

STATEMENT UNDER OATH

OF

GARY LEN MARSH

Taken pursuant to Notice by Miranda  
D. Elkins, a Court Reporter and  
Notary Public in and for the State of  
West Virginia, at the MSHA Bridgeport  
Field Office, 105 Platinum Drive,  
Suite B, Bridgeport, West Virginia,  
on Monday, February 20, 2006, at  
12:42 p.m.

Any reproduction of this transcript  
is prohibited without authorization  
by the certifying agency.

A P P E A R A N C E S

DENNIS J. SWENTOSKY  
 Supv. MS&H Specialist (Ventilation)  
 U.S. Department of Labor  
 Mine Safety & Health Administration  
 CMS&H, District 2  
 Paintersville Road  
 R.R. #1, Box 736  
 Hunker, PA 15639

JOHN COLLINS  
 West Virginia Miners' Health, Safety  
 & Training  
 One South Tenney Drive  
 Buckhannon, WV 26201

TIMOTHY S. WILLIAMS, ESQUIRE  
 U.S. Department of Labor  
 Office of the Solicitor  
 Mine Safety and Health Division  
 1100 Wilson Boulevard  
 Room 2211  
 Arlington, VA 22209-2296

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

2

3       DAVE STUART

4       1507 Stonehenge Road

5       Charleston, WV 25214

6

7       JOSEPH YUHAS, ESQUIRE

8       P.O. Box 1025

9       Northern Cambria, PA 15714

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INTRODUCTION	6 - 16
WITNESS: GARY LEN MARSH	
QUESTIONS	
By Mr. Swentosky	16 - 52
By Mr. Collins	53 - 60
By Mr. Swentosky	60 - 73
By Mr. Collins	73 - 76
By Mr. Swentosky	76 - 82
CERTIFICATE	83

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

EXHIBIT PAGE

PAGE

NUMBER DESCRIPTION IDENTIFIED

NONE OFFERED

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

1  
2  
3 MR. SWENTOSKY:

4 My name is Dennis  
5 Swentosky. I am an accident  
6 investigator with the Mine  
7 Safety and Health  
8 Administration, an agency of  
9 the United States Department  
10 of Labor.

11 With me is Tim  
12 Williams, from the Solicitor's  
13 Office, John Collins and Dave  
14 Stuart with the West Virginia  
15 Office of Miners' Health,  
16 Safety and Training.

17 I've been assigned to  
18 conduct an investigation into  
19 the accident that occurred at  
20 the Sago Mine on January 2nd,  
21 2006, in which 12 miners died  
22 and one was injured.

23 The investigation is  
24 being conducted by MSHA and  
25 the West Virginia Office of

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

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

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

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

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

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

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



1 investigation by the Mine  
2 Safety and Health  
3 Administration and the West  
4 Virginia Office of Miners'  
5 Health, Safety & Training into  
6 the conditions, events and  
7 circumstances surrounding the  
8 fatalities that occurred at  
9 the Sago Mine. owned by  
10 International Coal Corporation  
11 --- International Coal Group  
12 in Buckhannon, West Virginia.  
13 on January 2nd, 2006. This  
14 interview is being conducted  
15 at the MSHA Bridgeport, West  
16 Virginia Field Office on  
17 February 20th, 2006.

18 Questioning will be  
19 conducted by representatives  
20 of MSHA and the Office of  
21 Miners' Health, Safety &  
22 Training.

23 Mr. Marsh, this  
24 interview will begin with my  
25 asking you a series of

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

14 If at any time after  
15 the interview you recall any  
16 additional information that  
17 you believe may be useful in  
18 the investigation, please  
19 contact Richard Gates at the  
20 phone number and e-mail  
21 address provided to you. And  
22 we have that right here on a  
23 business card. You can have  
24 that.

25 Your statement is

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

7 The court reporter will  
8 record your interview and will  
9 later produce a written  
10 transcript of the interview.  
11 Please try to respond to all  
12 questions verbally since the  
13 court reporter cannot record  
14 non-verbal responses.

15 Also please try to keep  
16 your voice up. Copies of the  
17 written transcripts will be  
18 made available at a later  
19 date.

20 If any part of your  
21 statement is based not on your  
22 own first-hand knowledge, but  
23 on information you learned  
24 from someone else, please let  
25 us know. Please answer each

1 question as fully as you can,  
2 including any information you  
3 have learned from someone  
4 else.

5 We may not ask the  
6 right question to learn the  
7 information that you have, so  
8 do not feel limited by the  
9 precise questions asked. If  
10 you have information about the  
11 subject area of a question,  
12 please provide the information  
13 to us.

14 At this time, Mr.  
15 Collins, do you have anything  
16 you would like to add on  
17 behalf of the Office of  
18 Miners' Health, Safety &  
19 Training?

20 MR. COLLINS:

21 Yes. Mr. Marsh, the  
22 West Virginia Office of  
23 Miners' Health, Safety &  
24 Training is conducting this  
25 interview session jointly with

1 MSHA and are in agreement with  
2 the procedures outlined by Mr.  
3 Swentosky for these  
4 interviews.

5 But the Director  
6 reserves the right, if  
7 necessary, to call or subpoena  
8 witnesses or require the  
9 production of any records,  
10 documents, photographs or  
11 other relevant material  
12 necessary to conduct this  
13 investigation. After the  
14 interview today, if you have  
15 additional information or  
16 questions, here's a card that  
17 you can contact, Mr. Mills.

18 MR. MARSH:

19 All right.

20 MR. COLLINS:

21 Thank you.

22 MR. SWENTOSKY:

23 Mr. Marsh, are you  
24 aware that you may have a  
25 personal representative

1 present during the taking of  
2 this statement?

3 MR. MARSH:

4 Yes, sir.

5 MR. SWENTOSKY:

6 Do you have a  
7 representative with you here  
8 today?

9 MR. MARSH:

10 Yes, I do.

11 MR. SWENTOSKY:

12 And who is that  
13 representative?

14 MR. MARSH:

15 Joe Yuhas.

16 MR. SWENTOSKY:

17 Has anyone suggested to  
18 you that you use Mr. Yuhas as  
19 your representative?

20 MR. MARSH:

21 No.

22 MR. SWENTOSKY:

23 Are you aware that Mr.  
24 Yuhas may have a conflict of  
25 interest in representing you

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

4 MR. MARSH:

5 Yes.

6 MR. SWENTOSKY:

7 Have you been pressured  
8 in any way to accept Mr. Yugas  
9 as your representative?

10 MR. MARSH:

11 No.

12 MR. SWENTOSKY:

13 With this  
14 understanding, do you still  
15 choose Mr. Yugas as your  
16 representative?

17 MR. MARSH:

18 Yes.

19 MR. SWENTOSKY:

20 Do you have any  
21 questions before we start the  
22 interview?

23 MR. MARSH:

24 No.

25 MR. SWENTOSKY:

1       Could you swear in Mr.

2           Marsh, please?

3       -----

4       GARY LEN MARSH, HAVING FIRST BEEN  
5       DULY SWORN, TESTIFIED AS FOLLOWS:

6       -----

7       BY MR. SWENTOSKY:

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

11      A. Gary Len Marsh, M-A-R-S-H.

12      Q. Can you give us your address  
13      and your telephone number, please?

14      A. \*\*\*\*\*

15      And it's \*\*\*\*\*

16      Q. Okay. Thank you. And are you  
17      appearing here today voluntarily?

18      A. Yes.

19      Q. Do you have a nickname?

20      A. Yes. Muff.

21      Q. Thank you. How many years of  
22      mining experience do you have?

23      A. Thirty (30).

24      Q. And could you give us just a  
25      brief description of your mining



1 history over the last several years?

2 A. The last several years I've  
3 been motorman, which was mostly outby  
4 work. The last year I've been yard  
5 man over at Sago, which is outside.  
6 It involves ordering supplies and  
7 unloading trucks and loading the  
8 motor crew to take supplies into the  
9 mines.

10 Q. Okay. Where did you work  
11 prior to Sago?

12 A. Spruce.

13 Q. Spruce Mines?

14 A. I was motorman over there.

15 Q. And when did you --- do you  
16 recall the date when you started at  
17 Sago Mine?

18 A. It was in --- I think it was  
19 in July like two years ago.

20 Q. In 2004?

21 A. I believe. I'm not real  
22 certain, but it's been a couple years  
23 ago.

24 Q. And your present position is  
25 what?

1 A. Yard man.

2 Q. Yard man. And I believe you  
3 said you held that position for ---  
4 well, when did you start in that  
5 position?

6 A. It's been --- it probably  
7 would be eight months ago, something  
8 like that. Before that, I was kind  
9 of yard man plus a motorman. You  
10 know, I loaded the cars, plus I  
11 hauled them underground.

12 Q. And did you hold the same  
13 position, the yard man, on January  
14 2nd, 2006, the day of the accident?

15 A. Yes, sir.

16 Q. Starting whenever you arrived  
17 at the mine that morning, can you  
18 just kind of describe what occurred  
19 until you left the property?

20 A. Well, I got there probably  
21 around 5:30, got dressed, went into  
22 the dispatcher trailer and had I  
23 don't know, two or three cups of  
24 coffee and just BS'd with the men.  
25 And then a little after 6:00, one of

1 the maintenance foreman had some  
2 parts there that he wanted to take  
3 underground, so I got the fork truck  
4 and went to get a pallet to haul it  
5 downhill.

6 Well, while I was out there  
7 doing that, we had this violent  
8 lightning strike. And I mean, it  
9 pretty well lit the place up like  
10 daylight. I carry a, I guess you'd  
11 call it a walkie-talkie, in case they  
12 need to get ahold of me. Well, I  
13 heard the dispatcher hollering for  
14 everyone underground.

15 And I figured something was  
16 wrong. So I went back to the  
17 dispatcher trailer and when I went  
18 in, he couldn't get ahold of anyone  
19 underground. And we have a belt  
20 system where a bunch of the COs and  
21 stuff are going crazy. One and Two  
22 belt was still running, but the rest  
23 of them weren't.

24 So I tried to help him with  
25 what was going on there. And then

1 the superintendent and then decided  
2 they were going underground to  
3 investigate, which I offered to go  
4 with them and they told me I couldn't  
5 because I wasn't certified.

6 And they went in. And I  
7 helped Flea with the dispatching as  
8 best I could. And in a little bit, I  
9 talked with some of them underground.  
10 They said they thought they had had  
11 an explosion and told us to get help,  
12 which we proceeded to do.

13 And then Dick brought the One  
14 Left crew out. And they requested  
15 that I load fly boards and curtains  
16 and nails and spads for them to take  
17 back in with them, which I did.

18 And then in a little while  
19 there was trucks coming in and just  
20 bringing all kind of supplies in. We  
21 were trying to, you know, get ready  
22 for the rescue.

23 And the rest of that day ---  
24 it was probably around noon or so the  
25 government wouldn't allow me over the

1           hill anymore. So I just more or less  
2           stood around the rest of the day and  
3           did what I could. But there wasn't  
4           much we could do.

5           Q. Do you have any mining  
6           certifications, like mine foreman,  
7           examiner?

8           A. No. I used to have a shop  
9           fire's card, but it's ---.

10          Q. And who is your immediate  
11          supervisor?

12          A. Carl Crumrine.

13          Q. How long has he been your  
14          supervisor?

15          A. Eight months, probably,  
16          something like that.

17          Q. On the day of the accident,  
18          did you begin your shift at the  
19          normal time?

20          A. Yes.

21          Q. And we'll kind of go back  
22          through your activities during the  
23          day and try to fill in some of the  
24          blanks.

25          A. Okay.

1 Q. What time did you get to the  
2 mine that day?

3 A. Did I get to the mine or start  
4 work?

5 Q. To the mine.

6 A. It was probably around 5:30.

7 Q. Okay. Whenever you got to the  
8 mine, what did you do next then?

9 A. Just went in and got dressed,  
10 ready to go to work.

11 Q. After you were dressed and  
12 getting ready to go to work, what did  
13 you do next?

14 A. I went to the dispatcher  
15 trailer and drank coffee and talked  
16 to the men and stuff.

17 Q. Okay. Do you recall what time  
18 that might have been?

19 A. It was probably 20 'til 6:00,  
20 something like that.

21 Q. And the dispatcher's office,  
22 the CO system and the screen,  
23 everything was normal, ---

24 A. Yes.

25 Q. --- at that point?

1 A. Yes, it was.

2 Q. And then whenever --- did the  
3 men go underground at the normal  
4 time? Approximately what time did  
5 they leave to go?

6 A. It was --- I'd say they  
7 probably left out of there at maybe  
8 five 'til 6:00, to get over the hill,  
9 to get on the mantrips and go.

10 Q. And everything was normal up  
11 to that point?

12 A. Other than the violent  
13 lightning storm, yes.

14 Q. A lightning storm. Okay.  
15 When they went down, they went down  
16 over the hill to go to the mantrips  
17 then what did you do?

18 A. I just sat there and drank  
19 coffee.

20 Q. Okay.

21 A. I mean, you know, I was kind  
22 of waiting on orders as ---

23 Q. Sure, I understand.

24 A. --- as to what to do.

25 Q. And up to that point, had you

1 had any conversations with Mr. Toler  
2 and Mr. Crumrine or anyone at that  
3 point?

4 A. No.

5 Q. Okay.

6 A. Because Carl was off that day.  
7 It was a holiday and he wasn't there.

8 Q. After you were done drinking  
9 your coffee, what did you do?

10 A. I got the forklift and went to  
11 get the pallet to take the parts over  
12 the hill for the maintenance foreman.

13 Q. Okay.

14 A. He was going to take it  
15 underground.

16 Q. And approximately what time  
17 was that?

18 A. I would say probably 6:15.

19 Q. Okay. And then when you went  
20 to prepare those, then what did you  
21 do?

22 A. Well, by that time, all the  
23 confusion had started underground. I  
24 mean, I was in the process of loading  
25 the pallet with the parts.



1 Q. Was that up by the bathhouse  
2 or was that down in the pit?

3 A. No, it was by the bathhouse.

4 Q. All right. Go ahead.

5 A. And by the time I got it down  
6 there, I knew there was something  
7 wrong, so that's when I came back to  
8 help the dispatcher with ---.

9 Q. Okay. At the first sign that  
10 you knew something was wrong, where  
11 were you?

12 A. I was in the forklift behind  
13 the office.

14 Q. Okay. And how did you know  
15 that?

16 A. Well, it was a very violent  
17 lighting --- I mean, I can't say that  
18 it struck, but I mean, it lit the  
19 place up like daylight.

20 Q. Okay.

21 A. And then I heard the  
22 dispatcher hollering for anyone  
23 underground.

24 Q. Okay. When you say you heard  
25 the dispatcher, how did you hear it,

1 I mean over a phone?

2 A. I have a walkie-talkie that I  
3 carry. And, you know, that way the  
4 dispatcher or whoever needs me, if  
5 you page a mine phone, it comes in  
6 over the walkie-talkie.

7 Q. Okay.

8 A. You know, if I'm on a part of  
9 the property and they need me, all  
10 they got to do is holler.

11 Q. Okay. So the people  
12 underground can communicate with you  
13 on the surface, ---

14 A. Yes.

15 Q. --- through that walkie-  
16 talkie?

17 A. Through the mine phone, yes.

18 Q. Anything that's said over the  
19 pager phone, you can hear?

20 A. As long as they're paging.

21 Q. Okay.

22 A. Now, they have to page in  
23 order for me to hear.

24 Q. Okay.

25 A. You know, if they just use the

1 hand and talk like you do on a  
2 regular mine phone, ---

3 Q. Yes.

4 A. --- I can't hear them. But as  
5 long as they're paging, I can hear  
6 them, yes.

7 Q. Can you talk back to them?

8 A. Yes.

9 Q. But they have to continue to  
10 hold the pager button down for you  
11 to ---

12 A. Yes.

13 Q. --- continue to speak to them?

14 A. I mean, they can hear me, but  
15 unless they page, I can't hear them.

16 Q. Okay. So that's how you knew  
17 there was something wrong?

18 A. Yes.

19 Q. And what did you hear over the  
20 walkie-talkie at that point?

21 A. I just heard Flea hollering  
22 for mainly Two Left, because  
23 according to the COs, that's where  
24 the problem was.

25 Q. Okay. And what was Flea

1 saying?

2 A. He was just hollering for them  
3 to try to get them to answer.

4 Q. Okay. And you heard that over  
5 your phone?

6 A. Yes.

7 Q. And then when you heard that,  
8 what did you do?

9 A. I went to the dispatcher's  
10 office to see what was going on.

11 Q. So you never did go down in  
12 the pit at that point yet?

13 A. No.

14 Q. So you went to the  
15 dispatcher's office?

16 A. Yes, sir.

17 Q. What did you observe there?

18 You know, kind of give me a little  
19 bit of what went on there.

20 A. Well, I just walked in and I  
21 asked Flea what was going on. They  
22 said, well, we've lost the power on  
23 the beltlines. One and Two belt was  
24 still running, but the rest of them  
25 weren't. And I saw that about --- I

1 believe it was six of the COs were  
2 pegged on the monitor.

3 Q. And do you recall which six  
4 that was?

5 A. I believe it was three on Two  
6 Left and three close to the tail of  
7 Four belt. I think the first one or  
8 two on Four belt at the tail were  
9 showing dead. They were gray.

10 Q. And that gray color, that's  
11 what it does whenever you have a loss  
12 of power?

13 A. Loss of power or they're  
14 disconnected, whatever, yes.

15 Q. Do you ever fill in as  
16 dispatcher?

17 A. Yes, sir.

18 Q. Okay. Then after you saw  
19 those were dead, then what happened?

20 A. Well, it's a little hard to  
21 remember.

22 Q. That's okay. Take your time,  
23 you know.

24 A. I went in and asked Flea what  
25 I could do to help. And of course he

1 was pretty busy. And I talked to  
2 several guys underground that called  
3 out, because Flea was on the  
4 telephone trying to get ahold of ---  
5 we tried calling Raymond Coleman and  
6 Chuck Dunbar.

7 Q. Who's Raymond Coleman?

8 A. He's one of the officials.

9 Q. Okay.

10 A. But I'm not sure what his  
11 title is. But you know, we were  
12 trying to let them know that  
13 something was wrong.

14 Q. Yes. And when you said you  
15 had --- or there was a conversation  
16 with people underground, who would  
17 that have been?

18 A. Well, during the day, I talked  
19 to ---.

20 Q. No, I mean at that point  
21 there, whenever you initially ---.

22 A. At that point?

23 Q. Yes.

24 A. Initially, I think the first  
25 one I talked to was John Boni.

1 Q. Okay. And what was the extent  
2 of that conversation?

3 A. I guess he was along Three  
4 Belt. And he bent over, checking a  
5 pump. And he said he felt the air  
6 change.

7 Q. Okay.

8 A. And he called out and asked me  
9 what was going on. He said he  
10 thought we had had a fall. And he  
11 asked me what the COs were doing and  
12 I told him.

13 Q. What did you tell him?

14 A. I told him that the ones on  
15 Four Belt were going crazy. And he  
16 said he thought we had a problem.

17 Q. Did he say what that problem  
18 might be?

19 A. No. At first he thought it  
20 was a major roof fall.

21 Q. Yes.

22 A. Because he said he could feel  
23 the pressure from where he was. And  
24 I really can't remember what all was  
25 said.

1 Q. So that initial conversation  
2 was with Mr. Boni?

3 A. I believe he was the first one  
4 I talked to, yes.

5 Q. All right. And then after  
6 your conversation with him, then go  
7 ahead, continue.

8 A. Owie Jones called just a  
9 little after that.

10 Q. Okay.

11 A. And he was up around One Left  
12 switch.

13 Q. And you received that call?

14 A. Yes.

15 Q. You took that call?

16 A. Yes, sir.

17 Q. All right.

18 A. That might not have been his  
19 initial call. You know, Flea may  
20 have talked to him before that. I  
21 really don't know.

22 Q. Okay. But you don't recall  
23 Flea speaking to Mr. Jones at that  
24 point? You didn't hear any  
25 conversations with Mr. Jones?



1 A. No, not unless he talked to  
2 him before I got in there.

3 Q. Okay. Go ahead.

4 A. But Owie told me he was trying  
5 to get to Two Left, but he said it  
6 was so smoky and stuff that he  
7 couldn't get up there. And he really  
8 didn't know where he was. And I told  
9 him there was help coming, and to  
10 either stay where he was or get back  
11 in fresh air, which he told me he was  
12 going to try to get to his brother.

13 Q. At that point --- when was the  
14 first thought that there may have  
15 been an explosion, or how did you  
16 realize that there was an explosion?

17 A. Well, it was probably after  
18 Dick and all of them went  
19 underground. Dick called out and  
20 said, we had a major explosion.

21 Q. Okay.

22 A. You know, I kind of thought  
23 that, but I didn't know.

24 Q. Well, had they gone  
25 underground before your conversation

1 with Mr. Jones?

2 A. Yes.

3 Q. So you had your conversation  
4 with Mr. Jones. And then what  
5 happened?

6 A. Well, Ron Grall called. He  
7 said he was at the maintenance  
8 shanty, which is --- it's either  
9 Seven or Nine block on Four belt. He  
10 had been on the One Left mantrip.  
11 And he told me that he and Paul  
12 Avington were at the maintenance  
13 shanty and they were okay.

14 Q. Do you know approximately what  
15 time that might have been?

16 A. No, sir.

17 Q. Okay.

18 A. I can't tell you.

19 Q. Sure.

20 A. I didn't look at times.

21 Q. I understand.

22 A. But I told him that Dick and  
23 them were in there, and Dick was  
24 getting ready to bring One Left crew  
25 out. And I told him that if they

1 were in fresh air, okay, just stay at  
2 the track and wait on Dick, that way,  
3 you know, they could get a ride out,  
4 which I guess that's what they did.

5 Q. Now, I'll ask you, you said  
6 you didn't --- or a moment ago you  
7 said you didn't remember times, but  
8 do you happen to remember, or is  
9 there some way you can relate what  
10 time Mr. Wilfong and Mr. Toler ---?  
11 Who all went underground?

12 A. Dick Wilfong, Al Schoonover,  
13 Jeff Toler and Vern Hofer.

14 Q. Do you know approximately what  
15 time they might have gone  
16 underground?

17 A. Yeah. I could make a guess,  
18 but I can't tell you ---. You know,  
19 there was so much going that I wasn't  
20 worried about times.

21 Q. Sure. Okay. Had you spoken  
22 to them prior to them going  
23 underground?

24 A. Yes, sir.

25 Q. And when was that?

1 A. Probably 20 'til 7:00 or  
2 something like that. That's just a  
3 guess.

4 Q. After the explosion?

5 A. Yes, sir.

6 Q. And what was the extent of  
7 that conversation?

8 A. Well, they just said they were  
9 going under to see what happened.  
10 And I told them I wanted to go with  
11 them, and they told me I couldn't go.  
12 So that was --- that was pretty  
13 well ---.

14 Q. Was that up around the  
15 dispatcher shanty that you had that  
16 conversation?

17 A. Yes.

18 Q. And did they have any --- do  
19 you recall, did they have any  
20 detectors or anything with them?

21 A. I'm not sure.

22 Q. Okay.

23 A. I mean, I don't know.

24 Q. And after you had this  
25 conversation, did you go into the

1 dispatcher shanty then?

2 A. Yes, sir.

3 Q. And then that's whenever you  
4 had these calls that we've just  
5 discussed?

6 A. Yes.

7 Q. After you had your  
8 conversation with Mr. Grall, then  
9 what occurred?

10 A. I believe that might have been  
11 about the time that --- that might  
12 have been about the time that Dick  
13 called out and said that we'd had a  
14 major explosion and we needed help.

15 Q. And Dick, who would that have  
16 been?

17 A. Dick Wilfong.

18 Q. Wilfong.

19 A. Yes, the maintenance foreman.

20 Q. All right. And tell me a  
21 little more about that conversation.

22 A. Well, he just said that, we've  
23 had a major explosion. And he said  
24 we need help and we need help now.

25 Q. Okay. And then what happened

1 then?

2 A. Well, he told me he had got  
3 the One Left crew and he was going to  
4 bring them out. And I guess they  
5 started out with them. And then Jeff  
6 Toler, the superintendent called me.  
7 And he said, I want fly boards,  
8 curtain, nails, spads an extra hard  
9 hat and two monitors sent in.

10 Q. Monitors. When you say  
11 monitors, what do you mean?

12 A. The ITX methane monitors.

13 Q. Okay. Methane detectors?

14 A. Yes. Sent in with Dick when  
15 he gets out there, which I went out  
16 and proceeded to get all that  
17 together. And when Dick got there, I  
18 loaded it on the mantrip for him.

19 Q. After you had that  
20 conversation, you went to --- you  
21 left the dispatcher shanty at that  
22 point then?

23 A. Yes, sir.

24 Q. And you went to gather  
25 material that he had asked for?

1 A. Yes, sir.

2 Q. And how many methane detectors  
3 did you get for him?

4 A. Two.

5 Q. Two?

6 A. Yes, sir.

7 Q. Where did you get those  
8 detectors?

9 A. Out of the dispatcher's  
10 office. That's where they keep them  
11 to charge them.

12 Q. And then you gathered up the  
13 supplies, the supplies that he had  
14 asked for?

15 A. Yes, sir.

16 Q. And what did you do next?

17 A. I took everything over the  
18 hill and waited for Dick to get out  
19 there. And it was pouring rain down.  
20 Got soaking wet. Once Dick got out  
21 there, I loaded the stuff in the  
22 mantrip for him to take back in.

23 Q. Okay. When Dick came out,  
24 then he brought the One Left crew  
25 out, ---

1 A. Yes, sir.

2 Q. --- those that were  
3 underground?

4 A. Yes.

5 Q. Was there any conversation  
6 among any of those people that you  
7 might have had?

8 A. I didn't at that time, no.

9 Q. And what conversation did you  
10 have with Mr. Wilfong?

11 A. Just asked him if there was  
12 anything else that he needed. And he  
13 said, no, he needed to get back in  
14 there and he just pretty well went  
15 back.

16 Q. And you loaded all that  
17 material onto the ---

18 A. Yes.

19 Q. --- mantrip?

20 A. Of course Dick and a couple  
21 other guys helped me, you know. I  
22 didn't load it all myself.

23 Q. Okay. Did anyone go  
24 underground with Mr. Wilfong?

25 A. Vern Hofer.



1 Q. Just the two of them went  
2 underground, back underground?

3 A. At that time, ---

4 Q. Yes.

5 A. --- yes.

6 Q. Okay. Then what did you do?

7 A. Well, I went back up to the  
8 dispatcher's office to help with  
9 communications and stuff.

10 Q. Prior to going underground,  
11 did anyone go over and check any of  
12 the mine openings for methane or  
13 carbon monoxide, or did anybody make  
14 examinations at that point?

15 A. I believe John Boni did when  
16 he got outside. But now before the  
17 initial group went underground, I  
18 really don't know.

19 Q. Okay. But at that point when  
20 you were in the pit, did you ever  
21 observe anyone doing that?

22 A. No, sir. Now, they may have.  
23 I don't know.

24 Q. Okay. But you never say  
25 anyone make an examination?

1 A. No, sir.

2 Q. So then after they left to go  
3 back underground, what did you do  
4 then?

5 A. I just went back to the  
6 dispatcher's office and helped. By  
7 that time the telephone was ringing  
8 off the hook. I guess word got out.

9 Q. When you went to the  
10 dispatcher shanty, who was in there  
11 with you?

12 A. Well, at that time there was  
13 Flea and John Boni. And there were  
14 several of the One Left crew members  
15 in there also.

16 Q. Okay. And what were your  
17 activities at that point? Were you  
18 assisting in some fashion?

19 A. I was just assisting Flea.  
20 You know, if he was on the mine phone  
21 and the telephone rang, I answered  
22 it. If he was on the telephone and  
23 the mine --- if someone called on the  
24 mine phone, I answered it.

25 Q. And did you ever, at any

1 point, do any monitoring of the mine  
2 openings or anything?

3 A. No.

4 Q. No. Do you recall anyone ever  
5 going to the pit to make any  
6 examinations?

7 A. No, sir, I don't. But, you  
8 know, they may have. I really don't  
9 know.

10 Q. Do you recall anyone ever  
11 saying what the carbon monoxide  
12 levels might have been in the pit or  
13 the openings or anything?

14 A. The only thing I heard was we  
15 didn't have a detector to monitor,  
16 that it was too high.

17 Q. Okay. Going back to whenever  
18 Mr. Wilfong and Mr. Hofer came out  
19 and you guys were loading these  
20 supplies, during that conversation,  
21 did they indicate at all what CO  
22 levels they might have known about or  
23 anything like that? Was there any  
24 discussion to that effect?

25 A. The only thing they told me

1 was they had fresh air and they  
2 weren't reading a lot of methane or  
3 CO. I don't know exactly what point  
4 they were at, at that time, you know.

5 Q. When you went back to the ---  
6 getting back to whenever you're in  
7 the dispatcher shanty and One Left  
8 crew members were in there, okay, and  
9 you were assisting Flea by answering  
10 telephones. The telephone calls that  
11 you were getting --- did you make any  
12 telephone calls?

13 A. No.

14 Q. Okay. Then what were your  
15 activities for the rest of the day?  
16 Just kind of fill in the rest of the  
17 day there for me if you would,  
18 please.

19 A. Well, once MSHA got there and  
20 shut us down it was pretty much stand  
21 around and do nothing.

22 Q. Okay. Do you recall anyone  
23 calling the mine rescue team? Were  
24 you part of that at all?

25 A. Yes, sir, Johnny Stemple

1 called them.

2 Q. But were you involved in any  
3 of that?

4 A. Well, he called me and told me  
5 that he couldn't get ahold of the  
6 director or president, whoever it is  
7 you're supposed to notify.

8 Q. You mean the company people or  
9 MSHA?

10 A. No, the mine rescue team.

11 Q. Oh, okay.

12 A. I guess they have a president  
13 or a trainer or something. And he  
14 tried to get ahold of them and he  
15 couldn't.

16 Q. All right.

17 A. And he asked me to go over in  
18 the office and get the list of the  
19 mine rescue team, to give him some  
20 more phone numbers, ---

21 Q. Okay.

22 A. --- that he could get ahold of  
23 someone.

24 Q. All right.

25 A. And I did that.

1 Q. Okay.

2 A. I guess I did use the phone  
3 because I think I had to call him  
4 back.

5 Q. All right. And then you gave  
6 him a list of the mine rescue teams  
7 to call or the ---?

8 A. Well, it was the Barbour  
9 County team, which was the closest  
10 team.

11 Q. All right.

12 A. And he just needed some  
13 numbers to get ahold of one of them  
14 so that they could get ahold of  
15 everyone else.

16 Q. And how many phone numbers did  
17 you give him, one or two or ---?

18 A. I think it was like three.

19 Q. Three phone numbers?

20 A. Yes, sir.

21 Q. And what other subjects might  
22 you have talked to Mr. Stemple about?  
23 Anything? Or was that the extent of  
24 it?

25 A. I really can't remember

1 talking about anything else, other  
2 than, you know, just telling him we  
3 needed help.

4 Q. And what other individuals did  
5 you speak with maybe over the  
6 telephone? Do you recall any  
7 conversations you might have had with  
8 someone else when you answered the  
9 phone?

10 A. I spoke to some woman from The  
11 Exponent. I told her I had no  
12 comment.

13 Q. Okay.

14 A. I mean, there was all kind of  
15 news media calling. You know, we  
16 didn't talk to them. I really can't  
17 remember talking to anyone as far as  
18 a conversation over the phone.

19 Q. Do you recall approximately  
20 what time that might have been,  
21 whenever Mr. Stemple called?

22 A. Not really, but I'd say it was  
23 maybe a little after 7:00 that I  
24 talked to him.

25 Q. Okay.

1 A. But he had had phone contact  
2 before. You know, I don't ---.

3 Q. What makes you think that?

4 A. Well, I think Flea talked to  
5 him first. I mean, I'm not sure.

6 Q. Okay. But you didn't hear  
7 that conversation?

8 A. No.

9 Q. What makes you think that, you  
10 know, that he had a conversation with  
11 Flea?

12 A. Well, we were trying to get  
13 ahold of everyone in the company that  
14 we could, you know, to notify them  
15 that something was wrong. And I  
16 think Johnny Stemple was the first  
17 one we got ahold of, or that Flea got  
18 ahold of. I didn't get ahold of him.

19 Q. Okay. And then after you had  
20 the conversation with Mr. Stemple,  
21 and providing him with the phone  
22 numbers that he wanted, then what did  
23 you do?

24 A. I really can't remember. Just  
25 we stayed in there until I guess the



1 CO levels started getting so high  
2 coming out of the pit mouth that they  
3 made us evacuate the dispatcher  
4 trailer.

5 Q. Okay.

6 A. And they had us all around  
7 behind the offices. Actually, they  
8 wanted us to leave the property, but  
9 we stayed. They told us unless we  
10 were part of the rescue, we had to  
11 leave.

12 Q. Who was that that told you  
13 that?

14 A. I believe it was Mr.  
15 Satterfield.

16 Q. Okay.

17 A. They told him that I was part  
18 of the rescue, that I needed to load  
19 the supplies if they needed it.

20 Q. When you say they, who was  
21 they?

22 A. Raymond Coleman's the one that  
23 told him that.

24 Q. Okay. So you didn't have to  
25 leave?

1 A. No.

2 Q. And then what did you do then?

3 At that point there what happened?

4 A. We just stood out there for,  
5 you know, probably two or three hours  
6 and talked and really didn't do  
7 anything. We weren't allowed to do  
8 anything.

9 Q. You may have already answered  
10 this, but were you ever underground  
11 at Sago Mine?

12 A. Yes, sir.

13 Q. When was that?

14 A. Well, I ran motor there for a  
15 good while.

16 Q. Okay.

17 A. And the last time I was  
18 underground was like two weeks prior.  
19 It was on a Saturday two weeks prior  
20 to the accident.

21 Q. What was the purpose of your  
22 underground involvement that day?

23 A. I was ballasting track on Two  
24 Left. Actually, it was on Christmas  
25 Eve day. I worked that day and

1 ballasted track.

2 Q. Are you familiar --- or during  
3 your travels underground, would you  
4 have been familiar with the old Two  
5 Left Main seals?

6 A. No, sir. I was never up  
7 there.

8 Q. Okay. And you didn't deliver  
9 any supply? I know you said you were  
10 a motorman extra. Did you ever  
11 deliver any supplies up in that area  
12 at all?

13 A. No, sir. At that time, I  
14 wasn't underground. Until that  
15 Saturday I ballasted track, I had  
16 never been to Two Left. I mean,  
17 that's the only time I was ever up  
18 there.

19 Q. And then what time did you  
20 leave mine property? Do you have any  
21 idea?

22 A. On the day it happened?

23 Q. Yes.

24 A. It was roughly 10:30 that  
25 night.

1 Q. And what did you do from the  
2 time that you were asked to leave the  
3 property and you didn't leave the  
4 property, what did you do the rest of  
5 the day there?

6 A. Pretty well stood around out  
7 there, hoping that the men would get  
8 out.

9 Q. Were you assigned any duties  
10 during that period of time?

11 A. Off and on a truck would come  
12 in and I'd unload them. We had a  
13 bunch of Kennedy stoppings came in,  
14 extra curtain, foam packs. And, you  
15 know, just preparing in case we  
16 needed all this. But most of the  
17 time we was just standing around  
18 doing nothing.

19 Q. And I think you did say you  
20 were never asked to go into the pit  
21 to make any methane, oxygen or CO  
22 readings?

23 A. No, I wasn't asked to.

24 MR. SWENTOSKY:

25 Do you have anything,

1 John?

2 BY MR. COLLINS:

3 Q. Mr. Marsh, how long have you  
4 been employed by Anker, including  
5 Spruce Fork?

6 A. Roughly 40 years.

7 Q. And do you have a West  
8 Virginia coal miner's certificate?

9 A. Yes.

10 Q. Are you a certified  
11 electrician?

12 A. No.

13 Q. Mine foreman?

14 A. No.

15 Q. Any other West Virginia  
16 certifications?

17 A. (Indicates no).

18 Q. You said that you were having  
19 a bad lighting storm on January the  
20 2nd. Was it still dark, ---

21 A. Yes.

22 Q. --- at that time?

23 A. Yes, sir.

24 Q. And from what location did you  
25 observe the lightning? Where were

1 you at when you seen the lightning?

2 A. Oh, I was in the forklift  
3 behind the office going to get a  
4 pallet.

5 Q. Was that after the day shift  
6 crew had entered the mine?

7 A. Yes.

8 Q. In your opinion, where was  
9 that lightning at?

10 A. The way it looked to me, it  
11 was everywhere. I mean, it lit the  
12 sky up like it was daylight for just  
13 a second or two.

14 Q. You said you never helped  
15 build the seals ---

16 A. No.

17 Q. --- at Two Left?

18 A. I loaded the supplies to go in  
19 there.

20 Q. Did you load the seal  
21 material?

22 A. Yes, sir.

23 Q. Were those Omega blocks?

24 A. Yes, sir.

25 Q. Are they different than normal

1 Omega blocks?

2 A. Some of them were. Most of  
3 your Omega block are eight inch. And  
4 I guess they ordered six inch ---  
5 something about you top them off with  
6 six inch or something.

7 Q. Those were different sizes of  
8 Omega blocks ---

9 A. Yeah, ---

10 Q. --- they used in the seal?

11 A. --- as far as thickness.

12 Q. When those blocks came into  
13 the mine, were they separated  
14 different than normal Omega material?

15 A. No.

16 Q. Was there a different --- were  
17 there boards that you loaded with  
18 that material list?

19 A. No, because I don't think they  
20 used any wood in that, but I'm not  
21 real sure.

22 Q. Wedges, that you remember?

23 A. I may have loaded some wedges,  
24 but I really can't remember.

25 Q. What about the mortar for the

1 seals?

2 A. It was a --- it's not B-Bond,  
3 it was mine sealant, I think they  
4 called it.

5 Q. A different kind that you  
6 would normally use?

7 A. Yes, sir.

8 Q. That was for the seals?

9 A. For the seals.

10 Q. You were there the morning  
11 when the explosion occurred, Mr.  
12 Marsh. What time do you think it was  
13 clear that the surface knew they had  
14 had an explosion?

15 A. In my opinion?

16 Q. Yes.

17 A. Probably 6:45. But that's my  
18 opinion.

19 Q. And the two detectors --- I  
20 think you probably cleared this up  
21 for Dennis, but the two detectors you  
22 sent in were multi-gas detectors ---

23 A. Yes.

24 Q. --- you gave to Dick?

25 A. They're ITX detectors.



1 Q. Then just to clarify some of  
2 the time. I think you said that  
3 Johnny Stemple called back and said  
4 that he was having trouble getting  
5 hold of the Barbour County mine  
6 rescue station?

7 A. Yes, sir.

8 Q. And that you weren't sure what  
9 time that was, but you think it was  
10 around 7:00 a.m.?

11 A. 7:00, 7:30, I mean I'm not  
12 sure.

13 Q. And that Flea had already  
14 talked to Johnny Stemple prior to  
15 that conversation?

16 A. Yes, sir.

17 Q. Do you remember what three  
18 numbers you gave him, not the numbers  
19 but perhaps the individuals?

20 A. No, sir, I don't.

21 Q. You don't remember at all?  
22 Like if I said, is Chris Hite  
23 (phonetic) one of them, do you know  
24 if you gave him that number or not?

25 A. No. I gave him the number two

1 man on the list, but I can't remember  
2 what his name is.

3 Q. And you also said around  
4 twelve o'clock the government  
5 wouldn't let you go back into the pit  
6 anymore?

7 A. Yeah, it was around there.

8 Q. Do you know why they didn't  
9 want you to go down there?

10 A. They said CO levels were too  
11 high and they didn't want anyone down  
12 in there.

13 Q. Mr. Marsh, you've been pretty  
14 involved there in the rescue attempt,  
15 recovery, rehabilitation of the mine.  
16 Do you have anything that you'd like  
17 to --- that you could offer us or  
18 help us, any information you think we  
19 don't have, ---

20 A. Nothing I know of, John.

21 Q. --- as to what may have  
22 occurred?

23 A. I mean, in my opinion, we had  
24 a lightning strike that blew up the  
25 mine somehow, but I don't know how.

1 Q. Dick Wilfong came back outside  
2 and you mentioned the things that you  
3 put on the mantrip. Did you also put  
4 on any SCSRs, extra self-rescuers?

5 A. No, sir, not at that time.  
6 And I believe that --- well ---.  
7 Nothing.

8 Q. Then you mentioned it was  
9 raining.

10 A. Yes, sir.

11 Q. Pouring down rain I think is  
12 what you said?

13 A. Yes, at that time.

14 Q. Did that continue for a while?  
15 How was it?

16 A. Roughly a half hour I would  
17 say. But now by that time the  
18 lightning had pretty well eased up.  
19 You know, when the lightning storm  
20 was, it was raining, but not real  
21 hard. But the lightning kind of  
22 eased up and then the rain really  
23 poured down.

24 Q. If Number One Belt was  
25 running, Mr. Marsh, would the stacker

1 belt have also been running?

2 A. Yes. If the stacker wasn't  
3 running, it would shut Number One  
4 down.

5 Q. Do you know if there's a fan  
6 alarm in the dispatcher's office? If  
7 the fan goes down, does it set off an  
8 alarm in the dispatcher's office?

9 A. No.

10 Q. It doesn't or you don't know?

11 A. I don't believe. I don't  
12 believe it does. Now, there's a  
13 siren down at the fan which you can  
14 hear, ---

15 Q. Okay.

16 A. --- but I don't believe  
17 there's one in the dispatcher's  
18 office.

19 MR. COLLINS:

20 Okay. Thank you.

21 BY MR. SWENTOSKY:

22 Q. When Mr. Wilfong called out  
23 and said they had a major explosion  
24 and they needed help, do you know  
25 approximately what time that might

1 have been?

2 A. No, sir.

3 Q. Okay. Did he happen to say  
4 what kind of help? Did he just say  
5 help or ---?

6 A. He just said we needed help.

7 Q. Help.

8 A. You know, he didn't  
9 really ---.

10 Q. He didn't elaborate or ---?

11 A. No. I mean, I took for  
12 granted he needed mine rescue teams  
13 and that sort of help, but he really  
14 didn't say what we needed.

15 Q. Okay. When he asked for help  
16 then, what did you do? Did you tell  
17 anyone or call MSHA or anything like  
18 that?

19 A. We called Johnny Stemple.

20 Q. So that's what you --- that's  
21 what led you to call Mr. Stemple, ---

22 A. Yes, sir.

23 Q. --- was whenever he said he  
24 needed help?

25 A. Yes, sir.

1 Q. And I think Mr. Collins asked  
2 you about, were there any self-  
3 rescuers taken underground after Mr.  
4 Wilfong came out and you sent all the  
5 --- when you sent detectors and  
6 boards and nails and all this other  
7 stuff. Did you say they did take  
8 self-rescuers underground or ---?

9 A. If they did, they got them on  
10 their own. I didn't load them. I  
11 didn't see them take any.

12 MR. SWENTOSKY:

13 Okay. Can we take a  
14 short break here? Go off the  
15 record.

16 SHORT BREAK TAKEN

17 BY MR. SWENTOSKY:

18 Q. When you were --- you talked  
19 about when you first thought it was  
20 an explosion that occurred. Okay.  
21 And do you recall what time that was?  
22 I may have asked you this, but ---.

23 A. Not really. There was so much  
24 going on that ---

25 Q. Yes. And I understand that.

1 A. --- I wasn't worried about  
2 times. I was just ---.

3 Q. And how did you know or how  
4 did you come to know --- to think it  
5 was an explosion?

6 A. Well, the way the COs were  
7 going crazy in the mines, on our  
8 computer screen. And then when they  
9 called out, I talked to different  
10 people and they had seen all kind of  
11 dust. They felt different air  
12 changes, and you know, just  
13 experience in the mines, I thought it  
14 was an explosion, but I didn't say  
15 anything to anyone about it until  
16 Dick Wilfong called out. And I  
17 believe at that time, he was up  
18 around Four Drive or somewhere around  
19 in there. And he said, we had a  
20 major explosion.

21 Q. Is that --- I'm sorry. Go  
22 ahead.

23 A. Well, he had like 15 years'  
24 experience on a mine rescue team, so  
25 he would know from the conditions.

1 Q. Okay. And that's the first  
2 --- would that be then the first  
3 person that would have used the word  
4 explosion?

5 A. Yes. To my knowledge.

6 Q. Who were the first company  
7 people to arrive at the mine, other  
8 than the normal company people that  
9 were already at the mine?

10 A. Carl Crumrine was probably the  
11 first to arrive.

12 Q. Okay.

13 A. And then Raymond Coleman and  
14 Chuck Dunbar and all of them showed  
15 up. But I'm not certain what order  
16 they came in.

17 Q. Do you happen to remember ---

18 A. I can't tell you a time.

19 Q. --- what time? You knew my  
20 next question, huh?

21 A. Yes.

22 Q. Okay. During the period of  
23 time that you were answering the  
24 phone and then making some calls, an  
25 example, one of those to Mr. Stemple,



1           what was Flea --- what was he doing  
2           at that time?

3           A. If I was on the phone, he was  
4           probably on the mine phone. And we  
5           were notified that MSHA had put a (k)  
6           order on us and if we talked to the  
7           men underground attempting rescue, to  
8           tell them that we had a (k) order and  
9           they needed to evacuate.

10          Q. Who told you that, that there  
11          was a (k) order?

12          A. Johnny Stemple.

13          Q. And where was John at that  
14          time?

15          A. To the best of my knowledge,  
16          he was home. He was on the  
17          telephone.

18          Q. Okay. Were you on the  
19          telephone with him?

20          A. Yes, sir.

21          Q. And he told you that there was  
22          a (k) order on the mine?

23          A. Yes, sir. That's when he had  
24          notified MSHA of what was going on.

25          Q. So he had been notified ---

1 he, Mr. Stemple, had been notified of  
2 the (k) order while he was at home?

3 A. He was either at home or on a  
4 cell phone.

5 Q. Okay.

6 A. I really don't know. I talked  
7 to him on the telephone, but ---.

8 Q. Well, that call --- did you  
9 make the call to him when he ---?

10 Did you make the call to him when you  
11 learned of the (k) order, or did he  
12 call you?

13 A. He called us.

14 Q. Okay.

15 A. See, he notified the state and  
16 federal and the mine rescue teams and  
17 everything. I guess --- I'm not  
18 sure, but I think it was Mr.  
19 Satterfield that he got in touch  
20 with, with MSHA.

21 Q. Okay.

22 A. Which they automatically put a  
23 (k) order on us over the phone. And  
24 he called and notified me of that.

25 Q. And he called and notified you

1 of that?

2 A. Yes, sir. I just happened to  
3 answer the phone when he called.

4 Q. And you wouldn't happen to  
5 know what time that was, would you?

6 A. No, sir. It was before noon.

7 Q. And then who did you tell that  
8 information to, relay that  
9 information to?

10 A. Vern Hofer called out to --- I  
11 guess they had advanced the  
12 telephone. And he called out to see  
13 if they had communications. And I  
14 notified him at that time that we had  
15 a (k) order and they were to evacuate  
16 the mines and not to proceed any  
17 further.

18 Q. Okay.

19 A. And to the best of my  
20 knowledge, that's what they did.

21 Q. Did you tell anyone else on  
22 the surface that there was a (k)  
23 order on the mine?

24 A. I told Flea.

25 Q. Flea, okay.

1 A. I'm not sure --- I talked to  
2 John Collins. John told me if I  
3 talked to any of them, to tell them  
4 that they needed to come out of the  
5 mines.

6 Q. So the first company person  
7 that you had spoken to was Mr. Hofer,  
8 at that point. And he was the first  
9 person --- company person that was  
10 notified of the (k) order?

11 A. As far as I know.

12 Q. Okay. When you spoke to Owen  
13 underground, ---

14 A. Yes, sir.

15 Q. --- did you ask him where he  
16 was?

17 A. Yes, sir.

18 Q. What did he say?

19 A. He told me he was on Four belt  
20 somewhere, but he wasn't sure where  
21 he was.

22 Q. And he would have been using a  
23 pager phone?

24 A. Yes, sir.

25 Q. And you were in the

1 dispatcher's office on that pager?

2 A. Yes, sir.

3 Q. When you were speaking with  
4 Mr. Stemple, going back to him for a  
5 second, was the One Left crew out of  
6 the mine yet?

7 A. No, I don't believe. They may  
8 have --- I guess they were. Yeah, I  
9 believe they were.

10 Q. Your first call with Mr.  
11 Stemple or ---?

12 A. The one where he said we had a  
13 (k) order. I know they were out ---

14 Q. At that time?

15 A. --- at that time.

16 Q. Okay. So then you actually  
17 had three --- would I be correct in  
18 saying that you had three  
19 conversations with Mr. Stemple, three  
20 separate calls?

21 A. Yes, I would say.

22 Q. And it was the one with the  
23 discussion of the (k) order, when you  
24 absolutely know that the One Left  
25 crew was out of the mine?

1 A. Yes, sir.

2 Q. What about whenever he asked  
3 you to provide him with a list of  
4 persons on the list, what about that?

5 A. I believe the One Left crew  
6 was on their way out, but I'm not  
7 certain if they were out at that time  
8 or not.

9 Q. Okay. The walkie-talkie that  
10 you have, ---

11 A. Uh-huh (yes).

12 Q. --- is that the same type of  
13 walkie-talkie that the men use  
14 underground in the sections?

15 A. No.

16 Q. They're not?

17 A. No. Mine's a handheld  
18 walkie-talkie. I mean, if I got on  
19 the same frequency as them, it's  
20 possible that we could talk.

21 Q. Well, the two --- are you  
22 familiar with walkie-talkies, as far  
23 as appearance is concerned, with the  
24 men use underground on the sections?

25 A. Yes.

1 Q. Do they look the same?

2 A. More or less, but theirs has a  
3 microphone or a ---. It has a cord  
4 on it and similar to what the police  
5 have, where you clip this little  
6 microphone on your ---

7 Q. Microphone, okay.

8 A. --- and they can talk. Now  
9 mine you've got to push a button on  
10 the side of it and talk into it.

11 Q. They both have a flexible  
12 aerial on?

13 A. Yes.

14 Q. The ones underground and the  
15 one that you have do?

16 A. Uh-huh (yes).

17 Q. So then the only difference,  
18 in appearance, is one has a corded  
19 microphone?

20 A. They have a cord, yes.

21 Q. You don't happen to know the  
22 model number or anything like that,  
23 do you?

24 A. No, sir, I don't.

25 Q. But you know as far as the

1 frequency is concerned, in that way  
2 they're different?

3 A. I would say they are. I mean,  
4 I really don't know. The ones we  
5 have or that I carry has like three  
6 or four different frequencies on it.

7 Q. Okay.

8 A. But I have to be turned on a  
9 certain frequency in order to talk to  
10 the people.

11 Q. And just let me go through  
12 this one more time. And I apologize  
13 for doing this ---

14 A. Okay.

15 Q. --- another time, but ---.

16 When the pager button on the mine  
17 phone, the pager phone underground,  
18 you can hear whenever --- as long as  
19 the pager button on that particular  
20 phone is held down?

21 A. Yes, sir.

22 Q. When that button is let go by  
23 the person underground, then you  
24 cannot hear him any longer?

25 A. That's right.



1 Q. Okay. But can you contact the  
2 persons underground ---

3 A. Yes.

4 Q. --- with that?

5 A. Yes.

6 Q. So then whenever you speak on  
7 that walkie-talkie, then that  
8 broadcasts all over the mine?

9 A. Yes, sir.

10 Q. Through the pager phone?

11 A. The mine phones, yes, sir.

12 Q. But for them to call you back,  
13 they have to hold the pager button  
14 down?

15 A. Yes, sir.

16 BY MR. COLLINS:

17 Q. If I might, just a second. I  
18 just need you to clarify one thing.  
19 You said that --- this is on the  
20 radios again. You said that you  
21 could, with the handheld radio that  
22 you carried outside, ---

23 A. Uh-huh (yes).

24 Q. --- that you could talk to the  
25 people underground. But you did not

1 mean you could page these little  
2 handheld radios that they carry on  
3 them in the section?

4 A. No. Mine phone only.

5 Q. Okay. So from outside on the  
6 surface, the phone that you carry  
7 when you're in your forklift and  
8 stuff, you cannot talk to the guys on  
9 the section that are carrying the  
10 little handhelds?

11 A. No. No, I cannot.

12 Q. And I'm trying to clarify a  
13 little time. You know, the event  
14 occurred, everything was busy. But  
15 Dick, Al, Vern and Jeff got ready to  
16 go underground.

17 A. Uh-huh (yes).

18 Q. How long do you think it was  
19 before they actually headed  
20 underground?

21 A. It's just a guess, John, but  
22 I'd say probably 15 minutes after it  
23 happened.

24 Q. And we're thinking this all  
25 occurred around 6:30, 6:31. And you

1 observed these people throwing their  
2 lights on and running down the hill  
3 and got underground pretty fast?

4 A. Yes, sir.

5 Q. Then Dick and Vern brought the  
6 One Left crew back outside?

7 A. Yes, sir.

8 Q. And you seen them come back  
9 outside and they loaded up some stuff  
10 and went underground?

11 A. Yes.

12 Q. Then what time that day do you  
13 think Dick and Al, Vern, Owen and  
14 Jeff got back outside?

15 A. Do you want a time or a guess?

16 Q. No.

17 A. I mean ---.

18 Q. If you don't know, you don't  
19 know.

20 A. I don't know.

21 Q. Do you know if the Sago Mine  
22 has any employees on the Barbour  
23 County Mine Rescue Team?

24 A. Yes, sir.

25 Q. Do you know who they are?

1 A. Yes, sir. Teddy Hickman and  
2 --- oh, boy. The boss over there and  
3 I can't even think of his name right  
4 now. Hedrick.

5 Q. Roger?

6 A. Roger Hedrick. And there was  
7 one that just got on it.

8 Q. Since the explosion, there's  
9 been another one?

10 A. No. He got on it right before  
11 the explosion. I know his name but I  
12 can't think of it.

13 Q. But three total? The numbers  
14 that you gave that day, were any of  
15 these three numbers given to Johnny  
16 Stemple, if you can recall?

17 A. It's possible, John, but I  
18 really can't remember.

19 Q. What about what shift these  
20 guys would have been working that  
21 day? The mine had just changed to a  
22 seven-day work week, you know,  
23 shortly before this.

24 A. Well, at that time, they were  
25 all off because two of them worked

1 midnight shift and one of them works  
2 the weekend.

3 Q. So they would have been off  
4 this day?

5 A. Yes, sir.

6 MR. COLLINS:

7 Okay, Dennis. Thank  
8 you.

9 BY MR. SWENTOSKY:

10 Q. When was the last annual  
11 retraining class that you  
12 participated in for the Sago Mine?

13 A. It was sometime back in the  
14 summer, after vacation. I really  
15 don't know.

16 Q. The summer of 2005?

17 A. Yes, sir.

18 Q. Did you receive hands-on SCSR  
19 training?

20 A. Yes.

21 Q. And tell me a little bit about  
22 that. How did they do that?

23 A. Well, they just had a display  
24 model and Al showed you how to don  
25 it. And then he asked you to

1 demonstrate it.

2 Q. You mean how to put it on?

3 A. Yes, sir.

4 Q. And you did that?

5 A. Yes, sir.

6 Q. Was there any additional  
7 training that you think should be  
8 added to that training?

9 A. No, not really.

10 Q. Did you feel the training that  
11 you received was adequate?

12 A. Yes.

13 Q. Have you ever been searched  
14 for smoking materials?

15 A. Yes, sir.

16 Q. How do they do that?

17 A. They just pat you down and ask  
18 you if you have any smoking ---.

19 Q. How often do they do that?

20 A. It's usually once a month.

21 Q. Have you ever observed anyone  
22 smoking underground?

23 A. No.

24 Q. Have you ever found any  
25 smoking materials underground?

1 A. No, sir, not at these mines.

2 Q. Has anyone offered you  
3 anything or made any promise to you  
4 in exchange for you appearing here  
5 today?

6 A. No, sir.

7 Q. Do you have anything that you  
8 would like to add that would be  
9 relevant to the investigation at this  
10 time?

11 A. No, sir.

12 MR. SWENTOSKY:

13 On behalf of MSHA, I  
14 would like to thank you for  
15 appearing and answering the  
16 questions today. Your  
17 cooperation is very important  
18 to the investigation as we  
19 work to determine the cause of  
20 the accident.

21 We ask that you not  
22 discuss your testimony with  
23 any person who may have  
24 already been interviewed or  
25 may be interviewed in the

1 future. This will ensure that  
2 we obtain everyone's  
3 independent recollection of  
4 the events surrounding the  
5 accident.

6 After questioning other  
7 witnesses, we may call you if  
8 we have any follow-up  
9 questions that we feel that we  
10 will need to ask you. If at  
11 any time you have additional  
12 information regarding the  
13 accident that you would like  
14 to provide to us, please  
15 contact us at the contact  
16 information that was  
17 previously provided to you.  
18 And that's the business cards  
19 that you received.

20 The Mine Act provides  
21 certain protections to miners  
22 who provide information to  
23 MSHA, and as a result are  
24 treated adversely. If at any  
25 time you believe that you have



1           been treated unfairly because  
2           of your cooperation in this  
3           investigation, you should  
4           immediately notify MSHA.

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

12     Do you have anything  
13     else?

14     A. I'd just like to know why MSHA  
15     wouldn't let the mine rescue teams go  
16     in there and rescue those men. I  
17     mean, that's --- there were 11 men in  
18     there that could have been saved.  
19     And it's really hard to know that  
20     they laid in there and died and they  
21     could have been saved.

22     MR. SWENTOSKY:

23     Okay. Anything else?

24     A. No.

25     MR. SWENTOSKY:

1 Okay. We thank you for  
2 your cooperation in helping us  
3 in this matter. Thank you.  
4

5 \* \* \* \* \*

6 SWORN STATEMENT

7 CONCLUDED AT 2:01 P.M.

8 \* \* \* \* \*

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25