

STATEMENT UNDER OATH

OF

DAVID LEVERKNIGHT

Taken pursuant to Notice by Miranda
D. Elkins, a Court Reporter and
Notary Public in and for the State of
West Virginia, at The Wingate Inn,
350 Conference Center Way,
Bridgeport, West Virginia, on Sunday,
March 26, 2006, at 11:14 a.m.

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1 A P P E A R A N C E S (continued)

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P R O C E E D I N G S

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 James Crawford from the Solicitor's Office and Mike Rutledge and Dave Stuart with the West Virginia Office of Miners' Health, Safety & Training.

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

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

6 At this time, the
7 accident investigation team
8 intends to interview a number
9 of people to discuss anything
10 that may be relevant to the
11 cause of the accident. 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 a hope that
19 greater awareness about the
20 accident --- causes of
21 accidents can reduce their
22 occurrence in the future.

23 Information obtained
24 through witness interviews is
25 frequently included in these

1 reports. Your statement may
2 also be used in other
3 enforcement proceedings.

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

19 The interview with Mr.
20 David Leverknight is being
21 conducted under Section 103(a)
22 of the Federal Mine Safety &
23 Health Act of 1977 as a part
24 of an investigation by the
25 Mine Safety and Health

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

11 This interview is being
12 conducted at the Wingate Hotel
13 in Bridgeport, West Virginia
14 on March 26th, 2006.

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

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

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

9 If at any time after
10 the interview you recall any
11 additional information that
12 you believe may be useful in
13 the investigation, please
14 contact Richard Gates at the
15 phone number or e-mail address
16 provided to you. Here's a
17 business card.

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

25 A court reporter will

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

13 If any part of your
14 statement is based not on your
15 firsthand knowledge, but on
16 information that you learned
17 from someone else, please let
18 us know. Please answer each
19 question as fully as you can,
20 including any information that
21 you have learned from someone
22 else. We may not ask the
23 right questions to learn the
24 information that you have, so
25 do not feel limited by the

1 precise question asked. If
2 you have information about a
3 subject area of a question,
4 please provide us with that
5 information.

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

12 MR. RUTLEDGE:

13 Yeah, I have a little
14 statement for you have. Just
15 that the West Virginia Office
16 of Miners' Health, Safety &
17 Training is conducting this
18 interview session jointly with
19 MSHA, and is in agreement with
20 the procedures that's been
21 outlined by Mr. Swentosky for
22 the interview that will be
23 conducted here today.

24 However, the Director
25 of Miners' Health, Safety &

1 Training does reserve the
2 right, if necessary, to call
3 or subpoena witnesses or
4 require the production of any
5 record, document, photograph
6 or other relevant materials
7 necessary to conduct this
8 investigation. We appreciate
9 you being here with us today.
10 Thank you for coming. And if
11 you have any questions as far
12 as any of the State
13 proceedings, you can contact
14 Brian Mills there at that
15 address.

16 MR. SWENTOSKY:

17 Mr. Leverknight, are
18 you aware that you may have a
19 personal representative
20 present during the taking of
21 this statement.

22 MR. LEVERKNIGHT:

23 Yes.

24 MR. SWENTOSKY:

25 And do you have a

1 representative with you here
2 today?

3 MR. LEVERKNIGHT:

4 Yes.

5 MR. SWENTOSKY:

6 And who might that
7 representative be?

8 MR. LEVERKNIGHT:

9 Steve McGowan.

10 MR. SWENTOSKY:

11 Thank you. Do you have
12 any questions regarding the
13 manner in which the interview
14 will be conducted before we
15 get started.

16 MR. LEVERKNIGHT:

17 No.

18 MR. SWENTOSKY:

19 And could you please
20 swear in Mr. Leverknight,
21 please?

22 -----

23 DAVID LEVERKNIGHT, HAVING FIRST BEEN
24 DULY SWORN, TESTIFIED AS FOLLOWS:

25 -----

1 BY MR. SWENTOSKY:

2 Q. And could you state your name
3 and spell your last name for us,
4 please?

5 A. David Leverknight,
6 L-E-V-E-R-K-N-I-G-H-T.

7 Q. And could you provide us with
8 your address and telephone number,
9 please?

10 A. 865 Lagonda Road, Washington,
11 Pennsylvania, 15301, 724-225-3232.

12 Q. Thank you. And are you
13 appearing here today voluntarily?

14 A. Yes.

15 Q. And what mining company do you
16 work for?

17 A. I work for Consol Energy at
18 the Enlow Fork Mine.

19 Q. And what is your position?

20 A. I'm a mine examiner.

21 Q. And your position on the team?

22 A. Captain.

23 Q. And how were you notified of
24 the explosion at the Sago Mine?

25 A. Just got a phone call at home.

1 Q. And when --- do you recall
2 when that was?

3 A. About 11:00, 11:30 in the
4 morning on the 2nd.

5 Q. And who notified you?

6 A. It was our trainer at the
7 time, Bob Gross (phonetic)

8 Q. And what did he tell you?

9 A. He just said we had an
10 explosion and possibly a fire in West
11 Virginia, get to the mine as soon as
12 possible. That was it.

13 Q. And you say get to the mine,
14 what ---?

15 A. Yeah, I was home. I was at
16 home on shutdown, Christmas shutdown,
17 and I had to go to the portal where
18 we store our trailer and our
19 equipment to start getting stuff
20 ready.

21 Q. And that was at Enlow Fork
22 Mine?

23 A. Yeah.

24 Q. Okay. And approximately what
25 time did you leave Enlow Fork?

1 A. I'm guessing right around one
2 o'clock.

3 Q. And just --- let's just start
4 there and just kind of lead me
5 through --- just give me all the
6 information from the time you left
7 and you went to the mine, you got to
8 the mine and what you did until the
9 recovery started.

10 A. Okay. Well, we started
11 heading towards, down towards Westin
12 Exits where they told us that it was
13 at. We got as far as the Fairmont
14 Exit, I believe it's South Fairmont.
15 They told us to stop at the mall and
16 wait, someone would be there and meet
17 us to give us directions what to do
18 from there. So that's where we got
19 off at. We waited at the mall. We
20 met someone, I have no idea who it
21 was. And they told us to go to the
22 Consol Monongah office, so that's
23 where we went to next.

24 We got there. We waited there
25 for probably, I don't know, two or

1 three hours. And from what we were
2 told, they already had plenty of
3 teams on location. They told us to
4 go down to the Westin Exit, get off
5 and we were staying at the Comfort
6 Inn. So we went down there and
7 that's where we were overnight. They
8 called us with our rotation. Our
9 team was to be there at, I believe,
10 lunchtime the next day.

11 So we went there the next day,
12 took our trailer, had our equipment,
13 got it all ready and waited for them
14 to tell us when to go underground.

15 Q. Okay. Go ahead.

16 A. Keep going?

17 Q. Yeah.

18 A. Okay. I believe we went
19 underground around --- I think we
20 started in underground about four
21 o'clock. We were told we were going
22 to go up and examine the sealed area
23 and start into Two Left. As soon as
24 we went underground, we had to
25 advance the fresh air base. The

1 fresh air base was just outby One
2 Left. I don't know the block numbers
3 for sure. We had to finish hanging a
4 check in the belt line, hang a check
5 across the track entry. And they
6 were taking our air over into the
7 intake and taking it up the intake on
8 the right side of the track.

9 So we did all that, advanced
10 our telephone and stuff up to --- it
11 was straight across from Two Left
12 switch. I'm not sure of the block
13 number there either. And that's
14 where we met Bailey's team, who was
15 waiting on us. They had gotten done
16 exploring and they were just sitting
17 there waiting on us to get the fresh
18 air base moved up to that point.

19 Once we got up there, got the
20 fresh air base established, they were
21 our backup, and we went up to the
22 seals to start exploring the seals.
23 We started on the right side, which
24 was, I believe, Eight or Nine, I'm
25 not sure of the number and worked our

1 way across to the left checking all
2 the seals. Called out all the
3 information. They wanted to know the
4 direction of the blast, which way it
5 looked like it was going, the gas
6 readings, air movement. Worked our
7 way all the way across to the left
8 side of the mains.

9 After we got all that done,
10 they told us to come back to the
11 fresh air base and get ready to go
12 into Two Left, so that's what we did.
13 We started in Two Left. We were just
14 traveling the track entry, the whole
15 team together. We got up so far, we
16 couldn't communicate back to the
17 fresh air base without dropping a guy
18 off with a radio. We dropped him off
19 just inby the blown out overcast.
20 Again, I'm not sure of the block
21 number, Three or Four wall. And we
22 continued up the track and we could
23 see the mantrip inby us. They told
24 us to go up to the mantrip. We went
25 up to there, found nothing on the

1 mantrip, except one bucket. So we
2 knew they had survived the initial
3 blast. That's when we went --- they
4 told us go another block inby. We
5 went one block inby over to the next
6 entry to the right of the track,
7 which was common. That's where we
8 found the SCSRs opened up, the tops
9 and the bottoms laying there. And
10 you could see the footprints heading
11 outby in that area. So that's where
12 we started going outby.

13 At that point, I stayed in the
14 track entry, because again, we
15 couldn't communicate without leaving
16 a guy in the track. The rest of the
17 guys were over in the two entries to
18 the right of the track heading outby
19 and they went a block or two and they
20 lost the tracks, couldn't find them
21 anymore. We stopped in and we were
22 going back and forth with the fresh
23 air base on which way they wanted us
24 to go. They decided to send us on
25 outby, out the intake to see if they

1 went that way. We went on out that
2 way, didn't find anything. So then
3 they had us tie in the crosscuts
4 between the fresh air base and the
5 seals because when we went in, we had
6 went to the Number Nine entry or
7 Eight, went up, went across the seals
8 and then come straight back and went
9 in Two Left. So there was few
10 crosscuts there that weren't actually
11 tied in as far as really looked over
12 good. So they had us go back and do
13 all that, tie all that area in. And
14 to that point, it had been three
15 hours that we were exploring and we
16 were out of air. So they sent us
17 back to the fresh air base and sent
18 us outside after that. And I believe
19 Bailey started exploring after that
20 when they got a backup team.

21 Q. Okay. And that was the last
22 time you were underground?

23 A. No. We went back under the
24 next morning for the recovery of the
25 bodies.

1 Q. All right. Well, let's just
2 --- right here we'll start with the
3 --- when you arrived at the mine and
4 --- what activities were going on
5 when you arrived at the mine?

6 A. Just getting our equipment
7 ready. We had everything packed in
8 our trailer. It was the first that
9 we had been there, so we had to get
10 everything --- all the machines out,
11 make sure they were benched,
12 everything ready to go.

13 Q. And who was directing the
14 activities at the mine at that point?
15 Do you have any idea?

16 A. A lot of people.

17 Q. Okay.

18 A. I mean ---.

19 Q. And did you receive a briefing
20 before you went underground?

21 A. Yeah. We were told --- you
22 know, showed the map, what area of
23 the mine we were going to and what
24 they wanted us to check the seals and
25 head into the Two Left section. We

1 were shown all that on the map and
2 you know, that was it. Told where we
3 were going to. And then when we went
4 in and actually made it to the fresh
5 air base, the team that was in there,
6 which I believe was Loveridge's team,
7 they told us what they needed to do
8 to finish up there as far as the air,
9 hanging the checks and that to get
10 the fresh air base advanced up to
11 where we were going to start
12 exploring, and that was it.

13 Q. Okay. And on the surface, who
14 gave you that briefing?

15 A. I believe Bill Tolliver was
16 there from Consol. I think Mike was
17 there from the State. Their safety
18 guy, I think his name was Tyrone.
19 I'm not sure.

20 Q. Okay.

21 A. As far as MSHA guy, Virgil
22 Brown was in and out. I mean, there
23 were so many people going so many
24 different directions.

25 Q. Okay. When you moved the

1 fresh air base up, and you're not
2 sure exactly where that crosscut was.
3 It was up near the mouth ---?

4 A. Not really. It was right by
5 the mouth --- right --- it was over
6 in the intake, but it was almost
7 straight across from Two Left switch.

8 Q. Okay. And then you went ---
9 when you went up to the --- you say
10 you went up to the Two Left seals ---

11 A. Right.

12 Q. --- or whatever?

13 A. Up the mains. The seals of
14 the mains, yeah.

15 Q. Okay. And did you go in by the
16 seals, actually where the seals were
17 or ---?

18 A. On the first entry we went the
19 right side, we actually passed where
20 the seal was because I mean, we were
21 expecting to find seals and
22 everything was so sooted over, black,
23 we actually walked past it and we
24 came to the point where they did the
25 second layer mining. And Jan Lyall

1 was with us from MSHA. He was
2 familiar with that and he knew right
3 away that we were too far in. So
4 then we backed up and we did actually
5 find a little bit of evidence on the
6 rib, like mortar where it had been,
7 the seal. But that was all the
8 evidence there was left of it.
9 That's why we passed it up.

10 Q. Okay. And what were the ---
11 do you recall what the CO levels were
12 up in that area or ---?

13 A. Not for sure. They were all
14 around between 500, 600 I think,
15 right in that area, like .8, .7 of
16 methane and we had like 20 percent
17 oxygen.

18 Q. Okay.

19 A. We had good oxygen all the way
20 across, .7, .8 all of them. I think
21 the ones on the left side we might
22 have got up around one percent.

23 Q. When you went too far and then
24 you had to come back because you had
25 reached the area where it was deep --

1 -

2 A. Right.

3 Q. --- where they had did the
4 bottom cutting, ---

5 A. Right.

6 Q. --- and then you started down
7 the --- came back and started down
8 the line of where the seals were
9 supposed to have been, ---

10 A. Right.

11 Q. --- did you check each one of
12 those locations or ---?

13 A. Yeah, we checked every one.
14 Each one we checked, we had to call
15 out, you know, what we found, which
16 way the force looked like it was
17 going, if we had any air movement,
18 gas readings, everything. Everything
19 was checked. Like I said, it took
20 three hours to do what we did, so
21 ---.

22 Q. Okay. Then after you checked
23 all the seals, where the seals were
24 supposed to be, ---.

25 A. Right.

1 Q. --- and then you went back
2 over into the track?

3 A. Yeah. We came straight back
4 the, it would have been, Number Two
5 entry, I believe, straight back the
6 spur that was sticking ahead where
7 Two Left switch went in. Went
8 straight back to there and that's
9 where we waited for orders to go into
10 Two Left.

11 Q. Okay. And then you started in
12 Two Left, did you go in the track
13 entry?

14 A. Yeah, we all went up the track
15 entry.

16 Q. And how many team members did
17 you have with you that day?

18 A. We had five --- five people on
19 our team plus Jan Lyall from MSHA.
20 And we had a State man with us that I
21 think his name was Jim Hall, but I'm
22 not positive on that.

23 Q. Okay.

24 A. I never worked around him
25 before.

1 Q. Just for the record, could you
2 give us the name of your team?

3 A. Sure. George Maxwell, Bernie
4 Geisel, Todd Dewitt, Shawn Dewitt and
5 myself.

6 Q. Okay. And when you went up
7 the track entry, then you came upon
8 the bus?

9 A. Yeah, we found the mantrip,
10 yeah. That was at, I believe, Ten
11 wall.

12 Q. At Ten wall?

13 A. Yeah.

14 Q. And did --- the mantrip, did
15 it look like it had been moved after
16 the explosion?

17 A. Well, the evidence that we
18 found that it was moved was before we
19 got to the mantrip, and I'm not sure
20 what block it was at or what wall,
21 but there was a pallet of Omega block
22 that were sitting on the right side
23 of the track that had been blown ---
24 you know, a few of them had been
25 blown onto the track itself.

1 Q. And when you say right side,
2 you're looking inby?

3 A. Right. Yes, toward the intake
4 side. A few of them had been blown
5 out on the rails. And there was one
6 right between the center of the two
7 rails that you could see in the soot
8 that had been slid. You know,
9 everything else was as black as black
10 gets from soot. That one area right
11 there, that block was slid outby. It
12 had a perfect --- there was gravel
13 there. It was plain as day that that
14 block had been moved outby, and that
15 was outby the mantrip. So that told
16 us that the mantrip went out and then
17 went back in. So I mean, that's just
18 our opinion, but ---.

19 Q. Sure. I understand. That's
20 fine. You're doing a good job.

21 A. I know when you went in there
22 for your investigation, all that had
23 been moved because of recovering
24 bodies and that.

25 Q. Sure.

1 A. But when we first got there,
2 that was plain as day that that block
3 had been slid by something.

4 Q. And the distance between where
5 the block stopped, where they ---
6 supposedly the mantrip would have
7 stopped and where the mantrip was
8 located, what was that distance?

9 A. Like I said, I'm not sure. It
10 was a few blocks, but I'm not sure
11 what the exact distance was.

12 Q. Okay. And you say you found a
13 dinner bucket in the mantrip?

14 A. There was a dinner bucket
15 sitting on top of the mantrip, not in
16 the ends where the guys would ride,
17 but like up by where the guy would
18 drive it.

19 Q. Yes.

20 A. There was a dinner bucket and
21 a water jug sitting there.

22 Q. Okay.

23 A. That was it. There was no
24 signs of blood, no nothing in the
25 mantrip as far as any kind of blood

1 from an injury or something.

2 Q. Okay.

3 A. That was it.

4 Q. And then from there, where did
5 you proceed?

6 A. That's when we went --- that
7 crosscut right where the mantrip was
8 sitting, the inby end of the mantrip,
9 was at the next open crosscut toward
10 the intake. That's when we went up
11 to that crosscut and went through
12 that crosscut over toward the intake.

13 Q. And that would have been to
14 the right?

15 A. And they were actually
16 following tracks through that
17 crosscut.

18 Q. Can you see these tracks in
19 like --- you say it was black and
20 then ---

21 A. Right.

22 Q. --- but you could see these
23 tracks in the soot?

24 A. Right.

25 Q. Okay.

1 A. And they went through that
2 crosscut over into the next entry,
3 which was a common entry with the
4 track.

5 Q. To the right of the track?

6 A. Yeah.

7 Q. Okay.

8 A. And in the intersection is
9 where we found the tops and the
10 bottoms of the rescuers. There was
11 12 tops, 12 bottoms. And we knew all
12 of them were there.

13 Q. Was there anything else laying
14 there?

15 A. Not that I know of, no.

16 Q. Okay. And you could still see
17 the tracks in the soot?

18 A. Right.

19 Q. And then from there ---?

20 A. The tracks headed outby, you
21 could see that. It was hard to see,
22 it wasn't real plain. I mean, it
23 wasn't like tracking someone in snow.
24 It was --- you could just barely make
25 it out, but ---.

1 Q. But it was --- you could
2 definitely see that in the ---

3 A. In the soot?

4 Q. --- in the soot?

5 A. Yeah.

6 Q. Okay.

7 A. So they started us heading
8 outby thinking that the guys had
9 headed out their intake escapeway.
10 That's when we split up in Three
11 entry. We had actually guys over in
12 the intake, one in the --- or in the
13 common entry and then I stayed on the
14 track entry so I could communicate
15 back to the next guy back with the
16 radio.

17 Q. And all the tracks were in the
18 same entry?

19 A. Yeah.

20 Q. That'd be the first entry to
21 the right of the track inby?

22 A. Yeah.

23 Q. And they were ---?

24 A. They only went, like I said, a
25 block maybe, a block and a half, and

1 that's when they started saying they
2 couldn't follow the tracks. Some
3 guys said it looked like they turned
4 around. Other ones said, no, they
5 just lost them. And that was it.
6 And that's when we --- you know, the
7 fresh air base command center told us
8 to keep going out, you know, look and
9 tie in that area in back that way.

10 Q. And how far did you go outby?

11 A. We went all the way out to the
12 mouth of Two left, and then that's
13 when they called and told us to tie
14 in the crosscuts in the mains that
15 were just outby the seals.

16 Q. Okay. And after you did that,
17 then you all met --- you met back at
18 the track entry then?

19 A. We all went back to the fresh
20 air base after we did that. We
21 zigzagged those couple crosscuts,
22 covering them. I mean, everything
23 was so covered with soot just like
24 the first guy they found, he was real
25 hard to see. So we had guys spread

1 out across each entry so you couldn't
2 miss something and did all that and
3 then went back to the fresh air base
4 and that's when we went --- we were
5 done, we were out of air.

6 Q. Okay. And then you went to
7 the surface?

8 A. Yeah.

9 Q. And when you got to the
10 surface, who did you meet out there?

11 A. We were debriefed, I'm not
12 sure who they were. I think they
13 were company people and then we went
14 in to the actual command center,
15 talked with Alma Jilton. And he was
16 discussing over whether to send the
17 next team into the sealed area,
18 thinking that those guys maybe had
19 tried to get out their intake and
20 were keeping solid rib on their left
21 like they would normally be with the
22 seals not blown out and turned and
23 went into that sealed area. So they
24 were discussing going in there, maybe
25 exploring a little bit of that,

1 because I guess the clear left entry
2 of that sealed area wasn't second
3 layer mined, so they would have just
4 thought they were in a regular entry.
5 They discussed that. We were more or
6 less --- Jan Lyall was in there with
7 us. We were more or less trying to
8 get him to go to the faces, look up
9 in that area because of the thing
10 that the guy saw with the tracks.
11 They just didn't think they went on
12 out, but no one knew. So Alma Jilton
13 was, I believe, the only one we
14 talked to from MSHA. The other guys
15 were company people, I don't know who
16 they were.

17 Q. Okay. And then what happened?

18 A. Basically we went back, were
19 getting our machines washed up and
20 ready to go for the next rotation.
21 And we were going to go back to the
22 hotel, I think we weren't supposed to
23 be there until the next day at like
24 lunchtime or something. And that was
25 when they --- I don't know. But then

1 we actually left and were on our way
2 back to the hotel. We wanted to stay
3 there until Bailey got outside, just
4 to be there when they got out. But
5 they weren't out. They were held up
6 for some reason. I'm not sure why.
7 So we left and started back to the
8 hotel. We got just about into the
9 town of Buckhannon, I guess it is,
10 and that's when the guys behind us
11 that are on our team started flashing
12 their lights, told us --- well, we
13 pulled over, they told us, we were to
14 get back to the mine right away, that
15 they had found the rest of the guys.
16 So we turned around and went back to
17 the mine.

18 As soon as we got there, we
19 went to our trailer, got our
20 stretchers that we had in our
21 trailer, took those down to the pit
22 mouth so that we were --- we were
23 preparing for these guys to come out.
24 And we waited there at the pit mouth
25 until the first bus came out, and

1 that's the one that had the Randal
2 McCloy on it. Me and George Maxwell
3 helped get him out of that bus.

4 Q Who is George Maxwell?

5 A He's on our team. He was with
6 us. We helped lift him out of the
7 mantrip. He had a BG-4 on him for
8 oxygen that you had to like carry
9 alongside the stretcher. Carried
10 that and the stretcher over, put him
11 in the ambulance. And we were
12 waiting on more guys to come out, and
13 that's when we got the word that
14 there wasn't going to be anymore
15 brought out. So we went back up to
16 the shower house, just basically
17 waited for orders and that's when
18 they told us that we would be going
19 back in and recovering the bodies.
20 And I'm not exactly sure what time we
21 went back in that mine. I couldn't
22 tell you. It was five o'clock in the
23 morning, something like that when we
24 went back in.

25 Q. Okay. Go ahead.

1 A. Keep going?

2 Q. Yeah, keep going.

3 A. All right. We went in, went
4 up to the fresh air base, which was
5 still right at Two Left switch. It
6 was actually over in the track entry
7 then at Two Left switch. We were
8 supposed to recover the bodies. They
9 had gotten a scoop from somewhere,
10 I'm not sure where they had gotten it
11 at, but it was up there with the
12 first body in, from the guy that was
13 found out in the mains. They wanted
14 us to --- the other bodies, I think
15 it was Eight-Four's team and
16 Robinson's Run Team were actually in
17 there prepping the bodies to be
18 brought out. Eighty-Four's team had
19 started clearing the overcasts off of
20 the track in Two Left section so that
21 we could get a mantrip up to the end
22 of the track and get the bodies
23 loaded in. They got that mostly
24 cleared.

25 Our team went back and cleared

1 the overcast off of the track that
2 was at One Left. They cleared that,
3 we got the mantrip up to the switch,
4 Two Left switch. At that time, then
5 we went around and we finished
6 clearing off the overcasts. There was
7 a couple overcasts. Those guys were
8 beat. I mean, they were exhausted.
9 We went in, finished pulling a couple
10 rails or beams off of the track and
11 that's when we took the mantrips up
12 and loaded all the bodies into the
13 mantrip. And we brought them all
14 back down to the Two Left switch area
15 again. And that was where we made
16 sure they were all on backboards, you
17 know, strapped down the way they
18 wanted them and then we proceeded out
19 of the mine.

20 Q. Okay. Now, whenever Mr.
21 McCloy arrived on the surface, you
22 said he had an apparatus on him at
23 that time?

24 A. Yeah.

25 Q. And can you just describe a

1 little bit, you know, his condition
2 or --- you know, what did you see?

3 A. When I went over to the
4 mantrip, like I said, they had him in
5 there on a stretcher. They had the
6 machine
7 --- there was a guy in there with
8 him. I couldn't tell you who it was.
9 He was holding the machine beside
10 him. They didn't have it strapped on
11 him or anything. He was just holding
12 the machine beside him. The face
13 piece was on him

14 Q. And was his head in first?

15 A. I don't know. I couldn't tell
16 you.

17 Q. Okay.

18 A. All I know is we grabbed the
19 stretcher, got him out of there, I
20 carried the machine alongside of the
21 stretcher. There was --- I don't
22 know how many guys on the stretcher,
23 There was a bunch of them there. We
24 took him over, handed him to the
25 people that were actually in the

1 ambulance, handed them the machine.
2 In he went, the doors closed and it
3 was gone. I mean, all that happened
4 in ten seconds.

5 Q. Yeah. Okay. And at that
6 point then, you were given orders to
7 go in the mine?

8 A. No. At that point, we were
9 still standing there waiting for more
10 to come out.

11 Q. Okay.

12 A. And then we were told, I'm not
13 sure how longer after that, that
14 there wasn't going to be any more
15 coming out, and that's when we went
16 back up to the shower house. And
17 they told us to go up there and wait
18 for them to come tell us what they
19 wanted us to do. That's what we did.

20 Q. Okay. And then what?

21 A. We were up there for a few
22 hours. They had told us that we were
23 going to be going back in to recover
24 the bodies. They asked us if we
25 would. You know, they didn't make

1 anyone but we told them no problem.

2 Q. And who asked you to do that?

3 A. Bill Tolliver, I believe, was
4 the one that actually asked us
5 personally to go do it ---

6 Q. Okay.

7 A. --- from Consol.

8 Q. All right. And then --- and
9 so then you went back underground?

10 A. Right.

11 Q. Do you have any idea what time
12 that might have been?

13 A. I'm guessing five o'clock in
14 the morning. That's just a guess.

15 Q. So then you traveled --- your
16 team --- was your team the only one
17 that went underground?

18 A. No. There was our team ---
19 there was already three teams
20 underground. Eighty-four was under
21 there, Robinson Run and the one ICG
22 Team. I'm not sure of their name.

23 Q. Okay.

24 A. And our mine went --- or our
25 team went under, Shumaker was there.

1 I don't know if they went in behind
2 us or if they were already there. I
3 couldn't tell you. I don't know.

4 Q. Okay. And then you get up to
5 the fresh air base and then ---?

6 A. We waited there for a while
7 because the Eighty-four guys were
8 still getting the first bodies
9 brought back to the end of the track.
10 And they had cleared the overcasts.
11 I'm not sure what they did first.
12 They did that before we got there.
13 But we waited a little while for them
14 to --- basically to burn out the rest
15 of their air, and then they came back
16 to the fresh air base and we went up.
17 And all the bodies were down to the
18 end of the track when they came out.

19 Q. The track in Two Left?

20 A. Yes. Where we could get a
21 mantrip to them.

22 Q. Okay. And so then you went up
23 to the end of the track?

24 A. Yeah, we took mantrips. Like
25 I said, after we finished clearing

1 the overcasts, we took mantrips up.
2 They had them actually in the scoop
3 bucket right at the side of the
4 track. And we took the mantrips up,
5 loaded them onto the mantrips.

6 Q. And how many mantrips did you
7 take up

8 A. I believe three altogether. I
9 think there was three of them,
10 because we had --- oh, we had the 12
11 bodies. We had --- I think there was
12 three mantrips plus there was one
13 outby, like I said, that had the
14 first guy on it they had found. I
15 think there was a total of four
16 altogether that we had bodies on when
17 we took them out.

18 Q. Okay. And you loaded the
19 bodies on there, then you just
20 exited?

21 A. Yeah, we went out.

22 Q. And you were under oxygen at
23 this ---?

24 A. We were under oxygen until we
25 got back to Two Left switch, yes.

1 Q. Okay. And you stopped back
2 there and then ---?

3 A. Once we got them back there
4 --- when we went up to where they
5 were at in the scoop, we just put
6 them in the mantrips, we didn't put
7 them on backboards, you know, none of
8 that.

9 Q. Yeah.

10 A. Then once we got them back to
11 the fresh air, you know, outby the
12 fresh air base, that's when we took
13 them and put them on the backboard
14 and got them ready. They wanted each
15 one on a backboard or a stretcher
16 strapped on, you know. They wanted
17 it to be presentable. I mean, ---.

18 Q. Sure. I understand. And then
19 you exited the mine?

20 A. Yeah, then we went out. We
21 all --- I was actually on the last
22 mantrip, the furthest one inby. We
23 all went out to the mouth of the
24 mine, still underground. They had an
25 ambulance pull down. The first

1 mantrip went out. They loaded those
2 guys in that ambulance and then they
3 would pull --- I think they put two
4 in an ambulance, I'm not positive.
5 Then they would pull the mantrip back
6 underground, bring the next ambulance
7 in, you know, and did it that way.
8 So we were actually the last ones to
9 come out. We were waiting.

10 Q. Okay. But you never went in by
11 the Two Left --- the Two Left turning
12 point?

13 A. Right. That's right, I was
14 never up to the faces or anything.

15 Q. Okay. And then after the last
16 bodies were loaded, and then you went
17 outside then?

18 A. Right.

19 Q. And up to the bathhouse?

20 A. Right.

21 Q. And did they debrief you or
22 anything up there?

23 A. They just --- they took us in
24 and --- yeah, they did. They took us
25 in and they thanked us for

1 everything, you know, and I'm not
2 sure of the guy's name. He works for
3 MSHA, but I don't know who he is. Ht
4 took us in the room there and asked
5 us if we had any kind of maps, you
6 know, anything that would contribute
7 to their investigation. We had
8 nothing. And that was basically it.

9 You know, they basically just
10 thanked us for doing what we could do
11 and that was it.

12 Q. And then you then left?

13 A. Yeah. Yeah, we packed all our
14 stuff up and went back to our hotel
15 and packed that stuff up.

16 Q. And then did you ever return
17 to the mine?

18 A. No.

19 MR. O'DONNELL:

20 Mike?

21 BY MR. RUTLEDGE:

22 Q. Dave, you originally said that
23 on your first exploration you found
24 this Omega block in the middle of the
25 track and its obvious slide marks or

1 skid marks on it. How long were
2 these skid marks?

3 A. Just two, three feet. It was
4 moved two or three feet in the
5 gravel. You know, like something had
6 pushed it. There was no footprints,
7 anything else around it. So ---.

8 Q. No other marks anywhere around
9 that. And just --- I know it's hard,
10 but just give me your best estimate
11 as how far from Two Left switch that
12 was?

13 A. Well, I know it was in by all
14 the overcasts that were knocked down.
15 So what is that, Four wall? So it
16 was between Four wall and Ten wall
17 where the mantrip was. It was
18 definitely --- it was at least a
19 block or two out by the mantrip. I
20 mean, it wasn't no 10 feet, 20 feet.

21 Q. Okay. And when you first
22 found that mantrip, what kind of
23 shape was it in?

24 A. Perfect.

25 Q. Was it dusty? Was it dirty?

1 A. No, it looked fine.

2 Q. No ---?

3 A. It had very little soot on it.
4 I mean, it looked just like a normal
5 mantrip would look.

6 Q. And ---?

7 A. That Omega block that was slid
8 in the gravel, wherever it is,
9 there's a full lift of them sitting
10 on the right side of the track that
11 had a few of them blown off. So that
12 would tell you exactly where it's at.

13 Q. Okay. And when you were
14 exploring, when you found the tops
15 and bottoms to the rescuers and were
16 looking at the tracks down in the
17 intake, how heavy was the smoke then?

18 A. Very little, just hazy.

19 Q. Just hazy?

20 A. Not even --- I wouldn't even
21 call it smoky, just hazy.

22 Q. Okay. And I think you
23 answered the question there in your
24 explanation but you held the BG-4
25 that was --- you held the backpack to

1 the BG-4 that was on McCloy and you
2 just sat that entire unit in the
3 ambulance?

4 A. I handed it --- someone
5 actually took it out of my hands and
6 took it right into the ambulance with
7 the stretcher.

8 Q. And then the doors were closed
9 so you don't know when that got taken
10 off of McCloy or by who or ---?

11 A. I have no idea.

12 Q. Okay.

13 MR. RUTLEDGE:

14 I don't have anything
15 else just for a moment.

16 BY MR. SWENTOSKY:

17 Q. The mantrip, where it was
18 located, what about the area inby,
19 did it look like that mantrip had
20 even been maybe brought down from
21 there or ---?

22 A. Yes, there was a dip --- there
23 was a real big dip in the track where
24 there was a little bit of water
25 laying. That gravel there, you could

1 see was also like skimmed, like the
2 mantrip had been moved. You know,
3 the ends of the mantrip, itself,
4 actually bottoming out. Yeah, that
5 was definitely. Now again, I don't
6 know, what block number that was and
7 I can't remember actually for sure if
8 it was inby or outby the mantrip. I
9 think it was inby the mantrip but I'm
10 not sure. We only went one block
11 inby the mantrip. That was as far as
12 we traveled, so it couldn't have been
13 --- I don't think it was inby the
14 mantrip.

15 Q. And that mantrip, just kind of
16 tell me as much as you can about ---
17 were the lights on in any particular
18 direction, the controllers or
19 anything? Did you do any --- look at
20 that at all?

21 A. We didn't, no. I mean, I know
22 the lights weren't on. But I don't
23 know what direction the controllers
24 were in. We didn't --- we didn't
25 mess with any of that stuff. They

1 told us don't touch a thing. You
2 know, all I know is there was a
3 bucket and a water jug sitting on top
4 of it. Looked in --- when we knew
5 that they were gone from the mantrip,
6 I just looked inside both ends to see
7 if there was any sign of blood on the
8 windows, anything, you know, that
9 they would have sustained from an
10 injury from the blast and there was
11 nothing.

12 Q. The first victim that was
13 first along the track there, ---

14 A. Right.

15 Q. --- what about him, what was
16 his condition?

17 A. I never personally saw him.
18 They found him as we were moving the
19 fresh air base up. Bailey's team was
20 up there ahead of us, like I said,
21 waiting for us to move. And while w
22 were hanging the checks that we were
23 hanging in the track entry and
24 finishing up the one on the belt
25 line, that is when they called back

1 and said that they had found him. I
2 mean, I guess they had walked past
3 him a few times because he was really
4 hard to see. Personally, I never saw
5 him. I never --- when they called
6 back that they had found him, Ron
7 Hixson had gone in with us from MSHA.
8 Him and someone else, I can't tell
9 you who, they went up to the body and
10 did whatever he did, I don't know,
11 marked it or whatever.

12 Q. Okay. And the material that
13 was moved on the track, moved off the
14 track, what materials were there?
15 Was it block, rail, you know? Can
16 you tell me a little bit about that?

17 A. Block, steel beams, four-inch
18 I-beams, tin, you know, all overcast
19 material. Basically that was it.

20 MR. SWENTOSKY:

21 Let's take a short
22 break.

23 MR. RUTLEDGE:

24 Sure.

25 SHORT BREAK TAKEN

1 BY MR. SWENTOSKY:

2 Q. I have some clarifying
3 questions for you, Dave. When you
4 arrived on the surface and you found
5 there was no survivors, do you
6 remember who told you that?

7 A. You mean when we found out
8 that there was no more coming out ---

9 Q. Yes.

10 A. --- after we got Randal
11 McCloy?

12 A. Yes.

13 Q. Bill Tolliver told us.

14 Q. Okay. And that was down in
15 the pit

16 A. Yeah.

17 Q. Okay. And you had mentioned
18 during your recovery of the bodies
19 and you were under apparatus and you
20 brought them out on the matrip down
21 toward that fresh air base. And
22 where were you when you took your
23 apparatus off?

24 A. We were actually out around
25 the corner through the switch on the

1 mainline track. It would have been
2 like, I don't know, a block or so
3 outby the switch.

4 Q. The switch at ---

5 A. Two Left.

6 Q. --- Two Left?

7 A. Yeah.

8 Q. Okay. Going back to the
9 seals, your evaluation of the seals,
10 did you evaluate whether the seals
11 had been blown in, blown out and ---?

12 A. Yeah, they asked us at each
13 seal, you know, which way it looked
14 like the force went. Everybody on
15 our team, Jan Lyall, the State man,
16 everyone all agreed that the forces
17 were coming out.

18 Q. Okay. And you reported that
19 to the fresh air base?

20 A. Yeah.

21 Q. And we talked about materials
22 that had --- were on the track that
23 was moved off to allow for the busses
24 to get through. And where were those
25 locations just for clarification?

1 Where were those?

2 A. The first one we moved was the
3 one that was the overcast out at One
4 Left that had blown down on the
5 track.

6 Q. Okay. And those materials
7 were --- consisted of ---?

8 A. Just all the overcast
9 material, the beams, the steel, you
10 know, the tin and some block.

11 Q. And do you recall when you
12 moved those, where they were moved
13 to, right, left, how far off or
14 anything?

15 A. I didn't actually go back
16 there with those guys that moved
17 that. I was up at Two Left switch
18 and there was four guys that went
19 back and moved that while I was up at
20 the switch.

21 Q. Okay. So you weren't part of
22 that?

23 A. I didn't physically move them,
24 no. It was four guys from our team
25 that went back and moved it, but I

1 didn't go back.

2 Q. Did you happen to learn at any
3 time where they moved it to, left,
4 right?

5 A. I have no idea, no.

6 Q. Okay. Then what was the other
7 area that you moved material?

8 A. The other area was right
9 around the corner in Two Left. The
10 overcasts on Two Left track that had
11 been blown down, - - -

12 Q. Yes.

13 A. - - - those are the ones that
14 Eighty-four's guys moved the majority
15 of the material and they were out of
16 there and just plain wore out. They
17 came out around the corner, told us
18 there was still a few beams that
19 needed moved. We went in and we
20 moved those beams to the left side,
21 toward the belt. We slid those beams
22 off toward the belt line. There was
23 maybe a half a dozen beams or so that
24 we had to move. They were twisted
25 and interlocked with each other so we

1 had a little bit of a rough time
2 doing it but we got them out of
3 there.

4 Q. And how far into the ---
5 toward the belt end of the crosscut
6 did you move them?

7 A. Just far enough to clear the
8 mantrip, that was it. We didn't go
9 any farther than we had to because it
10 was --- it wasn't easy.

11 Q. Okay. So everything that you
12 moved was moved to the left toward
13 the belt?

14 A. Yes. As far as I can --- I
15 mean, we may have moved one or two
16 the other way.

17 Q. Okay.

18 A. Whichever way was the easiest
19 to move them, that's the way we moved
20 them.

21 Q. Okay. And just far enough to
22 clear the mantrip?

23 A. Right.

24 MR. SWENTOSKY:

25 Mike?

1 BY MR. RUTLEDGE:

2 Q. Dave, again, if we go back to
3 that --- the block in between the
4 rails on the track and it slid, you
5 said, two or three feet; okay?

6 A. Uh-huh (yes).

7 Q. Is there anything else
8 actually outby that that would have
9 made that mantrip stop? I mean, what
10 I'm getting at is ---.

11 A. Not until it got all the way
12 out to where the overcasts were blown
13 down.

14 Q. Okay. So there was no other
15 materials on the track there or
16 anything?

17 A. No. That block wouldn't have
18 stopped it either. I mean, it was
19 just a piece of an Omega block, that
20 it had just, you know, caught on the
21 bottom or whatever and just slid it a
22 little bit, that's all. That
23 wouldn't have stopped the mantrip, it
24 wouldn't have threw it off track,
25 nothing like that. It wasn't big

1 enough.

2 Q. Okay. And the track on ahead
3 of that for at least a couple of
4 blocks was clear, ---

5 A. Yeah, it was fine.

6 Q. --- not a problem? All right.
7 And if you can, please, your best
8 recollection of where this mantrip
9 was at?

10 A. Ten wall.

11 Q. Ten wall, all right. And
12 where were the tops and bottoms of
13 the self-rescuers?

14 A. Just --- like I said, the inby
15 end of the mantrip was almost sitting
16 at the next crosscut, which would
17 have been 11.

18 Q. Uh-huh (yes).

19 A. They got off the mantrip,
20 walked into that crosscut. It was
21 inby but it was only a few feet, 20
22 feet maybe. Walked into that
23 crosscut, went over into the next
24 entry, which was the common entry
25 with the track. There was no wall

1 there, nothing. And that's where we
2 found the tops and bottoms, right in
3 that intersection.

4 Q. So your best estimate there is
5 that those tops and bottoms would be
6 maybe 20 feet or so inby where the
7 ---

8 A. Mantrip ---.

9 Q. --- mantrip was parked?

10 A. Yeah, I'd say, but over in the
11 next entry.

12 Q. Right. We know they're in the
13 other entry, sure. But just a very
14 short distance?

15 A. Not very much. I mean, I
16 don't know if it's 20 feet, 40 feet,
17 what. But it was the very next
18 crosscut inby. The crosscut that was
19 outby had like --- looked like ---
20 you know, it had a lot of bad bottoms
21 in there, it had a lot of stuff piled
22 in there ---

23 Q. Gob up in it and everything?

24 A. --- which they would have to
25 crawl over. I mean, they could have

1 got through it, it wasn't closed off.
2 But it looked to me like they stopped
3 the mantrip there, got off and went
4 through that crosscut. But that's
5 just my opinion.

6 Q. Okay.

7 MR. SWENTOSKY:

8 One second. Off the
9 record for a minute again.

10 OFF RECORD DISCUSSION

11 BY MR. SWENTOSKY:

12 Q. Just for clarification, Dave,
13 the entry next to the track and you
14 found the tops in that --- to the
15 right, immediately to the right of
16 the track, that's the entry you found
17 the tops in?

18 A. Yeah.

19 Q. And is that the entry that it
20 appeared that they --- that the
21 people had traveled out in that
22 entry? That's where you followed the
23 tracks out?

24 A. Yes. Yeah.

25 Q. And that was the ---?

1 A. I didn't actually follow the
2 tracks. I went over to where we
3 found the tops.

4 Q. Yes.

5 A. Once we found those and they
6 told us to start heading outby, I
7 went back over to the track entry
8 because I couldn't communicate with
9 the guy that we had dropped off. So
10 I don't know where the tracks went
11 from there. I don't know. We had
12 guys in both of those entries.

13 Q. Okay. But the tracks, did you
14 see tracks?

15 A. All I saw was the tracks right
16 around where they put the rescuers
17 on. After that, I didn't see them.
18 I went back to the track entry.

19 Q. Okay. To your best --- the
20 best of your knowledge then, the
21 tracks were in the ---?

22 A. As far as I know, they were in
23 that same entry.

24 Q. Okay. Going outby?

25 A. Yeah.

1 Q. And what makes you believe
2 that was the entry that the tracks
3 were going outby?

4 A. I really don't know. I mean,
5 they could have been in the other
6 entry. I can't tell you that for
7 sure. I mean, we had guys in that
8 entry and we had guys in the next
9 entry over and they all had radios to
10 tell me they're following the tracks,
11 so I can't really tell you which
12 entry they were in for sure. I just
13 took for granted that they were in
14 that entry where we found the tops.

15 Q. Okay.

16 MR. SWENTOSKY:

17 Mike?

18 BY MR. RUTLEDGE:

19 Q. Just to be sure I've got this
20 straight and we get it right on the
21 record. Now, we have the track entry
22 up there, ---

23 A. Right.

24 Q. --- okay, and there was the
25 next entry over; okay? And then in

1 the entry over after that is where
2 the stopping line was that would
3 actually would have put them into the
4 intake; is that right?

5 A. As far as I know, yes, that's
6 right. You had one common entry and
7 then you had the intake line; right?

8 Q. We have the track entry; okay?

9 A. Okay.

10 Q. And then an open entry here,
11 then this stopping line. Okay. And
12 it would have been on this side of
13 the stopping line; is that right,
14 where the rescuers were?

15 A. No. They were in the
16 intersection toward the track.

17 Q. Right in here?

18 A. Right there, yeah. That's
19 where the tops were.

20 Q. Okay.

21 A. From what I can remember,
22 that's where they were. I walked
23 over to them, looked at them and
24 walked straight back over to the
25 track.

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MR. RUTLEDGE:

All right. Thanks.

MR. SWENTOKSY:

On behalf of MSHA, I would like to thank you for appearing and answering questions today. Your cooperation is very important to the investigation as we work to determine the cause of the accident.

We ask that you not discuss your testimony with any person who may have already been interviewed, or who may be interviewed in the future. This will ensure that we obtain everyone's independent recollection of the events surrounding the accident.

After questioning other witnesses, we may call you if we have any follow-up questions that we feel that we

1 need to ask you. If at any
2 time you have additional
3 information regarding the
4 accident that you would like
5 to provide to us, please
6 contact us at the contact
7 information that was
8 previously provided to you.

9 The Mine Act provides
10 certain protections to miners
11 who provide information to
12 MSHA, and as a result are
13 treated adversely. If at any
14 time you believe that you have
15 been treated unfairly because
16 of your cooperation in this
17 investigation, you should
18 immediately notify MSHA. If
19 you wish, you may now go back
20 over any answer that you have
21 given during the interview,
22 and you may also make a
23 statement that you would like
24 to make at this time. Do you
25 have anything else?

1 A. Not really. Just what I told
2 you.

3 MR. SWENTOKSY:

4 Okay. All right. We
5 thank you very much for your
6 cooperation in this matter.

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8 STATEMENT CONCLUDED AT 12:10 P.M.

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