

STATEMENT UNDER OATH
OF
MARTIN CAL CARVER

Taken pursuant to Notice by Miranda
D. Elkins, a Court Reporter and
Notary Public in and for the State of
West Virginia, at the U.S. Bankruptcy
Court, 324 West Main Street,
Clarksburg, West Virginia, on Monday,
March 27, 2006, at 10:52 a.m.

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

MICHAEL RUTLEDGE
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P R O C E E D I N G S

MR. SWENTOSKY:

My name is Dennis Swentosky. I am an accident investigator with the Mine Safety and Health Administration, an agency of the United States Department of Labor. With me is Bob Wilson from the Solicitor's office, Mike Rutledge and Dave Stuart with the West Virginia Office of Miners' Health, Safety & Training.

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

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

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

1 also be used in other
2 enforcement 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

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

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

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 &

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

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. Physical address is P.O. Box
19 390, Gauley Bridge, West Virginia
20 25085. 304-632-1130.

21 Q. And are you appearing here
22 today voluntarily?

23 A. Yes, sir.

24 Q. And how long have you worked
25 with MSHA?

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?

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

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

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.

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?

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

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?

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,

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?

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

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.

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

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).

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

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

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

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.

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

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

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.

9

10

11

* * * * *

12

SWORN STATEMENT

13

CONCLUDED AT 11:12 A.M.

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