

STATEMENT UNDER OATH  
OF  
TIMOTHY A. MARTIN

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 10:26  
a.m.

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P R O C E E D I N G S

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MR. SWENTOSKY:

My name is Dennis Swentosky. I'm an accident investigator with the Mine Safety and Health Administration, an agency of the United States Department of Labor. With me is Jim Crawford with the Solicitor's Office and Mike Rutledge and Dave Stuart, with the West Virginia Office of Miners' Health, Safety & Training.

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

1 gather information to  
2 determine the cause of the  
3 accident, and these interviews  
4 are an important part of the  
5 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. After  
12 the investigation is  
13 completed, MSHA will issue a  
14 written report detailing the  
15 nature and causes of the  
16 accident. MSHA accident  
17 reports are made available to  
18 the public in hope that  
19 greater awareness about the  
20 causes of accidents can reduce  
21 their occurrence in the  
22 future. Information obtained  
23 through 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 in 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  
15          greatly appreciate your  
16          efforts to help us understand  
17          what happened.

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

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

10 This interview is being  
11 conducted at the U.S.  
12 Bankruptcy Court in  
13 Clarksburg, West Virginia, on  
14 March 23rd, 2006. Questioning  
15 will be conducted by  
16 representatives of MSHA and  
17 the Office of Health, Safety &  
18 Training.

19 Mr. Martin, the  
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  
4 asking questions, you will  
5 also have an opportunity to  
6 make a statement and provide  
7 us with any additional  
8 information that you believe  
9 may be important. If at any  
10 time after the interview you  
11 recall any additional  
12 information that you believe  
13 may be useful in the  
14 investigation, please contact  
15 Richard Gates at a phone  
16 number and e-mail provided to  
17 you. And we'll have that for  
18 you.

19 Your statement is  
20 completely voluntary. You may  
21 refuse to answer any question,  
22 and you may terminate your  
23 interview at any time. If you  
24 need a break at any time,  
25 please just let me know.

1                   The court reporter will  
2                   record your interview and will  
3                   later produce a written  
4                   transcript of the interview.  
5                   Please try to respond to all  
6                   questions verbally since the  
7                   court reporter cannot record  
8                   nonverbal responses. Also,  
9                   please try to keep your voice  
10                  up.

11                  Copies of written  
12                  transcripts will be made  
13                  available at a later date. If  
14                  any part of your statement is  
15                  based not on your own  
16                  firsthand knowledge but on  
17                  information that you learned  
18                  from someone else, please let  
19                  us know. Please answer each  
20                  question as fully as you can,  
21                  including any information you  
22                  have learned from someone  
23                  else. We may not ask the  
24                  right question to learn the  
25                  information that you have, so

1 do not feel limited in the  
2 precise question asked. If  
3 you have information about the  
4 subject area of a question,  
5 please provide the information  
6 to us.

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

13 MR. RUTLEDGE:

14 Yes. The West Virginia  
15 Office of Miners' Health,  
16 Safety & Training is  
17 conducting this interview  
18 session jointly with MSHA and  
19 in agreement with the  
20 procedures outlined by Mr.  
21 Swentosky for the interviews  
22 that will be conducted here  
23 today.

24 The Director does  
25 reserve the right, if

1           necessary, to call or subpoena  
2           witnesses or require the  
3           production of any record,  
4           document, photograph or any  
5           other relevant materials  
6           necessary to conduct this  
7           investigation. If you have  
8           any questions about anything  
9           that occurs here concerning  
10          your statement today, you can  
11          contact Mr. Brian Mills there  
12          at the information on there.  
13          Thanks.

14                   MR. SWENTOSKY:

15                  Mr. Martin, are you  
16                  aware that you may have a  
17                  personal representative  
18                  present during the taking of  
19                  this statement?

20                   MR. MARTIN:

21                  Yes, I do.

22                   MR. SWENTOSKY:

23                  And do you have a  
24                  representative with you here  
25                  today?

1                   MR. MARTIN:

2                   Yes, I do.

3                   MR. SWENTOSKY:

4                   And who might that be?

5                   MR. MARTIN:

6                   My attorney, Marco

7                   Rajkovich.

8                   MR. SWENTOSKY:

9                   Thank you.

10                  ATTORNEY RAJKOVICH:

11                  And just for the  
12                  record, Mr. Martin is here to  
13                  testify in his individual  
14                  capacity and as to his own  
15                  facts. He's not authorized by  
16                  the company to make any  
17                  statements on behalf of the  
18                  company. And I'll just ask  
19                  again, I assume everybody in  
20                  the room here is part of the  
21                  investigating team.

22                  MR. SWENTOSKY:

23                  That's correct. And do  
24                  you have any questions  
25                  regarding the manner in which

1 the interview will be  
2 conducted before we get  
3 started, Mr. Martin?

4 MR. MARTIN:

5 Thank you.

6 MR. SWENTOSKY:

7 Could you please swear  
8 in the witness, please?

9 -----  
10 TIMOTHY A. MARTIN, HAVING FIRST BEEN  
11 DULY SWORN, TESTIFIED AS FOLLOWS:

12 -----  
13 BY MR. SWENTOSKY:

14 Q. Could you please state your  
15 full name and spell your last name  
16 for us, Mr. Martin?

17 A. Timothy A. Martin,  
18 M-A-R-T-I-N.

19 Q. And could you provide us with  
20 your address and telephone number,  
21 please?

22 A. 516 Chandler Drive, Point  
23 Pleasant, West Virginia, 25550.  
24 Phone number, (304) 675-3581.

25 Q. And are you appearing here

1       today voluntarily?

2       A.       Yes.

3       Q.       And how many years of mining  
4       experience do you have?

5       A.       Thirty-two (32).

6       Q.       And could you give me a brief  
7       description of that employment,  
8       please?

9       A.       I started my career with  
10       American Electric Power Mining  
11       Operations in 1974. Left there in  
12       2001, when they sold the operations  
13       to Consol, and worked as a consultant  
14       for three years while I worked on a  
15       Ph.D. Then I became employed at ICG  
16       in November of 2004, and have been  
17       employed up to this date.

18       Q.       And how much time was spent at  
19       Sago Mine?

20       A.       In my current capacity?

21       Q.       Yes.

22       A.       I've made a few visits, but it  
23       wasn't one of my normal work  
24       locations.

25       Q.       And when you say normal work

1 locations, what do you mean by that?

2 A. Well, my position is the  
3 Corporate Director of Health &  
4 Safety, which I'm --- my office is  
5 located out of Ashland, Kentucky, and  
6 we have, you know, multiple  
7 operations. So the Sago Mine was  
8 just one small part of the total ICG  
9 operations. So there's been a few  
10 visits to the mine and --- but other  
11 than that, I did not work there on a  
12 regular basis.

13 Q. When you say a few, how many  
14 times have you visited Sago Mine?

15 A. I'm going to estimate maybe  
16 half a dozen.

17 Q. And your present position  
18 again is Corporate Safety Director;  
19 is that what you said?

20 A. Corporate Director of Health &  
21 Safety.

22 Q. Okay. And how long have you  
23 worked in that position?

24 A. Since November of 2004.

25 Q. Okay.

1 A. For ICG.

2 Q. Yes. When you worked for ---  
3 prior to November of 2004, the  
4 position you worked in, was that  
5 involved with the Sago mine also?

6 A. You mean at my previous  
7 employer?

8 Q. Prior to that, where did you  
9 say you worked?

10 A. Okay. I worked at American  
11 Electric Power from 1974 to 2001.  
12 And my capacity there was mainly in  
13 safety. After 2001, I spent about  
14 two or three years working on a  
15 doctorate and had a consulting  
16 business. I started at ICG in  
17 November of 2004, at this current  
18 capacity.

19 Q. Okay. I missed that one  
20 partly. Sorry. And you held the  
21 same position on January 2nd, 2006?

22 A. Yes.

23 Q. Do you have any mining  
24 certificates --- certifications,  
25 excuse me?

1 A. Yes. Well, Ohio mine  
2 supervisor gassy mine papers and Ohio  
3 mine foreman gassy mine papers. And  
4 then I have some qualification cards  
5 from MSHA, mine rescue trainer, part  
6 48 certified trainer, noise and dust  
7 cards. And I believe that's all I  
8 have.

9 Q. And this certification for  
10 mine foreman, that's Ohio. Do you  
11 have any in any other states?

12 A. No.

13 Q. And who is your immediate  
14 supervisor?

15 A. Gene Kitts, Vice-President of  
16 Mining Services.

17 Q. And how long has he been your  
18 supervisor?

19 A. I believe he came to ICG  
20 around June of 2005. So since then.

21 Q. And who was your supervisor  
22 prior to that?

23 A. I was hired at ICG by C.K.  
24 Lane, who was the Vice-President of  
25 Operations. And he was there for a

1 short period of time and left, and  
2 then Scott Perkins was the new  
3 Vice-President of Operations, so I  
4 reported to him.

5 Q. And then Sam --- or excuse me,  
6 and then Gene took over?

7 A. Until Gene came. Then he ---  
8 yeah.

9 Q. And can you kind of describe  
10 the corporate safety department  
11 operations, how you work with --- you  
12 know, starting with yourself and  
13 moving on to the mines and what  
14 positions and how --- just basically  
15 how you operate.

16 A. Okay. Maybe you can clarify.  
17 That's kind of a broad question. Can  
18 you narrow that down a little bit?

19 Q. Starting with yourself, you  
20 have people working under you, and  
21 then you ---.

22 A. No, I don't. I do not have  
23 any direct reports.

24 Q. Okay. Well, then describe how  
25 that does work. As the Corporate

1 Safety Director, how does your  
2 department work?

3 A. What is my functions or  
4 responsibilities?

5 Q. Yes. Yes. I operate  
6 basically in the capacity of, I  
7 guess, to support, well, the two  
8 vice-presidents of operations for  
9 Kentucky-Illinois and West  
10 Virginia-Maryland, which would be Sam  
11 Kitts and Scott Perkins. And my role  
12 basically is to support them in any  
13 kind of issues they may have for  
14 accident prevention, regulatory  
15 compliance, any kind of safety  
16 programs that they have initiated to  
17 the operations and at times act as an  
18 advisor. When they need information  
19 on any new regulatory issues or  
20 legislative issues, my job is to  
21 disseminate that information to the  
22 Vice-President of Operations of any  
23 new regulations coming up and to get  
24 that information out to the mine  
25 sites, to the mine safety managers at

1 each mine.

2 Q. Okay. And do you, in your  
3 capacity, develop any safety programs  
4 for the different mines?

5 A. No. That's basically handled  
6 within each West Virginia-Maryland or  
7 Kentucky-Illinois group. And it's  
8 primarily the --- any type of safety  
9 initiatives are basically handled  
10 from each mine site, working through  
11 the mine safety manager and the  
12 vice-president and general manager of  
13 that mine complex.

14 Q. In your capacity, do you have  
15 occasion to deal with the safety  
16 directors for the individual mines?

17 A. Yes.

18 Q. And through that, what  
19 dealings do you have with them?

20 A. Just communications of how  
21 things are going. They'll contact me  
22 from time to time for advice,  
23 information about new regulations or  
24 regulatory issues, litigation issues  
25 with compliance issues, those sorts

1 of things, communicate to me if  
2 there's been an accident to keep us  
3 apprised of any type of injuries  
4 and/or regulatory issues.

5 Q. And who is the safety manager  
6 at Sago Mine?

7 A. The safety manager at the Sago  
8 Mine is Al Schoonover, and he's  
9 assigned to the mine site.

10 Q. And who does he report to?

11 A. He reports to a Ty Coleman,  
12 who is the safety manager of the  
13 Spruce Fork Division.

14 Q. In your capacity, the  
15 corporate safety department, when you  
16 have different manufacturers of  
17 materials that are used at the  
18 different mines, do you gather  
19 information, like manufacturer's  
20 recommendations for those products  
21 that you purchase and pass that  
22 information on? Do you do any of  
23 that at all?

24 A. Not really. That's basically  
25 handled at the mine sites, at the

1 mine level.

2 Q. Okay. And how does the  
3 corporate safety department  
4 disseminate information and provide  
5 it to the safety department for the  
6 individual mines or, you know,  
7 the ---?

8 A. Well, for example, if there's  
9 --- such as the new regulations  
10 that's coming out right now, if I  
11 receive information from a particular  
12 coal association, NMA or West  
13 Virginia Coal Association, I'll  
14 forward those e-mails on to all the  
15 safety managers.

16 Q. Okay. Do you ever have  
17 meetings with those --- the corporate  
18 ---?

19 A. Yes. We try to do a quarterly  
20 meeting. And to date, I think we've  
21 had two meetings with the safety  
22 managers.

23 Q. When you say two meetings to  
24 this date, you mean since you've  
25 taken over or since you were employed

1 by ICG, - - -

2 A. Yes. Uh-huh (yes).

3 Q. - - - two? And when was the  
4 last one that you had?

5 A. The last one, let me think  
6 about that a minute. I believe the  
7 last one was - - - I don't have my  
8 notes in front of me, probably in  
9 August of last year.

10 Q. Of 2005?

11 A. Uh-huh (yes).

12 Q. And do you provide any - - -  
13 such as the new regulations, do you  
14 provide training for anyone at the  
15 mine or do you provide any treatment  
16 for your safety departments?

17 A. Can you clarify that?

18 Q. Sure.

19 A. I mean, do I actually conduct  
20 training?

21 Q. Yes.

22 A. No.

23 Q. So you just pass the  
24 information on?

25 A. Correct.

1 Q. Okay. And do you provide any  
2 oversight or anything on the training  
3 that they might conduct, they meaning  
4 the safety managers?

5 A. No. That's basically handled  
6 at each mining operation.

7 Q. So I guess you just provide  
8 the information and it's up to them  
9 to do whatever?

10 A. Do you want to clarify that?

11 Q. Okay. So you provide the  
12 information, but you don't provide  
13 any oversight to see that it's done?

14 A. Yeah. As an example, like new  
15 regulatory information ---

16 Q. Yes.

17 A. --- or compliance information,  
18 if we receive something that's, say,  
19 from the West Virginia Coal  
20 Association, I'll disseminate that to  
21 the mine safety managers through an  
22 e-mail. But I don't have oversight  
23 over their operations as far as ---.

24 Q. So what they do with that, you  
25 don't really know? I guess that's my

1 question.

2 A. Well, we hope they ---.

3 Q. Well, I understand you hope  
4 that they do.

5 A. Yeah.

6 Q. But I mean, you don't provide  
7 any oversight to see that it is used?

8 A. Yeah. They do not report to  
9 me directly, so I don't have direct  
10 supervision over these individuals.

11 Q. So if the mine does not ---  
12 let's say Sago Mine, in this case, if  
13 they do not provide the training, you  
14 would not know about it?

15 A. If that would happen, I guess  
16 I wouldn't, you know, because I don't  
17 have a --- since I'm not involved in  
18 the daily operations, if that would  
19 happen, I probably wouldn't know  
20 about it. Somebody would have to  
21 inform me of that happening for me to  
22 become aware of it.

23 Q. The direct supervision for the  
24 safety managers at the mine, who  
25 again provides that?

1 A. Most --- all the safety  
2 managers primarily report to their  
3 vice-president and general manager or  
4 the GM of the operation.

5 Q. What about Sago Mine?

6 A. That individual reports to Ty  
7 Coleman.

8 Q. Were you involved in any of  
9 the rescue and recovery activities at  
10 the Sago Mine on the day of the  
11 accident?

12 A. Yes.

13 Q. Can you tell us how you  
14 learned of the explosion of the Sago  
15 Mine?

16 A. On January the 2nd, which  
17 obviously was a holiday for us after  
18 Christmas, I received a phone call  
19 about 9 --- I'm estimating 9:03 to  
20 9:05 a.m. from Gene Kitts informing  
21 me that he was notified that we had a  
22 possible event at the Sago Mine with  
23 two crews unaccounted for.

24 Q. And where were you?

25 A. I was at home.

1 Q. And what information did he  
2 provide to you? I mean, I know you  
3 just briefly said ---.

4 A. The information was sketchy at  
5 that time, just that there's some  
6 type of an event, a possible  
7 explosion. There were two crews  
8 unaccounted for. Mine rescue teams  
9 had been called. And that's all the  
10 information he had at that time.

11 Q. Can you just basically start  
12 when you learned, like where you just  
13 mentioned to me, and kind of go  
14 through your activities during that  
15 day up until the time that you left  
16 mine property?

17 A. Okay. So I got the phone call  
18 around 9:05 a.m. I told Mr. Kitts  
19 that I would immediately head to the  
20 coal mine. It probably took me about  
21 three minutes to pack and get out the  
22 door. While on the road, heading  
23 towards Sago, which was about three  
24 and a half hours from where I live in  
25 Point Pleasant, my first phone call,

1 I believe about 9:10, was to Bob  
2 Gardner, the vice-president and  
3 general manager of Viper Coal, and  
4 requesting that he activate his mine  
5 rescue team. And then as I traveled  
6 toward the --- you know, towards  
7 Sago, I made some subsequent phone  
8 calls to arrange for transportation  
9 for the mine rescue team from the  
10 Charleston Airport to the Sago Mine  
11 with some vehicles to haul the mine  
12 rescue team and a vehicle to haul  
13 their equipment. I made a phone call  
14 to one of the --- one of our safety  
15 managers, his name is Dave Shinn, who  
16 --- I instructed him to go rent a  
17 U-haul in the Charleston area and  
18 report to the airport and wait for  
19 the arrival of the Viper Mine Rescue  
20 team, which they were scheduled to  
21 land about 1:30 p.m. The team landed  
22 --- well, let me back up.

23 So I got that taken care of as  
24 far as transportation for the team  
25 and the team enacted, and then I

1       guess my next phone call was to the  
2       mine site to talk to Ty Coleman to  
3       find out what was the situation that  
4       we had. And he informed me that  
5       there was still two crews unaccounted  
6       for and we had about 47 parts per  
7       million of CO at the return. Then I  
8       continued to make further phone calls  
9       to make sure that the transportation  
10      was arranged for the team and what  
11      would be their ETA for arrival, of  
12      all that.

13               Then my second phone call to  
14      the mine, which was probably 45  
15      minutes later, the update was the CO  
16      at the return was now at 2,200 parts  
17      per million. At that time I was  
18      concerned that we may have a mine  
19      fire. My next series of phone calls  
20      went out to a consultant that we had  
21      met that was basically a fire and  
22      explosion expert from Phoenix First  
23      Response. I tried the three phone  
24      numbers that I had for that  
25      individual, Ian Houlison, from

1 Phoenix First Response. I was going  
2 to try to contact him and head him to  
3 the Sago Mine. I couldn't reach him  
4 for about a half hour. I know  
5 another individual with the same  
6 capacity that I have with Arch Coal,  
7 Tony Bumbico, I called him to see if  
8 he had any additional phone numbers  
9 for Ian that I may not have. And I  
10 learned that Ian was at West Elk  
11 fighting that mine fire out there.  
12 And the reason I couldn't contact  
13 him, he was down in the pit and their  
14 cell phones wouldn't work down there.  
15 So Tony Bumbico called down to the  
16 mine phone in the pit and had Ian  
17 give me a phone call back, which I  
18 advised him what we had and inquired  
19 whether he could be released and head  
20 our way. I felt like we needed an  
21 expert on the scene as an additional  
22 hand. And he called back probably  
23 within 15 minutes and told me,  
24 informed me that they would release  
25 him to assist us and they would start

1 making flight arrangements. Probably  
2 a half hour or 15 minutes later I got  
3 a subsequent phone call from him  
4 informing me that they were having  
5 difficulties getting a commercial  
6 flight out, that it would take about  
7 three to four-hour delay and wanted  
8 to know if I would authorize a  
9 private plane, which I told him yes.

10 Then he informed me that John  
11 Urosek, from MSHA, was having the  
12 same difficulty getting back with a  
13 delayed flight and asked if he could  
14 hitch a ride with us on our plane,  
15 which obviously I immediately said  
16 yes, knowing that John is well  
17 experienced as well in fires and  
18 explosions.

19 So I believe that they had an  
20 ETA to the Clarksburg Airport of  
21 around 7:00 p.m. And once they  
22 arrived, they had a State Police  
23 escort down to the Sago Mine. I  
24 believe they showed up around 7:30 to  
25 eight o'clock that evening.

1                   But backing up, so those phone  
2                   calls were being made prior to  
3                   arriving at the mine. So I arrived  
4                   to the mine around 12:15, I believe.  
5                   Got a an update. I believe I was  
6                   told at that time that the second  
7                   crew --- the second crew that we were  
8                   concerned about had made it outside.  
9                   So there was one crew of 13 people  
10                  unaccounted for.

11                  Within about five minutes,  
12                  probably about 12:20 I believe it  
13                  was, we had a federal mine inspector  
14                  come into the office with a 107(a)  
15                  Order, wanting us to evacuate the  
16                  building due to some CO levels now  
17                  that was inside the Sago Mine office.  
18                  So we started making some  
19                  arrangements and discussions of where  
20                  we could set up our command center if  
21                  we were going to be faced with this  
22                  office having CO. And in about five  
23                  to ten --- five minutes, the CO went  
24                  away. So they allowed us --- they  
25                  decided --- MSHA decided, allowed us

1 to go ahead and use that facility as  
2 a command center.

3 Probably I believe it was  
4 another 20 minutes later they came  
5 back with another 107(a) Order,  
6 saying that the CO was back. And at  
7 that time, the CO detectors in the  
8 back foreman's room was all sounding  
9 their alarm, which it was obvious  
10 that there was CO there.

11 So we started discussing an  
12 alternate location to set up the  
13 command center. Some suggestions was  
14 made to set it up down at the prep  
15 plant, which had concerned us very  
16 much that there's not --- wasn't a  
17 whole lot of communication down there  
18 such as there was, you know, at the  
19 Sago Mine site. So we had decided  
20 possibly to set up our command center  
21 at the northern side of the parking  
22 lot to get away from the building.

23 Then again, about five minutes  
24 later, the CO cleared again. So then  
25 they allowed us to maintain in the

1 building there. Again, that was  
2 probably somewhere between --- when I  
3 arrived at 12:15 until maybe 1:00,  
4 one o'clock, 1:15, something like  
5 that, the best I can recall.

6 I then immediately kind of  
7 took the role of ensuring that we had  
8 mine rescue teams available and took  
9 the role to help stage them up  
10 whenever we would get the clearance  
11 to, you know, enter the mine.

12 The next thing I can recall,  
13 that the Barbour County Mine Rescue  
14 Team was --- I believe was there when  
15 I arrived. There was another team  
16 that had just arrived or were  
17 possibly there, the Tri-State Mine  
18 Rescue Team. Then throughout the  
19 day, the Consol teams started  
20 arriving, I believe. And after the  
21 Viper team arrived at the airport  
22 around 1:30, I think --- I believe  
23 they made it to the mine by the  
24 police escort around 3:30 or 4:00.  
25 And then their equipment followed

1       them about a half hour later. And I  
2       believe they --- their equipment made  
3       it around 5:00 p.m. And then we  
4       proceeded to just assist all the mine  
5       rescue teams there getting their  
6       bottles filled, getting their  
7       equipment organized and a schedule  
8       set up of what teams would go under  
9       first and what teams would back up  
10      and just kind of getting everything  
11      organized since everybody was coming  
12      in. And that probably took me up to  
13      about, say, six or seven o'clock that  
14      evening, when we finally got the  
15      go-ahead to go underground.

16               As soon as we got the  
17      go-ahead, there was a little bit of a  
18      confusion for a short period of time,  
19      I don't recall how long, of ---  
20      Consol was the team that was selected  
21      to go underground, since they were  
22      the most experienced, first. And  
23      they informed us that they had to get  
24      a clearance from their corporate  
25      office to go underground. And I know

1 they spent a short amount of time on  
2 the phone to their people, explaining  
3 what the situation was, how the mine  
4 was ventilated, what were the current  
5 air readings. And then after a short  
6 period of time, that clearance was  
7 finally given, then we sent our first  
8 team in.

9 I then kind of proceeded to  
10 work with a Bill Tolliver from  
11 Consol, who was their --- one of  
12 their safety --- corporate safety  
13 individuals. And he and I basically  
14 worked throughout the rest of the  
15 40-some hours of trying to manage  
16 making sure that we had teams  
17 available, teams staged up and teams  
18 ready to go and backup for the rescue  
19 operations. And that's basically the  
20 function that we took for the next,  
21 you know, --- until the miners were  
22 located and barricaded.

23 Q. Okay. Thank you. After you  
24 were notified by Mr. Kitts and you  
25 said you was out the door in three

1 minutes, that's pretty fast.

2 A. Yeah.

3 Q. Good. Well, I was notified at  
4 9:05, and I checked my phone records  
5 and my first call to Gardner was at  
6 9:10. So I must have --- I did it in  
7 about five minutes.

8 Q. And if we can just kind of go  
9 back over this and kind of get some  
10 follow-up questions as we go.

11 A. Sure.

12 Q. You mentioned after you got on  
13 the road you had called in to get  
14 ahold of someone concerning the Viper  
15 team?

16 A. Yes.

17 Q. And who was that individual?

18 A. Bob Gardner.

19 Q. Bob Gardner.

20 A. He's the general manager of  
21 Viper Mine.

22 Q. And what information did you  
23 provide to him?

24 A. That --- it was the same  
25 sketchy information that I had, that

1 we've had a possible explosion and we  
2 had some crews unaccounted for at the  
3 Sago Mine and that we needed the mine  
4 rescue team.

5 Q. And did you contact any other  
6 mine rescue teams?

7 A. No. I was --- at that time, I  
8 was informed that our mine rescue  
9 team was called and they had another  
10 mine rescue team coming as an  
11 additional backup. And my call was  
12 to the Viper team.

13 Q. And where is the Viper team  
14 located?

15 A. Illinois, near Springfield.

16 Q. And that team is part of what  
17 company?

18 A. It's ours, International Coal  
19 Company.

20 Q. International Coal Company?

21 A. Yeah.

22 Q. And that's at what mine?

23 A. Viper Mine.

24 Q. Viper Mine, okay. And who's  
25 the trainer on that Viper team?

1 A. I believe his name is Pete  
2 Byrant (phonetic). I believe so.

3 Q. And during the course, did you  
4 have any involvement in notifying any  
5 other teams during the operation?

6 A. No. When I arrived at the  
7 mine, someone had informed me that  
8 Brian Mills had --- I believe it was  
9 him who contacted the Consol teams.

10 Q. Okay.

11 A. And shortly after --- I can't  
12 say for certain, but it was sometime  
13 after I arrived there that the Consol  
14 teams had started arriving later that  
15 day.

16 Q. And you say Mr. Mills notified  
17 you of that?

18 A. I was informed ---

19 Q. Informed by who?

20 A. --- that Mr. Mills contacted  
21 ---.

22 Q. And who told you that?

23 A. I can't remember. Somebody  
24 told me that, but I can't recall. I  
25 can't recall who told me that.

1 Q. But the Viper team is the only  
2 team that you actually had  
3 involvement in contacting?

4 A. Yes.

5 Q. Did you have any --- did you  
6 notify MSHA at all?

7 A. No.

8 Q. That was already taken care  
9 of?

10 A. I was told it was taken care  
11 of.

12 Q. And who told you that?

13 A. Gene Kitts.

14 Q. Gene Kitts?

15 A. Yeah.

16 Q. And did he say who contacted  
17 ---?

18 A. I asked him had the  
19 authorities been notified. He said  
20 yes.

21 Q. Okay. And that was the extent  
22 of that?

23 A. Yeah.

24 Q. When you arrived at the mine,  
25 did you have any conversations with

1 the dispatcher concerning the CO  
2 levels at all?

3 A. No. Clarify the dispatcher.

4 Q. That would be the --- at the  
5 mine, you may have come to know him  
6 as Flea.

7 A. Okay. No, I did not have any  
8 conversations with him.

9 Q. And how did you --- you had  
10 mentioned about the CO levels. What  
11 information did you get?

12 A. That was my second phone call  
13 into the mine while I was on the  
14 road.

15 Q. Okay.

16 A. That was to the command  
17 center, to Ty Coleman.

18 Q. To Ty Coleman?

19 A. Yes.

20 Q. And what did he tell you?

21 A. The levels had reached 2,200  
22 parts per million.

23 Q. And what other information did  
24 he provide to you at that time?

25 A. That was all.

1 Q. Did you ever have an occasion  
2 to personally check any CO levels at  
3 all?

4 A. No, did not.

5 Q. And when you got --- when you  
6 arrived at the mine, what information  
7 did you --- who was the first person  
8 you spoke to?

9 A. I went into the command  
10 center, which Ty Coleman was in  
11 there. And as I was getting an  
12 update, that's what I was telling you  
13 about, about five minutes later the  
14 inspector came in and we started  
15 dealing with having to clear the  
16 office.

17 Q. And what information did Mr.  
18 Coleman give to you; do you recall?

19 A. No, I don't. I believe they  
20 did tell me at that point in time  
21 that the other crew --- I already  
22 said that, the other crew was  
23 outside.

24 Q. And when you say the other  
25 crew, you're meaning ---?

1 A. The crew that went in to see  
2 what happened.

3 Q. Okay. You're speaking about  
4 the ---

5 A. Superintendent.

6 Q. --- superintendent.

7 A. Safety director, yeah.

8 Q. Those people?

9 A. Yes.

10 Q. Okay. And then you mentioned  
11 about someone came in and said a  
12 107(a) order was to be issued?

13 A. Yes.

14 Q. And who was that?

15 A. I don't --- I didn't recognize  
16 him. It was just a federal  
17 inspector.

18 Q. And what was his conversation  
19 to you?

20 A. It was to really everyone in  
21 the room, but he was stating that we  
22 had to clear the office building due  
23 to CO in the building.

24 Q. Did you ever personally check  
25 any --- take any CO levels during

1 your - - -

2 A. No.

3 Q. - - - time at the mine?

4 A. No.

5 Q. And who was it that actually  
6 notified the other Mine Rescue Team?  
7 I know you said you notified Viper.  
8 Who else?

9 A. I notified Viper. I can't  
10 tell you exactly who the person was  
11 that notified the Barbour County team  
12 or the - - - I'll back up - - - I was  
13 also told, and I can't remember who  
14 told me this, that it was Brian Mills  
15 who notified the Tri-State team and  
16 the Consol teams, okay. But Brian  
17 did not tell me that, but someone  
18 told me that Brian had. I think  
19 someone told me that Johnny Stemple  
20 is the one who called the Barbour  
21 County Mine Rescue Team, which is our  
22 contract team.

23 Q. And do you know who notified  
24 the EMS? I mean, you didn't have any  
25 involvement in that?

1 A. No. No, I did not.

2 Q. That was all done ---

3 A. Yeah.

4 Q. --- prior to you getting here?  
5 Do you know who did that?

6 A. No, I do not.

7 Q. Do you know if at any time the  
8 telephones at the mine were  
9 inoperative? Now, I mean telephones,  
10 I'm talking about, you know, the  
11 business telephones.

12 A. No.

13 Q. Did anyone ever say that to  
14 you at all?

15 A. No. I used several phones  
16 there. Everything seemed to be  
17 working fine.

18 Q. And at any time did the  
19 commercial power go off to the ---?

20 A. Not that I was aware of.

21 Q. Tell me a little bit about now  
22 the mine rescue teams. You were  
23 involved with getting them ready and  
24 directing which team goes in and out.  
25 Tell me a little bit about that, what

1 was going on.

2 A. Well, myself and Bill  
3 Tolliver, since he was sort of  
4 directing the Consol teams, we got  
5 together and started working at the  
6 schedule, a rotation schedule, for  
7 when we were ready to enter the mine,  
8 so we could have a fresh team ready  
9 and a backup team ready. And so we  
10 worked on that for a half hour or so  
11 and put together a spreadsheet of how  
12 we would manage what teams went under  
13 when.

14 Q. And do you have any  
15 involvement in the decisions as to  
16 how the mine would be --- or who  
17 would enter first and who would enter  
18 --- how they would enter?

19 A. No, that was --- those  
20 decisions were basically made by the  
21 command center.

22 Q. Did you work in the command  
23 center?

24 A. No. I was in and out of there  
25 just to keep abreast of when they

1 would need another team staged up or  
2 a team ready to go or when a team was  
3 getting ready to come out. But other  
4 than that, I didn't really have any  
5 capacity in there.

6 Q. Did you have any involvement  
7 in drilling or finding a site for the  
8 boreholes or any involvement in the  
9 boreholes at all?

10 A. I know John Urosek worked with  
11 us for a real brief period of time of  
12 some fittings we would need to take,  
13 you know, proper air readings. And  
14 we worked with him for maybe a half  
15 hour, making sure they got the right  
16 fittings and tubing and things that  
17 they would need once the hole got  
18 down. But that's my only involvement  
19 with the drilling.

20 Q. So you weren't involved in any  
21 of the site --- finding the correct  
22 site ---

23 A. No.

24 Q. --- or mapping out the site?

25 A. No.

1 Q. And you don't know anything  
2 then about who the drilling companies  
3 were and if any drilling companies  
4 offered their services?

5 A. I just overheard in the  
6 hallway that someone had offered a  
7 drill rig, and they told him to  
8 immediately head them that way, you  
9 know, but I didn't catch any names or  
10 know anything about that.

11 Q. So you wouldn't know anything  
12 about the logistical problems that  
13 may have occurred?

14 A. No, I have no knowledge of  
15 that.

16 Q. What about the surveying of  
17 the borehole?

18 A. I have no --- wasn't involved  
19 in that.

20 Q. Do you know when the borehole  
21 was completed? That's the Two Left  
22 borehole I'm speaking of.

23 A. That was a general discussion  
24 among everybody, you know, in the  
25 building. And the best I can recall,

1 I thought that it finally got down  
2 around 4:00 a.m. I'm sure we've got  
3 records that would show that. But  
4 again, I just didn't have a direct  
5 --- any involvement in that process,  
6 you know.

7 Q. Were you involved in the  
8 initial decision to send the teams  
9 underground? Were you consulted at  
10 all on that, when they should send  
11 them underground, when and who?

12 A. I had inquired early on when I  
13 got there when will we be able to  
14 send the team in. And I was informed  
15 just through whoever some of the  
16 general state and --- or mainly MSHA  
17 individuals that they wanted to set  
18 up a sampling system and get some  
19 history is the term they kept using.  
20 We had to get some trending analysis,  
21 some history on the constituents  
22 before we could, you know, make a  
23 decision to send a team in.

24 I knew there was some work  
25 being done to collect, you know,

1 bottle samples and get them analyzed  
2 with a chromatograph. And from what  
3 we understand, that's, you know, what  
4 led us up to going underground about  
5 10 hours, 11 hours later, yeah. I  
6 was getting the history there.

7 Q. Were you involved in any of  
8 the --- as teams moved underground,  
9 were you consulted at all as to what  
10 should be explored or what does not  
11 need to be explored or any of those  
12 type decisions?

13 A. Did anyone approach me for my  
14 direction on that? No.

15 Q. Okay. Were you involved in  
16 any ---?

17 A. Yes.

18 Q. Did you involve yourself in  
19 that?

20 A. Yes.

21 Q. You did. Okay. Can you  
22 explain that to me?

23 A. There was a period somewhere  
24 throughout the event that there was  
25 some concern the teams were moving

1       too slow or very slow. And I'd have  
2       to go back and look at the record,  
3       you know, but if I'm not wrong, I  
4       thought that the team only moved  
5       about 17 breaks in the first 24  
6       hours, something like that. There  
7       was a lot of frustration, you know,  
8       from everybody that it was just  
9       moving slowly. Of course, everyone  
10      sort of understand that, you know,  
11      one of the primary concerns was the  
12      safety of the team, obviously.

13                 There was some high emotion  
14      there, obviously, that we have 12 ---  
15      you know, 13 men unaccounted for and  
16      we need to get to those folks. I  
17      pulled John Urosek and Ian Houlison  
18      in a kind of a side room, did a  
19      little sidebar, and started  
20      discussing how could we possibly ---  
21      what could we do to move these teams  
22      a little bit quicker. And we had  
23      kind of come up with an idea that  
24      instead of --- they were actually  
25      using a method of almost like a mine

1 rescue contest to tunnel across and  
2 back and just being extremely  
3 methodical about exploring and  
4 measuring the constituents. And I  
5 believe we kind of proposed an idea  
6 of moving around --- up to 250 feet,  
7 I think it was, 250 feet to 500 feet,  
8 at a time and tying back in and out  
9 of the intake return, getting  
10 readings and then moving forward.

11 We even discussed who would  
12 present that idea to the command  
13 center. And the fact that those  
14 folks really don't know me or Ian, we  
15 thought John would be the best person  
16 to make that recommendation. And we  
17 went back in and we discussed it with  
18 the peoples in the command center.  
19 And it took about ten minutes but  
20 they finally accepted the idea, and  
21 that's when the teams kind of picked  
22 up pace and started moving.

23 Q. And who was in that command  
24 center at that time; do you recall?

25 A. I was thinking it's --- Ty

1 Coleman keeps, you know, flashing in  
2 my face, but I thought John Collins,  
3 I believe, but I may be wrong. He  
4 was in there, in and out, you know,  
5 several times during his shifts, but  
6 I knew it was Ty for one of them.  
7 But it could have been John Collins.  
8 I just can't say here --- I just  
9 can't say for sure who was in there.  
10 This thing going on for 40-some  
11 hours, there was quite a few people  
12 in and out.

13 Q. Sure. And you say that ---  
14 and when you say we, you're talking  
15 about the three of you?

16 A. Yeah, the three of us.

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

20 A. No, I don't.

21 Q. That had already been done  
22 whenever you arrived?

23 A. I was involved in some  
24 conversation when the teams found a  
25 red light.

1 Q. Yes.

2 A. But they --- everyone assumed  
3 it may have been a cap lamp, but when  
4 they got up to it, it was a CO  
5 monitor light. And there was some  
6 work done to deactivate the batteries  
7 to the CO monitors, but not --- I  
8 wasn't involved with anything to do  
9 with main power.

10 Q. During that period, was all  
11 the teams pulled out from underground  
12 whenever they discovered that light?

13 A. Yes, they were. They pulled  
14 everyone out of the mine and worked  
15 on solving the problem, and then they  
16 allowed them to go back underground.

17 Q. Were you involved in any of  
18 the decision for the teams to  
19 establish power to portions of the  
20 mine, to a pump where they were  
21 concerned about flooding the area?  
22 Do you recall that at all?

23 A. No, I wasn't involved in that  
24 decision making.

25 Q. Do you know whether One Right

1 and Two Right were explored as the  
2 teams progressed into the mine?

3 A. I remember when we dropped the  
4 boreholes down to One Right and ---  
5 or One Left, Two Left.

6 Q. But I'm talking about One  
7 Right, the area ---.

8 A. Oh, One Right, no, I don't  
9 remember.

10 Q. Do you recall whether that was  
11 explored or not?

12 A. No, I don't recall.

13 Q. You don't recall any  
14 discussions about that?

15 A. No. Most of the discussions  
16 between team captains of briefings  
17 and debriefings was basically handled  
18 out of the command center.

19 Q. Okay. And do you recall any  
20 discussion concerning the old Two  
21 Left area, the sealed area, whether  
22 that would be explored or any  
23 discussions concerning that?

24 A. No.

25 Q. What about the empty mantrip

1 that was found in Two Left? Were you  
2 involved in any discussions to  
3 explore the faces, go directly to the  
4 faces rather than ---?

5 A. I was involved in getting the  
6 teams ready when we started pushing  
7 teams that direction. But I was  
8 never --- other than what I told you  
9 about where I was --- myself and  
10 Urosek and Ian, I had absolutely no  
11 involvement in any kind of direction  
12 to the teams of where they went or  
13 what they did. That was all handled  
14 out of the command center.

15 Q. Command center?

16 A. Yeah.

17 Q. Okay. Whenever the initial  
18 information came to the surface  
19 concerning the 12 --- or all the  
20 miners were alive, where were you at  
21 that time?

22 A. I was back in the bathhouse  
23 working with one of the teams. And I  
24 was heading back to the area where I  
25 was working and several people was

1 coming around the corner, commenting  
2 that, you know, it was great news,  
3 you know, they found all 12. And I  
4 think I made my way to the command  
5 center to verify that. And there was  
6 obviously a lot of excitement ---

7 Q. Sure.

8 A. --- and kind of some joy. And  
9 I kept asking for them to confirm  
10 that. But then the pace picked up  
11 that we had to get in to those  
12 individuals and get them out, so they  
13 sent me back --- I was instructed by  
14 somebody or the entire group in the  
15 command center that we needed to get  
16 the medical individuals, the doctors  
17 and nurses, ready to go underground  
18 and send them, along with the mine  
19 rescue team, to the barricaded area  
20 to help, you know, retrieve these 12  
21 miners.

22 So we went back and started  
23 kind of working on that. And once we  
24 got them underground, I think I went  
25 back to the command center and

1 started --- we started talking about  
2 confirming, you know, that we did  
3 have the 12 miners. And if I'm not  
4 mistaken, they did ask one of the  
5 mine rescue teams, you know, to  
6 confirm that, and they did, that they  
7 had, you know, the 12 miners. I  
8 think what was said was one would be  
9 coming out on --- I was told one  
10 would be coming out on a stretcher  
11 and they would be walking the  
12 remaining 11 out. Then at some point  
13 in time --- let me back up and tell  
14 you this first so you'll understand  
15 what I'm getting ready to say. There  
16 was a point in time in the evening  
17 that it appeared that information  
18 from the command center  
19 communications system was leaking to  
20 the press. They was --- for some  
21 reason they was believing that the  
22 press was getting ahold of our  
23 information.

24 Q. And who was --- how did you  
25 get that information? How did you

1       come to believe that?

2       A.       They had the State --- the  
3       Governor had the State Policemen  
4       there to go around the perimeter and  
5       investigate, looking for someone that  
6       may have like a listening device or  
7       whatever. Plus we had a security  
8       group there as well. And they were  
9       all trying to investigate how was  
10      this information leaking out. That  
11      was sort of like the rumor, I guess.  
12      So we had --- it was decided from the  
13      command center that if the teams  
14      would discover a body, that they  
15      would not identify the person as a  
16      body or the name, that they would  
17      identify the body as an item. I  
18      guess this might --- as per se a code  
19      word.

20      Q.       Okay.

21      A.       That the command center would  
22      understand the word item meant body.  
23      And then we had decided that it had  
24      been recommended, I think, by Consol,  
25      and I was part of this, that we would

1 assign each of the missing miners a  
2 number, 1 through 13, and have a  
3 briefing with the captains of each  
4 team that was going under and give  
5 them a copy of this list of 1 through  
6 13. And if they would find a  
7 survivor or a body, they would say in  
8 the communications that we've located  
9 item number four between break so and  
10 so. And that way the communications  
11 --- the command center could have  
12 that information, who it was, in case  
13 they had to go notify, you know, a  
14 family member or whatever. Okay. So  
15 we did that. We met with --- I typed  
16 up a list, very confidential. Me and  
17 Bill Tolliver met with the captains  
18 of the Consol teams and I believe the  
19 Tri-State team and told them what we  
20 wanted them to do, and of course  
21 that's what they did.

22 So back to me coming into the  
23 command center to try to confirm  
24 things. The room was kind of --- it  
25 was, at that time, kind of full and

1 the emotions were very high that they  
2 thought they had 12 miners alive.  
3 The word come across from one of the  
4 crew members on the phone that we  
5 have one coming out on a stretcher  
6 and 11 items. And it just hit me  
7 like a ton of bricks that I knew what  
8 that meant. And I kind of stepped  
9 back for a minute. I just, you know,  
10 was in shock.

11 But then I could see the rest  
12 of the room didn't understand. They  
13 --- for some reason, I'm going to say  
14 most of them thought that we still  
15 had 12 alive. And so I asked, I  
16 believe it was one of the Consol  
17 individuals that was helping manage  
18 our teams was at that time on the  
19 phone with his --- one of the mine  
20 rescue members, and I asked him to --  
21 - I think we got bad news here. I  
22 said, you need to confirm that.

23 And they argued with me for a  
24 short period of time that, no, no,  
25 no, we've got --- you know, we got 12

1 people coming out. And then there  
2 was some discussion maybe that they  
3 was going to be carrying more people  
4 out, maybe there was more injured  
5 possibly or whatever. And I had to  
6 kind of raise my voice pretty loud to  
7 get them to listen to me. I said,  
8 listen, he --- they just said we got  
9 11 items. I said, have him repeat  
10 what do we have as far as survivors.  
11 He spoke to the mine rescue person,  
12 whoever that was, I don't know, the  
13 captain, I assume, or someone at the  
14 fresh air base, that how many  
15 survivors do we have, I believe it  
16 was asked.

17 And the answer came back, we  
18 have one on a stretcher and 11 items.

19 And they turned to me and said, see,  
20 we're okay or something to that  
21 effect. I said, listen, are you all  
22 forgetting about the code of an item?

23 I said, tell them to drop the code  
24 and just tell us what they've got as  
25 far as survivors.

1           So they called back in and  
2           said, do you have 11 survivors and  
3           one on a stretcher? And they said,  
4           no, it's the other way around. And  
5           that's when everyone finally  
6           understood that, you know, we had  
7           fatalities. And again, you know, the  
8           emotions of the room just --- it's  
9           almost like everybody in the room  
10          died. It was pretty tough.

11          Q.           Okay. I wonder if we could  
12          just back up a little bit and when I  
13          first asked you about the time that  
14          you were told that you had 12 alive.

15          A.           Yeah.

16          Q.           And you said that at that  
17          point there they started making an  
18          arrangement, and you seemed to have  
19          some involvement there.

20          A.           Well, as I was staging teams,  
21          they had me help stage more teams. I  
22          get the philosophy at that time out  
23          of the command center was push more  
24          teams, push everything we had down  
25          there to save these men.

1 Q. Yes.

2 A. So they started sending more  
3 teams.

4 Q. When you say more teams, do  
5 you know which teams went down or how  
6 many teams went down?

7 A. No. I mean, there was a  
8 little bit of confusion at the time.

9 Q. Sure, I understand.

10 A. There was so many teams being  
11 pushed that direction. Robinson Run,  
12 I believe, 84, Tri-State and --- you  
13 know, just --- I can't say they were  
14 --- tell you exactly which ones.

15 Q. Yeah, I understand. Sure.  
16 But when you say push down, you mean  
17 down into the pit; is that correct?

18 A. Yeah, get them ready ---

19 Q. Get them ready to go  
20 underground?

21 A. --- to go underground, yeah.  
22 And then there was the medical  
23 professionals. There was, I think, a  
24 couple doctors and maybe medics, that  
25 we got them suited up. We did like a

1 real quick five-minute hazard  
2 training, ---

3 Q. Sure.

4 A. --- made sure they had hats  
5 and safety glasses and things.

6 Q. How many doctors were there;  
7 do you recall?

8 A. I don't know exactly. I think  
9 there was at least a couple, if not  
10 --- at least one. At least one,  
11 maybe a couple. But there was a  
12 couple --- several women there that I  
13 think was like medics, paramedics,  
14 nurses, something like that.

15 Q. And those all people did  
16 assemble down in the pit?

17 A. We assembled them in the  
18 shower, the bathhouse, and then we  
19 moved them down to the pit.

20 Q. Down to the pit?

21 A. Yes. And then they took them  
22 underground.

23 Q. And you say they took them  
24 underground. Now, do you know ---

25 A. I wasn't down there, so I

1 didn't ---.

2 Q. --- who was ---?

3 A. I didn't see. I don't know  
4 who took them underground, how they  
5 got underground. I just know that  
6 they were going to be sent to the  
7 area to help.

8 Q. Let me ask you this way. Do  
9 you know for a fact, ---

10 A. Okay.

11 Q. --- okay, that there were  
12 doctors or medical people --- doctors  
13 sent underground?

14 A. Yes. I personally talked to  
15 them.

16 Q. Personally talked to them,  
17 meaning ---?

18 A. I mean, I personally talked to  
19 them in the staging area ---

20 Q. Yes.

21 A. --- and I helped them get  
22 ready to go underground.

23 Q. When you say the staging area,  
24 are you talking about the bathhouse?

25 A. Bathhouse, yes.

1 Q. Okay. So they went to the  
2 pit. And that's what I'm trying to  
3 get at. Do you know that they  
4 actually did go underground?

5 A. I did not see them go  
6 underground.

7 Q. Were you told that they went  
8 underground?

9 A. I believe later I saw a news  
10 interview with the doctor that  
11 claimed he was the one that  
12 administered the oxygen, so I believe  
13 it was him that was one of the people  
14 we staged up.

15 Q. Is he the same guy that you  
16 talked to before they went  
17 underground? Was he one of the guys  
18 that you talked to ---?

19 A. I thought he was, yeah.

20 Q. Okay. But you don't know his  
21 name?

22 A. No, I do not.

23 Q. Okay.

24 A. I don't know where these  
25 individuals were from. All I know,

1       they were a team of medical  
2       professionals to help us through the  
3       emergency.

4       Q.       Did you ever have an occasion  
5       to go into the pit?

6       A.       No.

7       Q.       Okay.   So during this whole  
8       ---?

9       A.       Well, afterwards.   I mean,  
10      after I was put in charge of the body  
11      recovery, to help with the teams.  
12      And I personally went down to the pit  
13      and helped transport the bodies to  
14      the ambulances.   That was my first  
15      trip to the pit.

16      Q.       So then all these teams and so  
17      on were dispatched to the pit, and  
18      the doctors and medical people were  
19      dispatched to the pit.   And at that  
20      point there, once they were down  
21      there and they were down there  
22      whenever you spoke about the ---  
23      confirming what we really had, so ---  
24      they had already gone at that point?

25      A.       Yes.   Yeah, that's when I went

1 back to the command center, ---

2 Q. Command center.

3 A. --- after I got that job done.

4 Q. Okay. And do you know what  
5 time that was?

6 A. You know, we just --- this  
7 whole thing was such a blur for 40  
8 hours.

9 Q. I understand. Sure.

10 A. I just don't know, to be  
11 exact.

12 Q. And at that point there,  
13 that's whenever you had the  
14 conversation with the command center  
15 personnel and what you just described  
16 to me concerning the miscommunication  
17 incident ---

18 A. Yeah.

19 Q. --- and so on? After it was  
20 decided that you did actually have  
21 one survivor only, ---

22 A. Uh-huh (yes).

23 Q. --- then kind of --- what  
24 occurred then?

25 A. Well, of course the work was

1 pushed to get him out, you know,  
2 bring him outside.

3 Q. Was there any communications  
4 with the command center at that point  
5 to say, hey, don't send all these  
6 doctors underground or don't send all  
7 these teams underground?

8 A. You know, I wasn't aware of  
9 that.

10 Q. Okay. Go ahead. Then at that  
11 point, what did you do?

12 A. Well, we just waited to, you  
13 know, --- for them to bring the  
14 individual out. And then the next  
15 thing I was somewhat involved in was  
16 they staged --- we had to stage up  
17 the Viper team, I believe it was the  
18 Viper team, that went back  
19 underground --- was assigned to go to  
20 the barricade.

21 Q. How did that occur? Tell me a  
22 little bit about that, how that got  
23 put in place?

24 A. I don't know. I just knew  
25 that they were going to send the

1 Viper team to go back and re-examine  
2 the individuals.

3 Q. Who told you to get them ready  
4 to do that?

5 A. It was just --- it came out of  
6 the command center that they --- I  
7 mean, there was so many people in  
8 there.

9 Q. Sure.

10 A. It came out of the command  
11 center that they were going to send  
12 the Viper team back up there. I  
13 think there was a couple EMTs, two or  
14 three EMTs on the team. They were  
15 going to take stethoscopes and ---

16 Q. Just verify?

17 A. --- just verify that they were  
18 expired.

19 Q. Do you know how the  
20 communication got to the Sago church  
21 ---

22 A. No.

23 Q. --- that they all survived?

24 A. I don't know. I don't know  
25 for a fact. I mean, there was a lot

1 of people around the outside of the  
2 building that, you know, had cell  
3 phones. You know, during the high  
4 emotion, ---

5 Q. Yes.

6 A. --- you could see a lot of  
7 people on cell phones outside, out in  
8 the dark in the gravel areas and ---.  
9 If I tell you, I'd just make an  
10 assumption, so ---

11 Q. Yes, I understand.

12 A. --- you know, ---.

13 Q. Okay. So then you prepared  
14 --- you were involved in the  
15 preparation of the Viper team to go  
16 underground?

17 A. Yeah, we got them staged up.

18 Q. Who gave them stethoscopes?  
19 How was that ---?

20 A. I think they --- I think that  
21 --- I think another medical group or  
22 something loaned them or they had  
23 their own, okay. I think they were  
24 loaned them from some medical group  
25 there.

1 Q. And you briefed them on what  
2 they were supposed to do or who  
3 briefed them on what they were to do?

4 A. The command center. I wasn't  
5 part of telling them what they had to  
6 do. I just, you know, got them  
7 ready.

8 Q. Got them ready?

9 A. Yeah.

10 Q. Then what did you do?

11 A. We just waited for word. And  
12 I guess it was maybe around 11:30, 12  
13 o'clock when it was confirmed, I'm  
14 going to assume, because I don't ---  
15 I just don't have a time line right  
16 in front of me. It was just so late  
17 that night. It was close to midnight  
18 maybe.

19 Q. Yes.

20 A. Maybe after midnight. And  
21 after it was confirmed, then there  
22 was some discussions of, you know,  
23 retrieving the bodies. And there was  
24 some earlier debate whether Consol  
25 would be allowed to assist us in

1 retrieving the bodies. There was  
2 some talk --- I guess there was some  
3 controversy that their corporate  
4 office did not want them involved in  
5 handling the bodies or, you know,  
6 bringing the bodies outside. So at  
7 one point in time I instructed the  
8 Viper team that it would be --- that  
9 job would be left up to us and  
10 probably, you know, our other  
11 contract team there. But then  
12 somewhere throughout that --- later  
13 that night, Consol must have got  
14 their clearance to go ahead and help  
15 us retrieve the bodies.

16 Q. And who actually --- what team  
17 went under --- the Viper team did go  
18 underground to retrieve the bodies  
19 from the section?

20 A. Yes. Well, yes, they went  
21 under, yes.

22 Q. And then you said that Consol  
23 could help you. What did they do to  
24 assist you?

25 A. I think they worked along with

1 us --- I think there were several  
2 teams up there that was working  
3 toward getting the bodies outside.

4 Q. Okay.

5 A. I mean, I can't tell you which  
6 Consol team for sure, but I think it  
7 was 84 and Robinson Run that helped,  
8 you know, retrieve the bodies. Viper  
9 worked for a short period of time. I  
10 believe I was --- I was told by the  
11 Viper members that they loaded the  
12 bodies into the body bags at the  
13 barricade and they were working with  
14 a federal inspector with them and  
15 probably a state inspector. And they  
16 brought one body down to the end of  
17 the track and they were instructed by  
18 the federal inspector to go back up  
19 and help with the Consol teams  
20 because they were short handed. They  
21 only had four people or five people  
22 up there. They needed a couple extra  
23 people to help carry.

24 Q. Yes.

25 A. And then, I believe, their

1 oxygen started getting low, it was  
2 time to come outside, so they were  
3 instructed to go back to the fresh  
4 air base.

5 Q. And when you say they, you're  
6 talking about which ---?

7 A. Viper.

8 Q. Viper team?

9 A. Yeah.

10 Q. Okay.

11 A. So their time was limited of  
12 handling the bodies to the one  
13 individual down to the track and then  
14 helping the Consol --- I believe  
15 helping the Consol team bring one  
16 down possibly. I'm not sure if they  
17 completed it or not. They were  
18 ordered outside because of --- back  
19 to the fresh air base because of low  
20 oxygen. And then they went down  
21 there and stayed for a while to see  
22 how they could help. Then I believe  
23 they --- Mr. Helms, I believe they  
24 told me that that body was loaded  
25 onto a stretcher and they placed that

1 body into a body bag and put the body  
2 bag back in the stretcher.

3 Q. And they, again, you're  
4 talking about Viper?

5 A. Viper, yes. Then I guess  
6 eventually they were ordered outside,  
7 you know, to change out teams.

8 Q. And the information that you  
9 have just provided to me, is that the  
10 information that you gathered from in  
11 the command center?

12 A. No, from one of the Viper  
13 members.

14 Q. Through a debriefing?

15 A. Not a debriefing, just a  
16 conversation.

17 Q. With whom and when was that  
18 conversation?

19 A. Probably the next evening,  
20 talking with a couple members.

21 Q. And who were those members?

22 A. I believe it was Pete Byrant  
23 and Brad Kauffman.

24 Q. And Pete Byrant is what?

25 A. Captain.

1 Q. Captain of the team?

2 A. Uh-huh (yes).

3 Q. And the other individual?

4 A. I don't know what position he  
5 has on the team, but just a member of  
6 the team.

7 Q. Of the team.

8 A. He may be a co-captain  
9 possibly.

10 Q. You were waiting in the  
11 command center for the teams to go  
12 underground and recover the bodies?

13 A. Yeah.

14 Q. And then what was you doing at  
15 that time, just waiting in the  
16 command center?

17 A. Just waiting.

18 Q. Just waiting. And then at  
19 what time did you do something else  
20 other than waiting?

21 A. To be honest with you, the  
22 Consol teams basically conducted  
23 themselves to get the bodies out. I  
24 believe it was them and the Tri-State  
25 team. And the next thing we --- the

1 next action we had was around ten  
2 o'clock in the morning, when they  
3 started heading outside with the  
4 bodies on mantrips.

5 Q. Okay.

6 A. We arranged for the three  
7 ambulances that was on site to go  
8 down close to the portal. There was  
9 some discussion that someone believed  
10 that there was reporters trying to  
11 get a shot of the bodies, you know,  
12 on the hills or a helicopter  
13 possibly, something like that, so we  
14 sort of --- a couple of us got  
15 together and discussed how we could  
16 handle the bodies in a very  
17 respectful, you know, very delicate  
18 way when we had to bring them from  
19 the mantrips to the ambulances. So  
20 we kind of talked about that a little  
21 bit.

22 Q. When you say a couple of us,  
23 who do you mean?

24 A. Me and Bill Tolliver and I  
25 think the superintendent possibly and

1 a mine manager maybe, and Ty Coleman  
2 I think was part of that discussion.  
3 And I think we got word about 9:30 or  
4 10:00 they were heading out. So we  
5 got the ambulance as close as we  
6 could to the portal without being  
7 illegal and brought the mantrips out  
8 one at a time and, you know, just six  
9 of us would, you know, very slowly  
10 hand the body over to the ambulances.

11 Q. And then what did you do after  
12 that?

13 A. After all the bodies were  
14 gone, I --- there was about 60 people  
15 down in the pit. I gathered the  
16 group together kind of in a circle  
17 and we had a prayer for, you know,  
18 our lost miners. And then I went  
19 back up on the hill to start seeing  
20 what else we had to do. And I guess  
21 I just started getting ready to get  
22 to the hotel because I had been awake  
23 maybe 50-some hours at that point,  
24 you know, ---.

25 Q. Yes.

1 A. --- and went back to the  
2 hotel.

3 Q. Do you want to take a short  
4 break?

5 A. Yeah.

6 SHORT BREAK TAKEN

7 MR. SWENTOSKY:

8 Michael, do you have  
9 some questions?

10 MR. RUTLEDGE:

11 Yes.

12 BY MR. RUTLEDGE:

13 Q. Tim, let's go back quite a bit  
14 earlier in the day, if we can. You  
15 told me --- or you told this hearing  
16 that you got to the mine about 12:15;  
17 is that right?

18 A. I believe that was about  
19 right.

20 Q. And then shortly after that,  
21 there was the first instance of the  
22 CO in the offices and the bathhouse?

23 A. That's the way I recall it,  
24 yes.

25 Q. So I mean, a five-minute

1 period or something after you got  
2 there or just a very short ---?

3 A. Yeah. I thought I got there  
4 at five --- I thought I got there at  
5 12:15. And to me, it seemed like  
6 about five minutes later, that's when  
7 we immediately got into the CO. Of  
8 course, you know, we could look at  
9 those orders and get the exact time  
10 to correct me. But that's --- my  
11 recollection, that's what I recall.

12 Q. Okay. And order was issued by  
13 MSHA on the first instance?

14 A. Yeah. They actually had it in  
15 their hand, I believe, yeah.

16 Q. And then shortly thereafter,  
17 the COs were checked again and ---

18 A. Yeah.

19 Q. --- it was clear, ---

20 A. Yes.

21 Q. --- and you were allowed to  
22 stay?

23 A. Yes.

24 Q. Then there was another  
25 instance of a CO climb again?

1 A. Yes.

2 Q. How much later was that?

3 A. I'm thinking it was around 20  
4 minutes later. It was fairly close  
5 to the first one.

6 Q. So about 20 minutes apart.  
7 Ending in the same resolution?

8 A. Yes.

9 Q. Just a few minutes it was  
10 checked again?

11 A. It was cleared, yes.

12 Q. And everybody was allowed to  
13 stay?

14 A. Yes.

15 Q. Okay. Also you told me that  
16 --- excuse me, I keep saying me. You  
17 told this hearing here, you told the  
18 group that at one time you talked to  
19 Ty Coleman on the phone?

20 A. Yes.

21 Q. And he reported to you that  
22 there was 2,200 parts per million CO  
23 ---

24 A. Yes.

25 Q. --- at the return?

1 A. Yes.

2 Q. Can you give us your best  
3 approximation of what time that would  
4 have been?

5 A. You know, I left the house at  
6 9:05, I guess, or right after 9:05.  
7 I know from my phone records I made  
8 my first phone call to Viper at 9:10.  
9 It's a three-hour drive up here. I  
10 was somewhere on 79 --- I can say  
11 that, I was somewhere on 79 when I  
12 made the call to Ty, the second call  
13 to Ty. So I'm going to --- it's just  
14 a guess or an estimate, I'd say two  
15 hours into my trip.

16 Q. Okay. Also you mentioned  
17 earlier that Ty was part of a Spruce  
18 Fork Division?

19 A. He's the safety manager for  
20 the Spruce Fork Division.

21 Q. Can you explain the corporate  
22 structure that gets us to a Spruce  
23 Fork Division?

24 A. Okay.

25 Q. Is it a separate company or

1       what is that?

2       A.           The Spruce Fork Division at  
3       that time had Sago and Sentinel and  
4       Sycamore.    Yeah, they had those three  
5       mines, Sentinel, Sycamore and Sago,  
6       under the Spruce Fork Division, which  
7       the general manager is Chuck Dunbar  
8       and the safety manager for the  
9       division is Ty Coleman, which each of  
10      the mining operations has a safety  
11      manager.

12      Q.           Okay.   Now, was that again ---  
13      that Spruce Fork Division, was that a  
14      division of ICG, of ---

15      A.           Yes.

16      Q.           --- Anker or ---?

17      A.           I don't know the legal  
18      structure, but it's one of the  
19      operating units of ICG.

20      Q.           Is the Viper team the only  
21      mine rescue team that ICG has at this  
22      time?

23      A.           Yes.

24      Q.           You also mentioned that you  
25      and Bill Tolliver had done

1 spreadsheets of the team rotations?

2 A. Yes.

3 Q. Are any of those still  
4 available, or do you still have any  
5 of those sheets?

6 A. Yes. I have those on my  
7 laptop.

8 Q. Okay. Would you provide us  
9 with copies of those?

10 ATTORNEY RAJKOVICH:

11 We'll take that under  
12 advisement.

13 BY MR. RUTLEDGE:

14 Q. Also, you mentioned a code  
15 that was devised, number one, to call  
16 any bodies or recovered items, and  
17 also that there was a list of names  
18 and numbers assigned so that teams  
19 could get item number four and  
20 whatever. Is that list available  
21 anywhere?

22 A. It may be on my laptop, but we  
23 tried to be very confidential about  
24 that. We collected those papers that  
25 we gave the captains immediately

1 after they got outside. I may have  
2 erased it, but it could be on there.  
3 It was just basically a list of the  
4 miners, and the list that I had, I  
5 just numbered them 1 through 13,  
6 simply that.

7 MR. RUTLEDGE:

8 Again, we would request  
9 that you look for that and see  
10 if that's still available.

11 ATTORNEY RAJOVICH:

12 Same thing.

13 BY MR. RUTLEDGE:

14 Q. You also talked about the  
15 concern that it was taking teams a  
16 long time to get underground; was  
17 that correct, or not?

18 A. What I said was, that was a  
19 general concern among everybody  
20 throughout the building. I guess a  
21 lot of the non-experienced mine  
22 rescue members was the people who  
23 were asking why is it taking so long  
24 to get the teams under. Why haven't  
25 we sent a team yet, you know. It was

1 a general consensus among everybody  
2 in the building that they were  
3 wishing we could send the teams, you  
4 know, obviously, after the people.

5 Q. Okay. And you did say that  
6 you and Ian and John Urosek then  
7 approached the command center?

8 A. Yes.

9 Q. Can you give us any  
10 clarification as to what time this  
11 was or how far along, ---

12 A. Well, again, I'm thinking ---.

13 Q. --- during the --- you know,  
14 how much advance had been made at  
15 this time?

16 A. For some reason, it sticks in  
17 my mind that 12 hours or 24 hours  
18 might have passed. I just don't  
19 recall. I mean, I would assume that  
20 you could go back in the written  
21 plans and find out maybe when the  
22 team started moving quicker, but I  
23 don't --- I just don't have a time  
24 for you. I would just be guessing if  
25 I told you something. It obviously

1 was after a period of time that  
2 allowed, you know, some frustration  
3 to build up that the teams were  
4 moving slow.

5 Q. So you really can't be a  
6 little more precise ---

7 A. No.

8 Q. --- about the amount that  
9 hadn't been explored or the length of  
10 time the exploration had been going  
11 on before this ---?

12 A. Like, it sticks in my mind,  
13 for some reason, that they had made  
14 it to break 17, and it took a long  
15 time to get there. I don't know if  
16 that's factual, but that just sticks  
17 in my mind. Maybe it was around that  
18 time.

19 Q. Okay. We talked about your  
20 responsibilities in preparing the  
21 teams and getting them ready to go.  
22 Where were the teams staged?

23 A. We staged as many teams as we  
24 could fit into the bathhouse. And I  
25 believe we probably fit about four or

1 five teams there. We staged a team  
2 in the front side of the building,  
3 which it was a rib --- an area being  
4 remodeled. It kind of resembles like  
5 a garage. And we had two teams  
6 there. And I believe they even had a  
7 team in a site --- no, that's not  
8 correct. That's later on. And then  
9 there was several teams, I notice,  
10 that had brought tents, portable  
11 buildings or tents, that set up  
12 tables and did some, you know, work  
13 there. But primarily, we --- the  
14 teams getting ready to go underground  
15 staged out of the bathhouse.

16 Q. Okay. And how did you receive  
17 information that the team would be  
18 needed at any particular time,  
19 or ---?

20 A. From the command center.

21 Q. Okay. Someone would come and  
22 contact you, or come and look for  
23 you, or ---?

24 A. I tried to stay in contact  
25 back and forth by the command center.

1 I tried to stay out of their way, but  
2 I would check in and out when it  
3 would seem like we were getting ready  
4 for a team. And there was maybe a  
5 couple times they maybe came and got  
6 me, but mainly we just kept checking  
7 on them and see when they needed  
8 something.

9 Q. Okay. And who briefed the  
10 teams before they were sent  
11 underground?

12 A. I thought it was the command  
13 center. I thought they would ---  
14 they took the time to take someone  
15 out of the command center to brief  
16 the teams.

17 Q. But you weren't --- you  
18 weren't ---?

19 A. No. I did not sit in on any  
20 of the briefings.

21 Q. Any of the briefings. Okay.  
22 And after the briefings, the teams  
23 would go to the pit; is that right?

24 A. Well, they would stage up in  
25 the bathhouse, kind of assemble on

1 the side of the building, and there  
2 was a couple of state, I think --- I  
3 believe federal inspectors of the  
4 walkway leading down to the pit that  
5 would take their names and record  
6 when they went in and when they came  
7 out. And once they cleared that  
8 checkpoint, I guess you'd call it,  
9 they was allowed to go down over the  
10 hill.

11 Q. Okay. And once they went down  
12 there, how did they get underground  
13 to the fresh air base?

14 A. I can't --- I couldn't tell  
15 you for a fact. I don't know. I  
16 wasn't down there. I didn't discuss  
17 that.

18 Q. Okay. To your knowledge, were  
19 mantrips run back and forth to fresh  
20 air bases?

21 A. At some point in time I  
22 believe they were, but I just --- I  
23 can't know that for a fact.

24 Q. Okay. And could you make any  
25 estimate as to --- once the command

1 center might have issued an order for  
2 a team to get ready and go as to how  
3 long it might have taken for them to  
4 do that to get ready and to be able  
5 to get to the pit and in to the fresh  
6 air base?

7 A. When we knew --- when we would  
8 be communicating with the command  
9 center that they were getting ready  
10 for a team, we would have that team  
11 ready to go when the change out  
12 needed to happen. So there was ---  
13 there was never any lag time. We  
14 would have a team right there ready  
15 to roll right into the pit when there  
16 was a change-out required. So that  
17 was probably a half hour before they  
18 would need a team, we had them  
19 suiting up, you know, with their  
20 packs and ready to go.

21 Q. Ready to go.

22 A. And they probably even had  
23 another hour notice prior to that who  
24 would be next since we had a rotation  
25 list.

1 Q. Okay. You spoke quite a bit  
2 about the misinformation that was  
3 received, and then later confirmed  
4 that there was, in fact, the  
5 fatalities and only the one survivor.  
6 Did you have any input at all or any  
7 dealings with that official  
8 information being relayed to the  
9 families of the churches, or ---

10 A. No.

11 Q. --- do you have any  
12 recollection of anything going on,  
13 you know, that you would have  
14 knowledge about, about why that may  
15 have taken as long as it did?

16 A. No. There was --- like, there  
17 was a --- there was a rumor  
18 throughout the building that the  
19 governor or someone sent a state  
20 trooper up to the church. I can't  
21 recall whether I heard that  
22 afterwards or during or what. I just  
23 wasn't part of that process.

24 Q. Okay. Have you seen the  
25 report that ICG put out about the

1 cause of the explosion?

2 A. No, I have not.

3 Q. Okay. A press release or  
4 anything like that that the company  
5 has put out, have you ---?

6 A. I've seen a news story about  
7 the press release of meeting with the  
8 families, but I have not seen the  
9 actual release, no.

10 Q. Okay. So do you have any idea  
11 who within the company would have put  
12 out such a release or would have  
13 authorized a press release like that?

14 A. I'm not part of the company  
15 communications. I really wouldn't  
16 even have a clue who actually  
17 authorized that.

18 MR. RUTLEDGE:

19 That's all I have for  
20 the moment. Thanks.

21 MR. SWENTOSKY:

22 Thanks, Mike. Mike,  
23 I'd ask you for some pieces of  
24 information that you had on  
25 your laptop, and I would just

1           ask that any other notes that  
2           you may have concerning your  
3           activities at the mine, that  
4           we could have copies of those.

5       A.     I had --- I did not take any  
6       notes or detailed notes throughout  
7       the event, because everything kind of  
8       moved so quickly. The only thing  
9       that I can think of that I might have  
10      is just some scratch pads of  
11      telephone numbers, like when I was  
12      calling Ian and calling Bumbico, or  
13      just a few of the phone calls I made  
14      of --- I jotted down some phone  
15      numbers, you know, getting them off a  
16      PDA or a notebook or something. But  
17      I did not keep any notes. The only  
18      thing I have is probably that  
19      spreadsheet for the teams.

20                                   MR. SWENTOSKY:

21                                   Okay. Just any  
22                                   information that you  
23                                   might ---.

24       A.     Okay.

25       BY MR. SWENTOSKY:

1 Q. Okay. Just a few more  
2 questions concerning the recovery of  
3 the bodies in the Two Left section.  
4 Do you know why the decision was made  
5 to recover the bodies under  
6 apparatus? I mean, that's kind of  
7 unusual, usually bodies are not  
8 recovered under apparatus. Do you  
9 recall any conversations or reasons  
10 why ---?

11 A. I believe I was told that  
12 there was --- I believe there was  
13 still like 250 parts per million CO  
14 is the reason they did that.

15 Q. Okay. Usually you  
16 re-ventilate the mine, and then  
17 you're able to go barefaced to  
18 recover bodies. But in this  
19 particular situation, it was decided  
20 to go ahead and recover them at that  
21 point, rather than re-ventilate and  
22 use apparatus. Do you know reasons  
23 why that was done?

24 A. No. I mean, that was --- at  
25 that point in time the Consol teams

1 were sort of, you know, working  
2 themselves to making decisions up  
3 there and through the command center  
4 to do the recoveries. I mean, they  
5 were in constant communication with  
6 the command center, so I'm going to  
7 assume those decisions were made  
8 between the Consol teams and the  
9 command center.

10 Q. Okay. But you weren't  
11 involved in that?

12 A. No.

13 Q. Okay. The transportation of  
14 the bodies from the section down to  
15 the mantrips, scoops were used. Do  
16 you recall --- or were you involved  
17 in any of those conversations or  
18 reasons they did that, or who made  
19 those decisions?

20 A. Yeah. I wasn't part of the  
21 decision-making process there, but I  
22 was a part of some discussions. And  
23 from what I understood, the reason  
24 those decisions were made on the site  
25 was that they had a federal mine

1 rescue member went down carrying Mr.  
2 McCloy out. And from just --- I  
3 don't know, exhaustion or the terrain  
4 or whatever, and that they were very  
5 worried about, you know, harming  
6 another --- injuring another mine  
7 rescue member in those conditions.  
8 So they made the decision that they  
9 were going to use the scoop.

10 Q. And you don't know who made  
11 that decision ---

12 A. No. Again, that's ---.

13 Q. --- just in general  
14 discussions? And where was that  
15 general discussion that you're  
16 speaking about?

17 A. I believe that was between me  
18 and Bill Tolliver. And of course, he  
19 was communicating with his people and  
20 communicating with their teams.

21 Q. And that discussion was in the  
22 command center; is that correct?

23 A. No. With me?

24 Q. Yes.

25 A. No. That was just probably in

1 the room that me and Bill was working  
2 in. And I think it came out as a  
3 request to the command center for the  
4 teams requesting to use the scoops to  
5 do that. And it got passed on to me  
6 through Bill, but that's what the  
7 Consol teams wanted to do.

8 Q. And I think Mike might have  
9 asked you this, but I apologize if he  
10 did, but --- to re-ask it. But who  
11 did you speak with in the command  
12 center whenever new teams were asked  
13 for? Who was your communication person  
14 there?

15 A. Well, when Ty was in there, it  
16 was --- I usually talked to the  
17 company person. And it was Ty  
18 Coleman with the times he was in  
19 there. I think Johnny Stemple, I  
20 believe, was in there and relieved  
21 him. So it was probably between Ty  
22 and Johnny. There was times that the  
23 state people or the federal people  
24 would also kind of talk to me. So  
25 it's kind of a consensus between the

1 three main figures that was in there.  
2 There wasn't any discussion.

3 Q. It wasn't any one specific  
4 individual that said, hey, we  
5 need ---?

6 A. Well, at times there were, but  
7 most of the time it was a consensus  
8 between the three that, you know,  
9 we're getting ready to need a team  
10 here within a half hour.

11 Q. Okay. And then they would, in  
12 turn, tell you, ---

13 A. Yeah.

14 Q. --- hey, we need this, we need  
15 another team?

16 A. Yes.

17 Q. Okay. Were you ever in the  
18 Sago Mine?

19 A. Yes. Not during this event,  
20 no ---

21 Q. No?

22 A. --- but prior to.

23 Q. Prior to.

24 A. Yes.

25 Q. Yes. And I believe you said

1 earlier - - -

2 A. I mentioned it to you.

3 Q. - - - that it was - - - you had  
4 been to the mine about six times.

5 A. Estimate, yeah.

6 Q. An estimate.

7 A. Four or five times maybe.

8 Q. Okay. And were you  
9 underground at those times?

10 A. Yes.

11 Q. Okay. And what were the  
12 occasions - - - what did you do - - -  
13 what was the purpose of going  
14 underground on those occasions?

15 A. A mine visit. I tried to  
16 visit, you know, a lot of our mines.

17 Q. And you would have been  
18 looking for - - - observing safety  
19 conditions or - - -

20 A. Uh-huh (yes).

21 Q. - - - I mean, that's the - - -?

22 A. The mining operations, the  
23 safety conditions, things like that?

24 Q. Okay. And what were the  
25 results of those visits as far as

1 safety concern? Did you pass any  
2 information on to the safety director  
3 --- the safety manager there? In  
4 this case, that would be, I guess, Al  
5 Schoonover.

6 A. Well, the last visit --- I  
7 believe my last visit there was when  
8 I accompanied an insurance auditor  
9 for some of our risk insurance. And  
10 the mine looked good, well rock  
11 dusted, well-ventilated. The  
12 equipment was clean, just in general.

13 Q. And did you tell me that was  
14 around November of 2005 or no?

15 A. No. I don't remember. I'd  
16 have to look back at my calendar to  
17 see exactly when that was, but it was  
18 a few months ago before the  
19 explosion.

20 Q. Yes, before the --- yes.

21 A. Yeah. Yeah.

22 Q. Okay. Does the corporate  
23 safety department, do they track the  
24 health and safety issues, injuries,  
25 violations at the mine site?

1 A. I do a monthly report for all  
2 of our operations that tracks numbers  
3 and incident rates and such and  
4 distribute that report monthly.

5 Q. Okay. And do you provide ---  
6 when you get that information, if you  
7 see increases in violations,  
8 increases in injuries, do you provide  
9 direction to those safety departments  
10 at the mines?

11 A. No. That's basically handled  
12 at each mining division. And those  
13 things are already in place by the  
14 time I get that information.

15 Q. So when you see that --- when  
16 you see an increase in violations or  
17 injuries, you just pass that  
18 information on to your supervisors,  
19 but you don't contact the mine itself  
20 concerning those increases?

21 A. You have to restate the ---.

22 Q. Okay.

23 A. I put out a monthly report  
24 that has the --- any kind of ---. I  
25 put out a monthly report that shows

1 the measurement of how many  
2 violations, of violations per  
3 inspection day, incident rates, and  
4 this report goes out on a monthly  
5 basis to all of the general managers  
6 and all the safety managers.

7 Q. Okay. And you provide that to  
8 those safety managers?

9 A. Yes.

10 Q. And how do you provide that to  
11 them, by e-mail, or ---?

12 A. Yes. And actually, the  
13 information that I assemble, this  
14 report comes from them to me.

15 Q. Yeah. Yes, I understand that.

16 A. Then I collect it and put it  
17 into one general report for the  
18 entire, you know, company and then  
19 disseminate it back out.

20 Q. Okay. But if you would see an  
21 increase in injuries or violations  
22 you would put that report out, and  
23 that's --- is it fair to say that  
24 that's the end of it? You would not  
25 have no further conversation with ---

1 or contact with these ---.

2 A. Would I analyze the report and  
3 make recommendations?

4 Q. Yes, to the safety manager at  
5 the --- in this case we're talking  
6 Sago Mine. You know, to have  
7 discussions with them on possibly how  
8 to ---.

9 A. Yeah, I don't recall doing  
10 that with Sago Mine.

11 Q. And how do you ---?

12 A. Actually, the Sago Mine was  
13 having a decrease in violations in  
14 accidents. You know, the second half  
15 compared to the first half. So they  
16 were on a downward trend.

17 Q. But if there was an upward  
18 trend, you would just provide them  
19 with this written report, and you  
20 wouldn't have --- you wouldn't have  
21 contact with them at all?

22 A. Well, we have safety managers  
23 at each mine site.

24 Q. Okay.

25 A. And they, obviously, take note

1 of when something's increasing or  
2 decreasing, and they usually respond,  
3 you know, immediately to it in some  
4 fashion.

5 Q. Does the corporate office  
6 provide any oversight as far as  
7 training's concerned ---

8 A. No.

9 Q. --- to see that the training's  
10 being properly handled and ---?

11 A. That's all handled from the  
12 mining operations.

13 Q. And of course, the same with  
14 the workforce and the training there,  
15 not only from the corporate ---  
16 excuse me, the mine management  
17 people, but also the mine workers?

18 A. Right. You keep referring to  
19 the corporate safety department is  
20 --- you're looking at it. Okay. So  
21 that's ---.

22 Q. Well, that's why I'm asking  
23 the question.

24 A. Yeah. So no, I have not been  
25 involved in any training at the mine

1 sites, you know, disseminating any  
2 training or conducting any training.

3 Q. Did you have an occasion ---  
4 okay. You never observed any of the  
5 old Two Left main seals, because I  
6 think they were --- the old Two Left  
7 main seals, the ones that blew out?

8 A. Okay. What's your question  
9 then?

10 Q. Did you ever observe those?

11 A. Before or afterwards?

12 Q. Before.

13 A. Yes. I think I visited that  
14 section --- it was probably one of  
15 our visits during that audit, I  
16 believe.

17 Q. And the seals were in place at  
18 that time?

19 A. No. It was --- back then it  
20 was a working section.

21 Q. Yes. And do you get involved  
22 in the ventilation plan at all?

23 A. No. That's done at the ---  
24 again, operations level.

25 Q. And you just did state that

1 you haven't conducted any training or  
2 anything at the Sago Mine?

3 A. No.

4 Q. And those responsibilities for  
5 the training is at the mine level ---

6 A. Yeah.

7 Q. --- that would have been Mr.  
8 Schoonover?

9 A. Him and Mr. Coleman does quite  
10 a bit of training, yes.

11 Q. Okay. During your visits  
12 there, did you ever observe any like  
13 fire drills, escapeway drills or  
14 anything like that that they happen  
15 to be going on at that time?

16 A. No, not at the time I was  
17 there.

18 Q. Do you have any personal  
19 opinion as to what occurred and what  
20 caused the explosion?

21 A. Yeah. I'm not officially part  
22 of the investigation, so I just ---  
23 I've not been exposed to all the  
24 findings yet, so I really don't.

25 MR. SWENTOSKY:

1 Do you have any  
2 additional questions?

3 MR. RUTLEDGE:

4 A couple, please.

5 BY MR. RUTLEDGE:

6 Q. Tim, forgive me if I asked you  
7 this before. Would you have any  
8 input in permitting, any idea of any  
9 permits going on, and particularly  
10 what I'm interested in is that the  
11 permit transfer and especially state  
12 permit transfers from Anker to ICG.  
13 Did you have input in that?

14 A. I've been involved in the MSHA  
15 IDs, but not any mining permit or  
16 licenses or anything like that.

17 Q. Okay. So you have --- you  
18 would have no input or no work  
19 responsibility for any state  
20 permitting that would have been done?

21 A. No, that's not ---.

22 Q. Do you know who would?

23 A. I hate to keep repeating this,  
24 but I'm assuming it's being handled  
25 by the mine operations.

1 Q. Okay.

2 A. Let me back up. Clarify what  
3 you mean by permit so that we're not  
4 misunderstanding each other.

5 Q. By a state permit, a state ID  
6 number. Okay. You know, the mine  
7 originally was permitted as Anker  
8 Energy.

9 A. Oh, okay. No, I'm not  
10 involved in that.

11 Q. And you know, of course, ICG  
12 was taking it over, and they would  
13 need to ---

14 A. Yeah.

15 Q. --- change those?

16 A. Right.

17 Q. The other question on ---  
18 you've mentioned the list of the  
19 employees ---

20 A. Yeah.

21 Q. --- that were numbered. Do  
22 you recall what Mr. McCloy's number  
23 was?

24 A. No. I'd have to look at the  
25 list and ---.

1 Q. Was that code ever used that  
2 we found item number or --- I mean,  
3 we have ---?

4 A. Not --- you know, I can't say  
5 that. Not at the times I was in or  
6 out of the command center did I hear  
7 him use that. So I don't know if  
8 that was ever used or not.

9 Q. Did you hear any  
10 identification of the one survivor,  
11 or when did you hear, or how did you  
12 hear that?

13 A. It was afterwards, I believe  
14 after they got outside. And I  
15 believe that no one knew until they  
16 got outside, but I may be wrong.  
17 Because I think I heard afterwards,  
18 you know, after they were outside and  
19 on the way to the hospital when it  
20 kind of became knowledge, I guess.  
21 But no one personally came and told  
22 me, you know. It was, again, just  
23 general  
24 --- just cautionary.

25

MR. RUTLEDGE:

1 All right. Thanks.

2 MR. SWENTOSKY:

3 Okay. Can we go off  
4 the record, just two minutes?

5 OFF RECORD DISCUSSION

6 MR. SWENTOSKY:

7 You've mentioned  
8 monthly reports. We would  
9 like to request any monthly  
10 reports that you have related  
11 to the Sago Mine.

12 ATTORNEY RAJKOVICH:

13 And you mean any, or  
14 how many, or how far back?

15 MR. SWENTOSKY:

16 Well, since ICG took  
17 over.

18 ATTORNEY RAJKOVICH:

19 Okay. We'll take it  
20 under advisement.

21 BY MR. SWENTOSKY:

22 Q. Okay. And you mentioned you  
23 had a Sago audit. Are these audits  
24 that you conduct?

25 A. It was an ICG audit that

1 included Sago.

2 MR. SWENTOSKY:

3 Okay. And we'd like to  
4 request copies of that.

5 ATTORNEY RAJKOVICH:

6 Okay. Same response.

7 BY MR. SWENTOSKY:

8 Q. And did you ever have an  
9 opportunity to review any mine  
10 records concerning training with fire  
11 drills or escapeway drills?

12 A. No.

13 Q. During your approximate six  
14 trips to the Sago Mine, did you ever  
15 review any kind of record books or  
16 any of the record books, pre-shift or  
17 records of training?

18 A. I probably looked at the fire  
19 boss book the day I went under. I've  
20 got a habit of doing that. But no  
21 other --- I have not audited or  
22 looked at the training records there,  
23 if that's what you're asking.

24 Q. Has there ever been any  
25 occasions whenever Mr. Schoonover

1 would have contacted you at all  
2 concerning any issues that he might  
3 be dealing with?

4 A. Sure.

5 Q. And when was the last time  
6 that he might have spoken to you  
7 concerning that, and what would those  
8 issues have been?

9 A. Obviously, during the  
10 explosion, we had some discussions,  
11 but - - -.

12 Q. I mean prior to that.

13 A. Oh, prior to that? Maybe an  
14 issue dealing with the regulatory  
15 issue, maybe a violation that's in  
16 litigation or something like that to  
17 that effect. I might have discussed  
18 an accident, possibly something like  
19 that in general. But I mean,  
20 specifically, I can't put my finger  
21 on one individual thing, you know.

22 Q. Yeah.

23 A. I talk to all my safety  
24 managers on a pretty much regular  
25 basis.

1 Q. And when you say you talk to  
2 them pretty regular, what's the type  
3 of conversation, or what would be the  
4 topic of those conversations?

5 A. Just how things going. I  
6 might see an accident report that  
7 I'll call about and see a little bit  
8 more detail on what happened, just to  
9 get a general idea of what's --- of  
10 what's occurred and concern with, you  
11 know, how we might take that  
12 information and disseminate it among  
13 the company to try to prevent it  
14 throughout other coal mines.

15 MR. SWENTOSKY:

16 Mike?

17 MR. RUTLEDGE:

18 My other question or  
19 comment really, the state  
20 would like to request that  
21 copies of any monthly reports  
22 that you might have done for  
23 like a three-month period  
24 there at Sago.

25 ATTORNEY RAJKOVICH:

1                               Did you say from three  
2                               months?

3                               MR. RUTLEDGE:

4                               Yeah, that's all.

5                               Thank you.

6                               BY MR. SWENTOSKY:

7                               Q.            Has anyone offered you  
8                               anything or made any promise to you  
9                               in exchange for your appearing here  
10                              today?

11                             A.            No.

12                             Q.            And do you have anything that  
13                             you would like to add or ask about  
14                             before we close?

15                             A.            No. I can't think of  
16                             anything.

17                             MR. SWENTOSKY:

18                             Okay. On behalf of  
19                             MSHA, I would like to thank  
20                             you for appearing and  
21                             answering questions today.  
22                             Your cooperation is very  
23                             important in the investigation  
24                             as we work to determine the  
25                             cause of the accident. We ask

1           that you not discuss your  
2           testimony with any person who  
3           may have already been  
4           interviewed or who may be  
5           interviewed in the future.  
6           This will ensure that we  
7           obtain everyone's independent  
8           recollection of events  
9           surrounding the accident.

10                         After questioning other  
11           witnesses, we may call you if  
12           we have any follow-up  
13           questions that we feel that we  
14           need to ask you.  If at any  
15           time you have additional  
16           information regarding the  
17           accident that you would like  
18           to provide to us, please  
19           contact us at the contact  
20           information that was  
21           previously provided to you.

22                         The Mine Act provides  
23           certain protections to miners  
24           who provide information to  
25           MSHA, and as a result are

1 treated adversely. If at any  
2 time you believe that you have  
3 been treated unfairly because  
4 of your cooperation in this  
5 investigation, you should  
6 immediately notify MSHA.

7 If you wish, you may  
8 now go back over any answer or  
9 have any --- you have given  
10 during the interview, and you  
11 may also make any statement  
12 that you would like to make at  
13 this time.

14 A. In my opinion, I mean, you've  
15 asked enough questions where I pretty  
16 much explained everything that I was  
17 involved in. So I think I've told  
18 you everything I could think of.

19 MR. SWENTOSKY:

20 Okay. Again, thank you  
21 for your cooperation in this  
22 matter.

23 SWORN STATEMENT

24 CONCLUDED AT 12:21P.M.

25 \* \* \* \* \*