

0001

1 STATEMENT UNDER OATH  
2 OF  
3 MARTIN CAL CARVER  
4  
5  
6

7 Taken pursuant to Notice by Miranda  
8 D. Elkins, a Court Reporter and  
9 Notary Public in and for the State of  
10 West Virginia, at the U.S. Bankruptcy  
11 Court, 324 West Main Street,  
12 Clarksburg, West Virginia, on Monday,  
13 March 27, 2006, at 10:52 a.m.  
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1 A P P E A R A N C E S  
2

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16 Supv. MS&H Specialist (Ventilation)  
17 U.S. Department of Labor  
18 Mine Safety & Health Administration  
19 CMS&H, District Two  
20 Paintersville Road  
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23  
24  
25

0003

1 A P P E A R A N C E S (cont.)  
2

3 MICHAEL RUTLEDGE

4 Safety Director  
5 West Virginia Office of Miners'  
6 Health, Safety & Training  
7 142 Industrial Drive  
8 Oak Hill, WV 25901  
9

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

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

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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

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1 also be used in other  
2 enforcement activities.

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.

8 This interview with Mr.  
9 Marty Carver is being  
10 conducted under Section 103(a)  
11 of the Federal Mine Safety &  
12 Health Act of 1977 as part of  
13 an investigation by the Mine  
14 Safety and Health  
15 Administration and the West  
16 Virginia Office of Miners'  
17 Health, Safety & Training into  
18 the conditions, events and  
19 circumstances surrounding the  
20 fatalities that occurred at  
21 the Sago Mine owned by  
22 International Coal Group in  
23 Buckhannon, West Virginia, on  
24 January 2nd, 2006. This  
25 interview is being conducted

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1 at the U.S. Bankruptcy Court  
2 in Clarksburg, West Virginia  
3 on March 27th, 2006.

4 Questioning will be  
5 conducted by representatives  
6 of MSHA and the Office of  
7 Miners' Health, Safety &  
8 Training. Mr. Carver, this  
9 interview is being conducted  
10 --- excuse me. Mr. Carver,  
11 this interview will begin by  
12 my asking you a series of  
13 questions. If you do not  
14 understand a question, please  
15 ask me to rephrase it. Feel  
16 free at any time to clarify  
17 any statements that you make  
18 in response to the questions.

19 After we have finished asking  
20 questions, you will also have  
21 an opportunity to make a  
22 statement and provide us with  
23 any information that you  
24 believe may be important. If  
25 at any time after the

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1 interview, you recall any  
2 additional information that  
3 you believe may be useful in  
4 the investigation, please  
5 contact Richard Gates at the  
6 phone number and e-mail  
7 address provided to you. And  
8 we'll get that to you.

9 Your statement is  
10 completely voluntary. You may  
11 refuse to answer any question  
12 and you may terminate the  
13 interview at any time. If you  
14 need a break at any time, just  
15 please let me know.

16 The court reporter will  
17 record your interview and will  
18 later produce a written  
19 transcript of the interview.  
20 Please try to respond to all  
21 questions verbally, since the  
22 court reporter cannot record  
23 nonverbal responses. Also,  
24 please try to keep your voice  
25 up. Copies of the written

0011

1 transcripts will be made  
2 available at a later date.  
3 If any part of your  
4 statement is based not on your  
5 own firsthand knowledge, but  
6 on information that you  
7 learned from someone else,  
8 please let us know. Please  
9 answer each question as fully  
10 as you can, including any  
11 information you have learned  
12 from someone else. We may not  
13 ask the right question to  
14 learn the information that you  
15 have, so do not feel limited  
16 by the precise question asked.  
17 If you have information about  
18 the subject area of a  
19 question, please provide us  
20 with that information.

21 At this time, Mr.  
22 Rutledge, do you have anything  
23 that you would like to add on

24       behalf of the Office of  
25       Miner's Health, Safety &

0012

1       Training?

2       MR. RUTLEDGE:

3       Yes. Mr. Carver, the  
4       State is conducting these  
5       interview sessions jointly  
6       with MSHA and we are in  
7       agreement with the procedures  
8       outlined by Mr. Swentosky for  
9       the interviews that will be  
10      conducted here today.  
11      However, the Director of  
12      Miners' Health, Safety &  
13      Training reserves the right,  
14      if necessary, to call or  
15      subpoena witnesses or require  
16      the production of any record,  
17      document, photograph or any  
18      other relevant materials  
19      necessary to conduct this  
20      investigation. We appreciate  
21      you being here. And if you  
22      have any questions about the  
23      State's part of this  
24      investigation, you can use  
25      that contact information

0013

1       there.

2       MR. SWENTOSKY:

3       Okay. Could you swear  
4       in Mr. Carver, please?

5       -----

6       MARTIN CAL CARVER, HAVING FIRST BEEN  
7       DULY SWORN, TESTIFIED AS FOLLOWS:

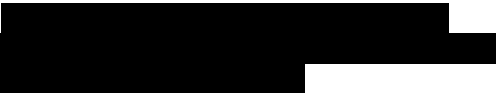
8       -----

9       BY MR. SWENTOSKY:

10      Q. Could you please state your  
11      full name and spell your last name  
12      for us, please?

13      A. Martin Cal Carver,  
14      C-A-R-V-E-R.

15      Q. And could you provide us with  
16      your address and telephone number,  
17      please?

18      A. 

19      Q. And are you appearing here  
20      today voluntarily?

21      A. Yes, sir.

22      Q. And how long have you worked  
23      with MSHA?

0014

1       A. Next month will be three  
2       years.

3 Q. And where is your duty station  
4 at this time?  
5 A. Mount Carbon, West Virginia.  
6 Q. And was there any time you  
7 worked at the Bridgeport field  
8 office?  
9 A. Yes, sir.  
10 Q. And when would that have been?  
11 A. It's two and a half years. I  
12 left there in November 15th of last  
13 year.  
14 Q. Okay. And what is your  
15 present position?  
16 A. Inspector.  
17 Q. And during your time at the  
18 Bridgeport field office, did you have  
19 occasion to make inspections at the  
20 Sago Mine?  
21 A. Yes, sir, I did.  
22 Q. And during those inspections  
23 at the Sago Mine, did you have an  
24 occasion to inspect the old Two Left  
25 area?

0015

1 A. Yes, sir, I did.  
2 Q. And did you inspect the seals  
3 in the Sago Mine?  
4 A. Yes, sir. Yes, sir. I sure  
5 did.  
6 Q. And that's the Two Left seals?  
7 A. Yes.  
8 Q. Okay. And could you just kind  
9 of describe for me that inspection  
10 that day or for those multiple days,  
11 whatever that was?  
12 A. Right. Well, that particular  
13 day I can remember. I had a trainee  
14 with me, Roger Workman. And we was  
15 there doing the regular inspection.  
16 The reason we was down by the seals,  
17 they was doing some rehab work on the  
18 intake. And we was going down the  
19 intake to see the progress and  
20 update. The citation --- the written  
21 citation that it was under was coming  
22 up for extension. And that's what we  
23 was down in there for. Then we come  
24 up on the seals and walked over and  
25 started observing the seals being

0016

1 constructed. Walked over --- he and  
2 I and Carl Crumrine, who was the mine  
3 foreman, we walked over and was  
4 actually just watching the  
5 construction. And they had laid a  
6 block in line, but they had the  
7 joints parallel. And when they done

8 that and put it in place, that's when  
9 we stopped them and asked them if  
10 they knew how --- what the approved  
11 plan was and they said yes. And I  
12 said, well, there's a line in there  
13 that says that the joints couldn't be  
14 parallel to each other. So we took  
15 the time out, we pulled the plan out  
16 and we reviewed the plan for about 30  
17 minutes. At the end of it, they  
18 removed the block, cut part of the  
19 block off, re-mortared and  
20 repositioned so the joints were not  
21 parallel with each other. But other  
22 than the construction of the seals,  
23 they was adding mud to it about a  
24 quarter inch thick, in some places, a  
25 little more. And the integrity

0017

1 looked all right.  
2 After we left that, I went  
3 back and reviewed --- or looked at  
4 the other four seals that was  
5 completed. They was working on the  
6 fifth one. I didn't go behind the  
7 seals and look at them, but I did  
8 look at it from a distance of  
9 approximately five to seven feet from  
10 the face of the seals. And at that  
11 --- they had mortared the face of the  
12 seals that you couldn't see the  
13 joints. But the integrity there, the  
14 solid rib, the roof, the floor,  
15 everything looked really good. And  
16 other than that one joint, I didn't  
17 observe them doing anything that  
18 wasn't approved in the plan that day.  
19 Q. Okay. And do you recall the  
20 date of that inspection at all?

21 A. No, sir.

22 Q. And you say Roger Workman and  
23 Mr. Crumrine, the mine foreman, was  
24 with you?

25 A. Yes, sir.

0018

1 Q. Okay.  
2 A. Also, that was part of Roger's  
3 training.  
4 Q. Uh-huh (yes).  
5 A. He was to take all the notes  
6 that day. I reviewed the notes and  
7 did sign off on them.  
8 Q. Okay. And you said there was  
9 four seals built and they were  
10 working on the fifth one?  
11 A. Yes, sir.  
12 Q. Is that correct?



13 A. Yes, sir.  
14 Q. And do you recall what number  
15 seal that was?  
16 A. No, sir.  
17 Q. Was that toward the center of  
18 those mine entries that were there?  
19 A. Yes. It would be toward the  
20 center. Maybe left center. But I  
21 don't know what number it would be.  
22 Q. Okay. And at that time, what  
23 did the area around the seals look  
24 like, bottom of rock dusting and you  
25 know, just in general at that time?

0019

1 A. A lot of the bottom was wet,  
2 damp to wet. The area right where  
3 the seals were being constructed was  
4 clean down to the hard pavement and  
5 the solid ribs, as I said before.  
6 But the outby area was damp. The  
7 rock dust on the ribs was damp, it'd  
8 mold to your hand. So the area was  
9 wet. It wasn't dry in that area.  
10 But the rock dusting appeared to be  
11 adequate in that particular area.  
12 Q. Okay. And you mentioned that  
13 you observed them where the joint was  
14 going to be lined up with another  
15 joint that needed to be offset.  
16 A. Yes, sir.  
17 Q. And you say you pulled out a  
18 plan. Is that a plan that you had  
19 with you?  
20 A. Yes, sir. That was my copy of  
21 the plan, the approved plan.  
22 Q. And that was for the 40-inch  
23 seal?  
24 A. Yes, sir.  
25 Q. Okay. Do you know what date

0020

1 that was approved? Do you recall at  
2 all?  
3 A. No, sir. I sure don't.  
4 Q. Okay. And how many miners  
5 were there whenever you reviewed that  
6 plan with them?  
7 A. I'm guessing six to eight  
8 miners.  
9 Q. Working on that one particular  
10 seal or there was others that were  
11 there?  
12 A. Yes. They had some red hat  
13 trainees. Maybe they was training  
14 them for another crew. But there was  
15 approximately six to eight miners.  
16 Q. Were they working --- were all  
17 six working on that one seal?

18 A. Yes, sir. Yes, sir. They had  
19 two laying, two mixing and the other  
20 ones preparing them, I guess.  
21 Q. And they all stopped then and  
22 you reviewed the plan with them?  
23 A. Yes, sir.  
24 Q. And do you know the names of  
25 any of those particular guys?

0021

1 A. No, sir. I don't.  
2 Q. Okay. And how long did it  
3 take you to review that with them?  
4 A. We reviewed the plan  
5 approximately 20 to 30 minutes. I  
6 had previously asked them if they  
7 knew what the plan said and they all  
8 said yes, that they had reviewed it.  
9 Carl also said that he went over the  
10 plan with them. And like I said  
11 before, other than that one joint,  
12 they was constructing the seals as  
13 per the plan.  
14 Q. Okay. And that's mortaring  
15 the joints and ---?  
16 A. Yes, sir.  
17 Q. And how high was that seal?  
18 Do you recall?  
19 A. In that area, probably six to  
20 seven feet.  
21 Q. And how high up was the ---  
22 had they had it built at that time?  
23 A. It was probably waist high.  
24 Right about waist high at the time.  
25 So I had a good overview of the seal,

0022

1 the width. And the width was  
2 actually, it was right. The width of  
3 that area, if I'm not mistaken, was  
4 right around 17 feet.  
5 Q. Uh-huh (yes).  
6 A. And the height was six to  
7 seven feet.  
8 Q. And the seal at that time, do  
9 you recall whether the seal would  
10 have --- you said it was about waist  
11 high. But were the blocks being laid  
12 straight across or were they angling  
13 them up, in other words, letting ---?  
14 A. No, sir. They was side by  
15 side.  
16 Q. Side by side?  
17 A. Yes, sir.  
18 Q. And did you observe them any  
19 laying the block after your  
20 discussion with them?  
21 A. Yes. I watched them put in  
22 maybe three or four extra block

23 before I did leave that area.  
24 Q. Okay. The ventilation in that  
25 area, it appeared adequate?

0023

1 A. Yes, sir.

2 Q. Did you take any measurements?

3 A. No, sir, I didn't.

4 Q. Okay. You mentioned that Mr.  
5 Crumrine did make a statement to the  
6 effect that he had reviewed the plan  
7 with the workers?

8 A. Yes, sir.

9 Q. Did he happen to say when he  
10 did that?

11 A. No, sir, he didn't.

12 Q. And the seals that had been  
13 completed, had there been any cribs  
14 or any roof support installed in  
15 front of them at that time?

16 A. No, sir.

17 Q. Did they have any bundles of  
18 cribs in preparation for that at all,  
19 do you recall?

20 A. There was wood in the area,  
21 crib blocks and half inch --- I can't  
22 say it was just for that particular  
23 area, no sir. I couldn't say that.

24 Q. Did you happen to ask them  
25 anything about how they had

0024

1 constructed the previous seals at all  
2 or any discussion to that effect?

3 A. In general, we talked about  
4 the plan, and they said that they had  
5 done it per plan. That they did keep  
6 the joints from being parallel with  
7 each other. They did offset the  
8 joints. And that was just a mistake  
9 that happened, that I happened to be  
10 there to see that.

11 Q. Okay. And did you have any  
12 additional conversations with workers  
13 after that time concerning the seals  
14 or management personnel after that  
15 situation?

16 A. I only talked to Carl about it  
17 and make sure they understand  
18 construction of the seals. And he  
19 said ---. And I asked him if there  
20 was other crews going to be working  
21 on it. That was the only crew to be  
22 working on them at that time.

23 Q. Okay.

24 A. I just wanted to make sure the  
25 other crews understood it also.

0025

1 Q. Yes, I understand.

2 MR. O'DONNELL:  
3 Mike, do you have  
4 anything?  
5 BY MR. RUTLEDGE:  
6 Q. Marty, do you remember making  
7 any gas tests around those seals that  
8 day?  
9 A. No, sir.  
10 Q. Then Roger Workman that was  
11 traveling with you, do you know if he  
12 made any gas tests there?  
13 A. No, I don't think he pulled  
14 his detector out and actually took a  
15 test. No, sir.  
16 Q. And you stated earlier you  
17 don't remember what day that was?  
18 A. No, sir.  
19 Q. Can you give me a guesstimate?  
20 I mean, was it ---?  
21 A. It was in October.  
22 Q. October?  
23 A. Yeah. I'm going to say toward  
24 the end of October.  
25 Q. Okay. And I know this is a

0026

1 repeat and I apologize for that. But  
2 you think there was four of the seals  
3 that were completed at that time?  
4 A. Yes, sir.  
5 Q. And this was probably the  
6 fifth one that they were working on?  
7 A. Yes, sir.  
8 Q. And do you know if they were  
9 --- if these were in the middle, if  
10 they started on one side and were  
11 working over or ---  
12 A. I know the ---.  
13 Q. --- what sequence in the  
14 entries were these?  
15 A. Okay. The extreme right was  
16 left open. I think the extreme right  
17 two were left open for ventilation  
18 purposes.  
19 Q. Uh-huh (yes).  
20 A. And the extreme left two. So  
21 they happened to be --- I'm going to  
22 say this is left to center, if not  
23 center, that I observed them working  
24 on.  
25 Q. Uh-huh (yes).

0027

1 A. Okay.  
2 MR. RUTLEDGE:  
3 I don't have any  
4 further at the moment.  
5 BY MR. SWENTOSKY:  
6 Q. I do have another question.

7 A. Yes, sir.  
8 Q. You said that you had watched  
9 them lay a few of the blocks?  
10 A. Yes, sir.  
11 Q. Could you describe how they  
12 did that?  
13 A. Yes, sir, I can. When they  
14 took the block up, prior to putting  
15 this block in place, they would  
16 spread mortar on the existing laid  
17 blocks. When they got this block  
18 ready, preparing it for ready, they  
19 took the mortar and covered all sides  
20 of the block to be installed. They  
21 did not add water prior to it. And  
22 that's something that I learned  
23 later, that Omega requires that the  
24 blocks be applied with water prior to  
25 the mud being applied. But they did

0028

1 not do that. They did cover the  
2 blocks in the mud like the plans said  
3 they would. And the mud that they  
4 laid in the seams would be a quarter  
5 inch or better thick. And they  
6 pushed it in there. They pounded it  
7 in place and the mud would come out  
8 of the joints. Where the joints  
9 would be, they cleared that off and  
10 prepared the next place.

11 Q. Just to clarify so the  
12 record's clear, you're saying they  
13 did not actually wet the blocks with  
14 water?

15 A. That's correct.

16 Q. But the mortar had water in  
17 it?

18 A. Yes. Yes. The mortar was  
19 wet, that is correct.

20 BY ATTORNEY WILSON:

21 Q. Just one follow up. Were you  
22 able to observe whether or not the  
23 blocks themselves had any moisture to  
24 them?

25 A. I can't recollect if they did

0029

1 have moisture.

2 BY MR. SWENTOSKY:

3 Q. When you observed the face of  
4 the other seals ---.

5 A. Yes, sir.

6 Q. Can you describe that? I  
7 mean, I think you did say that they  
8 were faced where you couldn't see the  
9 joints.

10 A. The joints, yes, sir.

11 Q. And how did that appear? I

12 mean, did it appear as though there  
13 was a thickness to it or ---?  
14 A. There was, yes, sir. But the  
15 integrity of those seals appeared to  
16 be adequate. The plaster on the  
17 front of it, you couldn't tell how  
18 thick it was, but you could not see  
19 any of the joints, you know, and it  
20 was into the coal rib. It was  
21 rounded off to the coal rib on the  
22 top and the bottom. And that's all I  
23 could see was just the face of it.  
24 And I couldn't see any joints. So I  
25 knew that they had put an extreme

0030

1 amount of mud on the face of it. But  
2 how thick it was, I couldn't tell  
3 you.

4 Q. Okay. And you didn't go  
5 around to the back at all?

6 A. No, sir.

7 Q. I believe you did say that.

8 MR. SWENTOSKY:

9 Do you have any more  
10 questions?

11 BY MR. RUTLEDGE:

12 Q. Yeah. The one block that you  
13 observed where they had the joints  
14 parallel or in line, that was the  
15 only one that you observed like that?

16 A. Yes, sir. And I did look at  
17 the run that was exposed.

18 Q. Uh-huh (yes).

19 A. And we also looked at the face  
20 of it, because it didn't have mud on  
21 it at the time. And that was the  
22 only joint of the whole half of the  
23 seal that was built.

24 Q. That was waist high?

25 A. That was waist high.

0031

1 Q. And you could see the joints  
2 in all the rest of them?

3 A. Yes, sir.

4 Q. And none of them were parallel  
5 like that?

6 A. No, sir. All of them ---.

7 Q. The rest of them were ---?

8 A. All of them that I observed,  
9 yes, sir, were ---

10 Q. Staggered.

11 A. --- were staggered.

12 MR. RUTLEDGE:

13 I don't have any  
14 further.

15 BY MR. SWENTOSKY:

16 Q. Okay. Were you involved in

17 any of the rescue and recovery  
18 operations at the mine?

19 A. No, sir.

20 MR. SWENTOSKY:

21 On behalf of MSHA, I  
22 would like to thank you for  
23 appearing and answering  
24 questions today. Your  
25 cooperation is very important

0032

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

23 Do you have anything  
24 else that you would like to  
25 add at this time, Marty, at

0033

1 all that would help us?

2 A. No, sir. Nothing that I can  
3 recollect that would help this  
4 investigation.

5 MR. SWENTOSKY:

6 Okay. Thank you for  
7 coming down today.

8 A. Thank you.

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11 \* \* \* \* \*

12 SWORN STATEMENT

13 CONCLUDED AT 11:12 A.M.

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