

0001

1 STATEMENT UNDER OATH  
2 OF  
3 SAMUEL KITTS  
4

5  
6 Taken pursuant to Notice by Miranda  
7 D. Elkins, a Court Reporter and  
8 Notary Public in and for the State of  
9 West Virginia, at the U.S. Bankruptcy  
10 Court, 324 West Main Street,  
11 Clarksburg, West Virginia, on  
12 Thursday, March 23, 2006, at 8:46  
13 a.m.  
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1 A P P E A R A N C E S  
2

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1 A P P E A R A N C E S (continued)  
2

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

2                                    -----  
3        MR. O'DONNELL:  
4        My name is Joe  
5            O'Donnell. I'm an accident  
6            investigator with the Mine  
7            Safety and Health  
8            Administration, an agency of  
9            the United States Department  
10           of Labor.  
11        With me is James  
12           Crawford from the Solicitor's  
13           office, Mike Rutledge and Dave  
14           Stuart, with the West Virginia  
15           Office of Miners' Health,  
16           Safety & Training. I've been  
17           assigned to conduct an  
18           investigation into the  
19           accident that occurred at the  
20           Sago Mine on January the 2nd,  
21           2006, in which 12 miners died  
22           and one was injured.  
23        The investigation is  
24           being conducted by MSHA and  
25           the West Virginia Office of

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1           Miners' Health, Safety &  
2           Training, to gather  
3           information to determine the  
4           cause of the accident. And  
5           these interviews are an  
6           important part of the  
7           investigation.  
8        At this time the  
9           accident investigation team  
10           intends to interview a number  
11           of people to discuss anything  
12           that may be relevant to the

13 cause of the accident. After  
14 the investigation is  
15 completed, MSHA will issue a  
16 written report detailing the  
17 nature and causes of the  
18 accident.  
19 MSHA accident reports  
20 are made available to the  
21 public in the hope that  
22 greater awareness about the  
23 causes of accidents can reduce  
24 their occurrence in the  
25 future. Information obtained

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1 through witness interviews is  
2 frequently included in these  
3 reports. Your statement may  
4 also be used in other  
5 enforcement proceedings.  
6 I'd like to thank you  
7 in advance for your appearance  
8 here today. We appreciate  
9 your assistance in this  
10 investigation. The  
11 willingness of miners and mine  
12 operators to work with us is  
13 critical for our goal of  
14 making the nation's mines  
15 safer. We understand the  
16 difficulty for you in  
17 discussing the events that  
18 took place, and we greatly  
19 appreciate your efforts to  
20 help us understand what  
21 happened.

22 This interview with Mr.  
23 Sam Kitts is being conducted  
24 under Section 103(a) of the  
25 Federal Mine Safety and Health

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1 Act of 1977, as part of an  
2 investigation by the Mine  
3 Safety and Health  
4 Administration and the West  
5 Virginia Office of Miners'  
6 Health, Safety & Training into  
7 the conditions, events and  
8 circumstances surrounding the  
9 fatalities that occurred at  
10 the Sago Mine owned by  
11 International Coal Group in  
12 Buckhannon, West Virginia on  
13 January the 2nd, 2006.

14 This interview is being  
15 conducted at the U.S.  
16 Bankruptcy Courthouse in  
17 Clarksburg, West Virginia on

18 March 23rd, 2006. Questioning  
19 will be conducted by  
20 representatives of MSHA and  
21 the Office of Miners' Health,  
22 Safety & Training.

23 Mr. Kitts, ---

24 MR. KITTS:

25 Yes.

0010

1 MR. O'DONNELL:

2 --- the interview will  
3 begin by my asking you a  
4 series of questions. If you  
5 do not understand a question,  
6 please ask me to rephrase it.  
7 Please feel free at any time  
8 to clarify any statements that  
9 you make in response to the  
10 questions.

11 After we've finished  
12 asking questions, you will  
13 have an opportunity to make a  
14 statement and provide us with  
15 any other information that you  
16 believe may be important. If  
17 at any time after the  
18 interview you recall any  
19 additional information that  
20 you believe may be useful in  
21 the investigation, please  
22 contact Mr. Richard Gates at  
23 the phone number or e-mail  
24 address that we will provide  
25 to you.

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1 Your statement is  
2 completely voluntary. You may  
3 refuse to answer any question  
4 and you may terminate your  
5 interview at any time. If you  
6 need to take a break for any  
7 reason, please let me know.

8 A court reporter will  
9 record your interview and will  
10 later produce a written  
11 transcript of the interview.  
12 Please try and respond to all  
13 the questions verbally since  
14 the court reporter cannot  
15 record nonverbal responses.  
16 Also, please try to keep your  
17 voice up. Copies of the  
18 written transcripts will be  
19 available at a later time.

20 If any part of your  
21 statement is based not on your  
22 own firsthand knowledge but on

23 information that you learned  
24 from someone else, please let  
25 us know. Please answer each

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1 question as fully as you can,  
2 including any information you  
3 have learned from someone  
4 else.  
5 We may not ask the  
6 right question to learn the  
7 information that you have, so  
8 do not feel limited by the  
9 precise question asked. If  
10 you have information about the  
11 subject area of a question,  
12 please provide us with that  
13 information.

14 At this time, Mr.  
15 Rutledge, do you have anything  
16 you'd like to add on behalf of  
17 the State of West Virginia?

18 MR. RUTLEDGE:

19 Yeah. I just would  
20 like to thank you for being  
21 here again. I'm Mike Rutledge  
22 with the Office of Miners'  
23 Health, Safety & Training.  
24 The Office of Miners' Health  
25 Safety & Training is

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1 conducting this interview  
2 session jointly with MSHA as  
3 in agreement with the  
4 procedures as outlined by Mr.  
5 O'Donnell for these  
6 interviews.  
7 The Director, does,  
8 however, reserve the right, if  
9 necessary, to call or subpoena  
10 witnesses or require the  
11 production of any record,  
12 document, photograph or other  
13 relevant materials necessary  
14 to conduct this investigation.  
15 Thanks.

16 MR. O'DONNELL:

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

22 MR. KITTTS:

23 Yes.

24 MR. O'DONNELL:

25 And do you have a

0014

1 representative with you today?

2 MR. KITTS:  
3 Yes.  
4 MR. O'DONNELL:  
5 And who might that be?  
6 MR. KITTS:  
7 Marco Rajkovich.  
8 ATTORNEY RAJKOVICH:  
9 Rajkovich (corrects  
10 pronunciation.) Yes. And let  
11 me say that Mr. Kitts is here  
12 in his personal capacity.  
13 He's not authorized by the  
14 company to speak on behalf of  
15 the company, but he's here to  
16 testify to any facts that he  
17 may recall.  
18 MR. O'DONNELL:  
19 Okay.  
20 ATTORNEY RAJKOVICH:  
21 I'm assuming everybody  
22 in the room here is part of  
23 the investigative team?  
24 MR. O'DONNELL:  
25 Yes, they are.

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1 ATTORNEY RAJKOVICH:  
2 Okay. Thank you.  
3 MR. O'DONNELL:  
4 Now, do you have any  
5 questions regarding the manner  
6 in which we'll conduct the  
7 interview?  
8 MR. KITTS:  
9 No.  
10 MR. O'DONNELL:  
11 Okay. Would you please  
12 swear in Mr. Kitts?  
13 -----  
14 SAMUEL KITTS, HAVING FIRST BEEN DULY  
15 SWORN, TESTIFIED AS FOLLOWS:  
16 -----  
17 BY MR. O'DONNELL:  
18 Q. Please state your full name  
19 and spell your last name for us.  
20 A. Samuel Ralph Kitts, K-I-T-T-S.  
21 Q. And your address and telephone  
22 number?  
23 A. [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

0016

1 Q. Are you appearing here  
2 voluntarily?  
3 A. Yes.  
4 Q. Okay. How many years of  
5 mining experience do you have, Sam?  
6 A. Twenty (20).

7 Q. And could you give us a brief  
8 description of your employment  
9 background?

10 A. I have experience as a staff  
11 technical worker, in the form of  
12 doing geologic reports and  
13 evaluations. I then went into a  
14 management trainee program, gained  
15 operational experience. At the  
16 conclusion of that trainee program,  
17 I've been in various management  
18 positions for approximately ten  
19 years.

20 Q. And what's your present  
21 position?

22 A. I am senior vice-president of  
23 operations for the West Virginia and  
24 Maryland region for International  
25 Coal Group.

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1 Q. And how long have you worked  
2 in that position, Sam?

3 A. About 11 months now.

4 Q. And what do you do at that  
5 position? I mean, what are your ---  
6 what's your job description? What do  
7 you do?

8 A. As vice-president of  
9 operations, I have five general  
10 managers from the business units  
11 spread out in my region reporting  
12 directly to me. In addition, I have  
13 a financial analyst and a human  
14 resources' manager that report to me.  
15 My position is primarily management  
16 and oversight of the production and  
17 processing of coal.

18 Q. And where is your office  
19 located?

20 A. Ashland, Kentucky.

21 Q. How long have you been  
22 employed by ICG?

23 A. Eleven (11) months.

24 Q. Eleven (11) months. And all  
25 of it is at the Sago Mine?

0018

1 A. No, I'm not employed at the  
2 Sago Mine.

3 Q. I mean, how much time do you  
4 spend at the Sago Mine, roughly?

5 A. In those 11 months prior to  
6 --- well, prior to January 2nd, I was  
7 probably at the Sago Mine maybe three  
8 times.

9 Q. Okay. Could you please  
10 describe the corporate structure of  
11 ICG?

12 A. The corporate structure in  
13 terms of companies or people or ---?  
14 I'm not sure I understand what you're  
15 asking.  
16 Q. Starting at the top, like your  
17 parent company and your subsidiaries  
18 and ---.  
19 A. Okay. Relative to Sago?  
20 Q. Yes.  
21 A. You would have --- Sago is  
22 part of Wolf Run Mining Company,  
23 which is a subsidiary of Hunter Ridge  
24 Mining Company. Hunter Ridge is a  
25 subsidiary of ICG, Inc., ---

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1 Q. Okay.  
2 A. --- I believe. We are a new  
3 company and our corporate structure  
4 is being modified currently, so  
5 that's what --- to the best of my  
6 knowledge, that's the structure as it  
7 stands today.  
8 Q. Okay. So Wolf Run is the  
9 parent company?  
10 A. Sago is --- Sago Mine is part  
11 of Wolf Run.  
12 Q. Okay. And ICG owns Wolf Run?  
13 A. No. Wolf Run is not a direct  
14 subsidiary of ICG.  
15 Q. It is not?  
16 A. That would be Hunter Ridge.  
17 Q. Hunter Ridge. Okay. So who  
18 would be your supervisor?  
19 A. Ben Hatfield.  
20 Q. Ben Hatfield. Who is his  
21 supervisor?  
22 A. Ben is the president and CEO  
23 of ICG, so it would be the Board of  
24 ICB, I would imagine.  
25 Q. Right. So what ICG entity was

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1 considered by ICG as being the mine  
2 operator at the time of the January 2  
3 explosion?  
4 A. I'm not sure I know the answer  
5 to that question. On January 2 we  
6 were in the process of incorporating  
7 the former Anker Energy properties  
8 into ICG. I'm not sure.  
9 Q. Okay. So it was in a  
10 transition period?  
11 A. Yes.  
12 Q. And Anker Mining was the  
13 previous owner?  
14 A. The previous owner of Sago, I  
15 think, would have been Anker Mining  
16 of West Virginia.

17 Q. And do you have any knowledge  
18 of that company, how it was  
19 structured?  
20 A. Very little.  
21 Q. What little bit do you know?  
22 Did you ever work for Anker?  
23 A. No, sir.  
24 Q. Okay. Do you know when Wolf  
25 Run Mining Company, the present mine

0021

1 operator, became the mine operator?  
2 A. Not an exact date, no.  
3 Q. Do you have any idea of when  
4 about?  
5 A. I would say it would have been  
6 sometime after --- sometime in late  
7 November or early December, possibly.  
8 The official date, I believe that  
9 Anker became part of ICG was November  
10 11th, I believe.  
11 Q. Do you have any idea why Anker  
12 was changed to Wolf Run as the  
13 operator?  
14 A. No, I was not involved in that  
15 decision.  
16 Q. Okay. And both entities were  
17 and are owned by ICG; is that right?  
18 A. Yes.  
19 Q. Okay. Thank you. Were you  
20 there the day of the accident?  
21 A. January 2nd?  
22 Q. Yes.  
23 A. Yes.  
24 Q. Tell us how you learned of the  
25 explosion at Sago Mine.

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1 A. I received a telephone call  
2 from Chuck Dunbar, notifying me that  
3 there was a problem at the Sago Mine.  
4 Q. Could you recall what time  
5 that was?  
6 A. Yes. It was 8:30 a.m.,  
7 January 2nd.  
8 Q. And what kind of information  
9 did he tell you?  
10 A. He told me that there had been  
11 --- something happened underground  
12 that could possibly have been an  
13 explosion. That there were 18 people  
14 unaccounted for. That one crew had  
15 managed to get outside, but others  
16 had gone inside to investigate. So  
17 at the time I spoke with him, they  
18 were not exactly sure how many people  
19 were underground, but he thought the  
20 number was approximately 18.  
21 Q. Okay. So could you just go

22 through and try to retrace your  
23 activities that you did, following  
24 the time that you learned of the ---  
25 when you were notified, until when

0023

1 the rescue recovery operation was  
2 completed?

3 A. Could you repeat that, please?

4 Q. Okay. From the time that you  
5 were notified, that he told you that  
6 they had a problem at the mine, just  
7 tell me, what time did you get at the  
8 mine. And just run through the  
9 activities that you were involved in.

10 A. Up 'til?

11 Q. 'Til it was over.

12 A. Okay. Upon notification, I  
13 attempted to contact my supervisor,  
14 who is Ben Hatfield, who did not  
15 answer his home phone, did not answer  
16 his cell phone. I left messages at  
17 both places.

18 Upon being unable to contact  
19 him, I prepared to make the trip to  
20 the mine. I contacted another ICG  
21 vice-president, Gene Kitts, who is my  
22 brother, and asked him that since I  
23 was going to be traveling, knowing I  
24 would have sporadic cell service, to  
25 contact the other members of senior

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1 management.

2 While I was getting ready to  
3 leave, I did receive a call from  
4 Johnny Stemple. I informed Johnny  
5 that I had already been notified by  
6 Chuck and I was on my way there.

7 I left my home approximately  
8 9:15, traveled to the Sago Mine site.  
9 Made various phone calls, when I had  
10 service, on the way, trying to get  
11 updates and trying to communicate the  
12 situation to other members of senior  
13 management. That's when I first got  
14 a call from Ben Hatfield and briefed  
15 him on what I knew, which was very  
16 limited at that point.

17 I then arrived at the mine  
18 approximately a quarter 'til noon on  
19 January 2nd. I tried to assess the  
20 situation. Chuck Dunbar was on site  
21 and was coordinating the efforts  
22 there on ICG's part. MSHA personnel  
23 and State personnel were already on  
24 site when I arrived.

25 The first issue that came up

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1 was the elevated levels of carbon  
2 monoxide at the mine site itself, at  
3 the mine office. There was  
4 discussions under way to evacuate the  
5 office to another location. There  
6 were family members present at the  
7 mine office at that time as well.  
8 So there around noon, the  
9 focus was me trying to assess the  
10 situation. At this point, I was  
11 still under the understanding that  
12 the mine superintendent and several  
13 others were still unaccounted for.  
14 So my first action was to determine  
15 how many people were unaccounted for.  
16 It was several minutes before I was  
17 able to determine that Jeff Toler  
18 had, indeed, come back outside with  
19 the other men. At that time, we had  
20 13 people unaccounted for.  
21 So that afternoon I was  
22 helping coordinate the response.  
23 Some of the tasks that I was  
24 performing was working with Tim  
25 Martin on staging the mine rescue

0026

1 teams. Tim pretty much stepped into  
2 that position of being the  
3 coordinator of staging the teams.  
4 Also, very early in the process, as  
5 part of relocating the families to  
6 the church, I went over to the church  
7 approximately one o'clock and gave  
8 the first briefing to the family  
9 members as to what the situation was.  
10 I went back to the mine site.  
11 MSHA had issued a K Order. The K  
12 Order was in place when I arrived and  
13 we were in the process of monitoring  
14 the gases coming out the return at  
15 the portal location.  
16 The focus at that point was,  
17 on my part, determining the critical  
18 path to get mine rescue teams inside  
19 the mine. There were other things  
20 going on at the time that I was aware  
21 of but not involved in, including  
22 putting down bore holes into the  
23 mine. There was a mobilization  
24 effort in place to get drills on site  
25 and get the pads built and so forth,

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1 to facilitate that effort. I was  
2 aware of those things but not really  
3 involved.  
4 There were issues with  
5 producing maps from the engineering

6 side that I was aware of. I was  
7 helping facilitate that effort. We  
8 were considering options of plotting  
9 maps, either in Morgantown or  
10 Buckhannon, to speed the process  
11 because there was a large number of  
12 maps required for mine rescue teams,  
13 both in the briefings and for them to  
14 carry underground.

15 So there were a lot of  
16 different efforts under way that  
17 afternoon. But mostly I was focused  
18 on what needed to happen in order to  
19 get people underground and start the  
20 rescue effort.

21 We were monitoring the gases.  
22 The trend analysis was taking place.  
23 And it was late afternoon before the  
24 decision was made by MSHA and --- I  
25 guess primarily by MSHA that the

0028

1 trending analysis data had indicated  
2 that it was now safe to go  
3 underground.

4 So there was some briefing  
5 going on at that time with the mine  
6 rescue team captains. Finally got  
7 the mine rescue team --- first mine  
8 rescue team underground a little  
9 after five o'clock Monday afternoon.

10 At that point, the command  
11 center had been established inside  
12 the Sago Mine office. We had several  
13 individuals in there representing  
14 ICG, along with the State and MSHA  
15 that were overseeing the direct  
16 movements of the mine rescue teams.  
17 That individual would have been Ty  
18 Coleman at that time.

19 So at that point, I was  
20 periodically going over and talking  
21 with the families. So I would go in  
22 the command center for that purpose,  
23 to collect information for the  
24 briefings. I was also available to  
25 help when decisions needed to be

0029

1 made. When our people felt like  
2 there were issues, I would be  
3 notified and get involved in those  
4 issues.

5 So, again, there was a lot of  
6 varying efforts going on, and I was  
7 doing my best to coordinate those  
8 efforts. So that was my role through  
9 the rescue effort, up until the time  
10 the --- to the conclusion of the

11 effort.  
12 Q. So you weren't involved with  
13 notifying the State, MSHA or anybody  
14 like that? Somebody else did that?  
15 A. That's correct.  
16 Q. Okay. You talked about the CO  
17 levels, the trending of the CO  
18 levels. What were they, do you  
19 recall?  
20 A. Fairly low at first. And I  
21 think the maximum reading that I  
22 recall was 2300, at the portal.  
23 Q. At the portal?  
24 A. At the return itself.  
25 Q. Okay.

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1 A. There were times when the  
2 levels were in excess of 600 in the  
3 mine office.  
4 Q. You said earlier about  
5 evacuating the mine office. Did you,  
6 in fact, evacuate or withdraw some  
7 people?  
8 A. Yes. Some people were  
9 withdrawn. I know the family members  
10 were withdrawn at that time. There  
11 were some people there who I'm not  
12 sure who they were who did leave at  
13 that time. There was a good number  
14 of people at the mine office there  
15 when I first arrived. And then when  
16 we were discussing the evacuation,  
17 several of those people left. How  
18 many of them were related to the  
19 family, I don't know.  
20 Q. How high did you say it got  
21 there?  
22 A. I was told that the mine  
23 office collected readings of over  
24 600.  
25 Q. Did that continue for some

0031

1 length of time or did it trend down  
2 quickly?  
3 A. It started trending down. I  
4 don't know the rate that it was  
5 trending, but it did trend down there  
6 at the mine office.  
7 Q. Okay. I'm just going to pop  
8 down through some of these. Did you  
9 notify any mine rescue team members?  
10 A. No.  
11 Q. That was done by someone else?  
12 You said Ty was --- Ty Coleman was  
13 taking care of that, or was it ---?  
14 A. Tim Martin.  
15 Q. Tim Martin.

16 A. It was probably both. I think  
17 there were several people trying to  
18 make contact with mine rescue.

19 Q. Did you take any personal  
20 notes during the period?

21 A. I jotted down just a few notes  
22 early on in the process.

23 Q. Were those notes asked for or  
24 did ICG provide those notes to MSHA?

25 A. No.

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1 Q. Would it be possible if we  
2 would request them that we could have  
3 them?

4 A. Yes.

5 ATTORNEY RAJKOVICH:

6 We'll take that under  
7 advisement.

8 MR. O'DONNELL:

9 All right.

10 BY MR. O'DONNELL:

11 Q. Were the telephones ever  
12 inoperative at the mine? Did they  
13 ever go down?

14 A. Not to my knowledge.

15 Q. Let's see here. You talked  
16 about bore holes. Could you tell us  
17 a little bit about if you had any  
18 role in the drilling of them, site  
19 selection, any of that?

20 A. Very limited. I do recall a  
21 conversation with Joe Myers, the  
22 engineer on-site, concerning locating  
23 a hole just on the map. We had a map  
24 of the mine workings. And he and I  
25 had a discussion about where we could

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1 possibly place a drill. But it was  
2 relatively brief. And I think the  
3 gist of the conversation was that we  
4 needed to not necessarily hit a  
5 particular spot in the mine, we just  
6 needed to get the hole drilled  
7 quickly. So whatever place on the  
8 surface would allow us to get started  
9 the fastest was where we needed to  
10 go. So it was a general conversation  
11 along those lines and that was about  
12 the extent of it.

13 Q. What about the number of  
14 drilling companies? I understand  
15 several drilling companies offered  
16 assistance to Sago to drill holes.  
17 Do you have any knowledge of the  
18 process that was involved and who ---  
19 what drilling company was selected  
20 and why?

21 A. No.  
22 Q. And why others weren't?  
23 A. No. The drill had already  
24 been mobilized when I arrived.  
25 Q. Well, who would have had the  
0034  
1 --- who would have selected that  
2 drilling team, the drilling company?  
3 A. I don't know the answer to  
4 that.  
5 Q. Okay. So you really --- as  
6 far as the drill site, the drilling,  
7 you weren't involved in any of that,  
8 only that brief description --- brief  
9 conversation that you had?  
10 A. Yes.  
11 Q. Do you know when they started  
12 the drilling?  
13 A. Precisely, no.  
14 Q. Okay. Do you know if they had  
15 any problems with the GPS surveying  
16 grades?  
17 A. At that time, I was told, and  
18 passed that information along to the  
19 families, that they were having a  
20 difficult time getting the drill set.  
21 That translated --- it turns out, in  
22 hindsight, that was a generalization  
23 of the GPS surveying issues and the  
24 site development. But in order for  
25 me to give an update to the families,  
0035  
1 I asked the status of the drilling  
2 and was told they were having a  
3 difficult time getting the drill set.  
4 Q. So about how long did it take  
5 from the time that you guys decided  
6 to drill that you actually started  
7 drilling?  
8 A. Well, the decision to drill  
9 and mobilize the drill had already  
10 been made when I arrived on the site.  
11 Q. Okay. So that would have been  
12 before lunchtime?  
13 A. I would think, yes.  
14 Q. And when did they actually  
15 begin drilling?  
16 A. I'm not exactly sure of the  
17 precise time, but I do recall that  
18 the first hole went into the mine  
19 early morning of Tuesday the 3rd.  
20 Q. And the site selection was at  
21 Second Left; isn't that right?  
22 A. Yes.  
23 Q. And why did you decide to  
24 drill into Second Left?  
25 A. Based on what we knew at the

0036

1 time, we knew that the Second Left  
2 crew was likely to have been in by the  
3 switch at the mouth of Two Left. So  
4 not knowing the situation inside the  
5 mine, whether we had a fire or not,  
6 we felt like it was the best location  
7 to drill toward the face of Two Left.  
8 Q. So were you part of the  
9 decision-making process of when to  
10 send the mine rescue teams in? You  
11 said you were in the command center.  
12 And you said that they finalized some  
13 of the decisions with you. So as the  
14 command center was established, were  
15 you an active participant in the  
16 command center?

17 A. Yes.

18 Q. So whenever a decision was  
19 made to explore, when not to explore,  
20 when to advance, when to withdraw,  
21 those were decisions that were made  
22 by the group; is that right?

23 A. Yes.

24 Q. So it would be representatives  
25 of ICG, the State of West Virginia,

0037

1 Federal. And was there miners'  
2 representatives at that time?

3 A. No.

4 Q. Okay. So those three entities  
5 ultimately decided all of --- the  
6 procedure that would be followed  
7 during the exploration and recovery?

8 A. Well, at certain milestones in  
9 the process, written modifications to  
10 the K Order would be submitted to  
11 MSHA and the State for approval. So  
12 those requests were being generated  
13 by ICG. And then there was an  
14 approval process, with the regulatory  
15 agencies on site. Now, that was for  
16 the more significant items in the  
17 plan, you might say.

18 The other decisions, the more  
19 minor decisions involving the  
20 movements of the mine rescue teams  
21 and so forth was done in conjunction  
22 with all three agencies by the three  
23 individuals in the command center.

24 Q. Okay. This process that you  
25 said about submitting changes to the

0038

1 K Order, now, you know, it was your  
2 mine and you were directing what you  
3 wanted to do, but it was done as an  
4 approval process?

5 A. Yes.  
6 Q. And some things that you  
7 discussed --- I mean, it was in the  
8 form of a meeting, a discussion,  
9 until you met a consensus?

10 A. It varied. If issues came up,  
11 in terms of what was required, then  
12 there were times when that would  
13 result in a conference, if you will,  
14 a meeting of the parties, to resolve  
15 the issue and put the modification  
16 request changes in place. So the  
17 issues were resolved and a new  
18 modification was submitted for  
19 approval.

20 Q. So everything that happened  
21 was agreed upon by all the parties in  
22 the command center; is that right?

23 A. Yes.

24 Q. Okay. What would be the  
25 difference between like a major

0039

1 request and one that didn't require  
2 one that was written?

3 OFF RECORD DISCUSSION

4 BY MR. O'DONNELL:

5 Q. Okay. What were some of the  
6 major modification requests that were  
7 made?

8 A. The first example that comes  
9 to mind is entering the mine itself.

10 Q. Okay.

11 A. The K was in place. In order  
12 to modify the K to allow men to enter  
13 into the mine required a written plan  
14 with approvals by MSHA and the State.  
15 There were requirements. As I  
16 recall, the plan was submitted and it  
17 didn't have the gas readings  
18 attached. MSHA requested that the  
19 gas readings be attached to the plan,  
20 so those readings were obtained,  
21 copied, attached to the plan and  
22 resubmitted for approval.

23 This all happened just over  
24 the course of minutes. But that's an  
25 example of a written modification to

0040

1 the K. An example of decisions that  
2 were made that were not written were  
3 decisions such as how far to advance  
4 the fresh air base. Those sorts of  
5 decisions were agreed upon verbally  
6 by those in the command center.

7 Q. So were you actually involved  
8 in the decision in the command center  
9 to systematically explore the mine

10 from the portal? And who else might  
11 have been involved in that decision?

12 A. I'm not sure I understand your  
13 question.

14 Q. Okay. The exploration began  
15 at the portal. Now, all the parties  
16 agreed to begin the exploration at  
17 the mind portal and then advancing?

18 A. Yes.

19 Q. So who would be the company  
20 person who would make that call, in  
21 the command center?

22 A. I would imagine that would  
23 have been Ty Coleman.

24 Q. Okay. So all of the  
25 decisions, then, as far as

0041

1 exploration and rescue recovery were  
2 done by Ty?

3 A. Not all the decisions, no.

4 Q. Okay. Who else would have  
5 been involved in that?

6 A. A variety of people on ICG's  
7 part, including Chuck Dunbar. He was  
8 the GM. Johnny Stemple, one of our  
9 safety managers. There were others.  
10 Mostly people with mine rescue  
11 experience and with --- acting in  
12 some capacity in the safety effort  
13 for ICG.

14 Q. And did you have any --- at  
15 any time make any of those decisions?

16 A. Me personally?

17 Q. Yes.

18 A. Not that I recall, no.

19 Q. Okay.

20 A. I think we had an ICG  
21 representative in the command center  
22 at all times.

23 Q. Do you know whether One Right  
24 or Second Right were explored by the  
25 teams as they progressed into the

0042

1 mine?

2 A. Are you talking about One  
3 Right or One Left?

4 Q. One Right and Second Right.

5 A. One Right and Second Right.  
6 If they were explored, it was done on  
7 a minimal basis. They were not  
8 thoroughly explored, no.

9 Q. Could you tell me why? What  
10 was the reason why they weren't?

11 A. Because at that time we were  
12 confident that the men who were  
13 unaccounted for were further into the  
14 mine. We believed that they were

15 inby the First Left switch somewhere,  
16 so we attempted to expedite the  
17 search effort to that area as quickly  
18 as possible.

19 Q. So that, again, was also a  
20 group decision by the command center?

21 A. Yes.

22 Q. Okay. And also with the One  
23 Left section, it was --- do you know  
24 if One Left was explored before they  
25 traveled into the Second Left area?

0043

1 A. One Left was explored to a  
2 limited extent. I recall the mine  
3 rescue teams traveled a short  
4 distance up into One Left to evaluate  
5 the situation before we advanced  
6 further.

7 Q. And was that decision made  
8 based on the last bit of information  
9 you gave me about passing One Right?

10 A. Yes.

11 Q. Okay. Do you know if they  
12 explored into the old Second Left  
13 seal area?

14 A. Yes. The decision was made to  
15 inspect the seals prior to advancing  
16 into Two Left.

17 Q. And what was the reason? Why  
18 did they do that? Was it suspected?

19 A. There was a concern that the  
20 air that was being directed toward  
21 the faces of Two Left would have to  
22 squeeze by those seals. So prior to  
23 advancing into Two Left, it was  
24 agreed to inspect those seals and  
25 confirm that the ventilation would,

0044

1 indeed, be passing through or by  
2 them.

3 Q. Would you like to take a short  
4 break?

5 A. Sure.

6 SHORT BREAK TAKEN

7 MR. O'DONNELL:

8 Okay. Let's go back on  
9 the record. Mr. Rutledge, do  
10 you have anything you'd like  
11 to follow up on?

12 MR. RUTLEDGE:

13 Yes. If either of you  
14 all have any questions  
15 regarding these proceedings.  
16 This is contact information  
17 from the State there. That  
18 card is for Brian Mills, who's  
19 the inspector at large of that

20 region.  
21 BY MR. RUTLEDGE:  
22 Q. I'd like to ask you ---. You  
23 mentioned earlier about the mine  
24 being changed from Anker to Sago or  
25 to Wolf Creek, as a subsidiary. Do

0045  
1 you have any knowledge of any state  
2 permits that were transferred, any  
3 permit information that was done with  
4 the State of West Virginia?

5 A. It's my understanding that  
6 there were several State permits  
7 being transferred at the time.

8 Q. Okay. That were being  
9 transferred. You're not aware of  
10 specifically whether it was still  
11 listed as Anker or still listed as  
12 --- or had been changed to Sago with  
13 the State?

14 A. No, I'm not aware.

15 Q. Okay. Who would have had the  
16 direct responsibility to make the  
17 permit changes with the State?

18 A. It would have originated in  
19 ICG's legal department. Who exactly  
20 was pursuing that effort, I'm not  
21 sure.

22 Q. Okay. You mentioned early on  
23 a decision made to send teams  
24 underground, and of Ty Coleman being  
25 in the command center as a

0046  
1 representative of ICG. Can you  
2 recall who may have been there for  
3 either the State or MSHA?

4 A. No, I don't recall. There  
5 were several people for both parties.  
6 I do remember John Collins was there  
7 a good bit. Pat Vanover, I think is  
8 his last name, for MSHA, was there.

9 Mr. Alossa (phonetic) for MSHA. I  
10 don't recall his first name. I'm  
11 sure if I thought about it longer, I  
12 could probably come up with more  
13 names, but that's all that comes to  
14 mind right now.

15 Q. All right. Thanks. And you  
16 also mentioned having to make a plan  
17 and have that plan approved by MSHA.  
18 How detailed were these plans? Are  
19 they one sentence, one paragraph, one  
20 page? You know, how ---?

21 A. Approximately one page. They  
22 were not greatly-detailed plans, no.

23 Q. Okay. So essentially they  
24 were pretty brief and concise?

25 A. Yes, they were brief. It was  
0047  
1 a modification to the K. So it was a  
2 statement that covered what our next  
3 step was going to be. So in that  
4 sense, it was brief.

5 MR. RUTLEDGE:

6 Okay. That's all the  
7 questions I have right now.  
8 Thanks.

9 MR. O'DONNELL:

10 I have a couple  
11 follow-up questions on ---.

12 BY MR. O'DONNELL:

13 Q. You said that there was a  
14 mapping issue, a need for maps. How  
15 was it resolved?

16 A. The majority of the maps were  
17 plotted on-site, so honestly I don't  
18 recall if additional maps were  
19 brought in from other locations or  
20 not. I just know that the teams that  
21 needed maps received the maps and the  
22 issue was resolved.

23 Q. Do you have an outside firm  
24 that does the mapping?

25 A. Yes.

0048

1 Q. And who would that be?

2 A. Alpha Engineering.

3 Q. So they're responsible for the  
4 surveying, engineering ---

5 A. Yes.

6 Q. --- and development of the  
7 maps?

8 A. Primarily, yes.

9 Q. Okay.

10 A. They're digital maps, so we  
11 have our staff that make  
12 modifications to them. But they are  
13 primarily contracted to keep the maps  
14 up to date.

15 Q. Okay. You said that now you  
16 were involved with getting the mine  
17 rescue teams underground. What sort  
18 of issues did you encounter and how  
19 were those resolved?

20 A. Well, there was the issue of  
21 briefing the teams, which goes back  
22 to the mapping issue, providing the  
23 teams with the number of maps they  
24 need, getting the teams organized.  
25 In my mind there was the briefing

0049

1 process that was under way and the  
2 decisions about who would be the  
3 first team inside. There was

4 discussions about the level of  
5 experience that the teams had. And  
6 that it was --- an effort was made to  
7 put the more experienced teams inside  
8 first. So there was a prioritization  
9 under way. Of the teams that were  
10 felt to be the most capable were the  
11 teams that were moved to the head of  
12 the list.

13 So, again, it was trying to be  
14 the most effective that we possibly  
15 could during that time. So those  
16 issues were the issues I was  
17 referring to.

18 Q. Could you discuss the  
19 cooperative effort with the Consol  
20 teams and their representatives?

21 A. In what way?

22 Q. How were they contacted? Who  
23 contacted them? How many teams  
24 agreed to come and assist?

25 A. Well, just in general, let me

0050

1 say that the Consol teams performed  
2 outstandingly. We were very  
3 fortunate to have them at the  
4 location. They performed well. As  
5 far as notifications go, that was all  
6 done prior to my arriving. I was not  
7 involved in the notification process  
8 at all.

9 But in terms of cooperation  
10 with Consol, there was a process of  
11 briefing that went on that was very  
12 detailed as it should have been.  
13 There were a lot of people there,  
14 myself included, who had never been  
15 exposed to a disaster of this  
16 magnitude. The professionalism and  
17 the attention to detail that they  
18 demonstrated was admirable. So we  
19 took whatever time it took to get  
20 them briefed to the point where they  
21 were comfortable going inside the  
22 mine. So I don't have any issues  
23 with cooperation.

24 Q. Okay. Let me just clarify the  
25 plans. You said there were one-page

0051

1 handwritten plans. Now, those were  
2 plans that were developed by you, the  
3 company, and submitted to the State  
4 and Federal for approval?

5 A. I don't recall that all the  
6 plans were handwritten. Some of the  
7 plans were typed.

8 Q. Well, I didn't mean

9 handwritten, but I mean ---.  
10 A. Repeat the question please.  
11 Q. They were presented ---  
12 A. Yes.  
13 Q. --- in writing, either typed  
14 form or written?  
15 A. Yes.  
16 Q. And those plans --- your  
17 company would evaluate situations and  
18 decide to proceed in a manner and  
19 say, let's try this. And you would  
20 give it to them, and they would look  
21 at it and say yes or no, or we need  
22 to have a little bit more or ---?  
23 A. It was an approval process.  
24 Q. Okay.  
25 A. Are you asking about the

0052

1 process?  
2 Q. I'm asking about how did that  
3 plan --- ultimately, how was it  
4 developed?  
5 A. Well, I think the example I  
6 gave you before, about entering the  
7 mine, is representative of that  
8 process. There was a request to  
9 submit a plan as to what the initial  
10 steps would be. That plan was  
11 generated, submitted for review.  
12 There were concerns. For instance in  
13 this case the attachment of the gas  
14 readings.  
15 The plan was given back to us  
16 for correction. We attached the gas  
17 readings. The plan was resubmitted  
18 and approved.  
19 Q. Okay.  
20 A. So there was a process there  
21 that worked in that way.  
22 Q. Do you have any other examples  
23 of that process?  
24 A. No.  
25 Q. Okay. There was a decision

0053

1 that was made for the teams to  
2 advance and extend the distance past  
3 the fresh air base, even though the  
4 communications would be extended  
5 beyond normal mine rescue practices.  
6 Who ultimately made that decision and  
7 why was the decision made?  
8 A. I don't know. I was not in  
9 the command center when that decision  
10 was made.  
11 Q. Okay. Were you in the command  
12 center when the misinformation came  
13 out that all the miners were alive?

14 A. No.  
15 Q. Okay. Do you have an opinion  
16 what caused the explosion?

17 ATTORNEY RAJKOVICH:  
18 Let me object here and  
19 just say that he can tell what  
20 he knows, factually.

21 MR. O'DONNELL:  
22 Okay.

23 ATTORNEY RAJKOVICH:  
24 But he's not speaking  
25 as to any kind of

0054  
1 investigative action that he's  
2 taken. And he's certainly not  
3 authorized by the company to  
4 express any kind of opinion.

5 ATTORNEY CRAWFORD:  
6 And just for  
7 clarification, you say he's  
8 not speaking as to any  
9 investigation that he has  
10 taken?

11 ATTORNEY RAJKOVICH:  
12 He is taking or has  
13 taken.

14 A. Repeat the question, please.

15 BY MR. O'DONNELL:

16 Q. Do you have an opinion what  
17 caused the explosion?

18 A. I think that the explosion  
19 occurred as a result of a lightning  
20 strike igniting methane inby the  
21 sealed area.

22 Q. What's the basis of that  
23 opinion?

24 ATTORNEY RAJKOVICH:  
25 Again, he's not

0055  
1 authorized to give any kind of  
2 basis, ---

3 MR. O'DONNELL:  
4 Okay.

5 ATTORNEY RAJKOVICH:  
6 --- other than the  
7 facts that he knows.

8 OFF RECORD DISCUSSION  
9 BY MR. O'DONNELL:

10 Q. Do you know how the lightning  
11 traveled into the sealed area? Any  
12 hypothesis that ---?

13 ATTORNEY RAJKOVICH:  
14 Again, I'd ask him not  
15 to speculate, unless he knows.

16 A. I'd rather not speculate.

17 MR. O'DONNELL:  
18 Okay.

19 OFF RECORD DISCUSSION  
20 BY MR. O'DONNELL:  
21 Q. Are there any facts that you  
22 know that allows you to come to that  
23 conclusion?  
24 A. On a personal basis, no.  
25 Q. On a professional basis?

0056

1 A. Come to exactly what  
2 conclusion?  
3 Q. That lightning caused the  
4 explosion.  
5 ATTORNEY RAJKOVICH:  
6 What's the difference  
7 between a professional and a  
8 personal basis? I mean, he's  
9 told you no.

10 MR. STUART:  
11 Now, can we get an  
12 answer from the witness?

13 ATTORNEY RAJKOVICH:  
14 Go ahead and answer.

15 A. No.

16 BY MR. O'DONNELL:  
17 Q. Why do you think the seals  
18 failed?

19 ATTORNEY RAJKOVICH:  
20 Again, let me caution  
21 against any kind of opinion.  
22 A. I'd rather not speculate.

23 BY MR. O'DONNELL:  
24 Q. Has ICG conducted an  
25 independent investigation into the

0057

1 accident?  
2 A. ICG is in the process of  
3 conducting an investigation.  
4 Q. Do you know who is involved in  
5 the investigation?

6 ATTORNEY RAJKOVICH:  
7 Let me instruct him not  
8 to answer that.

9 ATTORNEY CRAWFORD:

10 On what basis?

11 ATTORNEY RAJKOVICH:  
12 He's not authorized to  
13 speak on behalf of the  
14 company. That's a question to  
15 the company, not to him about  
16 what facts that he knows  
17 personally about this  
18 incident.

19 ATTORNEY CRAWFORD:  
20 Well, I believe the  
21 question was, does he ---.

22 What was the question?

23 MR. O'DONNELL:

24 Who's involved in the  
25 investigation.

0058

1 ATTORNEY RAJKOVICH:  
2 Again, I don't think  
3 he's authorized to say that.  
4 ATTORNEY CRAWFORD:  
5 Well, if factually he  
6 knows that --- if he knows,  
7 can he can answer it?  
8 ATTORNEY RAJKOVICH:  
9 Not if those facts are  
10 something that's held by the  
11 company. That's best directed  
12 to the company.  
13 ATTORNEY CRAWFORD:  
14 Just for clarification,  
15 he's the vice-president of  
16 operations of the company.  
17 ATTORNEY RAJKOVICH:  
18 That's right. You  
19 don't speak for MSHA either,  
20 right, but you're their  
21 attorney?  
22 ATTORNEY CRAWFORD:  
23 I'm not going there.  
24 ATTORNEY RAJKOVICH:  
25 Okay.

0059

1 ATTORNEY CRAWFORD:  
2 I'm not answering the  
3 questions, your client is.  
4 ATTORNEY RAJKOVICH:  
5 I understand. I got  
6 you.  
7 ATTORNEY CRAWFORD:  
8 Go ahead.  
9 BY MR. O'DONNELL:  
10 Q. Do you anticipate the issuance  
11 of a report?  
12 A. Yes.  
13 (Kitts Exhibit One  
14 marked for  
15 identification.)  
16 BY MR. O'DONNELL:  
17 Q. We have a --- are you familiar  
18 with this document? It's a press  
19 release from ICG.  
20 WITNESS REVIEWS DOCUMENT  
21 A. Is there a question?  
22 BY MR. O'DONNELL:  
23 Q. Yes. Are you familiar with  
24 this report?  
25 A. Yes.

0060

1 Q. And how did this report ---  
2 how was it formulated?

3 A. As in ---  
4 Q. How did ---?  
5 A. --- who wrote it, who  
6 developed it?  
7 Q. Yes.  
8 A. It was an effort on the part  
9 of several people.  
10 Q. An investigation team of some  
11 sort?  
12 A. There is no formal  
13 investigation team, no.  
14 Q. Well, who would have written  
15 this document?  
16 ATTORNEY RAJKOVICH:  
17 Again, that's a  
18 question that goes to the  
19 company.  
20 MR. O'DONNELL:  
21 Okay.  
22 ATTORNEY CRAWFORD:  
23 Even if he, in fact,  
24 knows the answer? As a matter  
25 of fact?

0061

1 ATTORNEY RAJKOVICH:  
2 I think he can't speak  
3 on behalf of the company.  
4 MR. STUART:  
5 He can speak on his own  
6 behalf and what he knows.  
7 ATTORNEY RAJKOVICH:  
8 Right. But he can't  
9 speak for the company. And  
10 that's a company question.  
11 ATTORNEY CRAWFORD:  
12 No. It wasn't asked as  
13 a company question.  
14 ATTORNEY RAJKOVICH:  
15 I know, but it is a  
16 company question.  
17 ATTORNEY CRAWFORD:  
18 Well, that's your  
19 characterization, not ours.  
20 ATTORNEY RAJKOVICH:  
21 Well, that's the  
22 characterization that he's  
23 going to go by.  
24 ATTORNEY CRAWFORD:  
25 So you're

0062

1 characterizing his answer.  
2 ATTORNEY RAJKOVICH:  
3 No. What I'm doing is  
4 taking what you've asked him.  
5 I represent this man. And he  
6 can't speak for the company.  
7 ATTORNEY CRAWFORD:

8 We asked the question  
9 to him, though, directly, to  
10 see if he has functional  
11 knowledge.

12 ATTORNEY RAJKOVICH:

13 I understand.

14 ATTORNEY CRAWFORD:

15 Are you directing him  
16 not to answer?

17 ATTORNEY RAJKOVICH:

18 That's right.

19 ATTORNEY CRAWFORD:

20 And, again, just for  
21 the record, ---

22 ATTORNEY RAJKOVICH:

23 Yes.

24 ATTORNEY CRAWFORD:

25 --- what basis is that

0063

1 on?

2 ATTORNEY RAJKOVICH:

3 Because he can't speak  
4 for the company.

5 ATTORNEY CRAWFORD:

6 Even if, in fact, he  
7 knows such information?

8 ATTORNEY RAJKOVICH:

9 That's exactly right.

10 MR. O'DONNELL:

11 Mike, do you have any  
12 follow-up questions?

13 MR. RUTLEDGE:

14 Yes.

15 BY MR. RUTLEDGE:

16 Q. If you wouldn't mind going  
17 back to early on when you arrived at  
18 the mine and you spoke about the CO  
19 levels in the mine office and people  
20 being evacuated and so on.

21 A. Yes, sir.

22 Q. Do you remember what time that  
23 was, a best guesstimate?

24 A. I'd estimate between noon and  
25 one o'clock ---

0064

1 Q. Okay.

2 A. --- on Monday, the 2nd.

3 Q. And at sometime during this,  
4 was everyone out of the office? Was  
5 everyone required to leave the  
6 office? You spoke about some family  
7 members being relocated to the  
8 church, or some other people leaving.  
9 Did everybody leave the office  
10 or ---?

11 A. No.

12 Q. Okay. So even throughout this

13 time there were people, whoever they  
14 might be, that were in and out of the  
15 office and conducting business in  
16 there?

17 A. That's correct.

18 Q. Okay. Also, we asked earlier  
19 about the permits and the transfer of  
20 permits and State permits from Anker  
21 to ICG or their subsidiaries. You  
22 mentioned that would have been the  
23 legal department's responsibility.  
24 Do you know who, you know, would have  
25 contacted the legal department to

0065

1 request this be done or to institute  
2 this change or any person in  
3 particular at the mine or even within  
4 the company that would have issued  
5 the instruction to get this done?

6 A. I have no firsthand knowledge  
7 of the permit-transfer process.

8 Q. Okay. You stated that it was  
9 your opinion that the lightning  
10 strike caused the explosion. Okay.  
11 Can you give us any things that  
12 caused you to form that opinion? Any  
13 facts that you're aware of, or any  
14 circumstances that you're aware of  
15 that cause you to form that opinion?

16 ATTORNEY RAJKOVICH:

17 Again, he's not going  
18 to speak on behalf of the  
19 company to any investigation  
20 they've done.

21 MR. RUTLEDGE:

22 Okay. I understand  
23 that. He stated that it was  
24 his personal opinion that that  
25 was, in fact, the cause of the

0066

1 explosion. I was just trying  
2 to ask him if he could give me  
3 any insight as to what might  
4 have formed that personal  
5 opinion.

6 A. Well, again, I'm not going to  
7 comment on the specifics of the ICG  
8 investigation.

9 MR. RUTLEDGE:

10 Okay. I don't have any  
11 other questions right now.  
12 Thank you.

13 OFF RECORD DISCUSSION

14 BY MR. RUTLEDGE:

15 Q. Again, you stated, for the  
16 record, your opinion was that a  
17 lightning strike caused the

18 explosion. I'm not asking you to  
19 give me anything that --- any company  
20 information or anything from a  
21 company investigation. I'm asking  
22 what is the basis for your personal  
23 opinion? What things may have caused  
24 you to come to that opinion?  
25 A. I'd like to request a break.

0067

1 MR. RUTLEDGE:  
2 Sure.  
3 SHORT BREAK TAKEN  
4 MR. O'DONNELL:  
5 Mr. Rutledge?  
6 BY MR. RUTLEDGE:  
7 Q. I believe the question was  
8 asked, again, if you can give us  
9 anything that caused you to form your  
10 opinion that a lightning strike was  
11 the source of the explosion or the  
12 cause of the explosion.  
13 A. The company press release that  
14 you've shown me here, dated, March  
15 14th, contains information that I  
16 agree with, in shaping my opinion  
17 about the lightning being the cause  
18 of the accident.  
19 Q. Okay. Could you elaborate on  
20 a couple of specific points that  
21 might be there or that you might have  
22 used to form your opinion?  
23 A. Well, the second page. At the  
24 top of the page it talks about the  
25 coincidental events of a lightning

0068

1 strike, a detected seismic event, and  
2 the alarm of the mine CO-monitoring  
3 system. Those three events happened  
4 within the space of roughly one  
5 second. So those facts are primarily  
6 why my opinion is lightning caused  
7 the accident.  
8 Q. Okay. Thanks. And either you  
9 or your attorney said that you cannot  
10 speak for the company or as a company  
11 representative. Okay. Can you tell  
12 me who would speak for the company or  
13 as a company representative?  
14 ATTORNEY RAJKOVICH:  
15 Well, I think you have  
16 to ask the company about that.  
17 ATTORNEY CRAWFORD:  
18 Well, he can ask him  
19 whether he knows it.  
20 ATTORNEY RAJKOVICH:  
21 As to who's authorized  
22 to speak for the company, you

23 can ask it. I don't know.  
24 A. I don't know.  
25 MR. RUTLEDGE:  
0069  
1 Thank you. I don't  
2 have any other questions right  
3 now.  
4 MR. STUART:  
5 That was a good pick  
6 up, wasn't it?  
7 ATTORNEY RAJKOVICH:  
8 A good what?  
9 MR. STUART:  
10 That was a good pick  
11 up.  
12 ATTORNEY RAJKOVICH:  
13 A good pick up?  
14 MR. STUART:  
15 Uh-huh (yes).  
16 MR. O'DONNELL:  
17 Is it back to me?  
18 MR. RUTLEDGE:  
19 I don't have any other  
20 questions. Thanks.  
21 BY MR. O'DONNELL:  
22 Q. So we don't know who would be  
23 a company spokesperson then?  
24 A. No. To answer that specific  
25 question.  
0070  
1 Q. Would it be the president?  
2 A. Possibly.  
3 Q. Well, who gave the press  
4 releases for the company, then?  
5 Wouldn't that person be the  
6 spokesperson?  
7 ATTORNEY RAJKOVICH:  
8 Again, I think he's  
9 saying that he doesn't know.  
10 He isn't authorized to say ---  
11 the company is supposed to  
12 designate who speaks for the  
13 company.  
14 MR. O'DONNELL:  
15 Okay.  
16 ATTORNEY RAJKOVICH:  
17 And this man isn't that  
18 person.  
19 BY MR. O'DONNELL:  
20 Q. But you work for them. I  
21 figure you know who ---.  
22 ATTORNEY CRAWFORD:  
23 Can you answer the  
24 question?  
25 ATTORNEY RAJKOVICH:  
0071  
1 Again, who speaks for

2 MSHA? Which one of you guys  
3 are authorized to speak for  
4 MSHA?  
5 MR. O'DONNELL:  
6 I am right now, yes.  
7 ATTORNEY RAJKOVICH:  
8 What caused the  
9 explosion then?  
10 MR. O'DONNELL:  
11 We're asking the  
12 questions.  
13 ATTORNEY RAJKOVICH:  
14 Okay. All right.  
15 ATTORNEY CRAWFORD:  
16 Well, the question on  
17 the table is ---. Isn't the  
18 question on the table whether  
19 he knew who wrote the press  
20 release or who released the  
21 press release? That's the  
22 question.  
23 ATTORNEY RAJKOVICH:  
24 I don't think the  
25 question was who wrote it.

0072

1 MR. O'DONNELL:  
2 I'll ask him whether he  
3 knows that. Can he answer it?  
4 ATTORNEY RAJKOVICH:  
5 I don't think it was  
6 who wrote it. Now, if that's  
7 another question, we've  
8 already addressed that.  
9 A. I'll answer the question by  
10 saying, I prefer not to comment on  
11 the ongoing investigation.  
12 BY MR. O'DONNELL:  
13 Q. Okay. I just want to know who  
14 represents ICG so we could talk to  
15 them.  
16 ATTORNEY RAJKOVICH:  
17 I think you need to ask  
18 the company.  
19 MR. O'DONNELL:  
20 Well, if I don't know  
21 who to ask ---.  
22 ATTORNEY RAJKOVICH:  
23 Ask the company's  
24 attorneys.  
25 MR. O'DONNELL:

0073

1 Okay.  
2 MR. STUART:  
3 Well, since you're  
4 speaking here today for the  
5 company. Are you their  
6 attorney, too?

7 ATTORNEY RAJKOVICH:  
8 No, sir. I'm this  
9 man's attorney. You don't  
10 represent them, do you?  
11 ATTORNEY CRAWFORD:  
12 We weren't sure ---.  
13 ATTORNEY RAJKOVICH:  
14 Remind me to get that  
15 answer later. You don't  
16 represent him --- or you're  
17 not answering things. Okay.  
18 BY MR. O'DONNELL:  
19 Q. Mr. Kitts, when you said you  
20 weren't in the command center  
21 whenever the misinformation happened,  
22 but you had talked to families and  
23 given them updates. Tell us a little  
24 bit how that transpired and what your  
25 involvement was with that, relaying

0074

1 the information and how all that came  
2 about.  
3 A. Initially it was the family  
4 members on-site in the mine office  
5 were asked to leave and relocate over  
6 to the Sago Baptist Church. And at  
7 that time, I informed them that we  
8 would provide communication and  
9 updates on a regular basis.  
10 And we continued that process  
11 throughout the whole event. So  
12 that's why --- I was the first ICG  
13 person to go over to the church and  
14 tell the families what we knew at  
15 that point, which was very little.  
16 But that initiated the process. And  
17 then it was ongoing throughout.  
18 Q. So were you at the church  
19 whenever it was found out that they  
20 had just found the missing miners?  
21 A. Was I at the church at the  
22 time of ---?  
23 Q. Or did you give the release  
24 that the miners were ---?  
25 A. Were alive?

0075

1 Q. Uh-huh (yes). Or how was that  
2 information brought over there? How  
3 did that happen?  
4 A. The company did not do a  
5 briefing to that effect.  
6 Q. Okay.  
7 A. There was no release or  
8 briefing to that effect at all. I  
9 was out of the command center in the  
10 parking lot at the time the 12 alive  
11 message came in to the command

12 center.  
13 Q. And then there was a time  
14 period that occurred, a lag in time,  
15 to find out that there was a  
16 miscommunication. And then there was  
17 a period of time between when the  
18 families were told. Do you have any  
19 knowledge or do you know anything why  
20 there was such a lag or why it  
21 happened the way it did?  
22 A. I can give you my personal  
23 account of what happened during that  
24 time period.  
25 Q. Okay.

0076

1 A. At approximately 11:45, I was  
2 notified about the message of 12  
3 alive. It was jubilation. Everybody  
4 was just ecstatic at the news. That  
5 celebration went on for maybe five or  
6 ten minutes. I don't really recall  
7 the exact time. But at that time it  
8 became very apparent, though, that  
9 the scope of our efforts had changed  
10 dramatically. Up and to that point  
11 it had been a search and rescue  
12 effort through the mine-rescue  
13 protocol.  
14 At that time, the entire  
15 complexion of the effort changed to a  
16 medical response. So it became a  
17 mobilization effort to get medical  
18 personnel to the face of Two Left as  
19 quickly as possible.  
20 So from my perspective, it was  
21 very, very hectic at that time. That  
22 response was already mobilized and  
23 headed through the mine. At the time  
24 the mine rescue team reached the  
25 fresh air base at approximately

0077

1 12:30, the message came out that it  
2 was not 12 alive, it was 1 alive,  
3 which didn't really change what we  
4 were doing. We still had a medical  
5 response.  
6 However, it was a very  
7 difficult situation because we had no  
8 communication along the track. We  
9 had one team coming out as quickly as  
10 they could with the survivor.  
11 Another team going in with the  
12 understanding that they were going to  
13 retrieve 12 survivors. So that was a  
14 very difficult time. We were  
15 attempting to manage that situation  
16 when indeed the survivor was brought

17 outside and immediately taken to the  
18 hospital.  
19 So at that point, our rescue  
20 effort was very unorganized. In the  
21 heat of the moment, there was not a  
22 list, at least to my knowledge, of  
23 who was on the medical response team  
24 going underground. Up until that  
25 point, we had been very careful to

0078

1 monitor exactly who was in the mine,  
2 where the teams were located and so  
3 forth.  
4 Due to the miscommunication,  
5 that organization fell apart. So we  
6 had to regroup the mine rescue teams  
7 and debrief the people who had been  
8 to the barricade. It was a very  
9 hectic busy time for me personally  
10 through all that.  
11 So it wasn't --- it's hard to  
12 tell about time, because I was not  
13 keeping notes during this. But  
14 through the debriefing and the  
15 reorganization effort, they came to  
16 me and said, we're going to --- we're  
17 going over to the church to inform  
18 the families.  
19 So I know it's somewhere ---  
20 two and a half to three hour time  
21 frame went by, but from my  
22 perspective it all went by very  
23 quickly. It took an inordinate long  
24 time to get from the mine office over  
25 to the church due to the crowds. And

0079

1 then at that point we went to the  
2 church. And it was my understanding  
3 that the families had been notified  
4 already. It wasn't until I walked  
5 into the church and looked out on the  
6 crowd and saw all those smiling faces  
7 and all the happiness that I realized  
8 that they had not been notified.  
9 So the news was broken. Just  
10 the opposite of the jubilation that  
11 had occurred three hours earlier  
12 occurred in that church. It was just  
13 gut-wrenching.  
14 So Ben attempted to make a  
15 statement. The situation was very  
16 emotionally charged. And the  
17 decision was made that it would be  
18 better just to leave, so we left.  
19 MR. RUTLEDGE:  
20 I don't have any  
21 questions.

22 MR. O'DONNELL:  
23 On behalf of MSHA, I'd  
24 like to thank you for  
25 appearing and answering

0080

1 questions today. Your  
2 cooperation is very important  
3 to the investigation as we  
4 work to determine the cause of  
5 the accident.

6 We ask that you not  
7 discuss your testimony with  
8 any person who may have  
9 already been interviewed or  
10 who may be interviewed in the  
11 future. This will ensure that  
12 we obtain everyone's  
13 independent recollection of  
14 the events surrounding the  
15 accident.

16 After questioning other  
17 witnesses, we may call you if  
18 we have any follow-up  
19 questions that we feel that we  
20 may need to ask you. If at  
21 any time you have additional  
22 information regarding the  
23 accident that you would like  
24 to provide us, please contact  
25 us at the information that we

0081

1 provided.  
2 The Mine Act provides  
3 certain protections to miners  
4 who provide information to  
5 MSHA and as a result are  
6 treated adversely. If at any  
7 time you believe that you've  
8 been treated unfairly because  
9 of your cooperation in this  
10 investigation, you should  
11 immediately notify MSHA.

12 If you wish, you may  
13 now go back over any answer  
14 you have given during this  
15 interview. And you may also  
16 make any statement that you  
17 would like to make at this  
18 time.  
19 A. I have no further statement.

20 MR. O'DONNELL:  
21 All right. We'd like  
22 to thank you very much. And  
23 I'd like to put on the record  
24 that the ICG investigation is  
25 put on the record.

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\* \* \* \* \*  
SWORN STATEMENT  
CONCLUDED AT 10:12 A.M.  
\* \* \* \* \*



**FOR IMMEDIATE RELEASE**

Contact:  
Media Relations for ICG  
216-937-8909

**INTERNATIONAL COAL GROUP TO RESUME OPERATIONS AT SAGO MINE;  
ANNOUNCES INITIAL FINDINGS OF INDEPENDENT ACCIDENT INVESTIGATION**

ASHLAND, Ky. – March 14, 2006 – International Coal Group, Inc. (NYSE: ICO) announced today that it has completed its on-site investigation into the explosion that occurred at the Sago Mine near Buckhannon, West Virginia on January 2, 2006. Although state and federal mine safety authorities had provided approval last week to resume mining operations at the Sago Mine, the company delayed resumption of coal production until it had announced its initial findings to the families and coworkers of those killed and injured in the accident.

The company revealed its initial findings to the families earlier today in a series of private meetings conducted at West Virginia Wesleyan College. Employees of the Sago Mine will receive their briefing as they report to work for their regular shifts beginning late tonight. Normal coal mining activities are expected to resume on Wednesday, March 15.

“By the end of last week, work crews had completed repairs to the mine infrastructure damaged by the explosion, and both state and federal mine regulators had confirmed that the Sago Mine was approved to resume mining operations,” said Ben Hatfield, President and CEO of International Coal Group (ICG). “However, our plan from the beginning was to delay restart of the mine until we had met with the families and with our Sago employees to review the initial findings of our independent investigation. It’s important that they get prompt information on what we’ve learned about the cause of the accident, and the steps taken to ensure that the mine is safe, so they will have some degree of comfort while we await the official MSHA and state investigation reports.”

Hatfield noted that ICG’s independent investigation utilized a diverse team of mining, electrical, and combustion consultants that are recognized industry experts in mine explosion investigations. That investigation has to date produced the following key initial findings:

- The explosion was ignited by lightning and fueled by methane that naturally accumulated in an abandoned area of the mine that had been recently sealed.



- The lightning ignition appears to be verified by three independent events that occurred concurrently at 6:26 AM on January 2: (i) an unusually large lightning strike of roughly three times normal strength was measured near the Sago Mine by an independent weather monitoring service; (ii) a seismic event at the Sago Mine was detected by a Morgantown area USGS seismic station; and (iii) the Sago Mine atmospheric monitoring system signaled a combustion alarm due to presence of carbon monoxide.
- The precise route by which the lightning electrical charge traveled from a surface strike location to the sealed area remains under investigation.
- The seals, constructed of Omega block under a plan approved by MSHA and designed to withstand forces of 20 pounds per square inch ("psi"), were essentially obliterated by the explosion. Calculations indicate that the explosive forces experienced at each seal were substantially greater than 20 psi. More specifically, the forces at roofline were as high as 30 psi at all the seals – and possibly as high as 60 psi at some of the seals.
- None of the citations issued at the Sago Mine during the accident investigation, or prior to the accident during 2005, were linked to the explosion in any way. Each citation has been promptly remedied.

The company will continue with data review and testing to verify the findings, and will continue full cooperation with the ongoing state and federal investigations.

"While our independent investigation is certainly not the final word on the explosion, we are confident that the joint federal-state investigation will reach a similar conclusion," Hatfield said. "We hope that the announcement of our preliminary findings as to the cause of the explosion will provide meaningful information to the families and our employees and will answer many of their lingering questions."

Hatfield added, "We recognize that the Sago Mine will be under close scrutiny from state and federal inspectors, as well as our own employees, as we resume operations. Frankly, we welcome that scrutiny. We have worked hard to address all concerns and are confident that we will provide a safe working environment for our miners."

To prepare the mine for resumption of coal production, more than 80 employees have been working underground for several weeks to repair damage from the explosion. All ventilation controls, including stoppings and overcasts, have been reconstructed. The formerly sealed area will be ventilated to the surface through two boreholes and a small ventilation shaft that were drilled recently, which will eliminate the need for those seals.

ICG also confirmed its commitment to technological advancements within the coal industry to attempt to prevent any future accidents of this nature. ICG, along with other coal companies, is participating with the National Institute for Occupational Safety and Health in its underground coal mine communications research effort. Additionally, ICG is

independently reviewing potential underground communication technology for testing and possible implementation in ICG mines.

"We are pleased that we can get our Sago employees back to work with the knowledge that the explosion was an unpredictable and highly unusual accident," Hatfield said. "This tragedy will always remain in our memories, but we've got to do more than just remember the good people that died and were injured. We must learn lessons from this accident that will make coal miners safer in years to come. That is our commitment to the families of the twelve miners lost."

The Company's more detailed "Initial Findings of ICG Independent Investigation of Sago Mine Explosion" are being provided as an attachment to this news release.

ICG is a leading producer of coal in Northern and Central Appalachia and the Illinois Basin. The company has eleven active mining complexes, of which ten are located in Northern and Central Appalachia, and one in Central Illinois. ICG's mining operations and reserves are strategically located to serve utility, metallurgical and industrial customers throughout the eastern United States.

The foregoing statements in this document and the attachments hereto which are not statements of historical fact are forward-looking statements within the "safe harbor" provision of the Private Securities Litigation Reform Act of 1995. Because these forward-looking statements are subject to various risks and uncertainties, actual results may differ materially from those implied in the forward-looking statements. The following factors are among those that may cause actual results to differ materially from the forward-looking statements: market conditions for coal, electricity and steel; the outcome of the investigation into the explosion at the Sago Mine; changes in legislation, regulations and government policies affecting the coal industry, affecting safety requirements and affecting coal usage and changes in relationships with customers, transportation, a variety of other operational, geologic, environmental, permitting, labor, transportation, weather and market related factors. The investor should keep in mind that any forward-looking statement made by ICG in this news release or elsewhere speaks only as of the date on which the company makes it. New risks and uncertainties come up from time to time, and it is impossible for the company to predict these events or how they may affect the company. ICG has no duty to, and does not intend to, update or revise the forward-looking statements in this news release after the date of issue, except as may be required by law. In light of these risks and uncertainties, the investor should keep in mind that any forward-looking statement made in this news release or elsewhere might not occur.

FOR FURTHER INFORMATION, CALL 216-937-8909

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INITIAL FINDINGS OF ICG INDEPENDENT INVESTIGATION  
OF SAGO MINE EXPLOSION  
MARCH 14, 2006

In addition to supporting state and federal mine safety officials at each step of their on-site investigation, ICG retained several outside consultants to conduct an independent investigation into the Sago Mine accident. This independent investigation team includes consultants that are recognized industry experts in mining, electricity, combustion, and materials engineering – all of whom have direct experience with investigation of coal mine explosions. ICG has substantially completed its accident investigation, subject to ongoing verification analysis, and today announced the following initial findings:

- The Sago Mine explosion occurred within an area that was sealed off from the active working sections of the mine.
- The area where the explosion occurred was sealed with 40-inch-thick Omega block seals, which were installed under a plan approved by the federal Mine Safety & Health Administration (MSHA) requiring seals to withstand forces of 20 pounds per square inch (psi). Inspection records confirm that the seals were scrutinized during the period of construction, and after construction, by both federal and state mine inspectors.
- Initial calculations indicate that the forces of the explosion were as high as 30 psi at roofline at all the seals and physical evidence at some locations near the seals within the sealed area indicate pressures of 60 psi or higher. The calculation of the magnitude of the forces is determined by measuring the forces required to bend substantial steel items such as roof bolt plates, "pie pans" used for roof support, or belt hangers that were left after the belt was removed from the sealed area.
- The seals were completely destroyed by the explosion. In only one place, at the No. 1 seal, were there any significant remnants of the Omega blocks used to build the seals. Many of the seals were completely pulverized by the explosion. Also, wood block crib structures constructed at the seals as contemplated by the MSHA approved plan were also destroyed and debris from those cribs within the sealed area may also have contributed to the destruction of the seals.
- The explosion appears to have been fueled by methane naturally liberated in the sealed area. There is no evidence that the gas well located adjacent to the sealed area was a contributing factor to the explosion.
- Coal or float dust in either the active workings or the sealed area did not appear to provide fuel for the explosion and did not propagate the explosion within the active areas of the mine. In the area of the seals particularly, every indication is that the area was more than sufficiently rockdusted.
- When there is an ignition of methane within a sealed area, investigators look at a number of potential sources of ignition: electrical equipment, roof falls, and

lightning. Electrical equipment and roof falls do not appear to have caused the ignition.

- There was no power source in the sealed area. No track or conveyor belt extended from the active areas of the mine into the sealed area to serve as a conduit for electrical energy. Steel wire mesh, which was installed to protect against roof falls, had been appropriately removed in the area of the seals.
- There was no energized electrical equipment in the sealed area. Although there was an abandoned water pump under water at the faces of old 2 Left, it was not connected to any power source. Presence of such abandoned equipment within sealed mine areas is not prohibited by regulations.
- Investigators inspected the area where the ignition started and determined that it was unlikely that the methane was ignited by a roof fall.
- All evidence gathered to this point indicates that the ignition occurred due to lightning. A violent thunderstorm passed through this area on the morning of January 2. Data from an independent weather monitoring service confirmed an unusually large lightning strike (3 times normal strength) occurred in the vicinity of the mine, a seismic event near Sago was recorded by the USGS seismic monitoring station at Mont Chateau, and a carbon monoxide alarm was triggered on the Sago Mine monitoring system almost simultaneously at approximately 6:26 AM on January 2.
- At the location where the ignition is thought to have begun, there are several unusual streaks across the roof on either side of a coal pillar. The streaks across the roof appear to have an associated increase in magnetism, which would suggest the passage of electrical energy across or through the rock. The testing of these unusual features has not been completed to determine if it was created by the passage of electrical energy from lightning.
- Although it appears that lightning was the source of the energy for ignition, it has not been determined how it passed into the sealed area. There is no obvious conduit directly from the surface, such as a borehole with a metal casing, although searches have been conducted on the surface. The track, belt conveyor, electrical cables and steel roof mesh did not pass through the seals and it does not appear they were a direct conduit for electricity into the sealed area. There are several potential paths for the electricity into the sealed area: through the mine, through the ground itself, through the gas well casing and through the ground, or through the network of gas well lines on the surface and into the ground. The ground above the sealed area was tested and indicated a lower resistivity to electricity. One of the mapped lightning strikes was 300 feet away from a power pole that supplied power to the mine and it is possible that the electrical energy entered the mine through this mechanism traveling perhaps along the conveyor belt structure. At this time, however, there is no definitive evidence on how the electrical energy was conducted into the sealed area.

- None of the citations issued at the Sago Mine during the accident investigation, or prior to the accident during 2005, were linked to the explosion in any way. Each citation has been promptly remedied.

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