CO
12 drop. And I did that for myself for
13 about two hours, two-and-a-half hours
14 and it dropped maybe 500 parts per
15 million CO in that time.
16 Q. How many hours did you do
17 sampling total, your team?
18 A. Our team?
19 Q. Yes.
20 A. Until we went underground at
21 eight o'clock. And then the rest of
22 the team kept sampling after that.
23 So we sampled --- I believe they
24 stopped whenever we got outside,
25 thereabouts.

Q. So what kind of apparatuses do you have?
A. BG-174As.
Q. 174As. And so your team goes in and you make it to the fresh air base.
A. Uh-huh (yes).
Q. And you backed up there --- you backed up McElroy?
A. It was Bailey, I believe, Bailey or Inland, one of the two mines.
Q. How many of your members were there at the fresh air base?
A. At that time, we had a six-man team.
Q. Okay. Now, you said you had a malfunction of your BG-174?
A. Uh-huh (yes).
Q. What type of malfunction was it?
A. It was the face piece inside the mask, inside the mask. The nose cup felt out with the --- there's a resonator in there so you can talk.

1 That must have fallen out when we
2 were walking into the mine, you know,
3 from that far walk as we were
4 walking. The footing was pretty bad
5 and one of the members --- it's bound
6 to have bounced off his knee or a
7 stopping or something.
8 Q. Okay.
9 A. We had to go through several
10 doors, I think.
11 Q. Okay. So the Enlow team,
12 then, began the expiration of Second
13 Left. As you were --- are you back
14 up at the fresh air base?
15 A. Yeah. We relieved somebody at
16 the fresh air base. And then it was
17 --- I believe Bailey and Enlow were
18 both in there at the same time,
19 possibly. I forget the teams for
20 sure, but as soon as we got there,
21 one team had exited and another team
22 was exploring.
23 Q. Were you on the phone relaying
24 information to the command?
25 A. Yes.

1 Q. Okay.
2 A. I was on the outside.
3 Q. And as I understand, as the
4 team explores, they relay information
5 from one man to another with handheld
6 radios; is that right?
7 A. Yes.
8 Q. And tell me a little bit about
9 that type of communication system.
10 How effective was it?
11 A. It let us push in there, you
12 know. I mean, it was --- it let us
13 push beyond the thousand-foot
14 capabilities of the hard mine rescue
15 telephone. But it did have its
16 drawbacks also. It wasn't perfectly
17 clear.
18 Q. So tell me about the
19 difficulty you had understanding the
20 communication.
21 A. Well, I can't --- I wasn't on
22 the radio end. I was --- we had a
23 man on the radio and then a man on
24 the mine rescue phone. And then by
25 me, there was another man on the mine

1 rescue phone and then me on the hard
2 phone outside.
3 Q. Let me get this. At the fresh
4 air base, ---
5 A. Uh-huh (yes).
6 Q. --- okay, we had the hard
7 line, the mine phone that goes to the
8 command center?
9 A. Yes.
10 Q. That's where you were at?
11 Then beside you ---?
12 A. Right. Yes.
13 Q. Right beside you, there was a
14 person with the ---?
15 A. The mine rescue phone.
16 Q. The wireless?
17 A. No, the hard line mine rescue
18 phone, the voice-activated.
19 Q. They run a lifeline in with
20 it, a cable lifeline?
21 A. No. We ran the cable lifeline
22 ---. If I could look at the map, I
23 could describe this a lot better.
24 Q. Yes, let's go to the map.
25 A. When we ran the cable lifeline

1 from two blocks inby the mine --- or
2 the fresh air base. The fresh base
3 was really at ---.
4 Q. 3903. So mark on the map, on
5 the orange line there, where you
6 extended the mine rescue hard line.
7 A. This stopping was knocked out,
8 right beside 3903. It was blown out
9 --- the rescue ---. The mine rescue
10 telephone went to about right here,
11 where the track chute goes to one
12 North, One Left, inby 3901.
13 Q. Okay. Crosscut 59?
14 A. Yes.
15 Q. That would be Two Left not
16 One.
17 A. Yes, Two.
18 Q. The second ---. So the fresh
19 air base was at 3903. You extended a
20 mine rescue hard line to crosscut 59
21 just outby 3922.
22 A. Uh-huh (yes).
23 Q. And there was a person
24 positioned there with ---?
25 A. Two people.

Q. Two people there?
A. One on a walkie-talkie and one on a mine rescue phone.
Q. Okay.
A. That was the fresh air --- it was by --- just inby that.
Q. So they were out ---?
A. About 15 feet.
Q. So they were under apparatus?
A. They were still expirable ---.
Q. So they were bare faced there?
A. Bare faced, yeah.
Q. Okay. Now, do you --- well, you were at the fresh air base, so you wouldn't know where the people were extended to?
A. Here about --- between Nine and Ten block. Between Nine and 11 block, Ten --- between Nine and 11 block, one of the McElroy men ---. They had to drop a man right there.
Q. Why don't you put ---
A. In order to ---.
Q. --- where you believe that the person was positioned.

A. How do you want me to mark it?
Q. Just mark a big circle and put first man dropped.
WITNESS COMPLIES

MR. O'DONNELL:

And he's marking this first man relay between Nine and Ten and 11 crosscut, somewhere in that area. Okay.

A. And then they ---. That was from that point that we previously established and proceeded from there to tunnel four.

BY MR. O'DONNELL:

Q. Okay.
A. They explored shortly inby, just barely inby then. And from where they dropped the first man, in order to relay back, they also had to have a second man right behind the power center.
Q. Okay. Could you please ---?
A. Right beside the tailpiece at 4271. They dropped the second person there, ---

Q. Okay.
A. --- in order to speak with the men at the face, the rescuers had the face as they were searching.
Q. Okay. Were there any other communication drops?
A. I know of those two.
Q. You only know those two?
A. Yes.
Q. Okay. About how long did it ---?
A. Well, this person at Nine and 11, to talked to us he had to go to Nine. He had to go outby, to talk to the fresh air base. To talk to the guys inby, he had to walk forward. So he had to walk forward a matter ---. There was a large water hole right in there with a piece of equipment.
Q. So the person here had to walk into 11 to communicate with the advanced exploration team, and had to travel back out to Nine to communicate to the hard line, not

1 even the fresh air base, but to the
2 person who was ---?
3 A. Yeah, the mine rescue.
4 Q. Mine rescue. Okay. So now
5 we're using three types of
6 communication.
7 A. To telephone, yeah.
8 Q. We have the mine telephone,
9 the mine rescue lifeline
10 communication system, and a wireless
11 system?
12 A. Uh-huh (yes). Yes.
13 Q. With ---?
14 A. Two relays, at least.
15 Q. With two relays, not counting
16 the person who was communicating from
17 inby ---
18 A. Uh-huh (yes).
19 Q. --- the barricade.
20 A. Uh-huh (yes).
21 Q. Okay. Let's talk about their
22 exploration. I mean, you were on the
23 phone relaying information to the
24 command center. Was there anything
25 remarkable about their exploration?

1 Did they talk about moving equipment,
2 anything that was in their way? Did
3 they talk about falls or stoppings
4 blown out, quality readings? Maybe
5 you could talk about that.
6 A. Well, at that point there
7 really wasn't --- there wasn't a big
8 push for air quality readings to be
9 radioed out as frequently as they
10 would be.
11 Q. Okay.
12 A. Because a lot of that was
13 traveled before. You know, most of
14 that area was ---. They just wanted
15 to get --- it seems like the push was
16 to get up to the face and go from
17 there. But there was a scoop
18 somewhere behind the power center. I
19 don't know --- it was in the track
20 heading, thereabouts. There was no
21 equipment in the way, to speak of, to
22 get between the belt --- or the track
23 heading barricade, as I can recall.
24 So I don't remember any hearing of
25 that.

1 I believe I heard --- my
2 detector had gone dead. The battery
3 died. But I believe the McElroy
4 captain said there was 450 parts per
5 million CO inside the barricade, but
6 the oxygen was colorful.
7 Q. What about outby the
8 barricade? What were some of their
9 CO readings as they got ---? Now,
10 you said that it was traveled before
11 then. How much of it --- did you
12 say ---?
13 A. The team before McElroy had
14 --- I believe they were told to
15 travel to about 14 block on Two Left.
16 And they might have been a little --
17 - a hair ahead of that. But that's
18 what I was referring to.
19 Q. Okay.
20 A. That had already been explored
21 is what I meant.
22 Q. So from 14 block inby ---
23 A. Was ---.
24 Q. --- was unexplored? So what
25 were some of those CO readings there,

1 between there and the barricade, do
2 you recall?
3 A. I don't remember anything
4 being radioed out. I'm not sure if
5 there was, but it was ---. I believe
6 within the barricade, was what I
7 said.
8 Q. Did they make a straight push
9 to the ---
10 A. Straight to the face.
11 Q. --- face or did they explore
12 left and right?
13 A. I don't think --- maybe they
14 tied in every fifth block, maybe.
15 Q. Okay.
16 A. But that would only have been
17 one time. I believe it was just a
18 straight push to the face, though.
19 Q. How often did you lose
20 communication with them?
21 A. Total loss? I don't know if
22 there was ever a total loss. There
23 were lengthy delays, you know.
24 Q. How lengthy?
25 A. I mean, it felt like an

1 eternity, you know, half a minute, a
2 minute.
3 Q. But I mean, there were times
4 when the first link, the first guy at
5 Nine to 11, obviously had to travel
6 several hundred feet.
7 A. Yes.
8 Q. And I'm sure ---. Well, tell
9 me, how many times did you have to
10 repeat information back and forth?
11 A. In order to get ---. Well,
12 see, I was on the hard line with the
13 outside. So I was the one --- they
14 were wanting information and they
15 kept --- you know, they were
16 inpatient. And, you know, there was
17 only --- it can only be transmitted
18 so quickly. And so I was hearing
19 what they would want a whole lot
20 before they were being answered,
21 maybe two to three times while we
22 were still trying to get the answer
23 back.
24 Q. Was there problems with
25 overlap, where you were trying to

1 call in information to them and they
2 were trying to call information out
3 to you and half of the information
4 gets ---? As you're trying to ---.
5 A. I'm not aware of any. I mean,
6 you know, I can't say that there was,
7 but I'd be surprised if there wasn't.
8 Q. Okay. Because all really you
9 were at was that ---
10 A. Yeah.
11 Q. --- hard line out and hard
12 line in?
13 A. Yes.
14 Q. That you didn't hear ---.
15 A. There was a time delay between
16 me asking them for something. And,
17 you know, the questions were being
18 asked to me quicker than they could
19 be answered by the search --- by the
20 rescue team.
21 Q. About how much time went by,
22 if you could tell me, between when
23 you got to the ---? When the team
24 began the exploration from 14 in ---
25 well, from the fresh air base in

until the time that they got to the barricade?

A. I don't believe it was 15 minutes. I don't think it was. I mean, it happened really quickly.

Q. Did it?

A. That's the way I remember it. I didn't really focus on that point.

Q. So how did that communication come to you?

A. Which communication?

Q. The one where they breached the barricade and they found miners.

A. They never really said they breached the barricade, because --- I mean, first off, I asked everybody not to call it a barricade.

Q. Yes.

A. But there was no --- you couldn't tell the difference between it and the regular fly tack. It just looked like a curtain. I mean, it was just a curtain hung across the heading. So they probably entered it without knowing, you know?

1 So there was no discussion
2 over the radio about breaching a
3 barricade.
4 Q. Okay. So they went through a
5 curtain when they ---?
6 A. Yeah.
7 Q. So what was the first
8 communication you heard concerning
9 --- you know, when they did discover
10 the missing miners?
11 A. As far as I remember, it was
12 the 12 alive we spoke of earlier.
13 And then at the same time, it may
14 have been, we need supplies, oxygen,
15 stretchers, 12 alive. Or it was 12
16 alive, we need oxygen and stretchers.
17 It was something --- it was either
18 supplies first or what they found
19 first.
20 Q. And when you got that word,
21 you transferred it to the surface?
22 A. Yes.
23 Q. And that's exactly what ---
24 A. I said ---.
25 Q. --- got to you?

A. Just as I said right there, yeah. Well, we asked for them to repeat, you know, to make sure it was true.

Q. So you verified?

A. We verified. I mean, from where we were, at the fresh air base, we could hear the --- actually could hear a muffled walkie-talkie in the distance, from where our mine rescue hard line was, the rescue line was.

Q. So we had how many people inby right now?

A. Inby my location, nine, maybe.

Q. Nine people inby. And how many were at your location?

A. Five, I think.

Q. Five.

A. Five.

Q. Now, when you went ahead to help the other team, did someone stay at the phone?

A. Two men did.

Q. Two men stayed at the phone. And what about the relay

1 communication, did that continue?
2 A. The first man relay --- the
3 first man McElroy team dropped still
4 remained.
5 Q. At the mine rescue phone?
6 A. No. Well, let's start with
7 the fresh air base.
8 Q. Okay.
9 A. There was one man running both
10 the phone --- the mine telephone and
11 the mine rescue phone ---
12 Q. Okay.
13 A. --- at the fresh air base.
14 Q. Fresh air base.
15 A. Inby there, where we had the
16 end of the mine rescue phone and the
17 walkie-talkie, there was one man
18 manning that station also.
19 Q. Okay.
20 A. And in between the Nine and 11
21 block, there was one man there, until
22 we came back to him with the
23 survivor. And then he helped carry.
24 Q. So you went up into the ---
25 you say you don't want to call it a

1 barricade?
2 A. I've asked people not, just
3 because that's not what it was.
4 Q. Now, when you got up there,
5 tell me, what was the --- you said
6 there was a curtain? And where
7 was ---? Let's go up to the map
8 here, so you can show me where this
9 curtain is that you're talking about.
10 A. Yeah.
11 Q. Let me get you a ---.
12 A. A little red pen or something.
13 Q. We're going to stay on the
14 original map here and we're going to
15 be marking up in the Number Three
16 entry.
17 A. It's actually Three to Two in
18 crosscut. The check curtain they
19 used as barricading material was
20 right there, diagonal from Three to
21 Two, checking off both the crosscut
22 face and the face of the straight.
23 Q. Okay. What other curtains
24 were there?
25 A. Well, I mean, the section

1 seemed to be ventilated properly.
2 Q. That you can remember, was
3 there a curtain across Number Three?
4 A. I believe, if I'm right. If
5 I'm wrong, correct me. I'd
6 appreciate it. I think the miner was
7 here; is that correct?
8 ATTORNEY CRAWFORD:
9 For the record where
10 did he mark?
11 MR. O'DONNELL:
12 He marked in Number
13 Five entry.
14 A. I'm not sure if that's
15 correct. We walked up from the power
16 center straight to the face, in
17 through the first box cut where the
18 first check curtain was placed. And
19 then turned left to the last
20 crosscut. And then we just kept
21 going through.
22 We just more or less --- there
23 was no direction of where they were.
24 We just kept going until we found
25 someone, until we found others. You

1 know, I mean, there was curtains and
2 it was just like opening a door.
3 BY MR. O'DONNELL:
4 Q. Okay. Did you meet the other
5 team carrying out the survivor?
6 A. No. When we got up there,
7 like I said, we were all expecting 12
8 alive. When we got up here and
9 everybody --- you know 11 deceased
10 men were still there laying and they
11 were starting to work on McCloy.
12 At this time, I got with the
13 McElroy captain. And that's --- you
14 know, to quickly get caught up to
15 speed. He said he was the only one
16 that was alive. And at that time I
17 got a rescuer and popped it open. Of
18 course they had several rescuers.
19 Q. Did you pass the communication
20 guys, like between Nine and 11 and 22
21 and 23?
22 A. At this time these people
23 weren't here. They were assisting.
24 Q. They were assisting.
25 A. By the time we got there.

1 Q. So the first time that you had
2 any knowledge that the information
3 was incorrect was when you saw the
4 deceased?
5 A. When we came through the
6 curtain, the barricade. It was the
7 first --- I mean, it was the first
8 indication.
9 Q. Tell me about the
10 conversation.
11 A. I asked Jim, he was the
12 captain of the McElroy team. I asked
13 him, I said what about the rest of
14 them? He said, they're dead, Chris.
15 And that was the first time, you
16 know ---.
17 Q. Did you ask what --- you know,
18 we were told ---?
19 A. No. There was no time for
20 discussion at that point. We acted
21 how we acted. I mean, we checked
22 them several times, like I said
23 earlier.
24 Q. Are you an EMT?
25 A. Yes.

1 Q. And were there any other EMTs
2 with you, that you know of?
3 A. I believe one of the guys on
4 my team was, one of the members was.
5 He was either in the class or
6 finished the class.
7 Q. And have you done ambulance
8 work?
9 A. No. EMT, mining in West
10 Virginia is what I am, ---
11 Q. Okay.
12 A. --- which is a different track
13 area than ---
14 Q. Right.
15 A. --- and EMT ARV.
16 Q. But as a fully-trained
17 experienced certified EMT, you
18 assessed the vitals and ---?
19 A. With the equipment we had.
20 There was --- I mean, all you could
21 do was take a pulse and yell and
22 shake, ---
23 Q. Right.
24 A. --- you know.
25 Q. But with that, and having that

1 qualification, it was determined that
2 they had expired?
3 A. Cold and stiff, yeah.
4 Q. They were? Okay. So there
5 was really no question?
6 A. Uh-uh (no).
7 Q. Okay. But there was ---. And
8 did you check more than once? Did
9 other people ---
10 A. Uh-huh (yes).
11 Q. --- continue to check?
12 A. Uh-huh (yes).
13 Q. So it wasn't like just a ---?
14 A. No, it wasn't --- it was
15 thoroughly ---. I mean, as
16 thoroughly done as could have been
17 possible in the time frame, you know.
18 Q. Okay. So there was no doubt?
19 A. Very little. I mean, no doubt
20 --- I mean, you'd hope for the best.
21 I mean, nothing beyond, you know,
22 second guessing yourself and hoping.
23 Q. Okay. So let's talk about
24 what was some of the first aid or
25 treatment during the recovery of the

1 survivor. So you went into the
2 barricade and you assisted. What
3 were they doing when you got there?
4 A. Well, at that time they were
5 just --- I believe two people might
6 have been going for a stretcher, I
7 think. And we took what we had for
8 rescuers with us at the fresh air
9 base. I believe the McElroy team
10 took several with them also. And we
11 took the remainder that was there
12 with us, thinking that there was more
13 alive people.
14 And when we got up there, the
15 first thing that I was really able to
16 do when we got within the barricade
17 was figured out that everybody ---
18 the deceased. And then popped a
19 couple rescuers open for McCloy, for
20 the survivor.
21 Q. And was there --- when you put
22 the ---? What did you use, an SS ---
23 an SR100?
24 A. Yeah, an SR --- SCSR 100.
25 Q. And was it helping? I mean,

1 did he breathe?
2 A. Yeah. I mean, he was able to
3 breathe with them. The big problem
4 was, it was a gasping breath, you
5 know, it wasn't a deep breath. And
6 so we kept opening new rescuers so
7 the bag --- breathing bag would be
8 fully inflated. You know, to get
9 that initial oxygen shot that's in
10 the small bottle in the unit.
11 Q. Did you have any trouble with
12 any of the SCSRs?
13 A. No. They all worked
14 appropriately. The first one I
15 popped, when I jerked it open, the
16 mouth plug came out of the tube and
17 the bag didn't --- you know, it
18 needed to be manually started. That
19 wasn't possible. So a couple of them
20 were like that. They needed to be
21 manually started and that wasn't an
22 option, so that's why we went through
23 several.
24 Q. So it wasn't a malfunction of
25 the unit, it was because the mouth

1 piece had popped and when you pulled
2 the handle, instead of inflating the
3 bag, it went out the hose?
4 A. It probably went out the hose.
5 Q. Okay.
6 A. I mean, I don't know that the
7 mouth piece popped out for sure, but
8 that's what it probably was.
9 Q. Okay.
10 A. And it just wasn't the
11 greatest of care taken popping it
12 open.
13 Q. So you used several rescuers
14 to try to revive ---?
15 A. To get him back to the rescue
16 personnel.
17 Q. And you did this along the
18 way?
19 A. While we were carrying him,
20 yes.
21 Q. I understand. It wasn't just
22 in the barricade ---.
23 A. The first one was put on him
24 in the barricade. We did a quick log
25 roll, got him on the stretcher, tied

him on, you know, however it was, and then just started carrying him.

Q. And so --- well, what made you want to continue to pop SCSRs?

A. He was having trouble breathing. I mean, he was spitting them out, more or less.

Q. Okay.

A. It was just trying something. He kept spitting them out and we just kept throwing a new one on him.

Q. And you did this until you got outside?

A. No, until we got near the fresh --- until we got back to fresh air. At the fresh air base, there a BG-4. Somehow we ended up with a BG-4 there and put that on him. I believe it was a BG-4.

Q. Okay. So at the fresh air base, it went to BG-4.

A. And that was until outside, where I assume the paramedics took over.

MR. O'DONNELL:

1 Joe, do you have any
2 follow up right now?
3 MR. PAVLOVICH:
4 A couple things.
5 BY MR. PAVLOVICH:
6 Q. Chris, let's go way back.
7 A. Okay.
8 Q. When you got to your station
9 at Kingwood, ---
10 A. Okay.
11 Q. --- how do you transport your
12 equipment? What did you have
13 available?
14 A. We just threw it in pickup
15 trucks.
16 Q. Pickup trucks, ---
17 A. Yeah.
18 Q. --- is usually used to move it
19 with?
20 A. We had --- you know, we were
21 up there and at that time there was
22 really a --- you were still hoping
23 that, you know, what you heard wasn't
24 really the case. So we were taking
25 --- getting everything. The only

thing we didn't take from our station was the fresh air compressors that runs the oxygen compressor, because I figured that there would surely be one at the mine site. But we did take our oxygen, our oxygen bottle compressor, which that was the only one at the mine site for about half a day, ---

Q. Okay.

A. --- if not a full day.

Q. All right. And you say when you first got there, you went, I guess, with your trainer, was it?

A. Yeah. I believe it was the trainer and maybe the other captain.

Q. You went into the command center?

A. Yeah, I think. I mean, we did --- we headed that way. I don't know if that was the first person --- I think we kind of called people and asked where to go.

Q. Okay.

A. You know, but I believe that's

1 where we had to go. Or else maybe
2 somebody from the command center was
3 out floating around, you know, and we
4 got pointed towards somebody.
5 Q. And that was just to report in
6 and let people know you were here?
7 A. Just to say we were there and,
8 you know, how many people we had,
9 what our strength was, we were ready.
10 Q. And their response was just
11 to ---?
12 A. Just to wait for a while.
13 Q. To wait for a while.
14 A. Well, that was the first real
15 response that I can remember for a
16 little while or a while.
17 Q. I think you said they told you
18 to hold tight, ---
19 A. Uh-huh (yes).
20 Q. --- that Consol would go in
21 first?
22 A. They were planning on sending
23 them in, because they were wanting to
24 send the more experienced teams in
25 first.

Q. And do you know why that was, why they were ---? I mean, why did they tell people to hold tight?
A. Well, they told us. I think, you know, they wanted to send the more experienced team in first.
Q. Okay.
A. I believe that was, you know ---.
Q. So the first activity that you really got involved in then was collecting some samples in the return?
A. On the following day in the pit mouth.
Q. On the following day?
A. Yes.
Q. So you didn't do any more that day, ---
A. No.
Q. --- on the 2nd?
A. No.
Q. On the 3rd, when you got there, you started to collect samples?

A. Yes. Yes, the first thing in the morning.
Q. Okay. And that was --- you said they called you about 9:30 and you got there about 10:00 or so. Okay. And the samples that you were getting at that time, you said they were about 1,100 parts per million CO?
A. I think. Near as I can remember.
Q. There was a couple tenths of methane?
A. Yes. And then oxygen was in the 20s, I think.
Q. Okay. So then on the 3rd, January 3rd is when you actually got to go into the mine and it was late that evening?
A. Yes.
Q. About what time, do you remember?
A. We were supposed to go in the mine at eight o'clock, I believe. I think it was closer to 10:30 or

1 11:00.
2 Q. All right. And the first
3 thing they told you to do when you
4 got in there was to explore the One
5 and Two entries?
6 A. We were the backup team at
7 first.
8 Q. Okay.
9 A. And then as soon as I --- I
10 believe --- maybe when McElroy came
11 in, they wanted us to explore the
12 Number One and Number Two entry and
13 the return. We didn't get very far
14 and then they called us back. And I
15 believe they did that while they were
16 thinking up the rest of the plan.
17 You know, that was just so we could
18 accomplish something --- somebody
19 could accomplish something while they
20 were ---.
21 Q. Okay.
22 A. While they were getting a
23 better plan formulated.
24 Q. So they didn't call you back
25 for any problem or anything, it

was ---?
A. No.
Q. What was the reason they called you back?
A. No. I think they wanted --- they knew where they wanted to go and they just ---.
Q. They just changed the plan?
A. They changed the plan.
Q. Okay.
A. I think that was just a quick --- they wanted to see if maybe some of those stoppings were knocked out. That's what we were over there to look for.
Q. Were any of them knocked out?
A. As far as I can tell.
Q. They were all out?
A. They were --- yeah. I believe we got two blocks into Two Left in Number One and Two and the stoppings were out.
Q. Both were out?
A. The map with small print was really hard to identify exactly where

it was, with the --- you know, by the time your face mask was fogged up, or not fogged up but had moisture in it.

Q. Okay. Now, you said that once the McElroy team, I guess, got into the area where the miners were and they called out and asked for help, ---

A. Uh-huh (yes).

Q. --- that you were actually on a hard line to the command center ---

A. Yeah.

Q. --- with the man sitting next to you that had the headphones from the cable ---?

A. Yes.

Q. So he was relaying information to you. You didn't hear what the team member said?

A. No.

Q. Okay. You could just hear what he was repeating?

A. Yes.

Q. And you said that when they called and asked for help, that you

1 called the command center and asked
2 for permission to go up and help?
3 A. To tell us what they wanted us
4 to do.
5 Q. And what was their response
6 then?
7 A. They really never gave one. I
8 mean, I think it was --- you know,
9 there was never a definite answer. I
10 think they might have said, wait for
11 another team for backup or ---. I'm
12 not sure that they even gave a
13 response.
14 Q. Okay. And this was after you
15 told them there were 12 people alive?
16 A. Yes. And the inby team was
17 asking for help.
18 Q. And the inby team was asking
19 for help, but you didn't get a
20 response?
21 A. Not a definitive ---.
22 Q. Okay. So did you just take it
23 upon yourself, with your team, to go
24 up to the barricade or to the ---?
25 A. We were forced to assume that

1 we had to do what was the best thing.
2 You know, we had to make the best
3 decision with the information that
4 was presented to us is what we were
5 forced to do.
6 Q. Okay. So then you took
7 everyone, except left one man there
8 with both phones?
9 A. Yes, one man at the fresh air
10 base and one man ---.
11 Q. One man at the mine rescue ---
12 A. Yes.
13 Q. --- communications.
14 A. With the radio and the other
15 headset.
16 Q. Plus the two relay men also
17 went up to help?
18 A. Well, at that time it was just
19 the one relay man between Nine and 11
20 block, as far as I can remember. The
21 man that was relaying at the power
22 center, that was more of he'd go and
23 see what they ---. I believe --- I'd
24 assume that they'd go and find
25 something and then they'd have to go

1 back there to report it. So that was
2 more of a roving relay station,
3 because that's where they would have
4 to be to establish communication.
5 Q. Okay. So really once you got
6 up to Number Three face, in the last
7 place, there was no communications
8 back to the fresh air base?
9 A. Not until ---.
10 Q. The men at Nine or 11 had gone
11 up to --- there was no relay?
12 A. He was still there when we
13 came back down, because as we came
14 by, I told him to stay right there,
15 just in case, the man at Nine or 11
16 block.
17 Q. He was still there?
18 A. Yeah, until we came back with
19 --- carrying the survivor.
20 Q. So he stayed the whole time?
21 He didn't ---
22 A. Yes.
23 Q. --- go up there?
24 A. Yes. So, I mean, we did have
25 communications --- broken

1 communications to that point. I
2 don't believe that anybody chose to
3 use it.
4 Q. But no one called out with any
5 additional information?
6 A. Not until we got back to the
7 fresh air base.
8 MR. PAVLOVICH:
9 Okay. Okay, Joe.
10 BY MR. O'DONNELL:
11 Q. Let me pick it up with when
12 you did get back to the fresh air
13 base, you said that you didn't try to
14 communicate with the outside until
15 you reached the fresh air base.
16 A. Uh-huh (yes).
17 Q. Okay.
18 A. Well, I, myself, I didn't.
19 Q. Okay. Is that when someone
20 called out and told them that the
21 communication was wrong?
22 A. I think that when they got
23 back down there, they wanted to talk
24 to the captain of the McElroy mine
25 rescue team. I don't know what they

1 discussed, but I'd assume that's what
2 they discussed.
3 Q. Okay.
4 A. Or they asked just what was
5 going on. That's when they probably
6 found out for sure what had happened.
7 Q. Okay. You had said that there
8 were others besides yourself that had
9 checked for vital signs ---
10 A. Uh-huh (yes).
11 Q. --- in the barricade?
12 A. Uh-huh (yes).
13 Q. Do you know who those people
14 were?
15 A. I mean everybody up there did,
16 I'm sure.
17 Q. But do you know their names?
18 A. Yeah. Well, the only person I
19 know from the McElroy team is Jim
20 Klug (phonetic). I believe it's
21 K-L-U-G.
22 Q. Okay.
23 A. I'm not sure. I don't think
24 that's correct. Gary Boylard had
25 also did --- he was with our team.

I'm sure Don Fern did. Who else was with us? There was Brian Thomas --- no, I'm sorry, Frank Thomas. He was a Federal inspector with us. Eugene White was a State inspector with our group. There was another Federal inspector up there. I forget his name right now. He actually ran out of air on the way back to the fresh air base on his machine.

Well, okay, the three from my team, Don, Gary and myself, would be the only people from my team, because we left two members back at the fresh air base. So there was --- the rest was McElroy members, two State and two Federal ---

Q. Okay.

A. --- inspectors.

Q. You said that you didn't want to call it a barricade, that you wanted to call it a curtain.

A. Well, it was a curtain.

Q. Okay.

A. That's what it was constructed

1 --- I mean, it was very loosely
2 constructed.
3 Q. So it doesn't even come close
4 to what you would consider a
5 barricade?
6 A. Uh-uh (no).
7 Q. What would you consider a
8 barricade?
9 A. And you'd like to see them
10 getting knocked --- you know, they
11 had a scoop at the section. You'd
12 like to see them knock a stopping
13 out, you know. I mean, if you were
14 going to barricade, you'd hope that
15 everybody would sure, number one,
16 sure knock several walls out force
17 the air behind you, and establish
18 several check curtains ahead of the
19 barricade to try and slow the air
20 down. And then, you know, use the
21 emergency barricading material, wood,
22 blocks, something with a mortal seal.
23 Or if you were going to use a
24 curtain, at least throw some mortar
25 around the edges, you know. I mean,

1 the time was short. You only have
2 one shot at it.
3 I mean, the construction
4 materials are on a section. I mean,
5 it's just a matter of harvesting.
6 MR. O'DONNELL:
7 Joe.
8 BY MR. PAVLOVICH:
9 Q. Did the first team that went
10 up and went into that curtain, did
11 they have a spare apparatus with
12 them, carry it with them on a
13 stretcher or ---?
14 A. No. I don't think they did.
15 Q. They did not? Did your team
16 take a spare apparatus?
17 A. No, we didn't.
18 Q. So all you had for ---
19 A. Yeah.
20 Q. --- assistance was the SCSR?
21 A. Several SR100s, I believe.
22 Q. Was there any reason why
23 anybody didn't take the apparatus in?
24 A. Nobody thought of it, ---
25 Q. Okay.

A. --- more than that.
Q. When you first got in there, you realized right off there was just one man alive?
A. We didn't have one to spare, our team didn't, because we had the one that failed.
Q. Oh, okay. So you didn't have a spare?
A. No, not really. And the man that was at the mine phone, between the radio phone and the mine rescue phone, was really close to low air quality.
Q. Okay.
A. So there really wasn't one to spare at that point. Looking back on it, but at the time, nobody really thought of it.
Q. Okay. Now, you said, I guess before you went into the mine, someone had given you a piece of paper ---
A. Uh-huh (yes).
Q. --- or something of how to

1 identify the miners?
2 A. Uh-huh (yes).
3 Q. Can you explain a little bit
4 about what that was?
5 A. It was just an Excel
6 spreadsheet with one that said ---
7 the column on the left was item and 1
8 through 12 --- 1 through 13,
9 actually, with the first item being
10 the man that was found in the track
11 heading. I forget his name now. And
12 then, you know, the other column was
13 the corresponding name of the
14 individual.
15 Q. So it had names on it
16 corresponding to a number?
17 A. Yes. An item number, they
18 just had more or less a code.
19 Q. And what instruction did they
20 give you on that? If you found
21 persons alive or dead to call in that
22 item number ---
23 A. Yes.
24 Q. --- and give that information?
25 A. Yes.

1 Q. And who gave you that
2 instruction, do you remember?
3 A. I believe it was the person
4 that was in charge of Consol's mine
5 rescue.
6 Q. So it was one of the other
7 mien rescue teams that discussed that
8 with you?
9 A. No, it wasn't one of the
10 teams, it was the --- oh, I forget
11 his name now. He's from Consol's
12 Pittsburgh office. And he's over all
13 of their mine rescue operations.
14 Q. Okay.
15 A. He was the one that had given
16 ---. And I believe that maybe
17 somebody was ICG had given it to him.
18 Q. Bill Toliver, maybe?
19 A. That's the fellow's name, yes.
20 Then there was a man from ICG there
21 also that wasn't Ty Coleman. I
22 forget his name. He was a shorter
23 fellow.
24 Q. Tim Martin?
25 A. Yes. I think it was Tim. I

1 believe it was.
2 Q. When you first got into the
3 area then, you said you started to
4 identify miners according to that
5 list, but then realized you had one
6 alive?
7 A. Yeah.
8 Q. So you stopped doing that
9 and you devoted all of your
10 attention ---?
11 A. Well, I told the other mine
12 rescue member we'd identify him and
13 use the process of elimination to
14 figure out the others, so it was my
15 thinking. You know, it was a lot
16 quicker.
17 Q. All right.
18 A. I mean, rather than ---
19 because, you know, there's no
20 standard place where every man has
21 his check tags is the problem.
22 Q. Okay.
23 A. And we could have spent 10 or
24 20 minutes looking for that.
25 Q. And they had not put an SCSR

on Mr. McCloy ---
A. At that time, yes.
Q. --- until you got there?
A. Oh, no. Until I got there, no.
Q. They didn't have one on him?
A. I think they were just in the first stages of assessing --- of getting him in, you know, in the condition to take ---.
Q. How long did it take you all to ---?
A. We ran.
Q. Okay. You ran up the fresh air base to the area?
A. Uh-huh (yes).
Q. Okay. So just a few minutes then?
A. Yeah. I mean, as fast as we could possibly make it. I'm sure five minutes might have passed. I mean, they were still gathering supplies for everything. We might have beat the stretcher up there.
Actually, I think maybe we did

1 meet the guys getting the stretcher,
2 behind the power center. Some of
3 that's a little blurry.
4 Q. So the team didn't have a
5 stretcher with them either. You were
6 using the stretch from the section?
7 A. From the section.
8 Q. Okay. I want to clarify a
9 little bit more on when you guys
10 first arrived, when your team first
11 arrived on the 2nd. What time do you
12 think you left Kingwood, do you know?
13 A. It was afternoon. It's about
14 an hour ---.
15 Q. Sometime in the afternoon?
16 A. About an hour drive on a
17 two-lane road.
18 Q. So it would have been about
19 1:30 or 2:30 when you got there, do
20 you think?
21 A. Somewhere between the two. I
22 think it was about 1:30, closer ---
23 between 1:30 and 2:30. I believe it
24 was about --- it was just before
25 2:00, between 1:30 and 2:00.

Q. Okay. When you went into the --- first were getting ready to go into the mine for your first entry, were you briefed on what you were going to do?
A. Yeah, we were briefed in the shower house.
Q. Okay. And who briefed you?
A. Well, the same guy from Consol was doing most of the briefing. Ty Coleman was with him.
Q. Okay. Ty Coleman came from the command center to do the briefing?
A. Yes.
Q. And pretty much, what did they tell you during that briefing?
A. They just told us more or less where we were --- where the fresh air base was, where we were starting.
Q. Okay.
A. And, you know, just general things about that area.
Q. So you'd pretty much play it by ear when you got there ---?

A. Yeah. The real information --- the team that we relieved at the fresh air base, they told us more or less what was going on.

Q. Okay.

A. And I got one of the maps and marked the map up.

Q. Okay. When you got outside, were you debriefed?

A. The captains were.

Q. The captains were.

A. I don't know if anybody else was. I wasn't around them at that time.

Q. Okay.

A. You know, we dropped --- we went in and dropped off our machines to get them cleaned up and serviced. And I believe --- and I know that they were wanting to talk with me and another captain, but I'm not sure about everybody else.

Q. Okay. But they did talk to you, the captains?

A. They did talk to me, yes.

1 BY MR. O'DONNELL:
2 Q. Chris, now, just for the
3 record, from the fresh air base inby,
4 everyone that went inby was under
5 oxygen?
6 A. Uh-huh (yes).
7 Q. And they continued to stay
8 under oxygen the whole time?
9 A. Yeah, until we got back to the
10 fresh air base. You're speaking of
11 carrying the survivor back?
12 Q. Yes.
13 A. Yes. So one of the McElroy
14 members, either in the barricade
15 structure or on the way back, was
16 asking for permission from his
17 captain to take his mask off to put
18 it on the survivor. You know, we
19 wouldn't allow that. I wouldn't. I
20 wasn't going to.
21 Q. So one of the McElroy
22 members ---
23 A. Actually offered that.
24 Q. --- volunteered to give his
25 apparatus?

A. Uh-huh (yes).
Q. And were there any equipment failures with the BG-4s or any 174As?
A. Other than that face mask we talked about?
Q. Okay. Other than that.
A. Because that was probably physical damage more than a failure.
Q. You say that one of the members of the MSHA team ran out of oxygen on the way out?
A. Yes.
Q. Do you mean completely ran out or do you mean ---
A. Dry ---.
Q. --- or do you mean his whistle went off?
A. Completely ran out of oxygen.
Q. He completely ran out of oxygen?
A. Yeah.
Q. How far from the fresh air base was he?
A. Maybe 500 feet.
Q. What did he do?

A. Well, I noticed that he was struggling to walk, so I quickly began --- I helped --- started to allow other people to carry out the survivor, because by that time we picked up the remaining McElroy member, the first relay man. And I helped that guy. I believe it was a Federal inspector. I can't remember for sure. He was a large fellow, pretty tall, real tall.

Q. And he made it out to the fresh air base?

A. I helped him walk. And then as soon as we got over to where there was somebody a little fresher, I gave him to him to help. It was actually a member from our team.

Q. Okay. But he was fine and he made it out to the fresh air base?

A. Yes. I mean, he was --- you know, it just had been pushed --- he pushed his machine too far is what had happened. Which there would have been a bunch of people like that had

they not pulled out the team before the McElroy team out of there. I believe the Bailey or Enlow team, because they were all dangerously low. And knowing what it took as far as energy and your oxygen demand to get back to the fresh air base, none of them --- they all would have ran out of air.

Q. So everybody was pretty low by the time --- not just ---?

A. Our team, we were fine. We hadn't been under oxygen very long. But while we were under it, you know, it was high demand.

MR. O'DONNELL:

Let's take a short break and we'll finish up.

A. All right.

SHORT BREAK TAKEN

MR. O'DONNELL:

Joe, do you have any other questions?

MR. PAVLOVICH:

I just have a couple,

1 Chris.
2 BY MR. PAVLOVICH:
3 Q. So when you left the fresh air
4 base with your couple guys to go up
5 to the curtain, ---
6 A. Yeah.
7 Q. --- where Mr. McCloy was, was
8 there a backup team on the way in the
9 mine or was there one at the fresh
10 air base?
11 A. The Viper team was well
12 underway at that point.
13 Q. So they had started into the
14 mine somewhere?
15 A. Under my time frame, if we
16 went in there --- you know, I'd say
17 it probably took about five minutes,
18 maybe, to get to the face. And then
19 maybe let's triple that to get back.
20 So let's say we were 20 minutes up
21 there, the Viper team had just
22 arrived to where the fresh air base
23 was.
24 Q. So when you got back with Mr.
25 McCloy, ---

A. Yeah, because at that point ---.
Q. --- the Viper team had just got to the fresh air base?
A. They spelled us out at that point.
Q. Okay.
A. Many of them carried ---.
Q. So then they helped carry him down to the mantrip, 42 or First Right, I guess --- First Left.
A. Yeah. That's where it was, it was First Left.
Q. Okay.
A. Right where the crews for First Left's bus was. We were right behind it.
Q. And that bus stayed there the whole time? When you came on the mantrip, you were able to travel to First Left and then you had to walk up to Second Left?
A. Well, that --- well ---. What was that? Yeah, we had to park at that bus, at First Left, and walk to

1 the fresh air base.
2 Q. Because that bus was blocking
3 the main track?
4 A. Yeah. And just inby there,
5 there was some stoppings and physical
6 damage on the tracks.
7 Q. Okay. So you took the bus up
8 there anyway?
9 A. It wouldn't have taken long.
10 Q. Okay. It could have cleared
11 the stoppings?
12 A. It could have been done.
13 Q. Do you remember --- let's go
14 back to that list that they gave you
15 that said items and the miners'
16 names, ---
17 A. Uh-huh (yes).
18 Q. --- with a number. Do you
19 remember what number on that list Mr.
20 McCloy was?
21 A. No, I don't. I don't. I
22 would say it was alphabetical. I
23 know the first guy was Helms, Terry
24 Helms, because he was the first man
25 found. So I just --- if I was going

1 --- if I did it, it would be
2 alphabetical from him down.
3 Q. Okay. Did you happen to keep
4 a copy of that list or have it with
5 you?
6 A. You know, I have no idea where
7 it is. It was in my pocket and I
8 don't --- I don't know where it was.
9 I looked for it the next day and I
10 still have no idea where it was.
11 Q. Okay.
12 A. I intended to, though.
13 MR. O'DONNELL:
14 On behalf of MSHA, I
15 want to thank you for
16 appearing and answering
17 questions today. Your
18 cooperation is very important
19 to the investigation as we
20 work to determine the cause of
21 the accident.
22 We ask that you not
23 discuss your testimony with
24 any person who may have
25 already been interviewed or

1 who may be interviewed in the
2 future. This will ensure that
3 we obtain everyone's
4 independent recollection of
5 the events surrounding the
6 accident.
7 After questioning other
8 witnesses, we may call you if
9 we have any other follow-up
10 questions that we feel we may
11 need to ask you. If at any
12 time you have additional
13 information regarding the
14 accident that you would like
15 to provide us, please contact
16 us at the contact information
17 that we previously provided to
18 you.
19 The Mine Act provides
20 certain protections to miners
21 who provide information to
22 MSHA and as a result are
23 treated adversely. If at any
24 time you believe that you've
25 been treated unfairly because

of your cooperation in this investigation, you should immediately notify MSHA.

If you wish, you may go back now over any answer you've given during the interview. And now, if you'd like, you can make a statement.

A. I don't really have a statement.

MR. O'DONNELL:

Is there anything you would ---?

A. I didn't prepare anything.

MR. O'DONNELL:

Well, is there anything you would like to add that may help us?

A. With the investigation, not really, no. No, nothing really with the investigation. I just wondered, you know, if those guys ---. You know, they obviously didn't make the perfect decision on their escape and

1 just --- you know, you'd like to know
2 what stopped them and what made them
3 go back towards the face and decide
4 to barricade.
5 MR. O'DONNELL:
6 Hopefully we'll learn
7 that ---
8 A. Yeah.
9 MR. O'DONNELL:
10 --- and we can learn
11 from it.
12 A. Uh-huh (yes).
13 MR. O'DONNELL:
14 Thank you.
15 A. Uh-huh (yes).
16 MR. PAVLOVICH:
17 Thanks, Chris.
18 A. Sure.
19 * * * * * * * *
20 SWORN STATEMENT
21 CONCLUDED AT 4:07 P.M.
22 * * * * * * * *
23
24
25

Scale: 1" = 50'

2nd Left Mains
2nd Left Parallel
1st Left
GPS 1
GPS 2
GPS 3
Red Manhole
Manhole
Danger
EXHIBIT
Lilly I