

STATEMENT UNDER OATH

OF

KELVIN LEE JOLLY

Taken pursuant to Notice by Miranda
D. Elkins, a Court Reporter and
Notary Public in and for the State of
West Virginia, at Wingate Inn, 350
Conference Center Way, Bridgeport,
West Virginia, on Sunday, March 26,
2006, at 10:01 a.m.

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A P P E A R A N C E S

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P R O C E E D I N G S

MR. O'DONNELL:

My name is Joe O'Donnell. I'm an accident investigator with the Mine Safety & Health Administration, an agency of the United States Department of Labor. With me is Bob Wilson from the Solicitor's office, 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 the 2nd, 2006, in which 12 miners died and one was injured. The investigation is being conducted by MSHA and the West Virginia Office of Miners' Health, Safety & Training to

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

6 At this time, the
7 accident investigation team
8 intends to interview a number
9 of people to discuss anything
10 that may be relevant to the
11 cause of the accident. After
12 the investigation is
13 completed, MSHA will issue a
14 written report detailing the
15 nature and causes of the
16 accident. MSHA accident
17 reports are made available to
18 the public in the hope that
19 greater awareness about the
20 causes accidents can reduce
21 their occurrence in the
22 future. Information obtained
23 through witness interviews is
24 frequently included in these
25 reports. Your statement may

1 also be used in other
2 enforcement proceedings.

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

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

1 of Miners' Health, Safety &
2 Training into the conditions,
3 events and circumstances
4 surrounding the fatalities
5 that occurred at the Sago Mine
6 owned by International Coal
7 Group in Buckhannon, West
8 Virginia, on January the 2nd,
9 2006. This interview is being
10 conducted at the Wingate
11 Hotel, Bridgeport, West
12 Virginia on March 26th, 2006.

13 Questioning will be
14 conducted by representatives
15 of MSHA and the Office of
16 Miners' Health, Safety &
17 Training. Mr. Jolly, the
18 interview will begin by my
19 asking you a series of
20 questions. If you do not
21 understand a question, please
22 ask me to rephrase it. Feel
23 free at any time to clarify
24 any statements that you make
25 in response to the questions.

1 After we've finished
2 asking questions, you will
3 also have an opportunity to
4 make a statement and provide
5 us with other information that
6 you may believe is important.
7 If at any time after the
8 interview you recall any
9 additional information that
10 you believe may be useful in
11 the investigation, please
12 contact Mr. Richard Gates at
13 the phone number and e-mail
14 address that we're going to
15 provide to you.

16 Your statement is
17 completely voluntary. You may
18 refuse to answer any question
19 and you may end the interview
20 at any time. If you need a
21 break for any reason, just let
22 us know.

23 A court reporter will
24 record your interview and will
25 later produce a written

1 transcript of the interview.
2 Please try and respond to all
3 questions verbally, since the
4 court reporter cannot record
5 nonverbal responses. And try
6 to keep your voice up. Copies
7 of the written transcripts
8 will be available for you at a
9 later time.

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

1 the subject area of a
2 question, please provide us
3 with that information.

4 At this time, Mr.
5 Rutledge, do you have anything
6 you'd like to add on behalf of
7 the State of West Virginia?

8 MR. RUTLEDGE:

9 Kelvin, the West
10 Virginia Office of Miners'
11 Health, Safety & Training is
12 conducting this interview
13 session jointly with MSHA and
14 is in agreement with the
15 procedures outlined by Mr.
16 O'Donnell for the interviews
17 that will be conducted here
18 today. However, the Director
19 of the Office of Miners'
20 Health, Safety and Training
21 reserves the right, if
22 necessary, to call or subpoena
23 witnesses or to require the
24 production of any record,
25 document, photograph or other

1 relevant materials necessary
2 to conduct this investigation.

3 We thank you again for
4 being here. We appreciate you
5 taking the time to come. And
6 if you have any questions,
7 there's a contact from the
8 State Agency.

9 MR. O'DONNELL:

10 Mr. Jolly, are you
11 aware that you may have a
12 personal representative
13 present during the taking of
14 this statement?

15 MR. JOLLY:

16 Yes.

17 MR. O'DONNELL:

18 And do you have a
19 representative here today?

20 MR. JOLLY:

21 Yes.

22 MR. O'DONNELL:

23 And would you identify
24 him?

25 MR. JOLLY:

1 It's Mr. Steve McGowan.

2 MR. O'DONNELL:

3 Okay. Thank you.

4 Please swear in Mr. Jolly.

5 -----

6 KELVIN LEE JOLLY, HAVING FIRST BEEN
7 DULY SWORN, TESTIFIED AS FOLLOWS:

8 -----

9 BY MR. O'DONNELL:

10 Q. Would you please state your
11 full name and spell your last name?

12 A. Kelvin Lee Jolly, J-O-L-L-Y.

13 Q. And your address and telephone
14 number, please?

15 A. Address is 1010 Jolly Lane,
16 P.O. Box 81, Wellston, Ohio. Phone
17 number is --- my cell phone would be
18 the best as far as getting ahold of
19 me. It'd be 740-418-7766.

20 Q. Okay. Thank you. Are you
21 appearing here voluntarily?

22 A. Yes.

23 Q. And what mining company do you
24 work for?

25 A. Consol Energy, McElroy Mine.

1 Q. And what do you do there?

2 A. I am a longwall shieldman.

3 Q. Okay. And a member of ---?

4 A. And a member of the mine
5 rescue team.

6 Q. And what's your position on
7 the team?

8 A. I have been gas man
9 previously.

10 Q. Okay. What I'd like you to do
11 is just start from the time that you
12 were notified of the explosion, ---

13 A. Uh-huh (yes).

14 Q. --- and just tell the story
15 all the way through 'til the time you
16 left the property.

17 A. Well, I'd heard about it, you
18 know, from a phone call and through
19 the news earlier on that day. And
20 you know, that we weren't called out.
21 We were needed at the time, but don't
22 go anywhere and be prepared, if they
23 request help, we're going to go. So
24 you know, I just kind of worked
25 around the house and got laundry done

1 and got things packed. And of
2 course, that day, I went back to
3 Moundsville in order to work dayshift
4 at the McElroy Mine the following
5 day. And that was on a Monday.
6 Monday, oh, late afternoon, I'd left
7 Welston to go back to Moundsville.
8 Got back over there, just a few
9 minutes after 7:00, I believe, was
10 the time. And approximately, oh, 15
11 after 7:00, 7:30, about, I received a
12 call that they had asked for help and
13 we were activated. We were to go,
14 you know. So at that time, I told
15 them I was back in Moundsville. I
16 went to our mine rescue station,
17 loaded some clothes and things into
18 our rescue trailer. And at that
19 time, we met. And we left, headed
20 for Buckhannon, West Virginia. And
21 you know, along the way, they told us
22 to stop at Jane Lew, which was a
23 staging area, a motel they wanted us
24 to stop at and just stage and wait
25 there until we were called into the

1 mine. And later, I guess, they were
2 needing some equipment that we had.
3 And some of the other team members
4 took some equipment on down to the
5 mine. And I just kind of more or
6 less stayed there at the motel until
7 we were called. Which, it was 1:00
8 or two o'clock Monday night. Tuesday
9 morning, you may want to say, we were
10 there at the hotel. And at that
11 time, we just kind of slept and
12 rested around there.

13 And the following day, we were
14 advised they would want us --- they
15 had worked us into the schedule
16 starting --- I think we were to be
17 started to work in like eight o'clock
18 on Tuesday evening. So, oh, along
19 5:00, 5:30, we left the motel at Jane
20 Lew and went on down to the Sago
21 Mine. And I think I got there
22 roughly 6:30, maybe, about. And I
23 just --- you know, we just went into
24 the area there, bathhouse or whatever
25 it was. Just talked to them and.

1 And at that time, they had just prior
2 to that, found the one body. You
3 know, we'd talked just around with
4 some of the guys that were working
5 there, the federal people and this
6 and that. And we just kind of
7 started getting --- working on
8 getting our stuff ready. That way,
9 we could become the backup team
10 outside like at eight o'clock is what
11 we were scheduled for, I believe.
12 And earlier, along around 7:00, 7:30,
13 they asked --- they wanted to bump us
14 on up, they wanted us to go
15 underground by eight o'clock or
16 sometime around after that. So we
17 just got our equipment ready. I
18 checked our spotters, calibrated,
19 checked them out. And we just got
20 our equipment ready.

21 And time wise, I didn't have a
22 watch. I took my watch off and put
23 it in my pocket. I don't know what
24 time it was. We actually went down
25 and got into the mine, but I --- you

1 know, it was getting later. We went
2 down to the drift mouth. And the
3 Enlow Team, at that time, was coming
4 out. So we waited on them to come
5 out with their ride so we could have
6 a ride, so we wouldn't, you know ---
7 in order to pass. And they made it
8 out. And we just --- we spoke
9 briefly, you know, each of us, back
10 and forth, you know, a little bit
11 about what they had done and seen,
12 you know, not an in depth, but just
13 kind of, have --- we'll talk.

14 And then we, at that time we
15 started, we went in the mine. And
16 they were sending, I guess, after we
17 were informed, too, that they was
18 going to be sending a --- motor was
19 going to be bringing the carload of
20 supplies in for stopping, temporary
21 stopping material and stuff. And we
22 were told to go to, I think, break
23 53, I think it was. And break the
24 rail so there'd be nothing conductive
25 further inby. So at that time, you

1 know, we went up to that point and
2 broke the rail, you know. And then
3 that --- the motor had come in with
4 the supplies and we helped unload.
5 Because, who knows, we may have
6 needed that stuff, you know. It was
7 things that was highly possible to
8 need. So we unloaded this carload of
9 supplies. Then at that time after
10 that, we went up the intake entries
11 to wherever the fresh air base was.
12 It was 5355, something like that.
13 The fresh air base was set up in the
14 intake entries. But now, there were
15 several stoppings blowed out in that
16 area. Because we was up next to the
17 explosion area. And they had a lot
18 of curtains hung in some of them. So
19 you know, there was fresh air all
20 right going to there.

21 And we got to that area. I
22 guess they'd talked outside and
23 command center had talked and decided
24 they wanted someone to go at that
25 time --- to go ahead and advance on

1 to try to get to these --- the face
2 area of the Two Left section.
3 Because up until that point, the team
4 just ahead of us, Bailey, I think
5 they had examined around the seal
6 area, what was the sealed area, and
7 they'd went inby up to about where we
8 found the manbus. I think it was
9 about break Ten. There was just a
10 small area. You know, not in depth
11 as far as the section. We'd spoke
12 with them and got a little bit of
13 ideas where they had been and what
14 they had seen. And at that time,
15 they'd called in from the command
16 center, they'd like for us to skip
17 across the team that was in fresh air
18 base. It was Tri-State or one of the
19 other teams. They'd had troubles
20 with one of their packs or something.
21 And they just wasn't --- they hadn't
22 been experienced with stuff as much
23 as we had ---

24 Q. Uh-huh (yes).

25 A. --- with fires and things. So

1 we jumped across and we had, you
2 know, told them, yeah, we'll go to
3 the face, it's no problem, you know.
4 2,500, 2,700 feet or whatever it
5 was.

6 Q. Right.

7 A. So we went ahead and geared
8 up, packs on to head on up to the
9 face. And we did air check --- you
10 know, air checks where you donned
11 your packs and --- I guess it was
12 knowed at that time we would need
13 with the radios, not reaching like
14 they would, we would need to leave
15 someone off to relay anything they
16 found. And I guess I was low man on
17 the air bottle, which, man, I wish
18 now I'd never been. But I was low
19 man on the air bottle, so I got
20 nominated to stay at partway to
21 relay.

22 Q. Okay.

23 A. So I said, okay. So at that
24 point, you know, we just --- there
25 was a --- I think just inby at the

1 --- what I always called the mouth of
2 the section where the track turned
3 off the main to go up in Two Left,
4 they had a cable reel --- the mine
5 rescue cable reel set up in the fresh
6 air base. And there was a guy over
7 at this break 57, which was as far as
8 you could go barefaced.

9 Q. Uh-huh (yes).

10 A. From that point, you had to be
11 under respirator --- apparatus. And
12 he had the other cable reel end there
13 so he could talk back to the fresh
14 air base on the hard line.

15 Q. Right.

16 A. And something tells me it was
17 a Dan. I'm not sure. It wasn't
18 somebody with the Consol teams.

19 Q. Uh-huh (yes).

20 A. I don't want to repeat that
21 name, because I don't know. I'm very
22 poor with names.

23 Q. Only what you know.

24 A. And, well, really, from that
25 point, we just kind of hollered, you

1 know, just as we walked in, you know,
2 started up toward the section, just
3 what we'd seen that was, you know,
4 encountered along the way.

5 Q. Sure.

6 A. And we was just kind of
7 relaying back to him. And along
8 around break Eight, there was a dip,
9 downhill dip and a big waterhole,
10 probably knee deep, a little over.
11 And right about that time, we started
12 breaking up a little bit with him.

13 Q. Uh-huh (yes).

14 A. So I thought, well, we're
15 going to have to stay here, you know.
16 And the manbus --- I think this
17 manbus, I'm thinking, was at break
18 Ten. We found what the crew had been
19 on.

20 Q. Uh-huh (yes).

21 A. So you know, I just thought,
22 well, I'll just stay in this area.
23 And the rest of the team had started
24 on up toward the section at the
25 track. And they'd hollered. They

1 wanted an air quality check at break
2 15. So I radioed, do an air quality
3 check at 15 and all entries back. So
4 they did it and they called back.
5 And all air qualities were --- some
6 were around --- methane was 0.3, 0.4,
7 nothing unusual. CO was somewhere in
8 high 300, low 400 parts per million
9 range. And you know, nothing that
10 would stop you, really.

11 Q. Right.

12 A. Nothing that proposed a real
13 hazard with you under pack.

14 Q. Uh-huh (yes).

15 A. So at that point, they went on
16 toward the section. And you know, I
17 just --- I kept talking with them,
18 you know, making sure I was --- we
19 was in contact.

20 Q. Right.

21 A. And they went up almost to the
22 section. And I guess there was a
23 sight, there was a sump and some area
24 that seemed reflective, something
25 over on the right side of the

1 section. When they got up there,
2 they had went to the right side of
3 the section first, you know, kind of
4 looked around and didn't really find
5 anything. Everything they thought
6 they were seeing didn't prove to be
7 anything. Then they started toward
8 the left side of the section. They'd
9 went around the feeder where the
10 borehole was. This borehole they'd
11 dropped earlier, the day before or
12 something.

13 Q. Uh-huh (yes).

14 A. And then they'd started on up.
15 It was at track --- the Number Five
16 entry, I believe, is what it was.
17 And they come upon what --- well, I
18 guess --- it's the way I understood,
19 which I wasn't there, so I can't say.
20 But the way I was understanding them
21 on the radio, they said, we think we
22 found a barricade. Which, there was
23 a curtain with timbers.

24 Q. Uh-huh (yes).

25 A. It was put up nice. You know,

1 like I said, they thought --- well,
2 my understanding, that's what they
3 thought they'd found. Then they
4 hollered back a little bit in a real
5 excited voice, there's noises,
6 there's guys behind it, there's men
7 behind, you know. They said, we've
8 got to go around another break.
9 Which, once they leave the track
10 radios, you know, it's non-existent.
11 So you know, I just --- by the time I
12 guess they went around --- but
13 anyway, someone had come back and
14 hollered back, we need help, we've
15 found them, we found all the men, we
16 need help.

17 Q. Okay.

18 A. We've got --- we need medical
19 help. We've got two people we've got
20 down, we've got to have stretchers,
21 we need help.

22 Q. Uh-huh (yes).

23 A. So I hollered that back. I
24 said, they found them, they need
25 help, there's men down, ---

1 Q. Uh-huh (yes).

2 A. --- they've got to have help.
3 And that's --- you know, what
4 proceeded on, I don't know. Then it
5 just --- I was kind of more or less
6 right in there, kind of in limbo.

7 Q. Uh-huh (yes).

8 A. Because when they left, they
9 relayed that over and they went back
10 to help, you know, I'm standing
11 there. I can't communicate with them
12 because they're out of the entry.

13 Q. Right.

14 A. And different times I'm trying
15 to relay back, you know, I'm breaking
16 up with outby. Once these guys, you
17 know, the ones in the face, once they
18 come over in the track entry, it
19 seemed like I had better
20 communications with them, which they
21 were further away, than I had with
22 the outby. So I would go out --- you
23 know, I ran outby a couple breaks
24 hoping to get better communication.

25 Q. Right.

1 A. And I just --- I guess using
2 the manbus as a point --- location
3 obstacle, I'd run from like the
4 manbus to the waterhole at break
5 Eight. And I'd just kind of run in
6 between trying to relay what these
7 --- the ones in the face was saying
8 and what the outby was saying, trying
9 to get bits and pieces and get things
10 relayed. And they were --- you know,
11 any time anybody up at the face,
12 they'd holler, we need a stretcher,
13 we need oxygen, we need two
14 stretchers ---

15 Q. Uh-huh (yes).

16 A. --- we need oxygen, then I'd
17 go back and I'd relay it to them. I
18 said, we need --- they need help up
19 there. They want you guys up there
20 now. Well, we've got to call fresh
21 --- we've got to call command center
22 and we've got to do ---. I said,
23 fuck the command center. They're
24 wanting medical. Get up there and
25 help them. Come on, guys. Let's go.

1 Q. Right.

2 A. So you know, after a few
3 minutes of that, some of them finally
4 --- I guess guys from outside started
5 in.

6 Q. Uh-huh (yes).

7 A. And so they were convinced
8 that the fresh air base --- they got
9 packed and they went on up to help.
10 Which at that time, I'm not sure how
11 many people were even up there. I
12 don't know how many guys went by me
13 at that fresh --- where I was. But
14 there was four or five more, anyway,
15 went by and went on up to help.

16 Q. Uh-huh (yes).

17 A. And at this time, I'm still
18 thinking, well, we need that second
19 stretcher. Because the last report I
20 had heard, they wanted two
21 stretchers.

22 Q. Uh-huh (yes).

23 A. Then they hollered back and
24 said, we found one. You know, I got
25 that out of them. We found a

1 stretcher. That's all they had
2 found, though. And I just --- I
3 don't know. I guess between waiting
4 on these guys to come back and trying
5 to say something and trying to get
6 something from here, I just run
7 around trying to think, well, where
8 do I go, what do I do. And I was
9 just kind of waiting. Anytime anyone
10 would relay, they would come back
11 over and relay something, I'd try to
12 get ahold of them --- this other guy
13 on the end of the cable reel to get
14 to the fresh air base to get out.
15 You know, which it went from the face
16 to myself to the man at break 57 to a
17 fresh air base. So you're looking
18 four times before it went to the
19 outside.

20 Q. Right.

21 A. And of course, we all know
22 what really happened.

23 Q. Right.

24 A. But how, I don't know. But
25 you know, when I did see lights, you

1 know. Just before I could see
2 lights, somebody come on the radio
3 and said, forget the other stretcher,
4 we've only got one alive. We've only
5 got one we can bring out. We've only
6 got one of 11. We think we've only
7 got one alive. Which I think they
8 knew the others --- but not being
9 medical people, well, you can't say.

10 Q. Uh-huh (yes).

11 A. But you know, they'd checked.
12 They knew at that time. Which at
13 that time, I'd ran a break or two
14 outby to get ahold of this other ---
15 I said, they've only got one person.
16 They've only got one person alive.
17 They don't need a stretcher anymore.
18 And I never waited for a response.
19 Whether he heard me, I don't know.

20 Q. Uh-huh (yes).

21 A. Because right then --- I could
22 --- at this time, I could see lights.
23 I could see them coming. And at that
24 time, I just ran up to meet them to
25 help any way I could help. And I

1 think one of them was getting tired.
2 And I took the radio and handed it to
3 one of our other members. I said,
4 here. You take this. You let me on
5 the stretcher. So I got on the
6 stretcher and carried --- oh, we was
7 inby the manbus. Maybe break 12. We
8 was a couple breaks inby the manbus.

9 Q. Uh-huh (yes).

10 A. Where I got on the stretcher
11 and we went down and went through the
12 water hole and there was an --- at
13 the mouth, there was an overcast that
14 had been blown down, and a lot of
15 debris from it. We had to climb over
16 and kind of set the stretcher and get
17 this McCloy over the debris.

18 Q. Uh-huh (yes).

19 A. And we got to the fresh air
20 base and there were several people
21 there at that time. And they had
22 been trying to hold an SCE-100
23 rescuer --- self-contained rescuer in
24 this guy's mouth.

25 Q. Uh-huh (yes).

1 A. They'd been trying to hold one
2 of those in his mouth and try to get
3 that, which I always thought those
4 had oxygen in them, but I guess now
5 they don't. There's just enough to
6 activate them. You know, I didn't
7 really know --- I'd never used them.
8 Didn't know much about them.

9 A. Uh-huh (yes).

10 Q. But we got to the fresh air
11 base. And Jeff Bennett, West
12 Virginia State guy was there. He had
13 his BG-4 pack in his hand. I said,
14 Jeff, let's put your pack on him. So
15 Jeff and myself took Jeff's pack and
16 we put his face mask on McCloy and
17 turned the oxygen. That way, we knew
18 we were forcing oxygen in him. And
19 at that time, some other guys, you
20 know, grabbed him, because the guys
21 that had carried him out of the face
22 were exhausted. And the others
23 grabbed him and took the manbus and
24 went out, you know. From that point,
25 I don't know what they're --- who

1 they ran into or what or anything.
2 But I guess we just kind of waited
3 and stayed around there from Hixson.
4 I want to say Nixon. Hixson. He
5 went over the phone. He was on the
6 phone and all and I just kind of
7 waited back with him. That way, we
8 knew that everyone was in front of
9 us.

10 Q. Uh-huh (yes).

11 A. I said, Ron, we're just ---
12 we'll make sure everyone gets out and
13 we'll just walk out together and
14 we'll know everyone's out.

15 Q. Right.

16 A. So myself and Ron really were
17 kind of the last two. I guess we
18 come up. There was a couple
19 inspectors. I'm not sure if they was
20 state or federal ---

21 Q. Uh-huh (yes).

22 A. --- at this other body. They
23 had just discovered a few hours ---
24 they started to do some kind of
25 report there with it. And we said,

1 come on.

2 Everybody's going out, they're going
3 to regroup and go from there as far
4 as making plans as far as recovering.

5 Q. Uh-huh (yes).

6 A. I said from this --- we
7 thought from this point, it's total
8 recovery. So we just --- at that
9 time, you know, everybody went
10 towards the manbus area and went out
11 and they regrouped to do the recovery
12 work. And that's --- you know, other
13 than normal chitchat and talk and
14 things, that's about all that was
15 really ---.

16 Q. Thanks. Before you went
17 underground, though, you did have
18 some information that there was one?

19 A. They'd found the one. Yeah.
20 Yeah.

21 Q. And what was your assignment
22 that your team's objective was
23 to ---?

24 A. At the time we started under,
25 we were going to --- well, the normal

1 rotation is, you know, you get there,
2 you're outby backup, you're
3 underground backup, then you're the
4 active team, you're the advance team.
5 And the time we started, you know, we
6 just kind of had in the back of our
7 heads that we was going to be the
8 underground backup team.

9 Q. Uh-huh (yes).

10 A. But once we got up there and
11 got the supplies unloaded and on up
12 to the fresh air base, then at that
13 time is when they asked us if we
14 would become the advancing team and
15 go ahead and advance on up --- they'd
16 like for someone to skip onto the
17 face.

18 Q. That's when you found out that
19 you were going to ---?

20 A. Yeah. We were going to skip
21 on to the face area which I couldn't
22 have agreed with them more, you know.
23 And from air readings we had gotten
24 and what we were seeing, I couldn't -
25 -- personally, I couldn't see any

1 reason not to advance until you ran
2 into something that appeared
3 hazardous.

4 Q. And you say that you were ---
5 that the communication was difficult,
6 not that you had --- didn't have
7 communication, you just --- you had
8 to improvise a bit to maintain that
9 communication; right?

10 A. Yes. Yes. Yes.

11 Q. But you still had
12 communication?

13 A. We still had communication,
14 but it just --- it wasn't like we're
15 sitting here today.

16 Q. Right. It was very difficult
17 to understand?

18 A. Yes. Yes.

19 Q. Did you have to repeat several
20 times because of the ---

21 A. Sometimes we did.

22 Q. --- because of the problems
23 with the static and the ---?

24 A. With the static and just the
25 skip or something, yes.

1 Q. From what I understand, people
2 were under apparatus and it's
3 difficult to communicate?

4 A. Yes. Sometimes it is. Yes.

5 Q. Okay. Kelvin, you said that
6 you were elected, nominated,
7 whatever, to stay as the relay man
8 because you were low man on oxygen?

9 A. Uh-huh (yes).

10 Q. Okay. Who were you
11 communicating with on your team?

12 A. When they left to go in to ---
13 well, we left Saturday at 57. We had
14 three radios. I had one, Klug had
15 one, the captain, ---

16 Q. Uh-huh (yes).

17 A. --- and Ron Hixson had one.
18 And at the time, they went on ---
19 those two had them on in. So now
20 whether those two kept them the whole
21 time, I don't know, you know. Once
22 in a while, I could make out a voice
23 to know who I was talking to. But a
24 lot, I wasn't making out exactly who
25 I was talking to because I couldn't

1 sit here and tell you, yes, I was
2 talking to him. No, I couldn't do
3 that.

4 Q. Okay. And you were talking to
5 the guy that was sitting at Two Left
6 switch or out there at 57?

7 A. Yeah. Right there at Two
8 Left, 57.

9 Q. Okay. Who was relaying what
10 you were saying?

11 A. Relaying.

12 Q. On the mine rescue headset ---

13 A. Yes.

14 Q. --- to the fresh air base?

15 A. To the fresh air base.

16 Q. And did I understand you
17 correctly or did you say you thought
18 this guy's name might have been Dan?

19 A. It seems to me like he said
20 his name was Dan. What makes that, I
21 don't know.

22 Q. Okay.

23 A. And --- but you know, I don't
24 --- like I said, don't quote me on
25 that one, because I'm terrible on

1 names.

2 Q. I understand. I understand.

3 A. I'm terrible on names.

4 Q. And you say your team had been
5 instructed to do some track and
6 supply work before you got up to the
7 fresh air base?

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

9 Q. Did you do that work open
10 faced?

11 A. Yes. Yes.

12 MR. O'DONNELL:

13 Okay. That's all I
14 have for the moment.

15 A. Air qualities up to this break
16 --- or fresh air bases on up even
17 right into the break at 57 there at
18 the Two Left switch, the air
19 qualities were good enough for open
20 face.

21 BY MR. O'DONNELL:

22 Q. Uh-huh (yes).

23 A. But now, once you passed that,
24 no.

25 Q. Okay. I'm sorry. You said

1 when they --- they called out air
2 quality readings at break 15 ---.

3 A. Uh-huh (yes).

4 Q. To the best of your
5 recollection, there's 300 to 400
6 parts per million CO?

7 A. Yeah. It was in the high
8 300s, low 400s.

9 Q. Okay.

10 A. I had a spotter there where I
11 was. And at the manbus at break Ten,
12 I recall a 425 CO reading at one
13 time. And methane readings were .3,
14 right around there, which was nothing
15 to be alarmed at at all.

16 Q. Uh-huh (yes). And you think
17 they called out to you 300 to 400
18 parts per million and did you say a
19 couple tenths methane?

20 A. Yeah. Just a few tenths.
21 Like in the two to four-tenths range.

22 Q. Okay. And you don't recall
23 the oxygen?

24 A. It was like 20 --- it was less
25 than 20.5. Or like the 20.3 to 20.5

1 range. It was --- the oxygen wasn't
2 bad. You know, just, I couldn't ---
3 you know, the levels they were
4 calling out and what I was expecting
5 really weren't that bad.

6 Q. Okay.

7 A. Other than the high CO. The
8 CO levels were high. Higher, pretty
9 high, you know, 300 to 400 range.

10 Q. Yeah.

11 Q. But other than that, methane
12 and oxygen levels were fine, you
13 know, well within working range.

14 Q. Uh-huh (yes). And you said
15 while you all were at the fresh air
16 base, someone from the command center
17 called and asked you to move up in
18 the rotation, go ahead of the other
19 team that was there and ---

20 A. Yes.

21 Q. --- would you all have any
22 problem of going all the way to the
23 face?

24 A. Yes.

25 Q. You don't know who that was,

1 do you?

2 A. No. No. I don't know who
3 that was.

4 MR. O'DONNELL:

5 Okay. That's all for
6 the moment. Thanks.

7 BY MR. RUTLEDGE:

8 Q. Just to clarify, where did you
9 say that the headset man was at?

10 A. The guy was at break 57, I
11 believe it was, at the Two Left
12 switch. At the mouth of Two Left
13 section was a guy sitting on a
14 headset.

15 Q. Okay.

16 A. Relaying back to the fresh air
17 base.

18 Q. Which was at ---?

19 A. Fifty-three (53), I believe.

20 Q. Okay.

21 A. Something like that. Maybe
22 54. Right in that range. Right at
23 53-something.

24 Q. And when you got outside, was
25 --- the first group had already

1 gotten outside. And who traveled
2 with you and Mr. Hixson?

3 A. There were several people.
4 Who else was in that manbus? I think
5 there was one of the state guys.
6 Eugene White, I think, was in with
7 us. Now, there was another --- I
8 don't know who the other guy was, up
9 in the face with them. But I'm --- I
10 don't know. I'm thinking Eugene was
11 one of them, maybe, in the manbus in
12 with us.

13 Q. Uh-huh (yes).

14 A. And there was some guys in the
15 other end, some of the other mine
16 rescue guys that had come in. And
17 I'm not sure who all it was. But
18 there was like, I think, two busloads
19 of us went out.

20 Q. Uh-huh (yes).

21 A. Was the last ones to go out.

22 Q. And you two assured that
23 everyone was ---?

24 A. Yes. We just --- we were kind
25 of just ---.

1 Q. Everyone was accounted for?

2 A. Everybody was accounted for
3 and we was, you know, making sure
4 anybody that had --- that was coming
5 in that whatever, that they had been
6 counted. And we knew everyone was
7 out ahead of us.

8 Q. And did you --- were you
9 debriefed on the outside?

10 A. Yeah, sort of. Yeah.

11 Q. Okay. Do you recall who ---
12 was it a team debriefing or just ---?

13 A. Yeah. I think it was more of
14 a team. Yeah. Yes.

15 Q. Kelvin, if you would, please,
16 you mentioned that when you got back
17 to Two Left switch there and you saw
18 Jeff Bennett ---

19 A. Uh-huh (yes).

20 Q. --- and the two of you put the
21 apparatus on McCloy ---.

22 A. Yes.

23 Q. Can you give us any other
24 detail on that? You know, did ---
25 McCloy was on the stretcher?

1 A. Yeah.

2 Q. And you just put the face
3 piece on him and held the machine off
4 to the side?

5 A. Yeah.

6 Q. How did that go?

7 A. He just --- we kind of sat the
8 --- Jeff turned the oxygen on and
9 just kind of sat the machine down.
10 Because McCloy, we kind of sat him
11 down because, you know. And between
12 the two of us, we got the face piece
13 on him and straps around straighten
14 and check just like you normally
15 would, I guess.

16 Q. Had them tight?

17 A. Tight, make sure they was
18 tight, make sure the air. And you
19 know, we both decided yeah, it's on
20 correctly, got oxygen going to him,
21 at least. Let's go with him. And I
22 believe Jeff at the time, he held on
23 to his pack to carry it for him and
24 help carry and he went out with them
25 taking McCloy, I believe, at that

1 time.

2 Q. And that was a BG-4?

3 A. That was a BG-4 we put on him.

4 Q. Did anybody hit the bypass or
5 anything on that that you could tell
6 oxygen was flowing or what?

7 A. We could hear. In fact, I
8 think I stuck it to my face --- you
9 know, I jerked my face piece off and
10 I think I'd even, you know, just in a
11 rush, I'd sucked on it, and I knew
12 there was air before I stuck it on
13 his face.

14 Q. Uh-huh (yes). Okay. And
15 could you tell any difference in his
16 condition?

17 A. He was --- there was some
18 mumbling, a little bit of mumbling
19 like.

20 Q. Uh-huh (yes).

21 A. But no.

22 Q. But you were confident that he
23 was getting good air?

24 A. Yeah. At that time, I was
25 confident he was getting what oxygen

1 we could give him.

2 MR. RUTLEDGE:

3 All right. Thanks.

4 MR. O'DONNELL:

5 That's all I had.

6 ATTORNEY MCGOWAN:

7 Did you all want to
8 take a break?

9 MR. O'DONNELL:

10 No. We're going to
11 wrap up.

12 ATTORNEY MCGOWAN:

13 Okay.

14 MR. O'DONNELL:

15 On behalf of MSHA, I
16 want to thank you for
17 appearing and answering
18 questions today. Your
19 cooperation is very important
20 to the investigation as we
21 work to determine the cause of
22 the accident. We ask that you
23 not discuss your testimony
24 with any person who may have
25 already been interviewed or

1 may be interviewed in the
2 future. This will ensure that
3 we obtain everybody's
4 independent recollection of
5 the events surrounding the
6 accident. After questioning
7 other witnesses, we may call
8 you if we have any other
9 follow-up questions that we
10 feel we may need to ask you.
11 If at any time you have
12 additional information
13 regarding the accident that
14 you'd like to provide us,
15 please contact us at the
16 contact information that we
17 previously provided to you.

18 A. Okay.

19 MR. O'DONNELL:

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 us. If you
5 wish, you may go back over any
6 answer that you've given us
7 during this interview and if
8 you'd like to make a statement
9 at this time?.

10 A. I don't know of anything I can
11 change.

12 MR. O'DONNELL:

13 Okay. Again, I'd like
14 to thank you, Kelvin, for your
15 cooperation. We appreciate
16 you coming.

17

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SWORN STATEMENT

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CONCLUDED AT 10:37 A.M.

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