

STATEMENT UNDER OATH
OF
MARK WAYNE CHEWNING

Taken pursuant to Notice by Miranda
D. Elkins, a Court Reporter and
Notary Public in and for the State of
West Virginia, at the U.S. Bankruptcy
Court, 324 West Main Street,
Clarksburg, West Virginia, on
Tuesday, March 28, 2006, at 11:35
a.m.

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A P P E A R A N C E S

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

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P R O C E E D I N G S

MR. SWENTOSKY:

My name is Dennis Swentosky. I am an accident investigator with the Mine Safety and Health Administration, an agency of the United States Department of Labor. With me is Tim Williams, with the Solicitor's Office, Mike Rutledge and Dave Stuart, with the West Virginia Office of Miners' Health, Safety & Training. I've been assigned to conduct an investigation into the accident that occurred at the Sago Mine on January 2nd, 2006, in which 12 miners died and one was injured. The investigation is being conducted by MSHA and the West Virginia Office of Miners' Health, Safety & Training to

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

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

1 also be used in other
2 enforcement proceedings.

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

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

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

11 This interview is being
12 conducted at the U.S.
13 Bankruptcy Courthouse in
14 Clarksburg, West Virginia, on
15 March 28th, 2006. Questioning
16 will be conducted by
17 representatives of MSHA and
18 the Office of Miners' Health,
19 Safety & Training.

20 Mr. Chewning, this
21 interview will begin by my
22 asking you a series of
23 questions. If you do not
24 understand a question, please
25 ask me to rephrase it. Feel

1 free at any time to clarify
2 any statements that you make
3 in response to the questions.
4 After we have finished asking
5 questions, you will also have
6 an opportunity to make a
7 statement and to provide us
8 with any information that you
9 believe may be important. If
10 at any time after the
11 interview you recall any
12 additional information that
13 you believe may be useful in
14 the investigation, please
15 contact Richard Gates at the
16 telephone number and address
17 provided to you on the letter
18 that you received.

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

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

13 If any part of your
14 statement is based not on your
15 own 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 learned from someone else.
22 We may not ask the right
23 question to learn the
24 information that you have, so
25 do not feel limited by the

1 precise question asked. If
2 you have any information in
3 the subject area of the
4 question, please provide the
5 information to us.

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

12 MR. RUTLEDGE:

13 Mark, I have a quick
14 statement here, that the West
15 Virginia Office of Miners'
16 Health, Safety & Training is
17 conducting this interview
18 session jointly with MSHA and
19 is in agreement with the
20 procedures outlined by Mr.
21 Swentosky here for the
22 interviews that will be
23 conducted today. However, the
24 Director of the Office of
25 Miners' Health, Safety &

1 Training reserves the right,
2 if necessary, to call or
3 subpoena witnesses or to
4 require the production of any
5 record, document, photograph
6 or any other relevant
7 materials necessary to conduct
8 this investigation. We
9 appreciate you taking your
10 time to come down here and
11 talk to us today. If you have
12 any questions from the State's
13 side, you can use that contact
14 information there for Mr.
15 Mills. Thanks.

16 MR. SWENTOSKY:

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

21 MR. CHEWNING:

22 Yes.

23 MR. SWENTOSKY:

24 And do you have a
25 representative with you here

1 today?

2 MR. CHEWNING:

3 No.

4 MR. SWENTOSKY:

5 And do you have any
6 questions in regard to the
7 manner in which the interview
8 will be conducted at this
9 time?

10 MR. CHEWNING:

11 No.

12 MR. SWENTOSKY:

13 Could you swear in Mr.
14 Chewning, please?

15 -----
16 MARK WAYNE CHEWNING, HAVING FIRST
17 BEEN DULY SWORN, TESTIFIED AS
18 FOLLOWS:

19 -----
20 BY MR. SWENTOSKY:

21 Q. Could you state your full name
22 and spell your last name for us,
23 please?

24 A. Mark Wayne Chewning,
25 C-H-E-W-N-I-N-G.

1 Q. And could you give us your
2 address and telephone number, please?

3 A. HC 61, Box Eight, Mabie, West
4 Virginia, 26278.

5 Q. And are you appearing here
6 today voluntarily?

7 A. Yes.

8 Q. And what mining company do you
9 work for?

10 A. Roblee Coal Company.

11 Q. And what mine is that?

12 A. That's Tallmans Run Mine, at
13 the offices in Buckhannon.

14 Q. And you're a part of what mine
15 rescue team?

16 A. Barbour County Mine Rescue.

17 Q. And what is your position on
18 the team?

19 A. Captain of Team One.

20 Q. And how were you notified of
21 the explosion?

22 A. Phone call from my
23 administrator.

24 Q. And who was that
25 administrator? Who is that

1 administrator?

2 A. Jeff Rice.

3 Q. And approximately --- do you
4 remember approximately what time that
5 was when you were notified?

6 A. No, I don't know. It was
7 between probably 9:00 and 9:30.
8 Because I got to the station about
9 10:30.

10 Q. Okay. And maybe if you could
11 just start at that point and kind of
12 take us through once you received the
13 call, where you went, who you spoke
14 to, what time, any times you can
15 remember? Just kind of go through
16 your ---

17 A. Okay.

18 Q. --- activities until the time
19 you arrived at the mine and worked at
20 the mine and then left the mine.

21 A. I got the phone call, talked
22 to my wife, told her I had no idea
23 what was going on, but I had to go.
24 Got a few things together, took to
25 the station, and we all was supposed

1 to meet there. By the time I got
2 there, it was I'm thinking around
3 10:30. And somewhere around 10:30,
4 11 o'clock, somewhere in that area, I
5 mean, I just don't know what the
6 length of time is. We all got
7 together and then we headed to Sago.
8 We gathered our machines up, took all
9 of our appropriate equipment with us,
10 headed to Sago.

11 We got there probably around
12 --- I'm thinking 11:30. It was a
13 rough estimate, in that area. And
14 set up our machines. They stuck us
15 in a room and we started setting up,
16 getting our machines ready, testing
17 them out. How far do you want me to
18 go?

19 Q. Keep going. Tell us what all
20 you did, you know. Take us
21 underground, you know, until actually
22 you left the mine property, ---

23 A. Okay.

24 Q. --- if you would, please.

25 A. Well, we was at the --- we got

1 our machines ready. We got set up.
2 I'm --- another rough estimate,
3 between 12:30, something like that,
4 we was ready, we was under apparatus,
5 I mean, we was set up to go.

6 Something was happening about
7 the CO or something was getting ---
8 coming up towards the building, so
9 they moved us out of the building
10 into a safer area off of the hill,
11 away from the mine. We stayed down
12 there for a while, and then we ended
13 up getting --- I think two to four
14 guys of our team was going under
15 apparatus down at the pit mouth,
16 taking the gas readings at each
17 portal. So we done that for several
18 hours until other people started
19 coming and other things was going on
20 and ---.

21 Let's see. That's basically
22 what we done, I mean, through the
23 whole day. We done that all night.
24 Our team done that all night and all
25 day --- or all day, all night. And I

1 can't remember --- I can't recall
2 what time the first team went under,
3 but then it was what, seven o'clock.

4 I don't remember the times. The
5 first team started under the hill.

6 Q. Just what you can remember.

7 A. But we still monitored --- the
8 Barbour County Team still monitored
9 the outside the entire time. We was
10 there for 31 hours, I think, and then
11 they sent us back home to get some
12 rest, and we was still on call.
13 Basically that's about it. I mean,
14 that's what we done.

15 Q. Okay. Thank you. When you
16 --- what time do you say you arrived
17 at the mine, about 11:30 I think you
18 said, something like that?

19 A. Yeah, about 11:30.

20 Q. And what activities were
21 ongoing at that time?

22 A. A lot. More than what we
23 actually knew. I mean, we was in a
24 --- was kind of in a place --- we
25 just stayed out of the way, you know,

1 because there was a lot of things
2 going on and ---.

3 Q. Yes. Where did they base you?
4 Was it in the shower house there?

5 A. It was in the shower house
6 starting off, yes. And then we was
7 based down in a tent for temporary.
8 And then we got back up into the
9 building later that day, that we got
10 back up in a building that they fixed
11 up for us to put us back in it.

12 Q. So you were at the shower
13 house first?

14 A. Yes.

15 Q. And did you talk to anyone
16 when you arrived at the mine about
17 anything or ---?

18 A. Well, they kind of told us
19 they had to ---.

20 Q. When you say they ---?

21 A. Well, inspectors. The
22 inspectors at large there. I don't
23 know. There's a bunch of them there.
24 I don't remember who all I talked
25 ---.

1 Q. It wasn't any one specific
2 person that just spoke to you or ---?

3 A. Not that I recall. There was
4 a few of them. And they just was
5 telling us what was going on and what
6 they had coming out, and they still
7 had smoke coming out, you know.

8 Q. And you say there was federal,
9 state, and ---

10 A. Yes.

11 Q. --- a company person was
12 actually talking to you about that?

13 A. Yes. And the company people,
14 yes.

15 Q. And were they talking to your
16 entire team? Were they talking to
17 you specifically or ---?

18 A. Basically the entire team
19 because we usually stayed together
20 when they was talking to us.

21 Q. And that was in the shower
22 house?

23 A. Yes.

24 Q. Okay. And what did they ask
25 you to do or what ---?

1 A. They just told us to --- we
2 had to, you know, I mean, stand by
3 until they figured out what's going
4 on because the CO was still climbing
5 and stuff like that.

6 Q. Did they tell you what the CO
7 levels were at that time?

8 A. They did, but I can't recall.
9 I mean, I don't --- it was high, put
10 it that way. I mean, it was up
11 there. I don't remember exactly.

12 Q. So you were on a standby mode?

13 A. Yes.

14 Q. And then you said that they
15 asked you to move out of the ---?

16 A. Yeah. The CO was getting too
17 high.

18 Q. Did they say what it was?

19 A. I think that's what it was.
20 Some of these guys know, but I
21 believe that's what it was. It was
22 getting too high and it was coming up
23 to the top of the hill and it was
24 getting in the building. So they
25 moved us out of the building until

1 they could clear it and get --- until
2 it started going down.

3 Q. And where did you go when you
4 went out of the building?

5 A. We went --- they had a little
6 tent set up down there for us to get
7 under it until they got it situated.
8 And it was a little ways away, 100
9 yards away.

10 Q. And then you eventually came
11 back to the ---?

12 A. And then we eventually went
13 back to another part of the building.

14 Q. And then what was the first
15 assignment that you had, and when was
16 that?

17 A. The first assignment was a
18 couple of our team members to go down
19 and put on their apparatus and check
20 the gases coming out of each portal.

21 Q. And maybe this would be a good
22 time. Can you identify your team
23 members, you know, that you ---?

24 A. Well, we switched off. It was
25 just a quite a few of them. I mean,

1 it was a little bit of everybody.
2 They just switched --- we switched
3 off, took turns. You'd have two on
4 top of the hill and two going down.

5 Q. No. I mean, the --- how many
6 members did you have on your Team
7 One?

8 A. On Team One we had six.

9 Q. Okay. Could you identify
10 those persons, do you know, for us,
11 please?

12 A. Let's see. Well, there's me,
13 Mark Chewning --- at least give me a
14 few minutes. You asked me too quick.
15 Roger Hedricks, Freddy Radabaugh,
16 Crane --- well, they call him ---
17 Paul Maxim. How many I got there?

18 Q. Four.

19 A. Four. Brian --- what's his
20 name? He works there for the
21 company. He's a new guy. Curtis.
22 Brian Curtis. And there's one more,
23 Doug --- I can't recall his last
24 name. But Doug is his first name.
25 So that's six. That was the six of

1 us.

2 Q. And so your first assignment,
3 do you know who that was given to?

4 A. Not starting off. I mean, I
5 know several of them that done it,
6 but I don't know who was the first
7 ones that went down. I was thinking
8 it was Ryan Duran (phonetic) was one
9 of them, but he's on Team Two. Jim
10 Paul was one of them. Freddy
11 Radabaugh was one of them. Let me
12 think. I know there's a couple more,
13 but I can't recall which ones they
14 was. I mean, I wasn't with them at
15 all times.

16 Q. I understand. And who asked
17 your team members to go over the hill
18 to ---?

19 A. It was --- I can't say it
20 without being a lie. I mean, I don't
21 know. It was the inspectors, whoever
22 was in charge there. They're the
23 ones that wanted to send them down to
24 make sure to keep --- they wanted
25 readings I think it was every 15

1 minutes. They wanted readings coming
2 out of that pit mouth every 15
3 minutes to see how much they change.

4 Q. How many of your members went
5 down to ---?

6 A. Two went down, two stayed up.
7 We had two guys on apparatuses up on
8 top the hill and then two on
9 apparatuses down at the bottom of the
10 hill doing the readings.

11 Q. Would they take those readings
12 and then come back up?

13 A. Then they'd bring them back up
14 to them.

15 Q. Bring them back up.

16 A. They'd do whatever they done
17 with them.

18 Q. And did anyone tell you what
19 those readings were?

20 A. A few times they told us, you
21 know, what the CO was and stuff, but
22 not every time, no.

23 Q. Do you recall any of those
24 readings?

25 A. Like I say, I thought at one

1 time it was 2,000 was once. Maybe .4
2 methane, I mean, you know, but I'm
3 not sure.

4 Q. Okay. And is that then ---
5 did you ever go down and take any
6 readings?

7 A. No. I wasn't up to health at
8 the time. I kind of stayed back
9 unless I was desperately needed.

10 Q. And so that's what your team
11 did, just ---?

12 A. Yes.

13 Q. That's all they did, ---

14 A. That's all we done.

15 Q. --- just went back and forth?

16 A. Yes.

17 Q. And what time ---?

18 A. Now, we had two guys that
19 worked there. And when the first
20 team --- I think, I mean, I might be
21 corrected, but I think Roger Hedricks
22 was one of them to go in there
23 because he worked there at that mine.
24 And the first team that went under,
25 he went with them because he was

1 familiar with what was going on
2 underground.

3 Q. So you're saying ---?

4 A. He was on our team.

5 Q. He was on your ---?

6 A. Yes.

7 Q. He was part of the Barbour
8 County ---?

9 A. Yes. But he went in with the
10 first team that went in, ---

11 Q. Okay.

12 A. --- because he was familiar
13 with what the mines was.

14 Q. So he joined that first team?

15 A. Right. Right.

16 Q. Okay.

17 A. And those two guys that ---.

18 Q. They were under apparatus and
19 went into the mine?

20 A. Yes. And there were two guys
21 that done that for them because they
22 worked there and they needed them to
23 help show them around, what was what,
24 you know, where things was and ---.

25 Q. Okay. And at what time did

1 --- how long were you at the mine
2 during this process of taking the
3 quality readings?

4 A. Well, we was there --- what
5 was that, on Monday? They let us go
6 --- like Wednesday. Wednesday. We
7 went back Wednesday. We came back
8 Wednesday. Whatever 31 hours comes
9 to. We was there Monday at 11:30.
10 So 11:30, and we was there until
11 sometime Wednesday they let us go
12 home. Because by then they had quite
13 a few teams coming in. And we was
14 the first ones there, so they really
15 let us go get some rest.

16 Q. And during that process,
17 that's what your team did, was
18 continue to take those ---

19 A. Yes, that's all we done.

20 Q. --- air quality readings down
21 in the pit, take them and bring them
22 back up?

23 A. Yes.

24 Q. Okay. So you never had an
25 opportunity to go in the mine then?

1 A. I did afterwards for recovery.

2 Q. For recovery, okay.

3 A. Not during the initial ---.

4 OFF RECORD DISCUSSION

5 BY MR. RUTLEDGE:

6 Q. Mark, you said you went to
7 your mine rescue station about 10:30?

8 A. Yes.

9 Q. Where is that located?

10 A. It's at the Volga Road out
11 near Century. I don't know how else
12 to tell you closer.

13 Q. And you were there getting
14 equipment ready and your other team
15 members reported there?

16 A. Yes, we all reported there.

17 Q. All 12 guys or what?

18 A. Yes. Everybody got there
19 together before we left.

20 Q. And then everybody went ---.

21 OFF RECORD DISCUSSION

22 BY MR. RUTLEDGE:

23 Q. All the guys went to the mine
24 in a group there?

25 A. Yes.

1 Q. A couple pickup trucks or ---?

2 A. Yes.

3 Q. Okay.

4 A. We took less as possible,
5 whoever we could get together to go
6 so there wouldn't be so much
7 confusion.

8 Q. And it took you maybe an hour
9 to get from your station to the mine,
10 is that right, or not?

11 A. From the station to the mine,
12 approximately, yeah. Maybe a little
13 less.

14 Q. And you got there, you were
15 checking your equipment out, getting
16 ready to go, and you had to move out
17 of the building?

18 A. Yeah.

19 Q. About how long after you had
20 been there did you have to move out
21 of the building?

22 A. Not very long. We still ---
23 we had one man still checking his
24 machine when they was moving us out.
25 So it was very quickly, I mean --- we

1 had --- you know, we had 12 guys
2 doing apparatus, and we had one still
3 checking his machine. But we moved
4 him out, and he checked it down under
5 the tent.

6 Q. And that was the only time you
7 had to move out of the building?

8 A. Yes.

9 Q. You had team members that were
10 going down --- two guys were going at
11 a time and two guys were staying as
12 backup on top of the hill to make
13 readings at each portal. What kind
14 of instruments were they using?

15 A. I really don't --- couldn't
16 tell you. I mean, I don't --- I
17 wasn't with --- I didn't go with
18 them. I didn't --- wasn't there.

19 Q. Does your team ---?

20 A. The instruments we had we
21 didn't use.

22 Q. So you used ---

23 A. We used what they had at the
24 company.

25 Q. --- what somebody else gave

1 you?

2 A. The company's.

3 Q. The company?

4 A. Yes. They had it all set up.
5 They said they was using their stuff.
6 They had, you know, whatever we
7 needed, the walkie-talkies, and they
8 had the complete spotters. And
9 spotters wasn't nothing I used. It
10 was something I was trained on. I
11 don't even remember what it was now.

12 Q. But it was something that read
13 methane, CO and oxygen?

14 A. Yes. Yes. Yes. It read all.

15 Q. Read all three?

16 A. Yes.

17 Q. And do you know if they were
18 taking bottle samples as well?

19 A. Yes. Yes, they was taking
20 bottle samples. Every time they went
21 down they took bottle samples.

22 Q. In a bottle? In a syringe?
23 In a vacuum tube? What?

24 A. I think it was in a syringe.
25 Like I said, I didn't go down. You

1 know, I didn't pay all that much
2 attention to it, but I think it was
3 in a syringe, I mean --- or a little
4 --- it wasn't in a bottle, no.
5 Because they took a bag of them. I
6 remember seeing a bag of them with
7 them when they went down.

8 Q. Just great big syringes?

9 A. Yeah.

10 Q. You said Roger Hedricks, was
11 it, ---

12 A. Yeah.

13 Q. --- went with the first team
14 that went underground?

15 A. Yes.

16 Q. Do you remember who that team
17 was?

18 A. No, I don't. It was Consol's
19 team. One of them Consol teams.

20 Q. But Roger Hedricks was on your
21 team?

22 A. Yeah. I'm pretty sure Roger,
23 yeah, he was on my team. But they
24 asked for him to go because he was
25 familiar with the mines.

1 Q. And who was the other guy that
2 was familiar with the mine?

3 A. Brian Curtis.

4 Q. And do you know when he would
5 have went underground or what team he
6 went with?

7 A. I don't know. No, I couldn't
8 tell you which team he went with.

9 Q. Or when he might have gone?

10 A. No.

11 Q. But sometime ---?

12 A. They split them up because
13 they took him with --- you know, I
14 think they had two federal, two state
15 with them. And they took them ---
16 like our Barbour County man went with
17 --- was like under their wing, with
18 them, because, you know, like I said,
19 they knew what they was doing.

20 Q. But you're sure that at some
21 time --- you said you were there 31
22 hours?

23 A. Yeah.

24 Q. But sometime during the first
25 day or first teams went in, that both

1 of your team members - - -

2 A. I'm fairly sure, yes.

3 Q. - - - went underground with
4 other teams?

5 A. Clyde - - - well, the guy that's
6 out there now, he'll probably - - - he
7 remembers a lot more of that. He
8 keeps that stuff in his head a lot
9 better than I do.

10 MR. RUTLEDGE:

11 That's all I have for
12 now. Thanks.

13 BY MR. SWENTOSKY:

14 Q. You mentioned after you left,
15 then you didn't come back until
16 recovery. What do you mean by
17 recovery? What did you do when you
18 went back?

19 A. Well, we went - - - well, they
20 asked us to come back to build seals
21 and stoppings and check the rest of
22 the mines out.

23 Q. And when was that?

24 A. I'd have to look at some notes
25 or something. It was a week and a

1 half after the ---.

2 Q. A week or two later?

3 A. Yeah. We finished it up in
4 three or four days, I think.

5 MR. SWENTOSKY:

6 Mike, do you have
7 anything?

8 MR. RUTLEDGE:

9 I don't have anything
10 further. Let's just take a
11 very quick break here.

12 SHORT BREAK TAKEN

13 BY MR. RUTLEDGE:

14 Q. Mark, was there just two guys
15 --- you have two teams?

16 A. Yes.

17 Q. And there was just two people
18 on those two teams that actually
19 worked at Sago?

20 A. That worked at that mines.

21 Q. Okay.

22 A. I think Clyde now works at
23 Philippi for the same company.

24 Q. But another mine?

25 A. But another mine. I'm pretty

1 sure that's the only two that I know
2 that worked there.

3 Q. So two guys worked ---?

4 A. We have four teams from ICG,
5 four guys on our teams. And I think
6 them's the only two that worked ---
7 actually worked there at that mine.

8 Q. So we got two guys that work
9 at Sago and then two guys that work
10 at some other ICG mine?

11 A. Yeah. Right. Yes.

12 Q. And you don't know what that
13 mine is?

14 A. Well, the one is down at
15 Philippi, whatever they call it.
16 They both might be down --- yeah, I
17 think they both are at Philippi.
18 Both of them's at Philippi.

19 Q. And ---.

20 A. That would be on the Team Two,
21 captain --- Clyde's team. They're
22 both on that team.

23 Q. Did you all, you and your
24 other team members, feel like it was
25 necessary or an important thing to be

1 doing those gas samples?

2 A. Well, my guess is initially,
3 yes.

4 Q. Okay. Initially, yes. But
5 then ---.

6 A. I'd rather not get into that
7 if I'm --- you say if I don't want to
8 --- I'd just as soon not get into my
9 point of view on that, so ---.

10 Q. Okay. You're free not to
11 answer anything that you ---.

12 A. Well, I just don't want to say
13 something that --- that's my opinion.

14 ATTORNEY RUTLEDGE:

15 That's all I have then.

16 Thanks.

17 A. But if I can say --- you know,
18 I've been doing this for, I think, 21
19 years now, and they should let the
20 mine rescue people have a little more
21 leeway in what to do and what not to
22 do than --- I mean, since we're the
23 ones being trained to do this, we
24 should have a say in it somewhere,
25 you know, say, hey, you know, we'll

1 try it. We know the danger to begin
2 with or we wouldn't be in it. But
3 you know, that's not how that works.
4 You know, you got people that
5 controls who does what. But you
6 know, my opinion, they should give a
7 little leeway to the guys that's
8 doing the work. It might save you a
9 lot of hassle and it might not, but
10 you know, if you're willing to take
11 the chance, like these 12 guys in
12 there, if we was willing to take the
13 chance to go try, I think we should
14 have had the option to go try, if we
15 sign a waiver or however you want to
16 do it, however they want to do it.
17 It's been done before, you know. But
18 other than that, that's it.

19 MR. RUTLEDGE:

20 All right. Thanks.

21 A. Appreciate it.

22 MR. SWENTOSKY:

23 We have a closing
24 statement here for you. On
25 behalf of MSHA, I would like

1 to thank you for appearing and
2 answering questions today.
3 Your cooperation is very
4 important to the investigation
5 as we work to determine the
6 cause of the accident.

7 We ask that you not
8 discuss your testimony with
9 any person who may have
10 already been interviewed or
11 who may be interviewed in the
12 future. This will ensure that
13 we obtain everyone's
14 independent recollection of
15 the events surrounding the
16 accident. After questioning
17 other witnesses, we may call
18 you if we have any follow-up
19 questions that we feel that we
20 need to ask you. If at any
21 time you have additional
22 information regarding the
23 accident that you would like
24 to provide to us, please
25 contact us at the contact

1 information that was
2 previously provided to you in
3 the letter.

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

23 A. No, sir.

24 MR. SWENTOSKY:

25 Again, we thank you for

1 your cooperation in this
2 matter.

3 A. Thank you.

4 MR. RUTLEDGE:

5 Excuse me. Can we stay
6 on the record for just a
7 minute, please. Sorry. Part
8 of all of this is to try to
9 make it better, okay, ---

10 A. I know.

11 MR. RUTLEDGE:

12 --- to try to make
13 improvements. If you have
14 recommendations that you would
15 care to make that you think
16 could offer some improvements,
17 then I, for one, and I think
18 everybody else would be happy
19 to hear those.

20 A. But you know, you never
21 realize the improvements until after
22 the fact, you know. And then that's
23 when it always kicks in that you do
24 different things. That's why I'm
25 saying like I just said, you know,

1 before, you know, it ought to be
2 discussed through MSHA, through
3 everybody about this, instead of, you
4 know, just saying, hey, I know.
5 Because nobody wants to make that
6 call. I mean, who wants to make a
7 call like that, you know, let's go?
8 And then if something happens, you
9 know, boom, you're done. But leave
10 it up to other people, you know, then
11 it ain't on one man's back, you know.
12 Give the options to us, too.

13 MR. SWENTOSKY:

14 Get the teams in?

15 A. Yeah. Because, you know,
16 we're the ones actually going under
17 there. We're getting instructions,
18 but we're actually, you know, the
19 ones doing the work. And it's like I
20 always told my guys that I always
21 worked with, you know, if you don't
22 want to do this, this is not
23 something you have to, you can quit,
24 because you know the dangers of it,
25 you know. That's just a risk you

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take .

MR. SWENTOSKY:

Thanks. We appreciate

it .

* * * * *

SWORN STATEMENT CONCLUDED

AT 12:06 P.M.

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