

01 STATEMENT UNDER OATH
02 OF
03 JAMES FRANKLIN SCOTT
04
05 Taken pursuant to Notice by Miranda
06 D. Elkins, a Court Reporter and
07 Notary Public in and for the State of
08 West Virginia, at the U.S. Bankruptcy
09 Court, 324 West Main Street,
10 Clarksburg, West Virginia, on
11 Wednesday, January 25, 2006, at 8:52
12 a.m.

13

14

15

16

17

18

19

20

21

22

23 Any reproduction of this transcript
24 is prohibited without authorization
25 by the certifying agency.

01 A P P E A R A N C E S

02
03 DOUG CONAWAY, DIRECTOR
04 Office of Miners' Health, Safety &
05 Training
06 1615 Washington Street, East
07 Charleston, WV 25311
08
09 J. DAVITT MCATEER, ESQUIRE
10 Vice President, Sponsored Programs
11 Wheeling Jesuit University
12 316 Washington Avenue
13 Wheeling, WV 26003
14
15 JAMES BROOKS CRAWFORD, ESQUIRE
16 Senior Trial Attorney
17 Mine Safety and Health Division
18 U.S. Department of Labor
19 Office of the Solicitor
20 1100 Wilson Boulevard
21 Suite 2231
22 Arlington, VA 22209-2296
23
24
25

3

01 A P P E A R A N C E S (continued)
02
03 RICHARD A. GATES
04 District Manager, District 11

05 U.S. Department of Labor
06 Mine Safety & Health Administration
07 135 Gemini Circle, Suite 213
08 Birmingham, AL 35209
09
10 JOSEPH R. O'DONNELL, JR.
11 Supervisory Coal Mine S&H Inspector
12 U.S. Department of Labor
13 Mine Safety & Health Administration
14 District 11
15 3867 Pine Lane, Suite 205
16 Bessemer, AL 35022
17
18 R. HENRY MOORE, ESQUIRE
19 Jackson Kelly, PLLC
20 Three Gateway Center
21 401 Liberty Avenue - Suite 1340
22 Pittsburgh, PA 15222
23 COUNSEL FOR ICG
24
25

4

01 A P P E A R A N C E S (continued)
02
03 SAM KITTS
04 6002 Pinnacle View Road
05 Hurricane, WV 25526
06

07 DENNIS J. SWENTOSKY
08 Supv. MS&H Specialist (Ventilation)
09 U.S. Department of Labor
10 Mine Safety & Health Administration
11 CMS&H, District 2
12 Paintersville Road
13 R.R. #1, Box 736
14 Hunker, PA 15639
15
16 BRIAN MILLS
17 Inspector at Large, Region One
18 West Virginia Miners' Health, Safety
19 & Training
20 205 Marion Square
21 Fairmont, WV 26554
22
23 DAVE STUART
24 1507 Stonehenge Road
25 Charleston, WV 25214

5

01 A P P E A R A N C E S (continued)
02
03 ROBERT S. WILSON, ESQUIRE
04 TIMOTHY S. WILLIAMS, ESQUIRE
05 U.S. Department of Labor
06 Office of the Regional Solicitor
07 1100 Wilson Boulevard
08 22nd Floor West
09 Arlington, VA 22209-2247

10 COUNSEL FOR MSHA
11
12 JOSEPH YUHAS, ESQUIRE
13 P.O. Box 1025
14 Northern Cambria, PA 15714
15
16 MARCO M. RAJKOVICH, JR., ESQUIRE
17 Rajkovich, Kilpatrick & True, PLLC
18 2333 Alumni Park Plaza
19 Suite 310
20 Lexington, KY 40517
21
22
23
24
25

6

01	I N D E X	
02		
03	INTRODUCTION	8 - 16
04	WITNESS: JAMES FRANKLIN SCOTT	
05	QUESTIONS	
06	By Mr. Swentosky	17 - 133
07	By Mr. Mills	134 - 140
08	By Mr. Swentosky	140 - 176
09	By Mr. Mills	177 - 185
10	By Mr. Swentosky	184 - 189
11	CERTIFICATE	190

12
13
14
15
16
17
18
19
20
21
22
23
24
25

7

01	EXHIBIT PAGE		
02			PAGE
03	NUMBER	DESCRIPTION	IDENTIFIED
04	One	Seal Plan and Related	
05		Documents	36
06	Two	Map of Seal Sites	41
07	Three	Map of One Left, Two	
08		Left and Seal Area	94
09	Four	Omega Block Seal	
10		Diagram	103
11	Five	Mr. Scott's Seal	
12		Notes	112
13			
14			

15
16
17
18
19
20
21
22
23
24
25

8

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

02 -----

03 MR. SWENTOSKY:

04 My name is Dennis
05 Swentosky. I am a accident
06 investigator with the Mine
07 Safety and Health
08 Administration, an agency of
09 the United States Department
10 of Labor. With me is Robert
11 Wilson from the Solicitor's
12 Office and Brian Mills with
13 the West Virginia Office of
14 Miners' Health, Safety and
15 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 and Training to

9

01 gather information to
02 determine the cause of the
03 accident, and these interviews
04 are an important part of the
05 investigation. At this time,
06 the accident investigation
07 team intends to interview a
08 number of people to discuss
09 anything that may be relevant
10 to the cause of the accident.

11 After the investigation
12 is completed, MSHA will issue
13 a written report detailing the
14 nature and the causes of the
15 accident. MSHA accident
16 reports are made available to
17 the public in the hope that
18 greater awareness about the
19 causes of the accident can

20 reduce their occurrence in the
21 future. Information obtained
22 through witness interviews is
23 frequently included in these
24 reports. Your statement may
25 also be used in other

10

01 enforcement proceedings.
02 I would like to thank
03 you in advance for your
04 appearance here. We
05 appreciate your assistance in
06 this investigation. The
07 willingness of miners and mine
08 operators to work with us is
09 crucial to our goal of making
10 the nation's mines safer. We
11 understand the difficulty for
12 you in discussing these events
13 that took place and we greatly
14 appreciate your efforts to
15 help us understand what
16 happened.

17 This interview with Mr.
18 James Scott is being conducted
19 under Section 103(a) of the
20 Federal Mine Safety and Health
21 Act of 1977 as part of an

22 investigation by the Mine
23 Safety and Health
24 Administration and the West
25 Virginia Office of Miners'

11

01 Health, Safety and Training
02 into the conditions, events
03 and circumstances surrounding
04 the fatalities that occurred
05 at the Sago Mine owned by
06 International Coal Group in
07 Buckhannon, West Virginia on
08 January 2nd, 2006.

09 This interview is being
10 conducted at the U.S.
11 Bankruptcy Court in
12 Clarksburg, West Virginia on
13 January 25th, 2006.
14 Questioning will be conducted
15 by representatives of MSHA and
16 the Office of Miners' Safety,
17 Health and Training (sic).
18 This is not an adversarial
19 proceeding, therefore, Cross
20 Examination will not be
21 permitted.

22 Mr. Scott, this
23 interview will be conducted by
24 my asking you a series of

25 questions. If you do not

12

01 understand a question, please
02 ask me to rephrase it. Feel
03 free at any time to clarify
04 any statements that you make
05 in response to the questions.
06 After we have finished asking
07 questions, you will also have
08 an opportunity to make a
09 statement and provide us with
10 any other information that you
11 believe may be important.

12 If at any time after
13 the interview, you recall any
14 additional information that
15 you believe may be useful in
16 the investigation, please
17 contact Richard Gates at the
18 phone number or e-mail address
19 provided to you.

20 MR. MILLS:

21 We'll provide you with
22 a business card with that
23 information before the end of
24 the interview.

25 MR. SWENTOSKY:

13

01 Your statement is
02 completely voluntary. You may
03 refuse to answer any question
04 and you may terminate your
05 interview at any time. If you
06 need a break for any reason,
07 just let me know.

08 The court reporter will
09 record your interview and will
10 later produce a written
11 transcript of the interview.
12 Please try and respond to all
13 questions verbally since the
14 court reporter cannot record
15 non-verbal responses. Also
16 please try to keep your voice
17 up. Copies of the written
18 transcripts will be made
19 available at a later date and
20 that would be at the end of
21 the investigation.

22 If any part of your
23 statement is based not on your
24 own firsthand knowledge but on
25 information that you learned

14

01 from someone else, please let
02 us know. Please answer each
03 question as fully as you can,

04 including any information you
05 have learned from someone
06 else.

07 We may not ask the
08 right questions to learn the
09 information you have, so do
10 not feel limited by the
11 precise questions that we ask.
12 If you have information about
13 the subject area of the
14 question, please provide us
15 with that information.

16 At this time, Mr.
17 Mills, do you have anything
18 that you would like to add on
19 behalf of the Office of
20 Miners' Safety, Health and
21 Training?

22 MR. MILLS:

23 Mr. Scott, here's our
24 card. The West Virginia
25 Office of Miners' Health,

15

01 Safety and Training is
02 conducting this interview
03 session jointly with MSHA and
04 are in agreement with the
05 procedures outlined by Mr.

06 Swentosky for these interviews
07 that will be conducted here
08 today. But the Director
09 reserves the right if
10 necessary to call or subpoena
11 witnesses or require the
12 production of any record,
13 document, photograph or other
14 relevant materials necessary
15 to conduct this investigation.

16 MR. SWENTOSKY:

17 Mr. Scott, you are
18 permitted to have a
19 representative with you during
20 this interview and you may
21 consult with your
22 representative at any time.
23 You may designate any person
24 to be your representative. Do
25 you have a representative with

16

01 you here today?

02 MR. SCOTT:

03 Yes, sir.

04 ATTORNEY RAJKOVICH:

05 Marco Rajkovich.

06 MR. SWENTOSKY:

07 Okay. Is this a
08 representative of your choice?

09 MR. SCOTT:

10 Yes.

11 MR. SWENTOSKY:

12 Do you have any
13 questions regarding the manner
14 in which this interview will
15 be conducted at this time? Do
16 you have any questions on how
17 we're going to conduct your
18 interview?

19 MR. SCOTT:

20 No.

21 MR. SWENTOSKY:

22 Would you please swear
23 in the --- Mr. Scott?

24 -----

25 JAMES FRANKLIN SCOTT, HAVING FIRST

17

01 BEEN DULY SWORN, TESTIFIED AS

02 FOLLOWS:

03 -----

04 BY MR. SWENTOSKY:

05 Q. For the record, could you
06 please state your full name and
07 please spell your last name?

08 A. James Franklin Scott,

09 S-C-O-T-T. Nickname Skip.

10 Q. Could you provide us with your

11 address and phone number, please?

12 A. [REDACTED]

13 [REDACTED]

14 Q. Phone Number?

15 A. That is the number.

16 Q. Did you ---?

17 A. That was the phone number,

18 [REDACTED] I don't know the ZIP.

19 Q. Okay. Are you appearing here
20 today voluntarily?

21 A. Yes.

22 Q. Did you speak with --- or did
23 you talk to anyone about your
24 interview statement here today?

25 A. Just last night with him.

18

01 ATTORNEY RAJKOVICH:

02 Him, let the record

03 reflect, is Counsel.

04 BY MR. SWENTOSKY:

05 Q. How many years of mining
06 experience do you have, Mr. Scott?

07 A. Approximately 25 years.

08 Q. Could you just give us a brief
09 description of your coal mining
10 history?

11 A. I'm a certified mine foreman
12 in three states. I started out with
13 Valley Camp Coal in '71.

14 Approximately 11 years there and I
15 worked one year at North American
16 Coal in Ohio. And I quit there, went
17 to Alabama and worked for Jim Walters
18 Resource, five years. And I worked
19 with Garrett Mining Service for five
20 years. That's about it.

21 Q. Okay. When you say three
22 states' certification. What states
23 are those?

24 A. West Virginia, Ohio and
25 Alabama.

19

01 Q. Do you --- where do you
02 presently work?

03 A. Right now?

04 Q. Yes.

05 A. Philippi. Well, I was with
06 Sago.

07 Q. Okay. How much time have you
08 spent at Sago?

09 A. Almost two years with GMS,
10 Garrett Mining Service, as a
11 contractor.

12 Q. As a contractor miner. Okay.
13 When did you start with Garrett?

14 A. In the last five years.

15 Q. Last five years. And you've

16 been at Sago Mine as a contractor for
17 the last two years?

18 A. Yes, sir.

19 Q. Okay. What is your present
20 position?

21 A. Two weeks ago I signed over
22 with ICG, as a hourly supervisor.

23 Q. With who again, please?

24 A. ICG.

25 Q. That is a contracting ---?

20

01 A. No, no. That's who owns Sago
02 Mine, the company.

03 Q. Okay. And how long have you
04 worked as a foreman, at the foreman
05 position at Sago?

06 A. At Sago?

07 Q. Yes.

08 A. For two years with GMS. I'm a
09 foreman for GMS.

10 Q. Okay.

11 A. For two years and the last two
12 weeks with ICG.

13 Q. What position did you hold on
14 the day of the accident?

15 A. Foreman for Garrett Mining
16 Service.

17 Q. Did you work on January 2nd?

18 Were you working at that time?

19 A. No. 7:30 I was at the mine.
20 I was scheduled to work. At 7:30, I
21 was dressed and ready to go to work
22 at 7:00. I start at seven o'clock.
23 The other guys goes in at 6:00 a.m.
24 I go in at 7:00.

25 Q. Okay. And tell me a little

21

01 bit about that.

02 A. Well, it was me and I had two
03 red hats, worked as foremen, we was
04 dressed and ready to go to work. And
05 lightning and thunder and all of a
06 sudden something hit and it shook the
07 whole building. It just sounded like
08 lightning.

09 Q. Okay. What other positions
10 have you held at the mine, other than
11 the foreman position?

12 A. I was --- well, I started out
13 with Valley Camp as general labor but
14 ---

15 Q. No. I mean, at the Sago ---

16 A. --- then I moved up ---.

17 Q. Excuse me.

18 A. At Sago?

19 Q. Yeah. What other positions?

20 A. I was always a ---.

21 Q. Always a foreman, okay.
22 A. Always a foreman at Sago.
23 Q. And you mentioned certificates
24 that you have, certification that you
25 have in the three states. As a

22

01 foreman; is that correct,
02 certifications as a foreman?

03 A. Yes, sir.

04 Q. What other --- do you have any
05 other certifications that you might
06 have?

07 A. No, sir.

08 Q. Who is your immediate
09 supervisor? Who was your immediate
10 supervisor at Sago?

11 A. Sago? It'd be Jeff Toler and
12 Carl Crumrine.

13 Q. Okay. What time do you
14 normally --- you said seven o'clock
15 you usually ---

16 A. 7:00 a.m.

17 Q. --- start your shift?

18 A. Yes.

19 Q. And getting back to when you
20 started at the mine --- or you came
21 to work, can you go ahead and tell me
22 a little bit about what happened when
23 you arrived there? You started into

24 that. I kind of interrupted you,
25 sir, but go ahead.

23

01 A. I'm always there and dressed
02 an hour prior to going in at 7:00.

03 Q. Okay.

04 A. And I arrived there at ten
05 minutes to 6:00 that morning before
06 the other shift even went in.

07 Q. Okay.

08 A. The coal crew went in and we
09 was just sitting around there in the
10 bathhouse talking. And it was just
11 thundering and lightning bad.

12 Q. Okay. Then when you --- what
13 happened after you got dressed and
14 you guys were sitting around talking?
15 When was the first time that you knew
16 that anything was wrong?

17 A. Immediately I knew something
18 was wrong.

19 Q. Pardon me?

20 A. I knowed something's wrong
21 immediately.

22 Q. Approximately, do you have any
23 idea what time that was?

24 A. 7:31 --- or 6:31.

25 Q. 6:31, okay. And what happened

01 after that?

02 A. Well, I know that something
03 was wrong. I ran over to the
04 dispatcher's shanty, stood in there
05 talking to John Boni, like he did
06 like a --- I can't think of his name,
07 but he was the dispatcher. I stood
08 there for almost the rest of the day
09 talking to him.

10 Q. As a certified foreman, have
11 you ever made any examinations as a
12 certified person at that --- at the
13 Sago Mine?

14 A. Yes, sir, I've --- the places
15 I worked, I fire boss them myself.

16 Q. Okay. Are you familiar with
17 the old Two Left main seals?

18 A. Yes, sir. I built them.

19 Q. All right. Do you know when
20 they were built?

21 A. I know when they was
22 completed.

23 Q. Completed. Do you know when
24 they were started?

25 A. Well, the first five I didn't

01 build. There's ten of them built.

02 The last five I built. I'm the one

03 that done the final air change and
04 stuff on them.

05 Q. Okay. What was the first day
06 that --- or what date was it where
07 they started? You say you don't know
08 what day?

09 A. I don't know exactly.

10 Q. What day were they completed
11 then?

12 A. December the 12th.

13 Q. How many people did you have
14 on your crew that finished --- or
15 built those seals?

16 A. The last five, it was just
17 three of us, me and two other guys.

18 Q. Who were those people?

19 A. Casey Short and George Brooks.

20 Q. And those were the only two
21 that were working on the seals when
22 you were there?

23 A. Yes. The last five seals,
24 that's all. Some outby work was done
25 prior to air change and stuff.

26

01 There's four foremen.

02 Q. But you were --- those two
03 people worked for you during that
04 period of the installation of the

05 seals that you put in?
06 A. Yes, sir.
07 Q. Okay. At any time, did anyone
08 other than those persons help you
09 with that seal?
10 A. No. No.
11 Q. Like extra help is I guess
12 what maybe I should say. Extra help?
13 A. I don't believe them four
14 foremen ever come up and helped me on
15 that. But there was some other work
16 that had to be done. These four
17 foremen helped me on them.
18 Q. Do you recall who those people
19 were?
20 A. I just know them by their
21 first names. There's Marty. He may
22 know them. And Harmon and a Jackson
23 and Mike Triplett.
24 Q. Okay. Those are the other
25 individuals that might have come up

27

01 there and helped you, just pitched in
02 with helping you during that period
03 of time?
04 A. Yes, sir.
05 Q. And as far as the seals are
06 concerned, what were your
07 responsibilities with those seals?

08 A. Making sure they was done
09 right and by the specs.
10 Q. Have you ever built Omega
11 seals prior to this time?
12 A. No, sir.
13 Q. Have you ever seen them built
14 before?
15 A. Just off and on, the first
16 five.
17 Q. Okay. But had you ---.
18 A. But I never had nothing to do
19 with them in any other mine, no, sir.
20 Q. Whenever you took over --- you
21 took over for who there?
22 A. Jeff Snyder.
23 Q. Jeff Snyder. Okay. Whenever
24 you took over there, did anyone ever
25 talk to you about how they should be

28

01 built or show you any kind of
02 documentation of how they should be
03 built?
04 A. Well, when Jeff Snyder started
05 them, they also give me the plan on
06 how to build them and me and Jeff
07 communicated back and forth every
08 day. Me and him worked the same
09 shifts and at that time, he had some

10 of my men working for him on them,
11 too. We just kept communication
12 every day.

13 Q. Okay. But during that period
14 of time, it was just you and your
15 crew that was building, but you kept
16 communication with him ---

17 A. Yes, sir.

18 Q. --- as he was doing another
19 job; ---

20 A. Yes, sir.

21 Q. --- is that correct? Okay.

22 And he gave you --- did he give you
23 any documentation of how they should
24 be built?

25 A. Him personally, never. Jeff

29

01 Toler. The day where they begin, me
02 and Jeff both got a copy of how they
03 were being built.

04 Q. The day that they --- the
05 initial ---

06 A. Start.

07 Q. --- construction started?

08 A. Yes. Yes, sir.

09 Q. And Jeff Snyder was to be the
10 foreman at that time?

11 A. Yeah.

12 Q. Okay. And so Mr. Toler spoke

13 to you together?
14 A. Yes, sir.
15 Q. As a group?
16 A. Yeah.
17 Q. Okay. And you received a copy
18 of that plan or not?
19 A. Yes, sir.
20 Q. Okay. Both of you did receive
21 a copy?
22 A. And I still have my copy.
23 Q. Okay. And what did he tell
24 you that --- you know, how --- kind
25 of how did he go over that? Did he

30

01 go over it page by page or anything
02 or just discussion?
03 A. We went page for page and
04 everything was wrote down. We went
05 ---.
06 OFF RECORD DISCUSSION
07 BY MR. SWENTOSKY:
08 Q. I have a copy of the plan. I
09 wonder if you could just identify it
10 for me, please? And you can leaf
11 through it there. Does that
12 represent what he provided you with
13 or reviewed with you?
14 A. I'll need that out. It's the

15 same as mine.

16 ATTORNEY RAJKOVICH:

17 Do you want to look

18 through the rest of it?

19 WITNESS REVIEWS DOCUMENT

20 A. Mine's not that thick.

21 ATTORNEY RAJKOVICH:

22 Can I interject, sir?

23 MR. SWENTOSKY:

24 Yes.

25 ATTORNEY RAJKOVICH:

31

01 Maybe the way to do

02 this. Can you look through

03 this and then identify to

04 these gentlemen which pages

05 you've actually seen before?

06 Because you may not have had

07 all these. So maybe ---.

08 A. I know that one's in there.

09 ATTORNEY RAJKOVICH:

10 Okay.

11 A. And like that map, this one

12 here was in it. I mean, like this

13 garbage --- I mean, it wasn't there.

14 Mr. WILLS:

15 Do you recall how many

16 pages you were provided with?

17 MR. SWENTOSKY:

18 I think we got --- may
19 I see that?
20 ATTORNEY RAJKOVICH:
21 Can I make a
22 suggestion?
23 MR. SWENTOSKY:
24 Yes.
25 ATTORNEY RAJKOVICH:

32

01 Maybe the thing to do
02 is if you go through that,
03 maybe if you start going page
04 by page and just tell them
05 which ones you've seen and
06 which ones you haven't seen.
07 How's that? As to what you've
08 done. Because some of that
09 you probably have not seen.
10 And I don't know if you want
11 to make those individual
12 exhibits or something.
13 A. This would have been the
14 pages. Yeah, this would be that ---.
15 Now, that's the thickness. That's
16 it.
17 ATTORNEY RAJKOVICH:
18 Excuse me, as to this
19 first page here, have you ---

20 have you seen that page?

21 A. Yes, sir.

22 ATTORNEY RAJKOVICH:

23 And why don't you

24 identify that somehow? He's

25 looking at an October 24th

33

01 letter to Mr. Toler from Kevin

02 Strickland. Have you seen

03 that?

04 A. Yes, sir.

05 ATTORNEY RAJKOVICH:

06 Okay. Do you mind if I

07 go through this or do you want

08 ---? The next page is an

09 October 12th letter to Mr.

10 Strickland from Mr.

11 Schoonover. Have you seen

12 that?

13 A. That's in there.

14 ATTORNEY RAJKOVICH:

15 Okay. The next page

16 appears to say guidelines for

17 installation of Omega block

18 concrete seals. Have you seen

19 that page?

20 A. Yes, sir.

21 ATTORNEY RAJKOVICH:

22 Okay. The next page

23 looks like a diagram entitled
24 Sago Mine, 40-inch Thick Omega
25 Block Seal. Have you seen

34

01 that?

02 A. Yes, I have.

03 ATTORNEY RAJKOVICH:

04 Okay. The next page
05 appears to be another diagram,
06 Sago Mine 40-inch Thick Omega
07 Block Seal and it shows more
08 of the wall. At the top of
09 the page is an eight. Have
10 you seen that one?

11 A. Yes, sir. That's the one we
12 built right there.

13 ATTORNEY RAJKOVICH:

14 Okay. The next page
15 appears to be a letter dated
16 October 24th from --- to Mr.
17 Toler from Mr. Strickland and
18 at the top, I think it says
19 Approval of Two Left Seals.
20 Have you seen that one?

21 A. Yes, sir.

22 ATTORNEY RAJKOVICH:

23 The next one is an
24 October 12th letter to Mr.

25 Strickland from Mr. Schoonover

35

01 and I'll just ask you, have

02 you seen that letter?

03 A. Yes, I have.

04 ATTORNEY RAJKOVICH:

05 Okay. And next appears

06 to be a picture of a section.

07 It's entitled Sago Mine

08 Proposed Temporary Seal Plans

09 Scale One Inch Equals One

10 Hundred. Have you seen that?

11 A. Yes, sir. That's the same one

12 I got out in my car.

13 ATTORNEY RAJKOVICH:

14 Okay. Let's take a

15 look at the next page. All

16 right. The next page is

17 another --- it looks like a

18 shot of a mine. And it says

19 Sago Mine Proposed Final

20 Airflow Design for Seal Plan,

21 Scale Equals One Inch Equals a

22 Hundred. Have you seen that

23 one before?

24 A. No.

25 ATTORNEY RAJKOVICH:

36

01 Okay. And I believe

02 that's all that you've ---.

03 MR. SWENTOSKY:

04 That's all of those,

05 yes.

06 ATTORNEY RAJKOVICH:

07 Okay. Thank you.

08 MR. WILLS:

09 We'll go ahead and

10 remove that bottom page that

11 you did not see and then we

12 can mark the rest of this as

13 Exhibit Number One.

14 (Scott Exhibit Number

15 One marked for

16 identification.)

17 BY MR. SWENTOSKY:

18 Q. And that is the --- Exhibit

19 One, that is that page --- or the

20 information that Mr. Toler went over

21 with you and Mr. Snyder?

22 A. Yes, sir.

23 Q. Okay. And did you review that

24 with the --- your crew?

25 A. Yes, sir, I have.

37

01 Q. And when was that?

02 A. What day? Oh, boy.

03 Q. Let me put it this way. Did

04 you review it on the first day,
05 second day, third day that you
06 started on the seals?
07 A. The first day I started on the
08 seals, yes, we went over it.
09 Q. Okay. During your
10 installation of those seals, was
11 there anyone ever with you? Did
12 anyone ever from management come up
13 and speak with you about them or talk
14 to you about the seals, how the
15 construction was to be or was going
16 or were they satisfied with the
17 construction, observe any
18 construction?
19 A. Yes, there was. Well, Jeff
20 Toler made several trips up there to
21 me. And probably three days before
22 we sealed them up, a state inspector
23 did.
24 Q. Okay. And do you recall what
25 Mr. Toler's conversation with you

38

01 might have been at that time?
02 A. He was --- well, he looked
03 over the work we was doing on them
04 and said we was doing a fine job and
05 we was doing it right.
06 Q. Do you happen to recall what

07 stages you might have been in
08 whenever he observed those?

09 A. Well, a couple of them we was
10 just at the beginning. Some of them
11 was in the middle, but some of them
12 been built, and some of them were in
13 the final stage of it.

14 Q. Are all ten of those seals the
15 same?

16 A. No, sir. I mean, they're
17 built of Omega block, but there's two
18 of them that had a pipe in them for
19 checking methane and one had a water
20 trap in it.

21 Q. But they're all Omega seals?

22 A. Omega seals, yes, sir.

23 Q. Okay. Whenever you took your
24 crew there, did you make a pre-shift
25 examination prior to that or had it

01 already been examined?

02 A. I do a pre-shift before I take
03 my crew there. I leave them on the
04 mantrip just inby to that switch and
05 I do the pre-shift there where we're
06 working at.

07 Q. Okay. When you go to the mine
08 in the morning, you go there

09 specifically for that seal
10 construction; is that correct? In
11 other words, you're scheduled to go
12 there? You're scheduled? Your crew
13 is scheduled to work there whenever
14 you go to the mine?

15 A. On that particular job, yes, I
16 was until it was completed. Yeah.

17 Q. Okay. And Mr. Toler and Mr.
18 Crumrine, they would have knowledge
19 of that, that that was --- that you
20 were going to be doing that?

21 A. Mr. Toler and who?

22 Q. Mr. Toler and Mr. Crumrine?

23 A. Oh, yes, sir. Yes.

24 Q. Okay. Would you have any
25 conversations with them in the

40

01 morning, like when you would go there
02 or any type conversation before going
03 underground?

04 A. All the time I talked to them,
05 tell them what kind of supplies I
06 needed before and after work, too.
07 If I had any problem, I went over it
08 with them.

09 Q. Now, all those ten seals, they
10 were --- well, I guess the ones that
11 you worked on, they were all

12 constructed in the same manner?

13 A. Yes.

14 Q. What I'd like to do now, if
15 you would please, is we could step
16 over to the other table and I have a
17 map laying there of the area. Maybe
18 you can mark for me on it which seals
19 that you installed. Can you do that
20 for me? This here, does this look
21 like the area where the seals were
22 constructed?

23 A. Yes, it does. That's the
24 Four.

25 MR. SWENTOSKY:

41

01 Can we go off the
02 record?

03 OFF RECORD DISCUSSION

04 (Scott Exhibit Number
05 Two marked for
06 identification.)

07 MR. SWENTOSKY:

08 What is shown on the
09 map, which we'll call Exhibit
10 Two, Mr. Scott has identified
11 the first seal that he
12 installed as across the Number
13 Three entry. The second seal

14 he installed was across Number
15 Two entry. The third seal was
16 in the crosscut between Two
17 and Three entry and the fourth
18 seal was an angle seal in the
19 Number One entry. And the
20 fifth seal that he identified
21 was in the Number Nine entry.
22 BY MR. SWENTOSKY:
23 Q. Okay. Let me ask you, the
24 Number One seal, does that seem to be
25 the location on the map? Is that a

42

01 representation of where it was built,
02 this seal, Number One seal here? Was
03 it built in the middle of the block
04 or do you think it was out closer to
05 the crosscut?

06 A. It was supposed to have been
07 built back in ten feet, at least ten
08 feet. I mean, not less than ten
09 feet.

10 Q. Did you measure that distance?

11 A. The ten feet, yes. It might
12 have been 15 feet, it might have been
13 20 feet. I couldn't come outby.

14 Q. Had anyone ever marked any
15 markings --- placed any markings on
16 the rib of where it should be built

17 or do you recall seeing that at all?

18 A. No. I built them.

19 Q. You measured ---?

20 A. I measured my ten feet and I

21 took up inby ten feet the best place

22 to build them.

23 Q. Did you measure the width of

24 those entries?

25 A. These entries approximately 18

43

01 to 20 feet.

02 Q. And how high?

03 A. The highest one was this one

04 here and it was four inches, four

05 inches above what it was supposed to

06 have been built.

07 Q. And you identified the Number

08 Four; is that correct?

09 A. Yes, sir.

10 Q. That fourth seal that you

11 built?

12 A. Yes, sir.

13 Q. Getting back here for a

14 moment, the Number One seal and Two,

15 Three and Five seals, that you

16 identified, those were all eight-foot

17 high or less?

18 A. Yes, sir.

19 Q. And did you measure those?
20 A. I tried to get them to the
21 lowest point and the best place to
22 build them.
23 Q. Did you measure the height?
24 A. Yes, sir.
25 Q. And getting back for a moment,

44

01 the Number Four seal, the angle seal
02 at Number One entry. And you say
03 that one --- what did you measure
04 that one to be?
05 A. It's four inches higher than
06 what the specs called for.
07 Q. And would that have been ---
08 and the height of that would have
09 been ---?
10 A. It was due to on the left side
11 where the buggies ran, that is the
12 high side. I mean, they broke the
13 bottom up so bad. Just on the left
14 side is shorter --- is higher on the
15 left side than it was the right side.
16 Q. Would that have been eight
17 foot four inches then?
18 A. Yes.
19 Q. And you say they broke the
20 bottom up so bad. What was the
21 bottom of that area?

22 A. It was damp and kind of muddy.

23 Q. Muddy. Had they --- how did
24 they clean that up, the mud?

25 A. Where the seals were supposed

45

01 to go?

02 Q. Yes.

03 A. I used the scoop to clean them
04 first and then I had to pick and
05 shovel. Between them was solid.

06 Q. Were you able to do that?

07 A. Yes, sir.

08 Q. Was there any cracks in the
09 bottom that you recall?

10 A. No.

11 Q. And you said the --- getting
12 back to this for a moment, this
13 Number Four seal that you drew, the
14 left side was four inches higher?

15 A. Yes, the left side. Yes.

16 Q. That's what I wanted to get
17 squared away. It's the solid rib
18 side?

19 A. Yes, sir.

20 Q. And how much of that was over
21 height? Were there eight foot of it
22 in width that was over height, ten
23 foot of it?

24 A. I would say six to seven feet
25 maybe.

46

01 Q. And the rest of it was 20 feet
02 --- or excuse me, eight foot?

03 A. Yes.

04 Q. That'd be pretty high,
05 wouldn't it? Okay. This solid rib
06 at your Number Four seal, I notice
07 how it's coming across at a point
08 here. How was that seal located?
09 Was it inby the corner here?

10 A. The corner wasn't a point, it
11 was kind of rounded. It's more
12 square. The seal come flat against
13 the flat rib.

14 Q. Okay. How wide was that seal?

15 A. I don't know.

16 Q. Did you measure that?

17 A. I measured it, but I forget
18 what I measured now. I know it was
19 --- it wasn't much wider than these
20 ones. And these are --- most of the
21 widths are within three feet.

22 Q. Within three feet.

23 A. Two, three feet wider than
24 these other ones, yeah, because of
25 the angle. But the light come at One

47

01 and Five entry. We dug a hole so the
02 state inspector, myself and Marty
03 could go across them and we walked in
04 behind them and checked, came out on
05 this side and he had given the okay
06 to seal them up.

07 Q. So you built the Number Four
08 seal and the Number Five seal, which
09 you have identified. Those were
10 built ---?

11 A. Where a person can crawl
12 across and go in behind the wall and
13 check in behind.

14 Q. Okay. How high up did you
15 build the seal before you went in
16 behind and did that? Did you just
17 leave a hole?

18 A. I just left like a hole, four
19 by four.

20 Q. Four by four. Was that near
21 the top of the seal?

22 A. Yes, sir, it was. It was
23 probably that high off the bottom.
24 We had to climb up in there, go
25 across. But I had the rest of the

01 seal built. Four went from this rib
02 out. It was this corner I left out

03 and ---.

04 Q. This corner meaning the right

05 --- the right corner of Number Four

06 seal?

07 A. Yes, sir. And the left corner

08 of Number Five seal, I did the same

09 way.

10 Q. And the left corner meaning

11 the --- looking inby?

12 A. Yes.

13 Q. Okay. Okay. And then you

14 went in and examined it. Now, once

15 you were done doing that, how did you

16 finish the seal? Did you ---?

17 A. I started --- I finished this

18 one first and then we done this one.

19 I done Number Four, then I come back

20 to Number Five and finished it.

21 Q. So you completed Number Four

22 seal ---?

23 A. After I got the okay to

24 proceed with it.

25 Q. Okay. You completed that one

49

01 and it was all faced off?

02 A. Yes, sir.

03 Q. And then you went over and

04 completed the Number Five seal, if I

05 have this correct?

06 A. Yes, sir.
07 Q. Approximately how much time
08 did it take you to complete Number
09 Four and then complete Number Five?
10 A. Probably five hours.
11 Q. Okay. It took you
12 approximately ---. Am I correct in
13 saying that you're --- it took you
14 five hours to do?
15 A. That's on both of them.
16 Q. Okay.
17 A. On both of them.
18 Q. How much time did it take you
19 to complete the seal?
20 A. Just to finish the hole?
21 Q. Complete the hole, yes.
22 A. I'll say two and a half hours.
23 Q. Two and a half hours. And
24 then you went over to Number Five?
25 A. Approximately two and a half

50

01 hours, yeah.
02 Q. Two and a half hours. Was
03 that during the same shift?
04 A. Yes, sir.
05 Q. How far inby --- on the Number
06 Four seal, how far inby on the right
07 crib?

08 A. It was ten foot.
09 Q. Ten foot. Okay. Did you keep
10 any notes during the construction
11 process of how you constructed them
12 or just any type of notes that you
13 might have had?
14 A. Yes, I did.
15 Q. Okay. What type of items did
16 you mark down on those notes?
17 A. Dates and where I --- I mean,
18 which one I started first, which one
19 I went to second. It was really a
20 map. You got the map there and a
21 plan. It was one of them maps, I
22 wrote down all my stuff on.
23 Q. Okay. And those are ---
24 that's the extent of the notes that
25 you kept ---

51

01 A. Yes, sir.
02 Q. --- on that map?
03 MR. SWENTOSKY:
04 Would we be able to get
05 a copy of that map?
06 ATTORNEY RAJKOVICH:
07 I don't see any reason
08 why not. At a break because I
09 think you might have it out
10 there in your truck?

11 A. I think I do. I think I have
12 them in my car.

13 ATTORNEY RAJKOVICH:

14 Yes.

15 MR. SWENTOSKY:

16 Okay.

17 ATTORNEY RAJKOVICH:

18 We'll take a look at
19 it. We'll get them to you.

20 A. It's the same as the map there
21 you have. I mean, all my scribbling.

22 MR. MILLS:

23 Any written notes that
24 you have, if we can get copies
25 of those, we'd appreciate it.

52

01

02 A. And my plan and those things,
03 I kept everything together.

04 BY MR. SWENTOSKY:

05 Q. Okay. You indicated that you
06 cleaned the bottom in that area.
07 Approximately how far on each side of
08 the seal did you --- the seal
09 location did you clean the bottom?

10 A. Well, like on the ribs, it's
11 approximately five feet and the top
12 is probably five feet. If there's

13 any wire screen, we took the side
14 cuts and cut them out so we can get a
15 good seal. It was approximately five
16 feet all the way around.
17 Q. All the way around. How did
18 you cut that screen down?
19 A. With big cutters, wire
20 cutters. Big wire cutters.
21 Q. Like bolt cutters or ---?
22 A. Yeah, bolt cutters. I mean,
23 they wasn't real big ones but ---
24 Q. Yeah, I know what you mean.
25 A. --- two foot.

53

01 Q. Sure. Sure. And the location
02 of those seals, you actually measured
03 back in ten feet, I think you
04 indicated that?
05 A. They had to be ten feet or
06 more.
07 Q. Or more?
08 A. I mean, I couldn't cut them
09 less than ten feet.
10 Q. Yes. Okay. And when you
11 removed this screen, you indicated
12 that you went about five feet. Was
13 there any kind of a situation any
14 time where the wire may have --- you
15 didn't get enough out or it may have

16 actually gone over the top of the
17 seal?

18 A. There was no wire over the top
19 of the seals, no.

20 Q. Okay.

21 A. Nowhere.

22 Q. Removed that all. And how far
23 on each side of the seal did you
24 remove the loose material? Did you
25 have to take --- like pick stuff off

54

01 of the rib or anything like that?

02 A. No, the ribs was ---
03 everything was in good shape. I
04 mean, it was solid. We just cleaned
05 the rock dust and it was mostly just
06 rock, like rock dust. We swept it
07 like.

08 Q. Okay. No loose material,
09 chunks or anything like that?

10 A. It was solid, in good shape.

11 Q. And on the inby and outby side
12 of the seal, how much area was clean?

13 A. What are you talking about
14 clean? I mean, there wasn't no
15 garbage, you know what I mean? No
16 trash or nothing like that.

17 Q. No. Loose material, mud ---

18 A. Oh.

19 Q. --- and so on?

20 A. How much?

21 Q. How far on each side of the

22 seal, inby and outby, distance wise?

23 A. There's always mud and water.

24 Q. How far on each side did you

25 scoop of this seal location?

55

01 A. Well, approximately the whole

02 ten feet outby and then I scooped

03 with a scoop and probably 10, 15 feet

04 inby.

05 Q. Sure. Was there standing

06 water in that area at all, like

07 puddles of water around --- near the

08 seals?

09 A. No, not where I built them. I

10 had to --- I mixed B-Bond, I had to

11 go get water. If there was water

12 there, I would have used it.

13 Q. Okay. With all that mud and

14 water, was there any water coming out

15 of the roof or out of the ribs and

16 ---?

17 A. No, sir.

18 Q. No? There wasn't any water or

19 anything coming out of the bottom or

20 ribs? I was wondering how that

21 water, all this water and mud got
22 there if you didn't have any water?
23 A. I guess during the mining
24 process that was ---.
25 Q. Okay.

56

01 A. It's just ---.
02 Q. So you didn't have to remove
03 any standing water or anything like
04 that?
05 A. No, sir, I didn't.
06 Q. Was there any cracks in the
07 floor in the areas that you were
08 going to build the seal, cracks in
09 the bottom?
10 A. No, sir, it looked good to me.
11 Q. Looked solid? Did you --- the
12 roof supports, did you install any
13 roof supports or anything before you
14 built the seal, like on the inby
15 side, outby side?
16 A. That's the first thing I done
17 was built cribs on the inby side and
18 I built the seals and I built the
19 cribs on the outby side.
20 Q. Okay. How many cribs did you
21 build on the ---?
22 A. It calls for two on the inby

23 side and two on the outby, but some
24 of them I put extra.

25 Q. Extra? How many extra did you

57

01 put?

02 A. Like in --- from the Number

03 Ten seal, I think I had six cribs and

04 one --- one in Number One entry, I

05 think that's Number One, I had six

06 built in it.

07 Q. Okay. When you say the Number

08 Ten, would that have been Number ---

09 maybe Number Nine entry and the fifth

10 seal that you ---?

11 A. Yes. Number Nine entry, the

12 fifth seal I built ---

13 Q. Okay.

14 A. --- is where I built extra

15 ones.

16 Q. There was six cribs on it.

17 And we're talking on the inby side?

18 A. On the inby side, sir.

19 Q. Why did you put additional

20 cribs in there?

21 A. On the One and --- at Number

22 Five, I built in Number Nine entry,

23 it had a two-inch steel pipe, 40-feet

24 long and I used it to support the

25 pipe that went through it.

01 Q. Okay. That wasn't because you
02 needed additional support because of
03 the roof?

04 A. No. No, it wasn't.

05 Q. Okay. The Number One entry
06 then, ---?

07 A. I done it because it was on a
08 diagonal wall and it was close to an
09 intersection that was a little bit
10 wider. I mean, it wasn't like on 60.

11 I mean, there was more space in
12 behind it and I thought it should
13 need more.

14 Q. Okay. Did anyone tell you to
15 do that or did you just do that on
16 your own?

17 A. I did it on my own.

18 Q. Did you have to dig any
19 trenches or niches in the floor of
20 the rib at all?

21 A. You mean notches?

22 Q. Notches, yeah.

23 A. No, sir.

24 Q. No. Okay. And you --- and am
25 I correct that you indicated that the

01 --- all the seals were eight foot or

02 less with exception of that Number
03 One entry seal, the angle seal that
04 was a little bit higher ---
05 A. It was four inches ---.
06 Q. --- higher on the one side?
07 Okay. Did you use all new blocks or
08 did you use some used blocks?
09 A. They was all new, delivered
10 from outside.
11 Q. How thick was that seal?
12 A. Forty (40) --- approximately
13 40 inches.
14 Q. Okay. And when you laid those
15 blocks down, how did you --- can you
16 tell me a little bit about the
17 construction?
18 A. They were staggered, ---
19 Q. Okay.
20 A. --- the seams. The joints was
21 never the same between the rows.
22 They were staggered back and forth, a
23 quarter inch seam of B-Bond between
24 each block and ---.
25 Q. That would have been two

60

01 blocks thick?
02 A. Yes, sir.
03 Q. Okay. And tell me a little
04 bit about this --- you had called it

05 B-Bond. Was there another name for
06 that rather than B-Bond?
07 A. Another name? It was a
08 special B-Bond bought for this.
09 Q. Okay. What color bag does it
10 come in?
11 A. Blue.
12 Q. Blue. Was that a blue striped
13 bag?
14 A. Stripe? No, it had a wide
15 band around it. It was mostly blue.
16 Q. All right. Did you put a
17 pilaster in any of those seals?
18 A. No, sir, I didn't.
19 Q. Tell me a little bit about the
20 first row on how you set down the
21 first row after you had it cleaned
22 up. Could you kind of explain that
23 to me a little bit, please?
24 A. I took B-Bond bags and dumped
25 them out to try to get a good seal on

61

01 the bottom. We used mortar mix to
02 try to get a good level start.
03 Q. Okay. You just opened ---
04 correct me if I'm wrong, you just
05 opened the bag and then you just
06 sprinkled it on the bottom or dumped

07 it on the bottom?

08 A. It was at least a half to

09 three-quarters inch thick.

10 Q. Okay. Did you mix any water

11 with that, ---

12 A. No.

13 Q. on that first --- on the first

14 row?

15 A. No. We actually didn't mix,

16 we --- I mean, it was --- the floor

17 and everything was kind of --- it was

18 damp. It drew its own moisture.

19 Q. So then you just opened up the

20 bag and dumped it over the area where

21 the seal was to be located; is that

22 correct?

23 A. Yes, sir.

24 Q. Okay. And after you put that

25 down, what did you do?

62

01 A. We laid the first row of Omega

02 block across and --- with B-Bond in

03 between the joints, then laid a layer

04 of B-Bond on top of that layer and

05 then staggered.

06 Q. Okay. On that first layer

07 with that dry material, did you put

08 any additional wet material, wet

09 mortar material on top of that dry

10 stuff before you laid it down or ---?

11 A. Actually water, no.

12 Q. No. How did you mix the

13 mortar?

14 A. In a wheelbarrow with a hoe, a

15 mortar hoe.

16 Q. Okay. What was the ratio

17 there that you used --- or how much

18 water did you mix with the mortar?

19 A. Usually a five-gallon bucket

20 full with approximately two and a

21 half bags of B-Bond.

22 Q. This B-Bond you're talking

23 about, would that be like --- would

24 that have been maybe BlocBond?

25 A. I think you're right.

63

01 Q. Was there --- the material,

02 was there any little styrofoam balls

03 in it at all or anything?

04 A. Well, you could see fiber,

05 like a more fiber ---.

06 Q. Fiber, okay. But not ---.

07 A. But it wasn't chunky or coarse

08 or nothing like that. It was ---.

09 Q. There wasn't little styrofoam

10 balls in it or anything?

11 A. No, sir.

12 Q. Okay. When you laid that
13 first row down, the joints on that
14 row, did you apply a mortar mix to
15 the vertical joints at all as you
16 laid them down and then ---?

17 A. We tried to, yes.

18 Q. What do you mean we tried to?

19 A. I mean, if it --- it was like
20 a quarter inch --- we had to try to
21 get a quarter inch joint between
22 them.

23 Q. Okay.

24 A. And if it didn't, we went over
25 the top and took our trowels and

64

01 forced it in.

02 Q. Did you apply --- did you
03 apply any to the vertical joints
04 prior to laying that first row of
05 block down? What I mean is, did you
06 have the block and then when you laid
07 the block down, did you apply any
08 mortar material to the vertical joint
09 prior to laying the next block down
10 and butting it against ---?

11 A. Yes, sir. Yes, sir.

12 Q. And then you said that
13 sometimes you didn't get --- am I
14 correct in saying you didn't get

15 enough so you ---?
16 A. We took our trowels and ---
17 well, dang near every joint, we took
18 our trowels and tried to get more
19 mortar down in between them.
20 Q. Okay. So when you laid them
21 down, you didn't actually butt them
22 up against each other?
23 A. No. No. I mean, it was
24 probably a separation like an eighth
25 or a quarter of an inch.

65

01 Q. And did you lay that entire
02 first row down first before starting
03 another row? Is that how you did
04 that?
05 A. Yes, that's the way we --- I
06 mean, one whole row first, then ---
07 Q. Okay.
08 A. --- start the second, except
09 for the one at Number One and Number
10 Nine entry, we didn't do it that way.
11 Q. When you say you didn't do
12 them that way, explain that to me
13 again, please?
14 A. Because we had to try to leave
15 that four-foot space so we could get
16 in between them.

17 Q. Okay. What type of protective
18 equipment did you use when mixing the
19 mortar, handling the mortar?

20 A. We had long rubber gloves,
21 safety glasses, knee pads.

22 Q. Okay. How was the mortar
23 applied to the joints and to the
24 blocks?

25 A. It was --- we mixed in the

66

01 wheelbarrow and poured it in a, I'd
02 say, a three-gallon bucket and poured
03 it on top and took our gloves and
04 trowels and ---.

05 Q. You used trowels, too?

06 A. Yes, sir.

07 Q. And you mentioned the
08 thickness of that mortar was ---.

09 A. Approximately a quarter of an
10 inch.

11 Q. A quarter of an inch, okay.
12 When you applied that mortar, what
13 was the consistency? Was it runny?
14 Was it real thick or ---?

15 A. It wasn't runny. It was more
16 in the middle. It's sticky.

17 Q. Okay. Approximately how ---
18 do you recall how many bags it might
19 have taken to complete a seal, let's

20 say, from the beginning to the end?

21 A. Approximately two lifts.

22 Q. Two lifts?

23 A. I think there's 50, maybe 60,

24 bags per lift.

25 Q. And that was 60 bags, 50 or 60

67

01 bags per lift and it took two of

02 those?

03 A. 120.

04 Q. 120 bags ---

05 A. Yes, sir.

06 Q. --- to complete a seal? Can

07 you describe how the remaining the

08 last blocks were installed? Just how

09 did you complete the seal?

10 A. Them four foot holes?

11 Q. No. Let's take a normal seal,

12 the first seal you built, how did you

13 complete it?

14 A. The last three rows I kept

15 measuring because some Omega blocks

16 came in eight inches thick and some

17 of them was six inches. And I was

18 only allowed to use one layer of

19 six-inch on top. I had to get close

20 enough to the top so I can put them

21 three boards on top and wedge them

22 in. I tried to get it as close as I
23 could.

24 Q. How much of a gap was left?

25 A. It wasn't much, an inch and a

68

01 half, two inches.

02 Q. Okay. And then what would you
03 do? How would you complete the seal?

04 A. We laid the boards on top and
05 wedged them tight as we could all the
06 way across and sealed.

07 Q. Approximately how thick were
08 those boards, do you recall?

09 A. They was rough cut lumber,
10 20-feet long and about a half inch,
11 I'd say, three-quarters of an inch.

12 Q. Okay. Were they, the boards,
13 all in one piece or did you have to
14 cut any or ---?

15 A. Except for the one in Number
16 One entry, it was just a tad longer.

17 It wasn't --- I mean, it wasn't
18 much, probably a foot, foot and a
19 half.

20 Q. Foot and a half long. You had
21 to cut a ---?

22 A. We had two --- instead of ---
23 we had three short pieces and three
24 long ones for the top layer.

25 Q. Okay. And when you say three

69

01 short pieces and one --- you had

02 three rows of boards on the top;

03 correct?

04 A. Correct.

05 Q. Okay. And the boards --- to

06 complete one row of boards, was that

07 all one board or was that two pieces?

08 A. One long one and a short one.

09 Q. One long one and a short one.

10 Did they --- did you put them up

11 against the rib the entire length?

12 A. Yes, sir.

13 Q. Okay. So they butted against

14 each rib and they were ---?

15 A. Rib to rib, yeah.

16 Q. Okay. Did you have to use any

17 wedges or anything on the ribs as you

18 were ---?

19 A. As we built we used wedges to

20 keep it tight.

21 Q. Tight. Okay. Whenever you

22 drove --- how did you put the wedge

23 in?

24 A. Straight down in from the top

25 with an axe.

70

01 Q. An axe? There was an axe.
02 Okay. And after you did that, what
03 did you do against the ribs?
04 A. Sealed it the best we could
05 with BlocBond.
06 Q. Okay.
07 OFF RECORD DISCUSSION
08 BY MR. SWENTOSKY:
09 Q. The short board you used on
10 top, how long was that?
11 A. Probably the longest one was
12 18 inches.
13 Q. Okay. To complete the ---?
14 A. To complete the full.
15 Q. Yeah. You cut that off
16 another board?
17 A. Yes, sir.
18 Q. Did you ever use --- did you
19 ever have to use plywood up there?
20 Maybe you didn't have enough boards
21 or anything, did you ever have to use
22 plywood?
23 A. No. We just used furring
24 strips. That's what they called the
25 boards was furring strips.

71

01 Q. Okay. The wedges you put in,
02 how far apart were those wedges, do
03 you recall?

04 A. They was ---.

05 Q. The wedges to tighten up the

06 boards?

07 A. I mean, they was tight from

08 one end to the other. They was

09 touching each other all the way

10 across.

11 Q. The wedges to tighten up that

12 board on top?

13 A. Yeah.

14 Q. The distance between the

15 wedges across the top?

16 A. They touched each other. I

17 mean, you put like one up and you put

18 another and wedged it in and you'd

19 start another one and wedge it in

20 tight. It was continuous all the way

21 across.

22 Q. You wedged from the back and

23 you wedged from the front?

24 A. Yes, sir. There's always one

25 guy on the back side. We handed him

72

01 mud and wedges and whatever he needed

02 across the wall to him.

03 Q. Okay. When you put one ---

04 the first wedge in to tighten the

05 board up, the boards are already in

06 and you put the first wedge in, okay,
07 the distance --- when you put the
08 second wedge in going across, how far
09 were those apart?

10 A. They was touching.

11 Q. Touching each other?

12 A. They was touching each other.

13 Q. So when you looked up, there
14 was a continuous row of wedges across
15 the top?

16 A. Yes.

17 Q. Okay. Was there any room in
18 between them to put mortar?

19 A. There might have been like a
20 --- there was small holes but ---.

21 Q. Is that --- did you look at
22 the other seals at all, the ones you
23 didn't build?

24 A. Yes, sir.

25 Q. Were the wedges in the same

73

01 ---

02 A. Yes, sir.

03 Q. --- as you were putting in,
04 continuous across the top?

05 A. Whenever Jeff was building
06 them other seals, I made trips up
07 there. I seen how --- I observed him
08 building them seals, because I done

09 other work, too. I mean, I also
10 worked outby. I wasn't far from
11 where Jeff was working --- we was
12 working together really. But he was
13 in charge of the seals he built.
14 Q. Okay. And the wedges on those
15 seals were the same as yours?
16 A. It was the same as mine.
17 Q. Were both sides of the seal
18 faced with material at all?
19 A. Yes, sir.
20 Q. And what material did you use
21 to do this?
22 A. BlocBond.
23 Q. BlocBond. Approximately how
24 thick were you putting that material
25 on?

74

01 A. We tried to get a quarter of
02 an inch or better.
03 Q. And how did you coat the inby
04 side, your head side? I believe you
05 did say that you had someone on the
06 inby side as you were building that?
07 A. There was a man standing, or
08 two. I mean, at times it might have
09 been two. At times it might have
10 been one.

11 Q. Yeah.

12 A. There was always somebody on
13 the inby side BlocBonding and
14 building, going up.

15 Q. And you just judged that, you
16 didn't measure any thickness or
17 anything of the ---?

18 A. We judged.

19 Q. Judged. Once the seal was
20 completed, did you go around the
21 perimeter of the roof, ribs, floor
22 with material at all, kind of at all?

23 A. It was ---.

24 Q. Did you apply additional
25 mortar ---?

75

01 A. Yes, around the edge of the
02 seal and roof and the bottom. We had
03 extra material sealing them up.

04 Q. Okay. Did your crew install
05 the water trap?

06 A. Yes, I did.

07 Q. How many water traps are in
08 that seal?

09 A. There's one. One seal had one
10 water trap.

11 Q. Okay. How large was that seal
12 --- or that water trap?

13 A. I believe it was six inches.

14 It's in the plan.
15 Q. Okay. You put in there what
16 was in the plan?
17 A. Yeah.
18 Q. Okay. What was that water
19 trap made of?
20 A. Plastic, it was plastic pipe.
21 I don't know what you call it, PCV
22 (sic). You glued it together.
23 Q. Was it white?
24 A. White, yes.
25 Q. Okay. And you glued it

76

01 together you said?
02 A. Yes. The angles to make the
03 trap, it was glued together with some
04 kind of glue to glue that pipe.
05 Q. Okay. Did you install any
06 screws in the joints also at all,
07 metal screws?
08 A. No, sir.
09 Q. And it was one trap?
10 A. One water trap.
11 Q. Okay. Kind of describe to me
12 a little bit about how that water
13 trap was installed during the
14 construction process. You know, you
15 come up so far and it became --- it

16 came time to install that water trap,
17 how did you put that in?
18 A. By the plan, it was supposed
19 to be a certain distance from the
20 bottom.
21 Q. Okay.
22 A. And the long piece of pipe
23 going through the wall --- the seal
24 itself. I put it in and sealed it
25 around it and let the trap off until

77

01 the seal was completed and then I put
02 the trap on.
03 Q. Okay. To put that pipe in,
04 did you notch blocks out?
05 A. Yes, sir, it was rounded like
06 the pipe and BlocBonded.
07 Q. Yeah. How did you carve that
08 block out, did you have to cut any
09 block to get that --- to put that in?
10 Did you have to cut any block?
11 A. Yes, had to make it rounded.
12 Q. How did you do that?
13 A. With a pick hammer or a block
14 hammer and my axe or --- we used a
15 block hammer or an axe.
16 Q. You notched the blocks out
17 with an axe?
18 A. Yeah, kind of made it rounded

19 so it would fit tightly in there.
20 Q. Okay. The other blocks, how
21 did you cut the other --- or when you
22 had to have smaller blocks, what did
23 you use there?
24 A. Bow saw.
25 Q. But you didn't have to use a

78

01 bow saw on this, where the water trap
02 was?
03 A. No. No. I didn't want it
04 round to cut a round circle with our
05 bow saw.
06 Q. Okay. So you just chipped it
07 out with an axe or a hammer?
08 A. Yes, sir.
09 Q. All right. And after you had
10 that done, what did you do with it?
11 A. We placed a pipe in and we
12 took B-Bond and sealed around the
13 best that we could.
14 Q. And then did you leave it set
15 for any length or time or did you
16 just go ahead and ---?
17 A. Just kept right on laying
18 layers of ---.
19 Q. Of block?
20 A. Yes, sir.

21 Q. Okay. The gas sampling tube,
22 can you kind of --- what was that
23 made of?

24 A. It was a two-inch steel pipe,
25 40-feet long placed in a seal 12

79

01 inches from the top, approximately
02 three foot stuck outby and the rest
03 of it was inby supported 12 inches
04 from the top on cribs.

05 Q. Okay. Was there another pipe
06 installed with that?

07 A. Yes, sir, we have a half-inch
08 copper pipe inside.

09 Q. How was the --- and what did
10 the copper pipe have on the end of
11 it?

12 A. It had a shutoff valve on the
13 outby side.

14 Q. Yes. And so that was --- the
15 steep pipe acted as like a conduit;
16 right?

17 A. A conduit? It was ---

18 Q. It was inside the ---.

19 A. It was to protect the copper
20 pipe ---

21 Q. Yes.

22 A. --- the steel pipe.

23 Q. How was the end of that sealed

24 off? In other words, when the copper
25 pipe came out of the steel pipe and

80

01 the copper pipe is smaller in
02 diameter than the steel, yeah, okay,
03 so how is that sealed around?

04 A. I forget the maintenance
05 foreman's name, his first name's
06 Vern, made a reducer to make it come
07 down to a half inch. It was reduced
08 down from two inches to half an inch.

09 Q. Okay. Did you install any
10 supports on the outby of the seal, on
11 the outby side?

12 A. Yes, sir, I did. I've set two
13 cribs four foot from the seals,
14 except for the one in Number Nine
15 entry.

16 Q. That would have been the fifth
17 seal that you identified?

18 A. That I built. Yeah, the fifth
19 one I finished, yes, sir.

20 Q. And what did you put there?

21 A. Extra cribs.

22 Q. Do you happen to know how
23 many?

24 A. I'm going to say seven.

25 Q. Okay. Why was that --- why

01 did that require extra ---?

02 A. Because it had a bad --- on

03 the right side facing inby, it had a

04 bad cutter.

05 Q. On the right side, that would

06 be the solid rib side?

07 A. The solid rib side.

08 Q. And you had a bad cutter. Can

09 you just describe that for me a

10 little bit?

11 A. The roof looked --- I mean, it

12 looked just --- just from the rib

13 after the first row of bolts, it had

14 --- it was falling out and it looked

15 to me it needed extra support to

16 protect the seal.

17 Q. Okay.

18 OFF RECORD DISCUSSION

19 BY MR. SWENTOSKY:

20 Q. Can we --- we'll just go back

21 over to the map here and maybe you

22 can show me on the map and we'll

23 identify where that cutter was. Use

24 that marker if you would, please and

25 kind of show me --- or put a place on

01 the map where that cutter was

02 located.

03 WITNESS COMPLIES

04 A. Right here.

05 BY MR. SWENTOSKY:

06 Q. Okay. You're indicating the

07 cutter was on the solid rib side at

08 Number Nine entry, outby the seal.

09 Did that cutter extend inby the seal?

10 A. No. No, sir. No. It might

11 not be quite against this seal that

12 far, the extra crib --- I mean, it

13 was --- I mean, it was past this

14 intersection is where that cutter is.

15 I had built the cribs approximately

16 down to here.

17 Q. Just mark with an X where you

18 think you made the cribs.

19 A. I think I had seven. I can't

20 remember.

21 Q. So you marked with a red X,

22 the location that you believe to be

23 ---?

24 A. But you could still get a

25 scoop --- I still made a scoop

01 through here. That's a lot of room

02 to run the scoops through here.

03 Q. Scoop through the crosscut in

04 Number Nine entry to Number Eight

05 entry?
06 A. Yeah, when we got down we
07 cleaned them of rock dust, the whole
08 area.
09 Q. This cutter that you have
10 identified here, did this cutter
11 start right at the seal?
12 A. I don't believe it was. To my
13 knowledge, I don't believe it was
14 real tight against the rib, no. You
15 had good rib on top.
16 Q. Is that the only place these
17 seals or the roof of these seals
18 attached to any kind at top? Were
19 there any others?
20 A. No. The rest of them looked
21 good. Just this one here I'd say
22 extra room. There's extra room in
23 this one.
24 Q. Go ahead and mark on this map,
25 if you would please, the Number Four

84

01 seal area where you put the
02 additional seals --- or excuse me ---
03 A. I believe it's Five, we built
04 in here. Just because this was wider
05 in this area.
06 Q. Can you mark with a red X, the
07 approximate location?

08 A. The trap was in this side of
09 this one. The trap was towards the
10 middle of this one. And this ---.

11 Q. And that's in the --- the trap
12 was in the middle --- the water trap
13 was in the middle of the Number One?

14 A. It was toward the left side,
15 over on the left.

16 Q. And the sampling tube in the
17 Number ---.

18 A. Was on the left side of this
19 one.

20 MR. WILLIS:

21 Left side looking inby?

22 A. But there was extra cribs
23 built here for the 40-foot piece of
24 pipe, 12 inches from the top.

25 MR. WILLIS:

85

01 Mr. Scott, when you
02 said left side, were you
03 looking --- in the inby
04 direction would be the left
05 side?

06 A. Yes, sir.

07 MR. WILLIS:

08 Okay. Can we just
09 clarify here. I'm a little

10 confused because we're using
11 this red line indicating the
12 cutter. It stops inby the
13 crosscut, but I think you said
14 it extended outby the
15 crosscut.
16 A. It was more. I mean, it
17 extended some even past these cribs.
18 BY MR. SWENTOSKY:
19 Q. Can you draw how far you think
20 it would have extended outby?
21 A. I don't know exactly how far
22 it extended outby.
23 Q. Just to the best --- to the
24 best of your recollection?
25 A. I know it was past this, I

86

01 would say approximately --- it was
02 here.
03 Q. Okay. So you're indicating
04 that ---.
05 A. But this whole area was
06 screened and bolted. It had screen
07 and it was bolted in this entry
08 Q. What entry did you cut the
09 screen out?
10 A. Number Nine entry and I'm not
11 sure.
12 Q. Okay. But you personally cut

13 the screen out of the seals that you
14 ---?

15 ATTORNEY WILSON:

16 Do you want to look at
17 this other map here?

18 A. I believe it was up in this
19 area.

20 BY MR. SWENTOSKY:

21 Q. So you cut the screen out in
22 Number Five also?

23 A. Yes, sir. No, I didn't cut it
24 out of this one. I mean, it was cut
25 out, but I didn't do --- I didn't

87

01 ---.

02 Q. Okay. What I'm asking is ---.

03 A. It was cut out. I seen it cut
04 out myself.

05 Q. Okay. What about the other
06 --- the ones that you put in, did you
07 cut ---?

08 A. Just the one on Nine.

09 Q. The screen in the other
10 entries was already cut out in the
11 seals that you built?

12 A. It wasn't done yet. It was
13 just --- they were bolted.

14 ATTORNEY WILSON:

15 Can you just write in
16 here cutters so that that's
17 indicated on the map?
18 WITNESS COMPLIES
19 BY MR. SWENTOSKY:
20 Q. We can go sit down. Did you
21 ever detect any methane up in that
22 area?
23 A. No, sir.
24 Q. No. The entire time up there,
25 you never detected ---?

88

01 A. The entire time I built the
02 seals, no methane was observed.
03 Q. Did you ever hear anyone else
04 detecting or might have mentioned to
05 you that we detected methane up there
06 or somewhere else.
07 A. I never heard nobody say that
08 they detected methane.
09 Q. After you were completed, were
10 there any additional supplies left up
11 there, such as the boards or wedges,
12 blocks?
13 A. That was the cleanest area I
14 seen. I cleaned it up right.
15 Everything extra I carried out.
16 Q. Okay. So there wasn't any
17 boards or wedges or ---

18 A. No, sir.

19 Q. --- blocks left up in that
20 area?

21 A. No, sir.

22 Q. Where did you take them to?

23 A. Out to the track. Well, Two
24 Left section that was my only way
25 out. Up on the Two Left section,

89

01 loaded in their supply area.

02 Q. So up to the Two Left section?

03 A. Yes, sir.

04 Q. You mentioned about rock
05 dusting, how well was that rock
06 dusted? Or what did you do to rock
07 dust it?

08 A. We put 20, approximately 20, I
09 believe there was 2,000 pound bags of
10 rock dust from the seals, four breaks
11 outby. From the seals to 60 wall ---
12 at the 60 wall is the main intake
13 going into Two Left.

14 Q. And whenever you were done,
15 how was that --- was there a
16 thickness to the rock dust? When you
17 stepped in it, did it come up onto
18 ---?

19 A. Yes, sir, it did. It was

20 approximately half an inch to
21 three-quarters of an inch thick on
22 the foot wall.
23 Q. The area in front of the
24 seals, was it large enough to --- in
25 other words, if you would have had to

90

01 build another seal in front of it,
02 the cleaned area, was that large
03 enough to accommodate another seal if
04 they would have to have put it in?

05 A. Yes, sir.

06 Q. There weren't any piers or
07 footers laid down before you in any
08 of those seals? Pier, like a
09 concrete footer? You didn't use any
10 of those?

11 A. No, sir.

12 Q. Okay. The seals, you used the
13 same mortar for the entire time that
14 --- all the seals, the same type of
15 mortar?

16 A. Yes, sir.

17 Q. The bags of mortar, what ---
18 do you know approximate weight of
19 those bags?

20 A. They was too heavy, 50 pounds.

21 Q. Okay. Did mortar ever come in
22 buckets or anything or did you just

23 use all bags?

24 A. On the seals, I used all bags.

25 Q. And the mortar that was

91

01 applied to the face though, it was

02 applied by the --- by your hands and

03 did you use trowels on it also?

04 A. It was mostly done with

05 gloves.

06 Q. Mostly with gloves, okay. And

07 this was your first experience with

08 Omega blocks?

09 A. It was my first experience

10 with Omega block seals, yes, sir.

11 Q. We were speaking earlier about

12 the wedges. How did you put the

13 wedges in?

14 A. With our axe and pick hammer.

15 Q. Axe and pick hammers, okay.

16 Got them up real tight?

17 A. Tight as we can get them.

18 Q. Okay. The wedges and the

19 boards, were they wet or were they

20 dry?

21 A. I mean, they wasn't wet-wet.

22 They was probably, I'd say, damp.

23 Q. Okay. Just like a damp ---

24 dampness to it?

25 A. It could have been rained on

92

01 or snowed on outside.

02 Q. Whenever the material that you
03 put on --- the mortar that you put on
04 the outside to seal the face, did it
05 remain soft to the touch or did it
06 harden up over a period of time?

07 A. Goodness, it was hard. I
08 mean, it got hard fairly quick.

09 Q. Did you ever have a reason to
10 question whether those seals might
11 have been installed --- not installed
12 properly over the other ones? Was
13 there ever any question? Did anyone
14 ever question you about that?

15 A. Nobody's ever questioned me
16 personally, no.

17 Q. Okay. Do you happen to know
18 who the person who's responsible for
19 submitting the plans to MSHA?

20 A. Who submitted these plans to
21 MSHA?

22 Q. Yeah. Do you have any idea
23 who that might be?

24 A. Jeff Toler as far as I know.

25 Q. Did you ever --- after the

93

01 seals were completed, did you ever

02 have an opportunity to, you know,
03 make an examination around those
04 seals at all after they were
05 installed and everything was
06 completed?

07 A. After they was installed ---

08 Q. Yes.

09 A. --- I mean, completed, the
10 seals itself, ---

11 Q. Yes.

12 A. --- the next week that's when
13 we done our cleanup outby and rock
14 dusted. That's all.

15 Q. Was that the last time then
16 you were up there?

17 A. After I rock dusted --- I
18 mean, done the air change and rock
19 dusted, I more or less just signed
20 off the job that it was completed.

21 Q. Okay.

22 A. Never went back.

23 Q. Okay. You were never assigned
24 to examine the seals as part of a
25 weekly examination or anything?

94

01 A. No, sir.

02 Q. Okay. And you said you made
03 the air change up there. Which way

04 was the air --- how were the seals
05 ventilated during the construction
06 process? How did the intake come in
07 and how did the return go out?

08 A. That's a good question. The
09 return was Number Nine entry.

10 Q. Okay.

11 A. That was the return side. And
12 the air come up the left side and
13 swept across and went down Number
14 Nine.

15 Q. Okay. Maybe we could just go
16 up to the map and we could --- that
17 would be better to look at and you
18 could kind of show me that. We'll
19 use this ---.

20 MR. SWENTOSKY:

21 We'll call this Exhibit
22 Number Three.
23 (Scott Exhibit Number
24 Three marked for
25 identification.)

95

01 BY MR. SWENTOSKY:

02 Q. And if you could just draw
03 prior to how the air would be --- the
04 seals were ventilated during the
05 construction process?

06 A. That was --- during the

07 process?
08 Q. Yes.
09 A. These here cuts off.
10 Q. Well, you're looking here at
11 --- let's just try this. We're
12 looking at the sloping line between
13 61 and 62 block on the North main,
14 Two North mains. And that would be
15 the block outby, the next block,
16 outby the seal line; correct?
17 A. Correct. The air was from
18 these entries.
19 Q. If you could draw on there.
20 A. The entry?
21 Q. Yes. Okay. Just draw the
22 stoppings in there with a black
23 marker.
24 A. I mean, some of them had
25 doors. These were all the solid.

96

01 ATTORNEY WILSON:
02 Let's go off the record
03 while he does that.
04 BY MR. SWENTOSKY:
05 Q. Okay. The Number Nine entry
06 was return and you had block
07 stoppings between ---.
08 ATTORNEY WILSON:

09 Okay. Denny, do you
10 want to go off the record
11 while he does that and then
12 you can explain?

13 MR. SWENTOSKY:

14 Yeah, we can do that.

15 ATTORNEY WILSON:

16 Because she's having a
17 hard time understanding

18 MR. SWENTOSKY:

19 Okay.

20 SHORT BREAK TAKEN

21 MR. SWENTOSKY:

22 Okay. There was a
23 break taken to --- for Mr.
24 Scott to provide us with some
25 note material that he had

97

01 taken during the construction
02 of the seals. And okay. I
03 just have some follow-up
04 questions.

05 ATTORNEY RAJKOVICH:

06 Can I interject
07 something? At some point, are
08 you wanting to get on the
09 record what he provided?

10 ATTORNEY WILSON:

11 Yes. Yeah, we'll put

12 that in the record.

13 ATTORNEY RAJKOVICH:

14 We'll just hold off.

15 BY MR. SWENTOSKY:

16 Q. Okay. Talking about the rock
17 dust, was there any rock dust applied
18 on the inby side of the seals?

19 A. Not by me, no, sir.

20 Q. How did the --- was there any
21 rock dust inby the seals at all that
22 you noticed during the construction
23 of the seals?

24 A. To me, it just looked like
25 when they mined that area that's what

98

01 they used. I mean, I never applied
02 none or nobody else has.

03 Q. Okay. Like a grey ---?

04 A. They pulled back out of that
05 section cutting the other seam of
06 coal, a break and a half, two breaks
07 inby my seal where it finished up at.

08 I never went up --- I didn't go up
09 in that area, no, sir.

10 Q. The mud material that you
11 pushed, did you push it up and let it
12 lay or did you remove it or ---?

13 A. It was inby.

14 Q. Inby. And you just ---
15 A. Inby the seals.
16 Q. --- pushed it up? Okay. When
17 you were laying the different layers
18 of block down, did you apply water to
19 the blocks or just lay them up there
20 dry or ---?
21 A. The blocks was dry with B-Bond
22 or --- BlocBond added.
23 Q. Okay. But you didn't apply
24 any water ---
25 A. No.

99

01 Q. --- to the individual blocks
02 as you laid them down?
03 A. No, sir.
04 Q. Okay. Do you recall seeing
05 any pipes, cables, any metallic
06 material of any kind laying on the
07 bottom that may have been left there
08 during the construction of the seals
09 that protruded from the outby side
10 into the inby side?
11 A. Extra material just laying
12 around?
13 Q. Yeah, pipes?
14 A. No. No, there was no ---.
15 Q. The rails?
16 A. No rails. I pulled the rail

17 out of the track entry. They all
18 went outby.
19 Q. Okay. Was there any type of
20 messenger wire or anything hanging
21 that might have been left over there?
22 A. No, sir.
23 Q. Okay. If I can --- for a
24 minute, if I can go back to the
25 sampling pipe, the gas sampling pipe

100

01 that you put in Number ---
02 A. Nine entry.
03 Q. --- Nine entry.
04 A. In between the seal.
05 Q. Okay. We had discussed that
06 it was a galvanized steel pipe --- or
07 a steel pipe that a smaller, there
08 was --- like a two-inch as an
09 example, and a one-inch or so copper
10 pipe ---
11 A. Half inch.
12 Q. --- half inch copper pipe was
13 inside the steel pipe?
14 A. Yes, sir.
15 Q. Okay. The area where the
16 copper pipe extended out through on
17 the outby side of the seals, there
18 would be an area around between the

19 inside of the steel pipe and the
20 outside of the copper pipe; okay?
21 How was that area sealed up where
22 that come out?

23 A. I mentioned that Vern,
24 electrician foreman, made me a
25 reducer collar --- or to reduce down

101

01 from two inch. He give that to me in
02 one piece and I put the copper pipe
03 on the end and threaded it in.

04 Q. Okay. Then the copper pipe,
05 then did it --- was there like an
06 adapter, is that what you're saying?
07 Like an adapter?

08 A. Yeah, there was several
09 adapters from two inch down to a half
10 inch. It was probably six inches
11 long.

12 Q. Okay. So there wasn't any
13 sealant or anything you used to do
14 that?

15 A. That was all pipe.

16 Q. That was all done through the
17 reducer?

18 A. All done by reducers and pipe,
19 yes.

20 Q. Did the copper pipe actually
21 screw into the --- into the reducer?

22 A. It was on --- what do you call
23 it, soldered on.

24 Q. Oh, okay.

25 A. You know what I'm trying to

102

01 say ---?

02 Q. Soldered?

03 A. Yeah.

04 Q. Like soldered on?

05 A. You got it.

06 Q. Okay. So that was soldered

07 --- the copper pipe was soldered onto

08 the reducer?

09 A. Yes.

10 Q. Okay. And the reducer

11 threaded onto the steel?

12 A. Yes, sir.

13 Q. Okay. Then on the outby side

14 of the collar, then the valve

15 attached to that; is that correct?

16 A. Yes, the valve was the very

17 last piece on.

18 Q. Okay. Just for clarification

19 and maybe the best place for us to do

20 this is over on the table so that ---

21 in case we have to make any markings.

22 MR. SWENTOSKY:

23 Could we go over there?

24 And this will be Exhibit Scott
25 Number Four. And it is a

103

01 drawing of the seal, which is
02 completed. It indicates
03 showing the boards on top of
04 the seal with wedges on top of
05 the boards.
06 (Scott Exhibit Number
07 Four marked for
08 identification.)

09 ATTORNEY WILSON:
10 What was Number Three?

11 MR. SWENTOSKY:
12 The Exhibit Number
13 Three was a one-inch scale map
14 of the One Left, Two Left and
15 the seal area and inby the
16 seal area.

17 ATTORNEY RAJKOVICH:
18 Just for the record,
19 this is a blowup and where did
20 this come from then?

21 MR. SWENTOSKY:
22 This is a blowup of the
23 plan that was submitted to
24 MSHA, part of the plan that
25 was used to construct the

104

01 seals.

02 BY MR. SWENTOSKY:

03 Q. Does this represent that

04 drawing?

05 A. Yes, it is a plan, part of the

06 plan.

07 Q. Okay. And we earlier

08 discussed how you laid the boards on

09 top and the wedges that went on top.

10 Is that a representation of how you

11 installed those wedges as far as the

12 distance between the wedges?

13 A. No, mine weren't installed

14 that way.

15 Q. Okay.

16 A. My wedges was more or less

17 turned the other way, butt to butt,

18 all the way across. Solid wedges all

19 the way across.

20 Q. We can sit down.

21 ATTORNEY WILSON:

22 Let me just see if I

23 can clarify. The diagram here

24 shows the wedges,

25 perpendicular to the board,

105

01 but you're saying it was in

02 the same direction of the

03 board, the wedges?
04 A. My wedges, yes, sir.
05 BY MR. SWENTOSKY:
06 Q. Okay. Did you then lay them
07 on top of the board and then drive
08 the wedges at an angle over the top
09 ---?
10 A. We started at an angle
11 approximately like that and drove
12 them in, then we took our hammers and
13 shoved them around this way. It was
14 butt to butt all the way across.
15 Q. So then you started the wedges
16 from the outby side driving them into
17 --- over the top of the board?
18 A. Yes, sir.
19 Q. Okay. Then once you got it
20 driven into a point, then you
21 actually hammered the outside of the
22 wedge in ---?
23 A. Flush.
24 Q. So it was parallel with the
25 board?

106

01 A. Yes, sir.
02 Q. Same direction as the board?
03 A. Yes, sir.
04 Q. During that process, did you
05 turn all the wedges the same way or

06 did you turn one the thick end, like,
07 to the right --- or excuse me, to the
08 left and then you drive them ---?

09 A. Some of them to the left or
10 top of them, turned them the other
11 way and do them backwards.

12 Q. Okay. So the thick end was to
13 the --- on the left side and then you
14 drove a second wedge over the top or
15 underneath that wedge with the butt
16 end that you were hammering would be
17 to the right so that they slid over
18 the top of each other?

19 A. Yes, sir.

20 Q. And at that point, then you
21 drove the wedge, the butt end of the
22 wedge, the thick end of the wedge
23 back into over the top of the board
24 to make it flush with the board?

25 A. Yes, sir.

107

01 Q. And that's the process that
02 you used for the --- all the seals?

03 A. My seals, yes, sir.

04 Q. Were all three boards
05 installed that way?

06 A. Yes, they was.

07 Q. With the wedges on top; right?

08 A. But the middle board only had
09 the --- we couldn't get as big of
10 wedge --- we couldn't --- in the
11 middle, we couldn't actually get them
12 butt to butt like these in here.

13 Q. Okay.

14 A. And this --- I mean, the head
15 went clear to the ---.

16 Q. Yeah. But you drove the
17 wedges over the top of the board in
18 the middle board also, whatever you
19 did?

20 A. What we could get in, but
21 mostly the one was inby side, outby
22 side butt to butt. And that's as
23 tight as you could ---.

24 Q. Okay. Approximately how many
25 --- or how far apart would the wedges

108

01 have been on the center board?

02 A. Probably a foot and a half,
03 two foot. I mean, you couldn't them
04 near as tight as you did the other
05 side.

06 Q. And why was that?

07 A. You just didn't have the room
08 to be able to get in there and drive
09 them in there tight.

10 Q. You meaning your ---?

11 A. Well, that thing is 40-inches
12 wide and the middle board was
13 approximately, I'd say, 20 inches in,
14 and you couldn't hardly reach back in
15 there 20 inches to drive them.

16 Q. Okay. So then that center
17 board was put in and all of the
18 blocks were laid before you put any
19 wedges in?

20 A. Yeah.

21 Q. Okay.

22 A. Yeah, all the blocks are laid
23 up to here and we laid the three
24 boards on top. We did it that way on
25 the inby side, wedges, the middle

109

01 board that goes here to the outside,
02 where it --- the inby side, butt to
03 butt, tight. I mean, it was
04 excellent tight.

05 Q. So actually then that center
06 board, if I describe this correctly,
07 it was so close --- the blocks were
08 so close to the roof and you had
09 mentioned earlier, I believe, an inch
10 and a half to two inches from the
11 roof blocks, so there was not room
12 enough to actually get a hammer back

13 in to get the wedges back in there to
14 tighten them up?
15 A. They was tight.
16 Q. As tight?
17 A. No, these back here, we
18 couldn't get them tighter, them ones
19 in the middle.
20 Q. And they were approximately
21 --- how far did you say, ten feet?
22 A. I don't know.
23 Q. The ones on the outside were
24 close?
25 A. Yes, sir. Probably the one on

110

01 the inby in the middle were 18, 20
02 inches.
03 Q. Okay.

04 MR. SWENTOSKY:

05 Do you want to go
06 through the rest of it?

07 ATTORNEY WILSON:

08 Sure.

09 A. Yes, sir.

10 ATTORNEY WILSON:

11 Yeah, why don't we go
12 ahead and we'll identify for
13 the record the notes that you
14 brought in. Are these a copy
15 of those notes that you gave

16 to us?

17 WITNESS REVIEWS DOCUMENT

18 A. Yes, it is.

19 ATTORNEY WILSON:

20 Just for the record,
21 let me just run through and
22 just explain the page. So
23 there are six pages, the first
24 page is a map with some
25 notations on it. The second

111

01 page, the top says Guidelines
02 of Installation of Omega Block
03 Concrete Seals. Third page is
04 a diagram of the blocks, it
05 says Sago Mine, 40-Inch Thick
06 Omega Block Seal Construction
07 Plan. The fourth page is
08 another diagram of the wall
09 which says Sago Mine 40-inch
10 Seal Omega Block Seal. The
11 fifth page is a diagram page.

12 It says Method for Sealing
13 Abandoned or Worked Out Areas.

14 ATTORNEY RAJKOVICH:

15 Can I stop you there
16 one second?

17 ATTORNEY WILSON:

18 Yes.

19 ATTORNEY RAJKOVICH:

20 I think you said page
21 three and four, both of them
22 are diagrams of the blocks,
23 but I don't know that we've
24 got enough to distinguish
25 between the two, to know which

112

01 one is which. I mean, it
02 sounded like the title had
03 about the same title on both
04 of them.

05 MR. SWENTOSKY:

06 Do you want to number
07 these pages or circle them for
08 ---.

09 ATTORNEY WILSON:

10 Okay. That doesn't
11 seem --- well, we'll put in
12 the upper right-hand corner
13 numbers one through six.

14 ATTORNEY RAJKOVICH:

15 All right.

16 ATTORNEY WILSON:

17 And we'll go ahead and
18 mark that as Exhibit Five.

19 MR. SWENTOSKY:

20 Mark this Exhibit Five.

21 (Scott Exhibit Number
22 Five marked for
23 identification.)

24 ATTORNEY RAJKOVICH:

25 Did you go through all

113

01 six? I don't know that you
02 did. I think page five was
03 ---.

04 ATTORNEY WILSON:

05 For the record, page
06 five was a diagram of a wall.
07 It says Method for Sealing
08 Abandoned or Worked Out Areas.
09 And then page six, diagram of
10 another wall at the very top
11 says, Division of Mines and
12 Minerals Effective as of
13 12/13/85.

14 ATTORNEY RAJKOVICH:

15 Thank you.

16 BY MR. SWENTOSKY:

17 Q. Okay. Could you just explain
18 what these pages represent? Explain
19 what this is here. What this is
20 here, being page one of the Exhibit
21 Five?

22 A. This here --- okay, these

23 right here is the seals One through
24 Ten. And these is ---they're
25 stoppings to make a permanent intake

114

01 escapeway for Two Left section.

02 ATTORNEY WILSON:

03 Now, when you say
04 these, for the record, can you
05 identify what you're referring
06 to? You're referring to the
07 marks just below the entry
08 numbers of One through Ten; is
09 that right?

10 A. Yes. Before I done sealed
11 these all up, these here had to be
12 built. This stopping --- I mean, all
13 these stoppings and these three over
14 --- four overcast and the regulator
15 on top of this overcast, all these
16 had to be built before I done sealed
17 these two up permanently.

18 BY MR. SWENTOSKY:

19 Q. So the seals are marked inby,
20 the numbers that you have listed here
21 for the seals?

22 A. Yeah.

23 Q. The seals are inby those
24 Numbers One through Ten?

25 A. These numbers of the seal,

01 One, Two, Three, Four seal, Five ---
02 I mean, they're the seal numbers,
03 yes, sir.

04 Q. And outby those numbers that
05 you have just described, there is a
06 series of stoppings; is that correct?

07 A. Yes.

08 Q. Okay. And could ---?

09 MR. SWENTOSKY:

10 Could we just have him
11 highlight those, the ones that
12 ---.

13 BY MR. SWENTOSKY:

14 Q. If you could, please, Mr.
15 Scott, use this orange marker to
16 highlight the permanent controls that
17 were installed. And this ventilation
18 is after the seals were completed,
19 that we're looking at; is that
20 correct?

21 A. Well, this is what it took to
22 make ventilation after the seals was
23 completed, yes.

24 Q. Okay. Could you mark with the
25 orange marker, the permanent controls

01 that were installed to accomplish

02 that?

03 A. To accomplish ---?

04 Q. The ventilation that you ---

05 to make that change in ventilation

06 that was ventilating the area prior

07 to completing the seals.

08 A. You don't want me to mark the

09 seals, do you? I mean, ---.

10 Q. No, you don't have to do that.

11 A. Okay.

12 WITNESS COMPLIES

13 ATTORNEY RAJKOVICH:

14 Would you want to make

15 those overcasts a different

16 color?

17 A. No, these aren't overcasts. I

18 had to build four overcasts.

19 BY MR. SWENTOSKY:

20 Q. Just circle those overcasts

21 with the orange marker.

22 WITNESS COMPLIES

23 BY MR. SWENTOSKY:

24 Q. And you have circled four

25 overcasts; is that correct ---

117

01 A. Yes, sir.

02 Q. --- with the marker? And

03 those are the overcasts that you had

04 to have installed prior to installing

05 --- completing the Number One and
06 Number Ten seals?
07 A. That's correct. Well, I mean,
08 these three had to be built, too.
09 And there was one here but it was a
10 temporary one. This here was a
11 temporary one, it was made out of
12 Kennedy --- Kennedy wall.

13 ATTORNEY WILSON:

14 So use a green marker
15 for the Kennedy stopping.

16 BY MR. SWENTOSKY:

17 Q. And just put a K there, if you
18 would, please.

19 WITNESS COMPLIES

20 A. That one ---.

21 BY MR. SWENTOSKY:

22 Q. Okay. We got it.

23 A. This one here is the other ---
24 but I don't think I built it, but I
25 mean, there's a wall here.

118

01 Q. And the Kennedy wall, is that
02 --- did you take that one out?

03 A. Yes, during the air change.
04 When I made the air change, yes,
05 partially. It was --- I took six
06 panels of the Kennedy wall off to

07 make intake air come into Two Left
08 section and that was there --- that
09 makes them the six-foot escape --- a
10 walkway and escapeway out of the
11 section.

12 Q. Okay. So where you have
13 marked the Kennedy wall, then you
14 actually took that out or six panels
15 ---

16 A. Six ---

17 Q. --- panels of that?

18 A. Six panels.

19 Q. Of the Kennedy wall that had
20 been previously installed?

21 A. Yes, sir.

22 Q. And you took that six panels
23 out to assure ventilation into the
24 Two Left section?

25 A. Two Left section.

119

01 Q. Okay.

02 A. Before this here all happened,
03 their escapeway was this way.

04 Q. This way indicating around the
05 seal area?

06 A. Yeah. Their escapeway was ---
07 yeah.

08 Q. And that would have been the
09 entry --- or the crosscuts actually

10 just outby the seals?
11 A. Yes. Yes. That was all ---
12 yeah. Yes. That was their
13 escapeway. When I done the air
14 change, that made this here a return
15 and this here their isolated intake.
16 Q. Okay. That made Number Nine
17 entry intake across the front of the
18 seals and then it was ventilated out
19 over the top of the overcast that you
20 just saw.
21 A. The intake come in Number Ten
22 ---
23 Q. Yes.
24 A. --- and out and across the
25 overcast.

120

01 Q. And across the overcast, okay.
02 A. And I had 41 --- or 4,100
03 cubic feet of air at my regulator.
04 Q. At the regulator ---?
05 A. On top of this overcast.
06 Q. On top of the most inby
07 overcast?
08 A. I built a regulator on top of
09 it and I had 4,100 cubic feet of air.
10 Q. Okay. What was that regulator
11 constructed of?

12 A. Omega block.
13 Q. Omega block, okay. Okay.
14 MR. MILLS:
15 Where was that
16 regulator again? I'm sorry.
17 A. On the inby overcast --- well,
18 it would be the first one outby the
19 seals.

20 ATTORNEY WILSON:
21 Would you mark that?
22 MR. SWENTOSKY:
23 I think we have it.
24 ATTORNEY WILSON:
25 Do you? Okay.

121

01 MR. SWENTOSKY:
02 I think we have that in
03 the record.
04 ATTORNEY WILSON:
05 All right.
06 MR. MILLS:
07 Why don't we mark with
08 a red pen, R for regulator?
09 WITNESS COMPLIES
10 BY MR. SWENTOSKY:
11 Q. Okay. You've marked the
12 regulator on top of the most inby
13 overcast, which that regulator was on
14 top of the overcast?

15 A. Yes, sir. But before this
16 happened, too, there was a Kennedy
17 wall here. But the air coming --- I
18 built the overcast, but there was a
19 Kennedy wall in here also and I took
20 it out when I made the air change.

21 Q. Okay.

22 MR. MILLS:

23 Just for the record,
24 the Kennedy wall you're
25 talking about was just inby

122

01 the R, the regulator?

02 A. No. It as just inby the
03 overcast I built. Well, it was in a
04 block of coal inby the regulator ---
05 or the overcast.

06 BY MR. SWENTOSKY:

07 Q. I know we've been going over
08 this but just for a clarification
09 because I misunderstood that. The
10 regulator was not on top of the
11 overcast?

12 A. Yes, it was on top of the
13 overcast. The Kennedy wall was in
14 the block ---

15 Q. Okay.

16 A. --- inby. Yeah, inby. In the

17 blocks of coal inby the overcast.
18 Q. Okay. Whenever the
19 ventilation change was made and you
20 would re-establish a need for putting
21 the stoppings in and making it --- in
22 the process of making the ventilation
23 change, were you underground at that
24 time, when the actual ventilation
25 change was made?

123

01 A. Yes, sir, I'm the one who made
02 it.

03 Q. Made it, okay. And was the
04 Two Left section working at that time
05 while you were doing that?

06 A. Two Left section? No. That
07 was on a Sunday.

08 Q. That was on a Sunday.

09 A. No, there wasn't nobody inby
10 me.

11 Q. Was there anybody else in the
12 mine while you were doing that?

13 A. There may have fire bosses or
14 something.

15 Q. How many people were working
16 with you when you did that?

17 A. Two people

18 Q. Two. Okay. Was the power off
19 underground during that ventilation

20 change?

21 A. No. No. No. The fans was
22 running and the power surge had power
23 on it.

24 Q. Okay.

25 A. And I had a scoop, had power

124

01 on it.

02 Q. Okay. Where was that ---
03 could you draw a --- using this
04 purple marker, could you on Exhibit
05 Five, show me where the scoop was
06 located at that time, if you recall,
07 during the change.

08 A. You're funny. I was all over
09 that area with it. I was in several
10 places with it. I mean, I come up
11 this way with it and go back in here
12 in front of these seals. But I mean,
13 that was as far as I can go, that was
14 my furthest point.

15 Q. Okay. The furthest point
16 meaning --- or being right near the
17 regulator --- or where you have the
18 overcast, at the regulator?

19 A. At the slant wall as probably
20 the furthest I can come with the
21 scoop. I mean, I was all over that

22 area.

23 Q. Okay. And the power was on

24 the power boxes in that area?

25 A. Power boxes in that area?

125

01 Q. Yeah. You had mentioned ---

02 what power was on during that

03 ventilation?

04 A. The two --- all the power

05 outby me here. There's a power box

06 in this crosscut.

07 Q. Okay. Show me where that is

08 using ---.

09 A. I mean, it's a belt starter

10 box. I meant the belt starter box.

11 Q. Okay.

12 A. It was in this area right

13 here.

14 Q. Okay. And you've indicated

15 ---.

16 A. And there was high voltage

17 cable coming up into the section and

18 the power center had power on it.

19 But there wasn't no power centers or

20 nothing inby this.

21 Q. This meaning where you were

22 installing the stopping?

23 A. Yes, inby where I built the

24 stopping, there was no power of no

25 source, except for my scoop.

126

01 Q. Okay. So ---.

02 A. I mean, this is marked power

03 center but that's not running.

04 There's nothing there. I mean, it's

05 --- that's ---.

06 Q. Okay. Put a green X over that

07 if that wasn't there.

08 A. I mean, that there would be a

09 power center. That's what PC stands

10 for.

11 Q. Just mark an X on it.

12 A. Oh, X. I'll put a ---.

13 MR. MILLS:

14 And just for the

15 record, you're in ---

16 A. Number Six.

17 MR. MILLS:

18 --- a break outby the

19 Seven seal?

20 A. Number Seven seal, yes, sir.

21 MR. MILLS:

22 Okay.

23 A. This says scoop there, but I

24 mean, I don't know ---.

25 BY MR. SWENTOSKY:

127

01 Q. Would I be correct in saying
02 that basically the normal power was
03 on through the section and so on and
04 in the intersection of Two Left and
05 North mains --- Two North main? The
06 normal power was on?

07 A. The normal mining power was
08 on, yes, from here outby up into Two
09 Left.

10 Q. Up into Two Left.

11 A. But there wasn't no power of
12 no source inby these up in here, no.

13 Q. Inby these meaning the
14 stoppings that you were constructing?

15 A. That's right. No power except
16 for my scoop, because I can take the
17 scoop back to this section.

18 Q. Approximately how long did it
19 take you to make that ventilation
20 change?

21 A. The main ventilation, it
22 varied over four days. But we done
23 the final change on the 12th of
24 December. The 12th of December is
25 when I --- when I made the final

128

01 change, that's when I built this, the
02 12th day of December. I built --
03 finished this one and this and we

04 done a ---.

05 Q. This meaning Number One and

06 Number Ten seal?

07 A. Number One and Number Ten

08 seal, yes, sir.

09 Q. Okay. And ---.

10 A. But we worked 13 --- I believe

11 it was 13 hours that day.

12 Q. And you were the only people

13 underground at that time?

14 A. No, there was other people in

15 there somewhere.

16 Q. Was the Two Left section

17 working?

18 A. But that was the only people

19 --- I'm not sure about that. But we

20 was he only people in this area right

21 here working together on the seals

22 and this little air change. It

23 wasn't a real major air change

24 because we stretched it out just

25 little by little every day. It

129

01 wasn't a drastic change over 2,000

02 cubic feet a day or something.

03 Q. So you just made a little bit

04 at a time?

05 A. Little bit at a time, yes,

06 sir.

07 Q. And during the final when

08 everything was buttoned up --- and by

09 buttoned up, I mean, sealed up,

10 Number One and Number Ten seal, then

11 the Two Left section --- was that a

12 Sunday also or ---?

13 A. It was on a Saturday and a

14 Sunday. Sunday was a special job for

15 me and my two red hats on a Saturday

16 and Sunday to make sure all these

17 stoppings was built outby the seals

18 so we can do the final air change on

19 a Sunday.

20 Q. Okay. And there was no one

21 working in Two Left at that time or

22 there was?

23 A. I'm not sure of that. I can't

24 --- I mean, I don't know for sure.

25 Q. Do you happen to know when

130

01 mining was stopped inby the seals,

02 the old Two Left section there? Do

03 you happen to recall when that was?

04 A. I don't know exact date but I

05 was there, but I mean, I don't know

06 the date or nothing.

07 Q. You were working up in that

08 Two Left --- old Two Left section

09 whenever you guys shut down?
10 A. I always worked outby, but I
11 believe at the time, I was working on
12 a violation outby bolting in the
13 intake, screening the intake.
14 Q. Screening the intake. And
15 that was up near the face of the old
16 Two Left section?
17 A. Yes, sir.
18 Q. Do you know why mining was
19 stopped up there? Do you have any
20 idea?
21 A. Why the mining was stopped in
22 old Two Left?
23 Q. Yes, sir.
24 A. No. No.
25 Q. No?

131

01 A. I didn't like the looks of it,
02 that's --- I don't know.
03 Q. Why didn't it look so well?
04 A. I just didn't like it --- like
05 it. I didn't like it. That's all I
06 know.
07 Q. What made you not like it?
08 A. Water, more water and the
09 conditions just got worse. The
10 conditions, I believe that's what run

11 them out. I mean, I didn't like it
12 at all.

13 Q. While you were up there, did
14 you ever encounter any methane
15 problems?

16 A. I've never ---.

17 Q. Had you dealt with any
18 methane?

19 A. I've never found over
20 three-tenths percent gas in that
21 mine.

22 Q. Okay. Did you find any ---
23 did you find those three-tenths up in
24 the old Two North section?

25 A. No. It was in One Left

132

01 section. I usually work weekends
02 with --- well, it wasn't ICG then, it
03 was Anker, bolting and I fire bossed
04 it and stayed with the bolters
05 Saturdays and Sundays.

06 Q. Did you ever make an
07 examination up in the Two Left
08 section?

09 A. Yes, I have.

10 Q. Like a pre-shift examination?

11 A. Yes, I have.

12 Q. The old Two Left we're
13 speaking about?

14 A. The old Two Left. I fire
15 bossed the whole mine.
16 Q. Okay. What type of methane
17 would you find up there?
18 A. The most I've ever found
19 anywhere in that mine is three-tenths
20 of a percent.
21 Q. Okay. But up in the Two North
22 area --- or excuse me, the Two Left
23 area, what's the most you have found
24 up there, in the face?
25 A. I can't actually say. I mean,

133

01 it might have been three-tenths in
02 that section but that's just ---
03 Q. You can't recall?
04 A. I just --- I've never found
05 over three-tenths anywhere in that
06 mine.
07 Q. Do you recall anyone or maybe
08 you personally saw or hear anyone
09 speaking about cutting through any
10 uncharted boreholes or charted
11 boreholes of any kind, where they had
12 mined in and all of a sudden, there's
13 a borehole?
14 A. No. That's the first I've
15 heard of it right there. I mean, I

16 ain't never ---.

17 Q. You've never heard of anyone
18 doing that?

19 A. No. And I'm sure if anybody
20 had heard it, it would have been me.

21 MR. SWENTOSKY:

22 Mr. Mills, do you have
23 anything?

24 MR. MILLS:

25 Yeah.

134

01 BY MR. MILLS:

02 Q. Mr. Scott, just a couple
03 questions to clarify. And you may
04 have answered this one, a pre-shift,
05 on-shift of the seals that you did,
06 did you record those in a book
07 outside?

08 A. I always do, yes, sir.

09 Q. Is there a separate book for
10 that?

11 A. Yes, there was. It was
12 classified as a sealed construction
13 area.

14 Q. And you did that every day?

15 A. I done it every day on my
16 shift, yes, sir.

17 Q. Okay. Who looked at that book
18 and who counter-signed it? Do you

19 remember?

20 A. I mostly seen Carl Crumrine's
21 name, the mine foreman's name on it.

22 Q. Was that area ever pre-shifted
23 for you by another shift, or you did
24 pre-shifts every day?

25 A. Sometimes it had been

135

01 pre-shifted by somebody else and
02 called out, but mostly I done it
03 myself. Pre-shifted it and called it
04 out and they recorded it in the book
05 and I come out and counter-signed it
06 at the end of my shift.

07 Q. And you also did the on-shift
08 exam?

09 A. I done the on-shift and the
10 pre-shift.

11 Q. Okay. On the day of the air
12 change, December the 12th, that was
13 the last day of the air change, who
14 directed you in this whole process of
15 the air change? You said Jeff Toler
16 told you about the seal sealing, but
17 the air change?

18 A. Who told me how to do it?

19 Q. Who supervised you on it?

20 A. Nobody actually super ---.

21 Q. Who from mine management gave
22 you directions on what changes to
23 make?

24 A. Jeff Toler was more my
25 foreman, yes. But at the time,

136

01 underground was Lonnie Short.

02 Q. Lonnie Short.

03 MR. MILLS:

04 Did you say Lonnie or

05 Ronnie?

06 A. Lonnie.

07 MR. MILLS:

08 Lonnie with an L?

09 A. Yeah.

10 BY MR. MILLS:

11 Q. You mentioned that the seal in
12 Number One entry was above eight feet
13 high in a couple --- in one area,
14 eight foot, four inches I think you
15 said.

16 A. On the left side.

17 Q. Did you mention this to
18 anybody?

19 A. Yes, sir, I had. Jeff Toler
20 knowed it and John Collins, the state
21 mine inspector and Carl Crumrine and
22 myself.

23 Q. Okay. We talked a little bit

24 about the board that you put on top
25 of the seals.

137

01 A. Yes, sir.

02 Q. Can you think a little closer
03 about the length, width and thickness
04 of those boards? Could you tell me
05 ---?

06 A. The full length of the board
07 was, I'm going to say, 16 feet.

08 Q. Okay.

09 A. If you used a full board, it
10 was 16 foot.

11 Q. Okay. That's what I'm ---
12 full boards, 16 foot. I had wrote
13 down 20 feet.

14 A. I mean that's just roughly.
15 They call come in the same size.
16 They come in on the supply car.
17 They're called fly board and we
18 unload them and haul them up there.

19 Q. Okay. And I think you said
20 they were about an inch thick?

21 A. Three-quarters to an inch
22 rough cut lumber, yes, sir.

23 Q. And the width?

24 A. I think they're six inches.

25 Q. You talked about installing

01 wedges above the boards. Was it
02 always --- the wedges always between
03 the board and the roof? Was it ever
04 between the board and the ceiling?

05 A. I believe most of them was
06 between the board and the roof.

07 Q. But not all of them?

08 A. I can't say for sure.

09 Q. Okay. Number One seal was the
10 one with the water trap?

11 A. Yes, sir.

12 Q. There was only one trap?

13 A. Yes. Yes.

14 Q. And do you know the diameter
15 of that trap?

16 A. I believe it was six inches.

17 Q. Did you fill that trap with
18 any fluids?

19 A. Me personally, no, but it was
20 full of water.

21 Q. The sample line that went in
22 the Number Ten seal, it was two inch,
23 black plastic --- I mean, black pipe?

24 A. Black steel pipe.

25 Q. Okay. And it extended ---?

01 A. It was 40-feet long total. It
02 was two sections, 20 foot.

03 Q. How much of this black pipe
04 extended out by this seal?
05 A. I'm going to say three feet.
06 Q. And out of the end of this
07 black two inch pipe extended the
08 copper line?
09 A. On the end it had a collar and
10 reducer approximately six-inches
11 long.
12 Q. So the overall length it was
13 about ---?
14 A. Forty (40) foot, six inches.
15 Q. I mean, extending out by the
16 seal, about three and a half feet?
17 A. Yes.
18 Q. Was that supported on a crib
19 or how was it held up? I mean, did
20 you tie wire it?
21 A. No. It didn't have a crib
22 supporting it up. It was in between
23 the two cribs I set. You could walk
24 straight into the middle of my cribs
25 and the test tube for gas and sign

140

01 the book.
02 Q. Was it supported in any way to
03 the roof with the tie wire or a hook?
04 A. No, sir, it was just laying on

05 top --- 12 inches down on the seals
06 and extended inby, on the cribs inby.

07 Q. So it was self-supporting
08 then?

09 A. Yeah.

10 Q. Okay. Do you remember what
11 the total length of the seal on
12 Number One entry was?

13 A. No, I don't.

14 MR. SWENTOSKY:

15 Okay.

16 BY MR. SWENTOSKY:

17 Q. Just a couple more clarifying
18 questions. The bags of mortar that
19 you spoke about, do you recall
20 whether they had instructions on them
21 at all?

22 A. I'm sure they did, but I
23 didn't read them. I didn't read
24 them.

25 Q. Okay.

141

01 A. I'm sure they did.

02 Q. And getting back for a moment,
03 the number one seal that was --- I
04 think you had referred to it as parts
05 of it being eight foot four inches in
06 that. Did you happen to build that
07 seal a little thicker maybe or did

08 you have a pilaster in that one at
09 all?
10 A. No, I didn't.
11 Q. And when the inspectors and
12 yourself crawled through and examined
13 those seals on the inby end, walking
14 --- you had mentioned they went
15 through the seals, walked. Who all
16 was with you during that examination?
17 A. I wasn't with the inspectors.
18 The inspectors --- John Collins rode
19 in with me and my two guys and Marty.
20 I don't know his last name. He's a
21 certified foreman there. Him and
22 John Collins inspected in behind the
23 seals while I was doing my on-shift
24 and pre-shift outby the seals for my
25 men to come up here.

142

01 Q. Okay. So those are the only
02 two people that were back there?
03 A. Yep. Once they come out, John
04 and Marty had a list of stuff that I
05 had to correct in behind the seals
06 before I sealed them up. And John
07 Collins, he shook my hand, he said
08 good job. After we corrected the
09 stuff he had on that paper, we could

10 go ahead and seal it up. It was a
11 good job.
12 Q. Do you recall what those
13 corrections might have been?
14 A. Yes, I do. There was one
15 piece of curtain and tighten up one
16 crib. Finish building and tighten up
17 one crib behind the seal that I never
18 done.
19 Q. Okay. And the curtain, you
20 said fix it. What curtain?
21 A. It was just left behind. It
22 was just trash to me.
23 Q. Oh, okay. And then you ---
24 A. We drug it out ---
25 Q. --- drug it out?

143

01 A. Yeah. We carried the extra
02 crib back in there with them two red
03 hats. And done what he had on his
04 paper and he said it was all right to
05 seal them.
06 Q. Okay. So then the only --- if
07 I understand you correctly, you took
08 a piece of brattice material, brought
09 it out from behind the seals and
10 tightened the crib up back there?
11 A. Yes, sir.
12 Q. Okay. And that's the only

13 thing that ---?

14 A. That was the only thing that
15 he said was wrong back there. He
16 said it looked like a dang good job
17 we done.

18 Q. I was wondering if we can just
19 --- it sounded like everybody liked
20 them anyway?

21 A. Liked who?

22 Q. The seals. Okay. If we could
23 just for a moment, kind of go back to
24 whenever you arrived on the mine
25 property and the event occurred and

144

01 you were

02 --- you said you were to told to go
03 over and sit with the dispatcher?

04 A. No. I wasn't told. I just
05 felt --- I just felt better if I
06 would have went with him because I
07 was certified and he wasn't, but he
08 was a dispatcher. But I didn't
09 interfere with anyone. I want him to
10 know that we was there with him.

11 Q. Okay. Do you recall any
12 conversation? Could you tell me a
13 little bit about what went on there?

14 What you observed maybe or who you

15 heard calling or conversations?

16 Could you just kind of run through

17 that with me a little bit?

18 A. There were several people

19 nervous and running around.

20 Q. Yeah.

21 A. I heard --- the only person I

22 know I heard that --- there was

23 Vernon, he said he had a phone.

24 Q. Vernon who?

25 A. Wehofer (sic) or Vern Hofer or

145

01 something like that. He's a

02 maintenance foreman out there.

03 Q. Okay.

04 A. He went in the mine after this

05 happened, him and Jeff Toler and Dick

06 Wilfong. But I heard him on the

07 phone. He said he was at One Left

08 switch, that he got a phone

09 established in the good air intake.

10 That's it. That was the end I heard

11 of him talking right there.

12 Q. Did you hear any CO monitors,

13 CO sensors or the monitors going off

14 or anything like that?

15 A. There was on the computer, in

16 front of the dispatcher, four or five

17 CO monitors going off on the belt

18 line.

19 Q. Okay. You don't recall which
20 ones those were?

21 A. It's the ones from
22 approximately --- I know it was Two
23 Left, two --- outby One Left, the CO
24 monitors.

25 Q. How long did you stay there

146

01 with Mr. --- with the dispatcher?

02 What's the dispatcher's name?

03 A. He's a black guy. If you'd
04 mention his name, I know him. There
05 was another guy in there with me
06 besides the dispatcher. There was
07 John Boni. What do they call that
08 black guy?

09 Q. That'd be Flea?

10 A. Flea.

11 Q. You don't know his name?

12 Okay.

13 A. Chisolm.

14 Q. Chisolm.

15 A. I had his boy, he worked for
16 me.

17 Q. Do you have anything else that
18 maybe you could share with us of what
19 was said? Who ordered who and

20 anything like that?

21 A. I was just trying to get Flea

22 to call 911.

23 Q. Approximately how long were

24 you there?

25 A. I was there a whole day, eight

147

01 hours.

02 Q. Eight hours. And you didn't

03 speak to anyone else during the day

04 there or did anybody else tell you

05 anything else?

06 A. Well, the One Left crew, when

07 they come out, they was in --- they

08 looked real bad. I tried to help

09 them with oxygen.

10 Q. Can we take a ---.

11 A. I'm all right. I'm all right.

12 MR. SWENTOSKY:

13 That's all right.

14 Let's just take a break.

15 A. I got a sinus problem.

16 MR. SWENTOSKY:

17 Okay. Let's just take

18 a short break. Maybe a couple

19 ---.

20 SHORT BREAK TAKEN

21 BY MR. SWENTOSKY:

22 Q. Okay. Before we go up to the

23 map, I just wanted to ask you a
24 couple more questions here. You
25 mentioned that you recorded your

148

01 examinations of the seal area in the
02 pre-shift and there was a seal book
03 you mentioned, I believe. That there
04 was a special book?

05 A. No, it's not a seal book. It
06 was construction for the seal area.

07 Q. Okay. Now, construction for
08 the seal area, okay. Was that just a
09 separate book or was that just for
10 that purpose?

11 A. It was an on-shift and pre-
12 shift book just to do construction in
13 that area.

14 Q. There was not any other
15 examinations that were recorded in
16 that book to your knowledge, ---

17 A. Just the ---.

18 Q. --- just the seal stuff?

19 A. It's mostly --- mostly just
20 me. I done most of it on dayshift.

21 Q. Okay.

22 A. Afternoon turned in hardly ---

23 I mean, I never seen --- just my

24 name.

25 Q. And that's a separate book.

149

01 And how is that identified?

02 A. It had on it construction for
03 seals areas.

04 Q. Okay. And you had mentioned
05 about the one state inspector and
06 Marty going around the back end. Are
07 you aware of any other inspectors,
08 state or federal that were around
09 that area?

10 A. Yes. But I mean, I wasn't
11 there. It was --- I believe it was
12 Jeff Snyder. Jeff Snyder. A federal
13 inspector came up there,
14 investigator.

15 Q. When you were there?

16 A. No, not when I was there.

17 Q. Okay.

18 A. No.

19 Q. These are only --- this was
20 the only inspector you talked about?

21 A. Just the state inspector is
22 the only one that came up there
23 whenever I was there, just that one
24 particular day. No other time he
25 showed whenever I was --- just one

150

01 day.

02 Q. Okay. And you were going to
03 say something that you heard then, of
04 other inspectors being up there?

05 A. Well, I know the one had been
06 up there before, a federal inspector.

07 Q. Okay. And who was that?

08 A. I don't know his name. I know
09 he was there on a quarterly
10 inspection, but I don't know his
11 name.

12 Q. And that was before the
13 completion of the seals?

14 A. That was before I even built
15 my five. I wasn't in charge of it.
16 I was working outby, way outby.

17 Q. Okay. Let's go up to the ---.

18 ATTORNEY WILSON

19 Do you want to do that
20 clarification now or later or
21 ---?

22 MR. SWENTOSKY:

23 Okay. Go ahead.

24 ATTORNEY RAJKOVICH:

25 There's a couple of

151

01 things that he, I think,
02 wanted to clarify is, when he
03 got to the mine the day of the

04 explosion and then some other
05 things that he had done in
06 that area before he left. Go
07 ahead.
08 A. I usually arrived at the mine
09 an hour before my starting time. My
10 starting is 7:00 a.m. I got there
11 that morning at ten minutes to 6:00.
12 And me and Marty, who was a mine
13 foreman --- or fire boss there, we
14 took it on our own in the seal ---
15 after we completed the seals and
16 everything was done, we hung curtain
17 from the outby rib, winged them in
18 towards the seals to, you know, make
19 a better ventilation, make air sweep
20 the seal better. They was within
21 five feet of the seal.
22 BY MR. SWENTOSKY:
23 Q. Okay. Can we go over to the
24 map and just draw that configuration
25 in where those curtains might ---

152

01 were at? And we're looking at
02 Exhibit Scott Number Two. Using the
03 black pen, can you draw those
04 curtains and how the configuration
05 was to ventilate those seals?
06 A. It looks to be like ten feet

07 there. I mean, they was within five
08 feet.

09 Q. Okay. And using the black
10 pen, you had drawn a line in the
11 corner of an outby rib at each one of
12 the seals and extended that line to
13 within five feet.

14 A. It was within five feet, yes,
15 sir.

16 Q. And that would be at all the
17 seals; is that right?

18 A. All ten seals.

19 Q. All ten seals. And did
20 someone tell you to do that or did
21 you do that on your own?

22 A. No. Me and Marty, another
23 foreman, was up there and he was
24 walking around with me. And me and
25 him just decided on ourselves. We

153

01 carried four rolls of curtain in and
02 hung the curtains.

03 Q. Okay. The curtains that you
04 did not use, did you remove that from
05 the area?

06 A. We used every bit of curtain
07 we could get. We took every bit of
08 curtain we could get.

09 Q. How do you install that
10 curtain?
11 A. With spads and nails and hung
12 them from roof plates.
13 Q. You didn't use any posts or
14 ---
15 A. No, sir.
16 Q. --- boards or anything like
17 that?
18 A. No.
19 Q. Okay. Let's move to Exhibit
20 Number --- Scott Number Three, and
21 that's a scale of 100 per foot inch
22 (sic) map. And earlier when we were
23 off the record, you had outlined the
24 ventilation of the seals prior to
25 completing Number One and Number Ten

154

01 seal. And you have indicated that
02 the intake air entered the seal area
03 between crosscuts 61 and 62 in the
04 Number One entry. There's stoppings
05 there and you have circled it. Which
06 would indicate that it was not there
07 at that time. And also you have
08 circled an angle stopping across the
09 Number Two entry at crosscut 62. And
10 you have indicated by the circle
11 indicating that it was not there at

12 the time. You also outby that
13 between crosscuts 62 and 61 have
14 indicated by the line with a K on it
15 indicating a Kennedy-type stopping.
16 And you have shown that the air
17 traveled up inby for the seals around
18 to crosscut Number 63, ventilated the
19 One and Two and Three seal area.
20 Traveled outby to Number 62 crosscut
21 and then it traveled across from
22 Number Three entry to Number Nine
23 entry and turned out in the outby
24 direction and ventilated from that
25 point, air traveled to --- you had

155

01 mentioned Two Right, went across
02 overcast and into the return on the
03 left side of the Two North main.

04 MR. MILLS:

05 Ask him if that's
06 correct?

07 BY MR. SWENTOSKY:

08 Q. Is that correct what I've just
09 said?

10 A. I know there's a wall here,
11 this air could come --- before this
12 here was sealed and this was sealed,
13 the air come up this way and come out

14 and come this way toward Two Left and
15 partially come in the seals at left
16 and came back out. This wall was out
17 here in the return. It had swept
18 these seals and come back out that
19 side. But this seal was all sealed
20 in in Two Left.

21 Q. Okay. Between the seals and
22 the stopping line across the entry
23 between 62 and 61 crosscut ---.

24 A. There was this wall here in
25 Number Seven.

156

01 Q. Okay. You have indicated that
02 ---.

03 A. This was out. This is air
04 coming in. It swept this way. It
05 went out to the back side and back
06 out the return.

07 Q. Okay.

08 MR. MILLS:

09 Okay. We're going to
10 have a hard time understanding
11 when we read the transcript
12 what it is that you're saying.

13 MR. SWENTOSKY:

14 Let's go off the
15 record.

16 OFF RECORD DISCUSSION

17 BY MR. SWENTOSKY:

18 Q. Okay. During the break, Mr.

19 Scott indicated some air direction

20 that's on Exhibit Scott Three. Okay.

21 And you have indicated that the black

22 markings previously made were not

23 correct.

24 A. That's correct.

25 Q. Okay. The stoppings that were

157

01 circled in the black, we'll disregard

02 those at this time.

03 A. Correct.

04 Q. Okay. You have indicated that

05 airflow at the stopping in Number

06 Seven entry between 62 and 61

07 crosscut was out; is that correct?

08 A. Was out, yeah.

09 Q. Okay. The stopping in Number

10 One entry between 61 and 62 crosscut

11 was out?

12 A. Yes.

13 Q. Okay. So you have indicated

14 by red arrow that airflow entered the

15 seal --- entered the outby side of

16 the seal area through Number Seven

17 entry and the air split left and

18 right at that point?

19 A. That's right.

20 Q. Okay. Air traveling to the
21 right into Number Nine entry where a
22 stopping was located, that air
23 entered in Number Nine entry through
24 a one or two block hole in that
25 stopping.

158

01 A. Pushed in, pushed the flow.

02 Q. Okay. Air also traveled left
03 in Number 62 crosscut in front of the
04 seal area and then the air at that
05 point turned inby in Number Two entry
06 and moved up to Number 63 crosscut?

07 A. Yes.

08 Q. And that's the Number Two
09 entry. At that point, the air moved
10 to the left through the crosscut in
11 63 crosscut into the Number One
12 entry?

13 A. Yes.

14 Q. Okay. At that point, the air
15 split and some air traveled inby in
16 through the old Two Left main area?

17 A. Right.

18 Q. Okay. And it traveled, as far
19 as you know, into that area and the
20 air exited the old Two Left main area
21 through Number Ten entry?

22 A. It turned at Number Ten entry,
23 yes.
24 Q. Then also some air in Number
25 One entry turned left and traveled in

159

01 the outby direction and entered the
02 Two Left working section?

03 A. Correct.

04 Q. Okay. You also indicated in
05 black, a cave across Number Two entry
06 between crosscut 62 and 61 and that
07 was a Kennedy wall?

08 A. Correct.

09 Q. Okay. You also indicated that
10 between Number Eight and Nine entry
11 that a stopping line existed from ---
12 as you have indicated on the map,
13 between Number Eight and Nine entry,
14 stopping line existed to --- you
15 mentioned to the Two Right?

16 A. Two Right overcast on the
17 return side.

18 Q. Okay. And at that point, the
19 air crossed the overcast to the left
20 side of Two North and into the
21 return?

22 A. That's right.

23 Q. You've also indicated --- you

24 have drawn some stoppings in between
25 Eight and Nine with a black marker to

160

01 indicate that those stoppings were
02 in?

03 A. Yes.

04 MR. MILLS:

05 Just to clarify, this
06 is the way ventilation was
07 before the Number One and Ten
08 seals were completed; is that
09 correct?

10 A. That's right.

11 MR. SWENTOSKY:

12 Thank you.

13 BY MR. SWENTOSKY:

14 Q. Okay. Thank you. I just have
15 some training questions here for you,
16 Mr. Scott. Do you recall when was
17 the last time you had your annual
18 retraining class that you had maybe
19 participated in?

20 A. My eight-hour annual
21 refresher?

22 Q. Yes.

23 A. It hadn't been very long ago.
24 It's in my folder. It's less than
25 four months.

161

01 Q. Less than four months?
02 A. Yes, sir.
03 Q. Could you describe what was
04 covered in that training session, if
05 you could, please?
06 A. My self-rescuer, how to use my
07 self-rescuer, assemble it and put it
08 on and my escapeway out of the mine,
09 the secondary and primary escapeways.
10 And the first-aid movies.
11 Q. Do you recall who conducted
12 that training?
13 A. I don't know his last name
14 either, but it's Al. He's a mine
15 safety man.
16 Q. Safety director?
17 A. Safety director, Al.
18 Q. You indicated you had a paper.
19 Did he sign a form and you had to
20 sign a form after that training?
21 A. Yes, sir, he did. We got
22 eight hours refresher retraining,
23 annual refresher training.
24 Q. Okay. Where was that training
25 conducted, do you recall?

162

01 A. Where was it?
02 Q. Yes.

03 A. At the Sago Mine.
04 Q. Actually in ---?
05 A. In his office.
06 Q. In his office at the Sago
07 Mine, okay. Do you recall, was the
08 mine emergency evacuation
09 firefighting program instruction
10 reviewed? The firefighting plan?
11 A. I've never been in --- I know
12 the firefighting plans, yes, but I've
13 never participated in them at the
14 mine.
15 Q. Okay. But the emergency
16 evacuation procedures, did he discuss
17 that with you at all?
18 A. Yes.
19 Q. Okay. Do you happen to know
20 who the responsible person at the
21 mine is to direct the evacuation
22 during an emergency such as
23 explosion, fire?
24 A. That's Mr. Flea.
25 Q. Mr. Flea?

163

01 A. The dispatcher.
02 Q. Okay. Are you familiar with
03 the location of the emergency
04 materials like the location where you
05 have like ---?

06 A. I believe it's around 41 wall
07 on Number Four belt.
08 Q. Okay.
09 A. And on the working sections.
10 Every working section's got them on a
11 sled.
12 Q. Do you recall like what those
13 materials consisted of?
14 A. Wedges, cap boards, posts,
15 line curtain, some brattice boards,
16 bolts, glue.
17 Q. Okay.
18 A. Some rock dust.
19 Q. All right. Are you familiar
20 with the evacuation procedures at the
21 mine in case of explosion or fires?
22 A. Yes, I am.
23 Q. Can you tell me a little bit
24 about that?
25 A. If something would happen in

164

01 that mine, I'd get to the intake and
02 hightail out as fast as I can get it.
03 Call dispatch and tell them where I'm
04 at.
05 Q. Okay. Did anyone explain to
06 you the procedures that you would
07 follow in case of an explosion?

08 A. Al, bits and pieces during
09 that eight-hour course.
10 Q. Do you recall what he told
11 you?
12 A. No, sir.
13 Q. Do you recall where those ---
14 what --- the procedure for
15 barricading, were they discussed with
16 you?
17 A. That's be my last resort.
18 Q. Okay.
19 A. They never find me in there
20 barricaded.
21 Q. I can understand.
22 A. That's my own choice.
23 Q. I understand. Did they review
24 those procedures though with you
25 during the training?

165

01 A. I seen it happen a time or
02 two. I've never done it, no.
03 They've never mentioned it to me.
04 Q. As part of that training, did
05 he discuss that with you at all on
06 how to barricade?
07 A. I know how to barricade. But
08 I couldn't recollect if he said.
09 Q. Okay. Are you certified or
10 qualified for methane and oxygen

11 tests?

12 A. Yes, sir, I am.

13 Q. Did you --- during those

14 sessions, did you have, like, a

15 hands-on training with the detectors

16 on how to use them and stuff?

17 A. No. Johnny, his last name is

18 Stemple and he went over my methane

19 detector with me.

20 Q. Do you recall whether the

21 hazards of carbon monoxide were ever

22 discussed with you during the

23 training?

24 A. I can't remember.

25 Q. I believe you did mention that

166

01 escapeways was a part of that

02 training?

03 A. Yes, sir.

04 Q. Do you recall participating in

05 any fire drills?

06 A. I couldn't say that, no. At

07 that mine, no.

08 Q. At other mines you did?

09 A. Yes, I had crews at the other

10 mine. That was part of my annual

11 retraining with them,

12 Q. You have never conducted any

13 fire drills with your men at all?
14 A. I never had them that long.
15 Ninety (90) days, that's the most and
16 they was gone.
17 Q. All right. Did you ever
18 participate in any escapeway drills?
19 A. Yes, I have. Well, mostly
20 that's where we work is anywhere from
21 the intake all the way in, main
22 intake all the way in that mine.
23 Q. Have you traveled the
24 escapeways in the mine?
25 A. I certainly have.

167

01 Q. And did you ever take anybody
02 with you whenever you traveled?
03 A. Most of my guys that ever
04 worked for me have been with me in
05 the isolated intake.
06 Q. Did you ever walk with them
07 --- take someone and walk to the
08 surface with them?
09 A. Not on a special --- not on a
10 special route to enter in a book, no.
11 Q. Has anybody done that with
12 you, take you to the surface?
13 A. No. But whenever I'm walking
14 with my men in an escapeway intake, I
15 tell them what the green reflectors

16 are for, just follow them, they'll
17 show you --- takes you clear outside.

18

19 Q. What's the green one for?

20 A. The main isolated intake.

21 Q. Okay. What about the
22 alternate, how is it marked?

23 A. I believe it's orange.

24 Sometimes it's red, orange.

25 Q. Okay. The SCSR training that

168

01 you mentioned a few moments ago about
02 SCSR training that you had had, can
03 you tell me a little bit about that,
04 how that was conducted?

05 A. Well, you got a sample one
06 there, you lay it down in front of
07 you, you rip the seal off of it, and
08 you hang it around your neck and you
09 just loosen the handle and ---.

10 Q. Did you --- was that a
11 training model or was that a ---?

12 A. It was a training --- it's one
13 he had already sealed, yeah. ---
14 unsealed.

15 Q. Unsealed? Was it together
16 whenever he provided you with the
17 training model?

18 A. Yes, sir. Yeah, it was in the
19 case, yeah.
20 Q. In the case, okay. And how
21 did he tell you to --- did you go
22 through a simulated opening of how to
23 put nose clips on or tell me how you
24 did that?

25 A. He mostly done one himself,

169

01 but I didn't do one with him.

02 Q. You said you didn't ---

03 A. I didn't actually ---.

04 Q. --- go through the steps? Did
05 you go through the steps?

06 A. He went through the steps.

07 Q. He went through the steps.

08 Did you go through the steps, too?

09 A. I just watched him was all.

10 Q. Just watched him?

11 A. Yes, sir.

12 Q. Okay. Was first-aid covered
13 during the training?

14 A. Johnny Stemple went through
15 that with us, another guy.

16 Q. Okay. What type of first-aid
17 training was it?

18 A. It was movies. I mean, I
19 believe it was a couple --- three
20 different movies. One I didn't like,

21 it had a guy --- there was him
22 bleeding, blood popping out. I
23 didn't like that. I don't like
24 blood.
25 Q. Okay. Speaking about the SCSR

170

01 training for a moment again, did
02 anyone ever tell you when you should
03 don your SCSR, put your SCSR on or
04 any discussion concerning that?
05 A. The first sign of smoke or ---
06 that's when you should put it on.
07 Q. Yeah. Did anyone tell you
08 that or is that just something ---?
09 A. No. Well, it comes naturally.
10 I've been in a mine 25 years.
11 Twenty-five (25) years, you had to
12 have that eight-hour course every
13 year. I mean, you get tired of
14 hearing that stuff but you've got to
15 go through it.
16 Q. Sure. Sure. Who again did
17 you say Mr. Stemple gave you the SCSR
18 training?
19 A. Him and Al both.
20 Q. And Al both?
21 A. Yeah, it was at the Buckhannon
22 office.

23 Q. Buckhannon office or the mine
24 office?

25 A. The Buckhannon office, in the

171

01 basement of the --- what is it the
02 mansion or --- is that where we was
03 at? That's the mansion I think. I
04 call it the mansion.

05 Q. Okay. So the SCSR training
06 was given in a different --- was it
07 the same place as the other training,
08 meaning ---?

09 A. First-aid training and
10 everything was done right there in
11 the basement.

12 Q. In the Buckhannon office?

13 A. Yes.

14 Q. Okay. None of the training
15 was given to you in the office at the
16 mine?

17 A. Like the hazard, on the
18 escapeway routes.

19 Q. Okay. The escapeway portion
20 of it was done there, okay. Did they
21 review the roof control plan with
22 you?

23 A. It was in there but I ---.

24 Q. Okay. What about the roof
25 control plan, did they review that

01 with you?

02 A. The ventilation and roof

03 control plan, yes.

04 Q. Whenever changes were made in

05 the escapeways, did they review that

06 with you after the ---?

07 A. I done them.

08 Q. You did it?

09 A. Yes, sir, I does it.

10 Q. You made the change in the

11 escapeway or did you ---?

12 A. All the rerouting and all the

13 intake escapeway I done.

14 Q. Were the men at the mine made

15 aware of those changes?

16 A. The safety department was and

17 Jeff Toler knows it, Carl Crumrine,

18 mine management. I mean, they all

19 knew it, but I don't know if they

20 mentioned it to their guys or not. I

21 don't know. All my men knowed it.

22 Q. Okay. How about whenever

23 ventilation changes were made, did

24 they --- does anyone review the

25 ventilation change with the persons

01 at the mine, what ventilation change

02 took place?

03 A. I don't --- I don't know. I

04 don't know how to answer that. The

05 only thing I know when I do the air

06 change or if I --- if I done the air

07 change, I put it in that book. And

08 my name's in the book lots of times.

09 Q. Was the ventilation change

10 discussed with anyone, any of the

11 miners or anyone whenever you were

12 going to make that ventilation

13 change?

14 A. I mentioned it to the Two Left

15 foremen where his main escapeway was.

16 There was two different ones. I told

17 him what his escapeway was and what I

18 done to it. I mean, I took the green

19 ones out of the return one and put

20 them in the intake. I told him what

21 I'd done.

22 Q. How do you feel about the

23 training, do you think it was

24 adequate?

25 A. I think it was excellent.

174

01 Q. Okay. Is there any training

02 that you think might --- that's not

03 part of the training session that you

04 think should be part of the training

05 session? Is there anything you would
06 add to the training session?
07 A. Let me just see. In the last
08 ---- just 25 years in the mine, it
09 seems like all of them are almost the
10 same. I mean, you ought to get
11 different movies or something. It
12 just ---.
13 Q. Okay. Have you ever been
14 searched for smoking articles?
15 A. At this mine?
16 Q. Yes.
17 A. No. But I search my guys.
18 Q. Okay. You have conducted
19 searches?
20 A. I have conducted searches.
21 Q. Of your guys meaning ---?
22 A. I've asked them to open the
23 buckets and looked in. I never moved
24 nothing and I patted them down.
25 Q. And how often do you do that?

175

01 A. I try to do it weekly.
02 Q. Weekly.
03 A. I mean, I don't get any
04 certain day. May pick a Monday one
05 day, Friday the next one. Not
06 certain days.

07 Q. Do you enter those in a record
08 book?
09 A. I don't, no. Not in theirs,
10 no. Just that's when I was a
11 contractor. I don't put --- I feel I
12 should put them in there, but I
13 didn't.
14 Q. Okay. You have never been
15 searched for smoking articles?
16 A. No, not me. Yeah, last week
17 down at the Philippi Mine.
18 Q. The Philippi Mine, okay. But
19 at Sago Mine?
20 A. At Sago Mine, no. But last
21 week down there, I was searched.
22 Q. Have you ever observed anyone
23 smoking in the underground portion of
24 the mine?
25 A. Not at Sago, no.

176

01 Q. Any other mine?
02 A. Yes, sir.
03 Q. What mine was that?
04 A. Number Six Mine North America
05 in Ohio.
06 Q. How long ago was that?
07 A. I worked there one year
08 between '79 and '80.
09 Q. Okay.

10 A. I quit.
11 Q. Quit?
12 A. Yeah. Not smoking, now. I
13 still smoke. I quit the mine.
14 Q. Quit the mine, okay. Okay.
15 A. I turned the pole and went
16 back outside and quit.
17 Q. Okay. Have you ever found any
18 smoking articles underground,
19 matches, cigarette butts or
20 cigarettes?
21 A. Not at Sago Mine, no.
22 Q. No.
23 MR. SWENTOSKY:
24 Brian, do you have
25 anything?

177

01 MR. MILLS:
02 Just a couple to
03 clarify.
04 BY MR. MILLS:
05 Q. After the air change, did you
06 take an air reading of the air
07 ventilating the seals?
08 A. Yes, I did.
09 Q. At what ---?
10 A. At the regulator?
11 Q. Do you remember what the ---?

12 A. 4,100 cubic feet.
13 Q. Okay. This air change was
14 December the 12th?
15 A. Yes.
16 Q. What was the day that you and
17 Marty went back up and put the
18 curtains up to the stoppings? Was
19 the before the 12th or after?
20 A. It was after the 12th.
21 Q. Up to the seals?
22 A. Yeah, on the 12th. I believe
23 it was on a Sunday. On Saturday and
24 Sunday we done the air change.
25 Between the --- if that was on the

178

01 12th, between --- the next week, we
02 done additional work in there, rock
03 dusting and ventilating with the
04 curtain and cleaned up all the
05 garbage. I mean, it looked like a
06 nice park.
07 Q. So following the week of the
08 12th was when you did the curtain?
09 A. Yes, that's right.
10 Q. Did you work the weekend
11 before the explosion?
12 A. The weekend before?
13 Q. Yeah, the Saturday and Sunday?
14 A. The 11th and 12th, when I done

15 that air change ---

16 Q. No.

17 A. --- is the last weekend I ever

18 worked, because I swore to myself,

19 I'm tired this year. I've worked so

20 much, I don't need it.

21 Q. So the weekend of the 11th and

22 12th of December ---?

23 A. My last weekend I've ever

24 worked.

25 Q. Do you have any experience as

179

01 a mine rescue team member?

02 A. No.

03 Q. Okay. On the day of the

04 explosion, you were outside. Did you

05 have a detector with you?

06 A. Did I have one? Yeah, but

07 there was a lot of them there. A

08 state inspector.

09 Q. No. I mean, did you have one?

10 A. No, I hadn't gotten mine off

11 the shelf yet.

12 Q. Okay. Any time during that

13 day, did you make any air quality

14 readings?

15 A. Yes, I did.

16 Q. Where was that at?

17 A. At the main return coming out
18 of the mine.

19 Q. And do you know what time of
20 the day that was?

21 A. I don't remember. When they
22 came there, they sent me and Jeff,
23 the state inspector, real tall guy.

24 Q. If I mentioned Bennett, would
25 that ring a bell?

180

01 A. Real tall. You might be
02 right. I know he got Jeff on his
03 hat. He liked me well, but me and
04 him went down and checked the air
05 chart at the fan and took the CO ---
06 methane monitors over and took a ---
07 I took an air reading coming out of
08 the return of the mine and a methane
09 check and a CO check.

10 Q. Do you remember any numbers?

11 A. Zero percent methane, around
12 93,000 cubic feet of air. The CO was
13 high. I'm thinking 51 million. I
14 think.

15 Q. Fifty-one (51) parts per
16 million?

17 A. That's right. I think that's
18 right.

19 Q. The number on your display

20 showed 51?

21 A. Yes, it did. And I done that
22 three different times.

23 Q. And ---.

24 A. But we tried to do it the
25 fifth, sixth and seventh time, but we

181

01 couldn't do it.

02 Q. Why was that?

03 A. Too much CO coming out. We
04 couldn't even get in the --- towards
05 the mouth.

06 Q. Okay. When you took you first
07 readings, were you outside under the
08 canopy or in the mine?

09 A. I was back underground
10 approximately the length of this
11 room. That's where we always took
12 the air reading in the return. It's
13 got it marked there area and
14 everything. That big area was 93 ---
15 like 93,000. I don't know. It's
16 marked there where I took it. I got
17 93,000 cubic feet of air.

18 Q. Approximately what time, do
19 you ---?

20 A. I'd say the first one was 8:30
21 and probably an hour afterwards. We

22 kept doing it. And then after my
23 alarm kept me out of it, I didn't go
24 back.

25 Q. So about each hour after 8:30

182

01 you went back in and ---?

02 A. Me and Jeff. A state
03 inspector always went with me.

04 Q. In the mines?

05 A. Just ---.

06 Q. In the return?

07 A. Yeah, the length of this room
08 in the return. But the CO kept
09 getting higher and higher.

10 Q. Do you remember the numbers on
11 the CO?

12 A. That 51. I mean, that's the
13 only one I remember. I mean, it was
14 higher. The 51 I remember. The rest
15 of them I don't remember.

16 Q. Was the alarm going off on
17 your detector?

18 A. Yes.

19 Q. The first time?

20 A. No, not the first time. The
21 fourth time.

22 Q. The fourth time?

23 A. Yeah. It was going off before
24 we even got to the pit mouth to go

25 in.

183

01 Q. Do you know what the alarm is
02 set on that detector? Do you know
03 what kind it was?

04 A. No. Mine and Jeff's both was
05 going off and me and him just turned
06 around, both walked back up and told
07 --- I think his name was Barry, an
08 inspector, too.

09 Q. Okay. So to just recap this a
10 little bit. Your first exam in the
11 pit mouth of the return was somewhere
12 around 8:30. You went in three other
13 times?

14 A. No. Well, ---.

15 Q. Three more times?

16 A. We went three total.

17 Q. Three times.

18 A. Counting that first one and
19 two others, yes, sir.

20 Q. Okay.

21 A. Three times I took air
22 readings and methane inside the pit
23 mouth, three times.

24 Q. And the high CO reading that
25 you can recall was the first time?

184

01 A. Well, I'm not saying that was
02 the first time. I know it was 51 one
03 time I was there. I mean, the other
04 ---- I can't remember the other two
05 times.

06 Q. But each trip in as time went
07 on, the CO increased?

08 A. Yes, it did.

09 ATTORNEY WILSON:

10 Just for the record,
11 you said the length of this
12 room, what would that be,
13 about 100, 120 feet or so?

14 A. No. About 60 feet. Fifty
15 (50), 60 feet.

16 ATTORNEY WILSON:

17 Fifty (50), 60 feet,
18 all right.

19 BY MR. MILLS:

20 Q. You didn't go in by the first
21 crosscut, did you? Did you go in by
22 the first crosscut?

23 A. I couldn't tell because it's
24 got tunnel liner in there. I
25 couldn't tell. It wasn't really that

185

01 far. I mean, I don't think it's
02 really that far.

03 Q. Do you recall the methane

04 increasing?

05 A. It never increased. I mean,
06 all three times the methane stayed
07 zero.

08 MR. MILLS:

09 That's all.

10 BY MR. SWENTOSKY:

11 Q. Those times that you went down
12 there, who told you to do down there
13 and make those readings?

14 A. Who told us to go down there?

15 Q. Yeah.

16 A. A state mine inspector. His
17 name is Barry. I don't know his last
18 name.

19 Q. Okay. He's the one that told
20 you guys to do down each time?

21 A. He asked me and him to go see
22 what kind of reading we got, yes,
23 sir.

24 Q. Has anyone offered you
25 anything to make you any --- or make

186

01 any promise to you in exchange for
02 your appearing here today?

03 A. A promise? Hell, no, this is
04 my free will.

05 Q. Okay. Do you have anything

06 that you would like to add or tell us
07 about or --- on your own there or
08 ---?

09 A. No, sir.

10 MR. SWENTOSKY:

11 On behalf of MSHA, I
12 would like to thank you for
13 appearing and answering the
14 questions here today. Your
15 cooperation is very important
16 to the investigation as we
17 work to determine the cause of
18 the accident. We ask that you
19 not discuss your testimony
20 with any person who may have
21 already been interviewed or
22 who may be interviewed in the
23 future. This will ensure that
24 we obtain everyone's
25 independent recollection of

187

01 the events surrounding the
02 accident.

03 After questioning other
04 witnesses, we may call you if
05 we have any follow-up
06 questions that we feel that
07 need to be --- that we need to
08 ask you. If at any time, you

09 have additional information
10 regarding the accident that
11 you would like to provide to
12 us, please contact us at the
13 information that was
14 previously provided to you,
15 and we have that card there.
16 Oh, you have it. Okay.

17 The Mine Act provides
18 certain protections to miners
19 who provide information to
20 MSHA and as a result you are
21 treated adversely. If at any
22 time, you believe that you
23 have been treated unfairly
24 because of your cooperation in
25 this investigation, you should

188

01 contact --- you should
02 immediately contact MSHA. If
03 you wish, you may now go back
04 over any answer you have given
05 during this interview and you
06 may also make a statement, any
07 statement that you would like
08 to make at this time.
09 A. The only thing is I feel in
10 the last three months safety has been

11 increased. That the best I've ever
12 worked or I wouldn't have went back.

13 I signed to work with ICG. And I
14 think it's a safe mine to work at.

15 MR. SWENTOSKY:

16 And you're talking
17 about Sago?

18 A. Yes, I am. And I was a UMWA
19 member for 14 years, no difference.
20 That's a good safe mine to work at.
21 It has improved a lot. And I think
22 an act of God done it. The way that
23 building shook and rattled that
24 morning, it was God and lightning.

25 MR. SWENTOSKY:

189

01 Again, I would like to
02 thank you for your cooperation
03 in this matter. Thanks, Mr.
04 Scott. I really appreciate
05 it. It took a long time but
06 we ---.

07 A. That's all right.

08 * * * * *

09 SWORN STATEMENT

10 CONCLUDED AT 12:39 P.M.

11 * * * * *

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Addition of Omega Seal to
 Plan 8' high by 20' wide
 Only

U.S. Department of Labor

Mine Safety and Health Administration
 604 Cheat Road
 Morgantown, West Virginia 26508

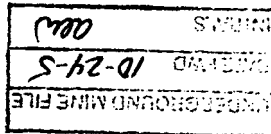


SENT TO AND/OR DISCUSSED WITH FIELD OFFICE:

SURNAME	DATE
James/Young	10/13/2005

REVIEWED BY:

James	10/14/2005
Banks for TH	10/20/05
Tom	10-20-05
Musky	10-20-05



Mr. Jeffrey K. Toler

Superintendent
 Anker WV Mining Company, Inc.
 Route 9, Box 507
 Buckhannon, West Virginia 26201

Dear Mr. Toler:

The request filed October 12, 2005, and revision filed October 19, 2005, to add an alternative method of seal construction to the ventilation plan for the Sago Mine, I.D. No. 46-08791, has been reviewed. The alternative method seal made with nonhitched-style Omega blocks is approved and will be included in your currently approved mine ventilation plan.

You are reminded that all changes or revisions to the mine ventilation plan, as specified in 30 CFR 75.370(d), must be submitted to and approved in writing by this office before they are implemented.

If you have any questions, please feel free to contact this office.

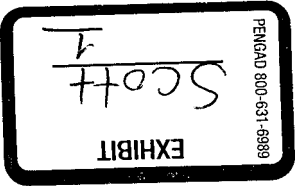
Sincerely,

Kevin G. Stricklin

Kevin G. Stricklin
 District Manager

EParrish:aw

bcc:
 Bridgeport F/O (2)
 W. Ponceroff
 E. Parrish
 Health Section
 Map File
 Main File



Anker West Virginia Mining Company

RL 9 Box 507
Buckkannon, WV 26201

RECEIVED
MORGANTOWN, WV
OCT 12 2005

October 12, 2005

Kevin Stricklin, District Manager
Mine Health and Safety Administration
604 Cheat Road
Morgantown, WV 26508
Attn: Tom Hlavsa

RE: Sago Mine's Ventilation Plan Changes

Mr. Stricklin:

Anker West Virginia Mining Company wishes to add an Omega Concrete Block Seal Method and Plan to our current Ventilation Plan for our Sago Mine, MSHA ID # 46-08791. It should be noted, that at this time, we only wish to add the non-hitched style to our plan. (See attached diagrams).

If you have any questions on this matter, please feel free to contact me at 304-471-3300.

Sincerely,

Joe Myer
Joe Myer
Safety Director

Guidelines for installation of Omega Block Concrete Seals

1. All loose material will be removed from the roof, ribs, and floor to accommodate seal construction and supplemental supports. The seals will be constructed at such a location so that a permanent block seal can be installed in front of the omega seal, if required in the future.

2. The seal will be constructed with Omega blocks using one of the following Methods:

- A) Total thickness of 40"
- B) No hitching required.
- C) Joints must be staggered.
- D) A bonding agent (Blockbond #122551), will be used to seal between each layer and joining edges of blocks at least $\frac{1}{4}$ " thick and will be applied to the front and back of the seal.
- E) The Omega blocks will be either be sawed or constructed so as to bring the top blocks to within 2" of the mine roof.
- F) Three rows of wood planks running the entire length of the seal shall be installed across the top of the seal.
- G) Wedges will be placed on 1 Foot centers or less, with an approved sealant used to fill the gaps.
- H) An approved sealant shall be used as full face coating on both sides of the seal.
- I) Seals shall be installed at least 10 feet from the corner of the pillar.
- J) Sample pipes shall be installed as per 75.335.
- K) Water traps will be installed within 12" of the bottom or floor.

RECEIVED

2005 OCT 19 PM 12: 49

RECEIVED
2005 OCT 19 PM 12: 49

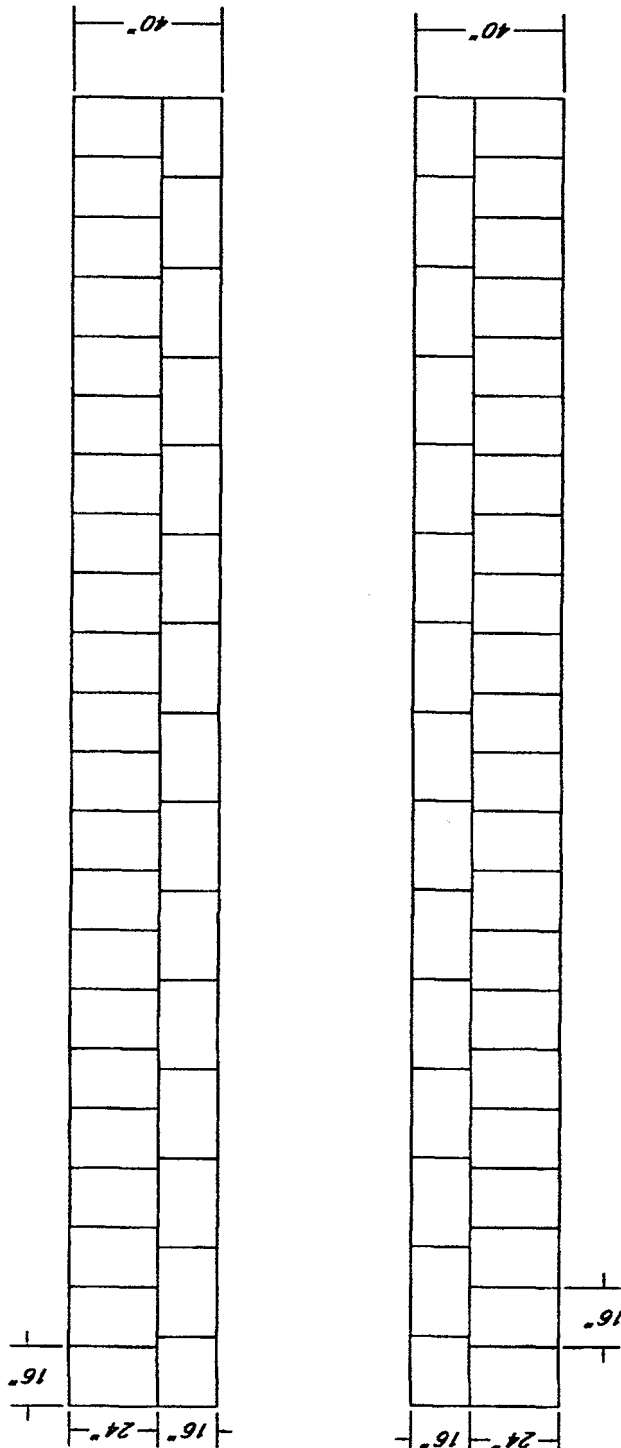
SAGO MINE

40" THICK OMEGA BLOCK SEAL

CONSTRUCTION PLAN

FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE

ALTERNATE COURSES TO STAGGER JOINTS

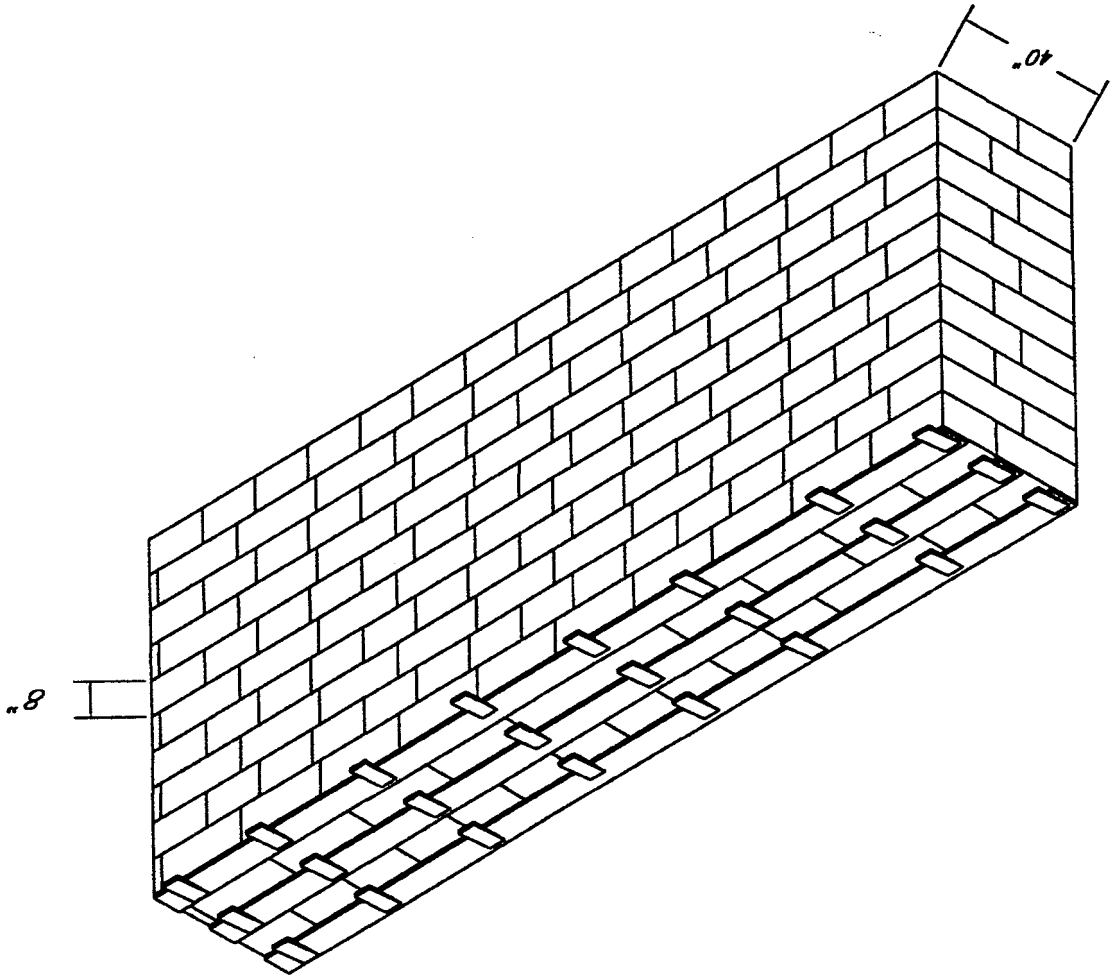


SAGO MINE

40" THICK OMEGA BLOCK SEAL

FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE

1. Total thickness 40 inches
2. No hitching required
3. Joints must be staggered
4. All joints shall be a minimum $\frac{1}{4}$ inch thick and be motared using an approved motor/sealant
5. Three rows of wood planks running the entire length of the seal shall be installed across the top of the seal
6. Wedges will be placed on 1' centers or less with an approved sealant used to fill the gaps
7. An approved sealant shall be used as full face coating on both sides of the seal.



- Seals shall be at least 10 feet from the corner of the pillar
- Sampling pipes shall be installed as per 75.335

U.S. Department of Labor

Mine Safety and Health Administration
604 Cheat Road
Morgantown, West Virginia 26508



SENT TO AND/OR DISCUSSED WITH FIELD OFFICE:

SURNAME	DATE
<i>Parrish/Jerry</i>	<i>10/13/2005</i>

REVIEWED BY:

<i>Parrish</i>	<i>10/18/2005</i>
<i>Alvarado</i>	<i>10/19/05</i>
<i>Smith</i>	<i>10-20-05</i>
<i>Smith</i>	<i>10-20-05</i>

INITIALS	<i>AWJ</i>
DATE FILED	<i>10-24-5</i>
INVESTIGATING OFFICER	

OCT 24 2005

Mr. Jeffrey K. Toler

Superintendent
Anker WV Mining Company, Inc.
Route 9, Box 507
Buckhannon, West Virginia 26201

Dear Mr. Toler:

The proposed location and sequence of seal construction across North East Mains and the intentional ventilation change filed October 12, 2005, at the Sago Mine, I.D. No. 46-08791, has been reviewed. The request is approved and will be included as a supplement to the mine ventilation map filed pursuant to 30 CFR 75.372. You are reminded that this ventilation change must be conducted in accordance with 30 CFR 75.324.

If you have any questions, please feel free to contact this office.

Sincerely,

Kevin G. Stricklin

Kevin G. Stricklin
District Manager

EParrish:aew

bcc:
Bridgport F/O (2)
E. Parrish
Map File
Main File

Approval of 2 left 506
9

Anker West Virginia Mining Company
 Rt. 9 Box 507
 Buckkannon, WV 26201

October 12, 2005

Kevin Stricklin, District Manager
 Mine Health and Safety Administration
 604 Cheat Road
 Morgantown, WV 26508
 Attn: Tom Hlavsa

RE: Sago Mine's Ventilation Plan Changes

Mr. Stricklin:

Anker West Virginia Mining Company wishes to seek approval relative to installing nine mine seals across our North-East Mains in our Sago Mine, MSHA ID # 46-08791.

The mine seals being proposed will be constructed across our North East Mains, just inby the area that will be the future location of the 2nd Mains Unit. The proposed seals will be constructed across the North East Mains area in such a manner that the No. 2-9 seals will be constructed first, with seal numbers 1 and 10 be constructed simultaneously. It should be noted that for a temporary time frame, (not to exceed a four week period after the construction of said seals), that we will course air from a left-to-right direction, (from the number 1 entry towards the number 9 entry), in order to ventilate these seals; however, once we have constructed the necessary overcasts on the future 2nd Left Mains the air flow direction will be switched to a right-to-left direction, (From the number 9 entry towards the number 1 entry). See attached mapping to see air flow direction and ventilation control devices.

If you have any questions on this matter, please feel free to contact me at 304-471-3300.

Sincerely,
Joe Schoonover
 Joe M. Schoonover
 Safety Director

RECEIVED

2005 OCT 12 PM 3:18

HEALTH AND SAFETY ADMINISTRATION
 MORGANTOWN, WV

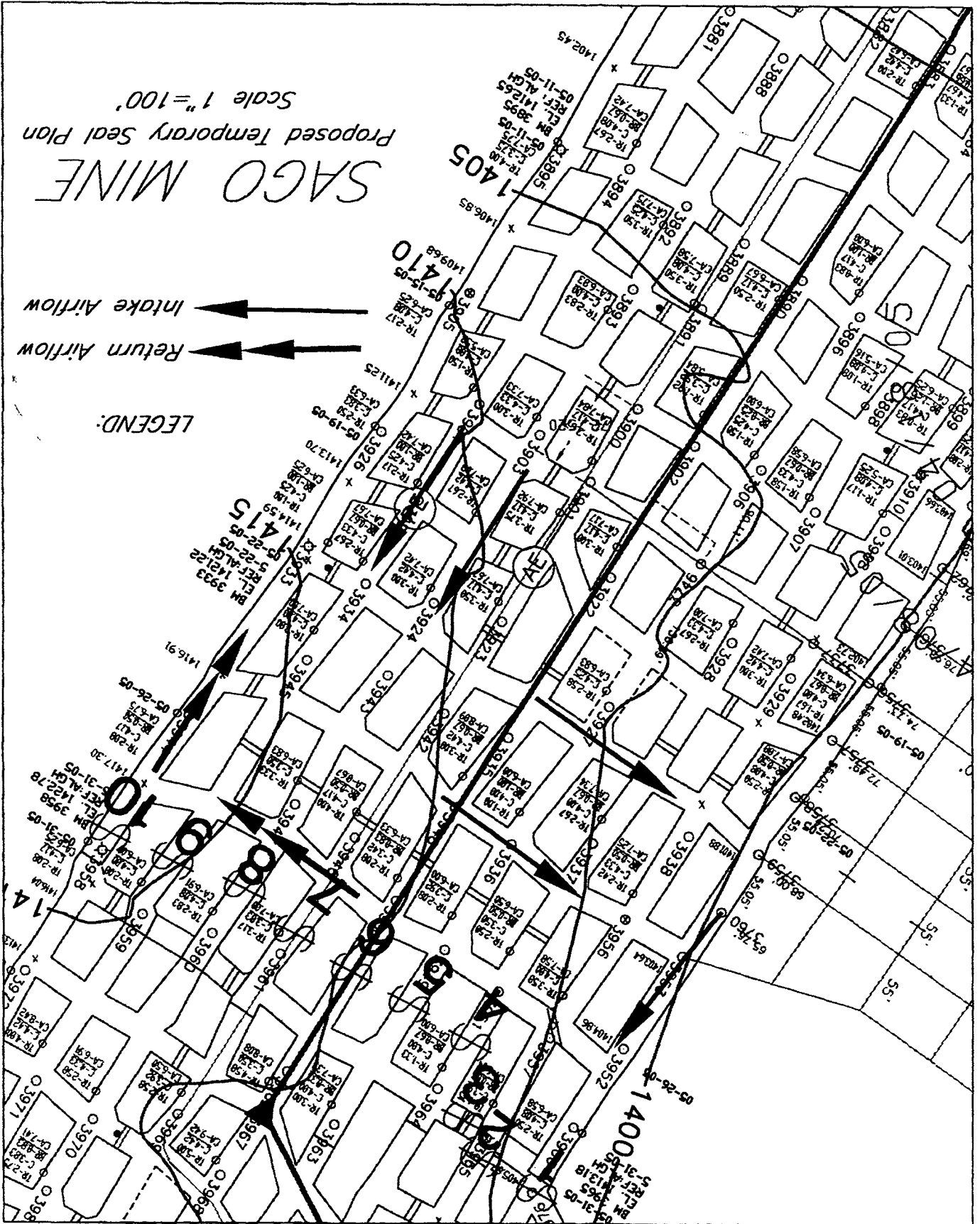
10-13-05

SAGO MINE

Return Airflow
Intake Airflow

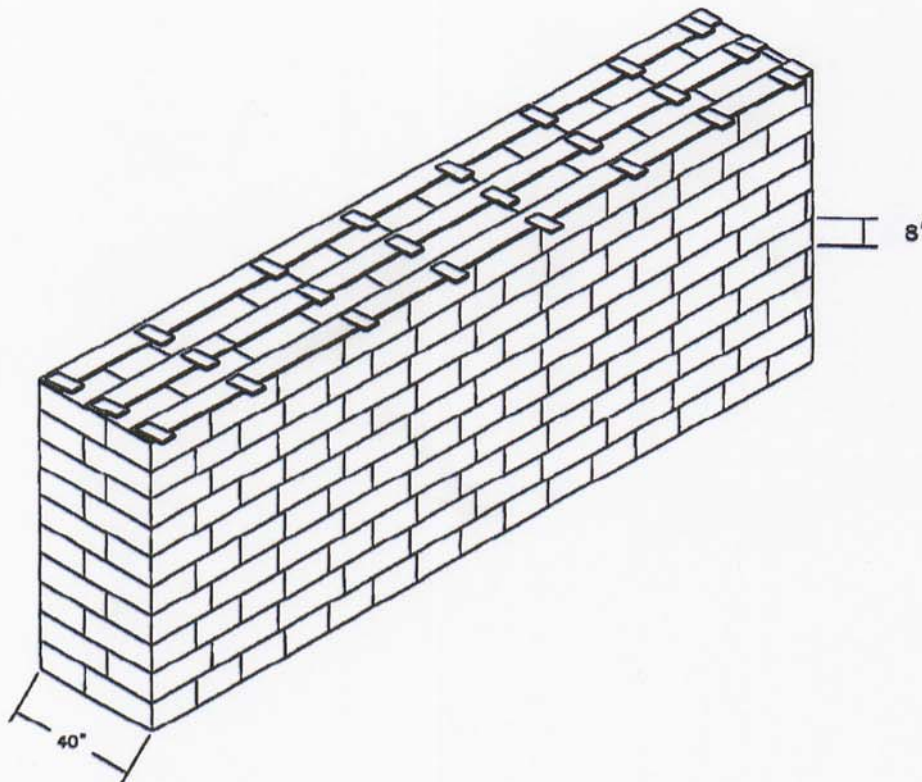
LEGEND:

Proposed Temporary Seal Plan
Scale 1"=100'



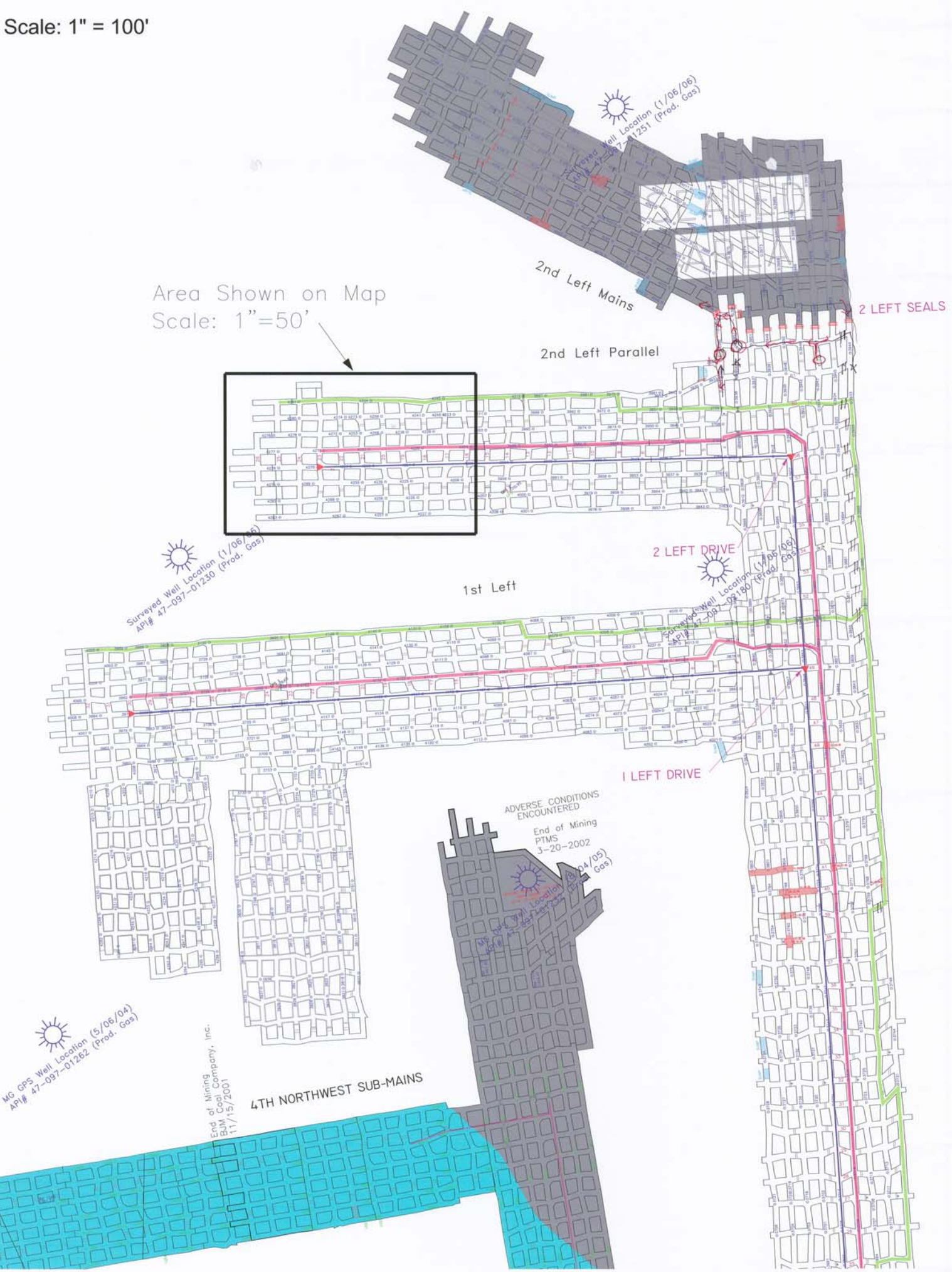
40" THICK OMEGA BLOCK SEAL
FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE
NO HITCHING REQUIRED

1. Total thickness of completed seal shall be 40 inches
2. No hitching required
3. Joints must be staggered
4. All joints shall be a minimum $\frac{1}{4}$ inch thick and be mortared using "BlockBond"
5. Three rows of wood planks running the entire length of the seal shall be installed across the top of the seal
6. Wedges will be placed on 1' centers or less with "BlocBond" used to fill the gaps
7. "BlocBond" shall be used as full face coating on both sides of the seal.

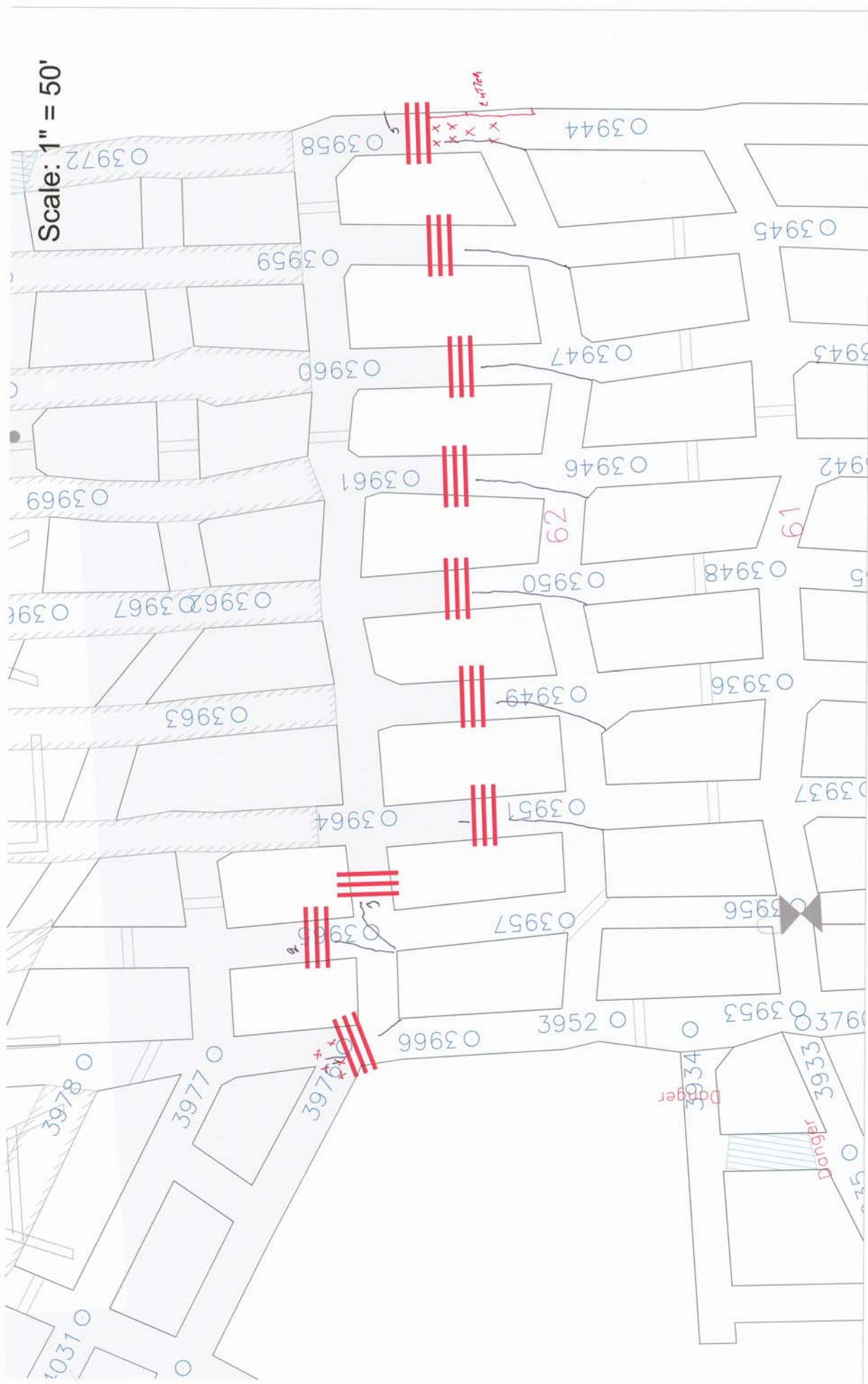


- seals shall be at least 10 feet from the corner of the pillar
- Sampling pipes shall be installed as per 75.335

Scale: 1" = 100'



Scale: 1" = 50'

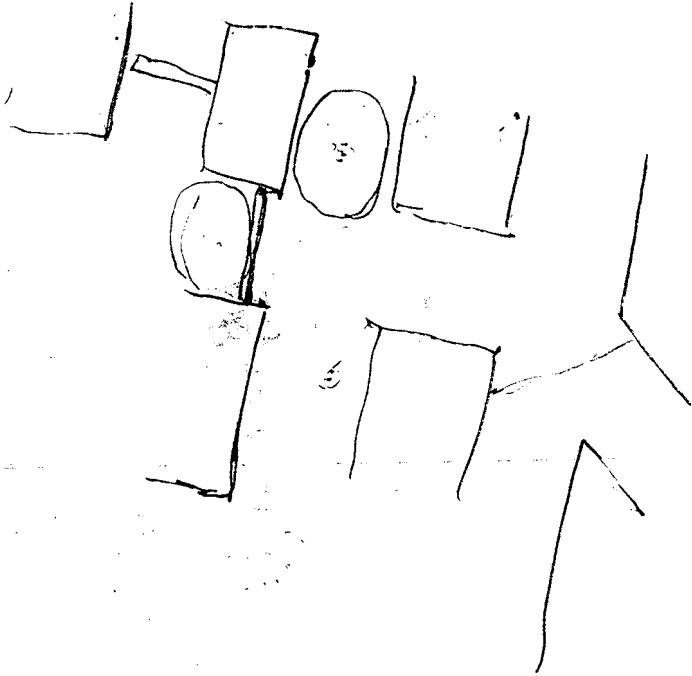


Guidelines for installation of Omega Block Concrete Seals

1. All loose material will be removed from the roof, ribs, and floor to accommodate seal construction and supplemental supports. The seals will be constructed at such a location so that a permanent block seal can be installed in front of the omega seal, if required in the future.

2. The seal will be constructed with Omega blocks using one of the following Methods:

- A) Total thickness of 40"
- B) No hitching required.
- C) Joints must be staggered.
- D) All joints shall be a minimum of 1/4" thick and be mortared using an approved mortar/sealant.
- E) Three rows of wood planks running the entire length of the seal shall be installed across the top of the seal.
- F) Wedges will be placed on 1 Foot centers or less, with an approved sealant used to fill the gaps.
- G) An approved sealant shall be used as full face coating on both sides of the seal.
- H) Seals shall be installed at least 10 feet from the corner of the pillar.
- I) Sample pipes shall be installed as per 75.335, or relative to the WVOMHS&T's §36-17-4, and as prescribed by the Director.

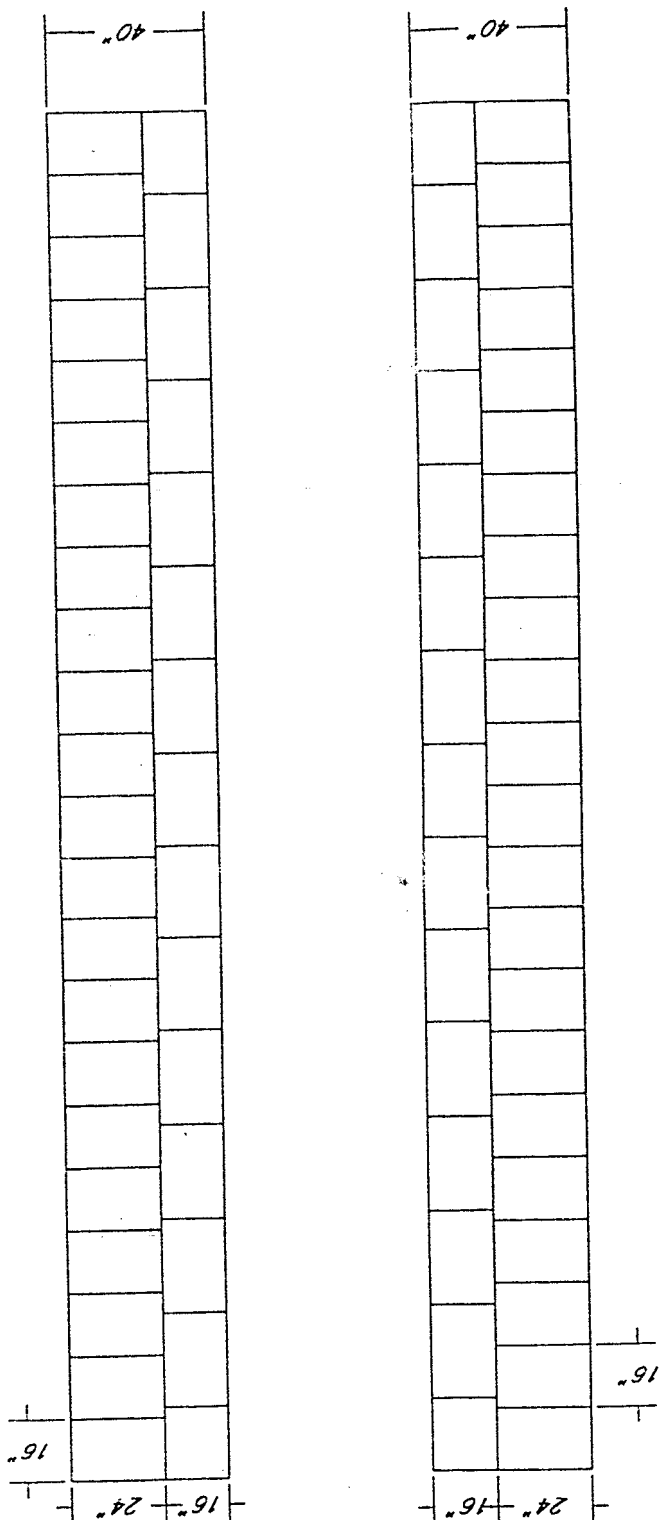


3

SAGO MINE

CONSTRUCTION PLAN
 40" THICK OMEGA BLOCK SEAL
 FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE

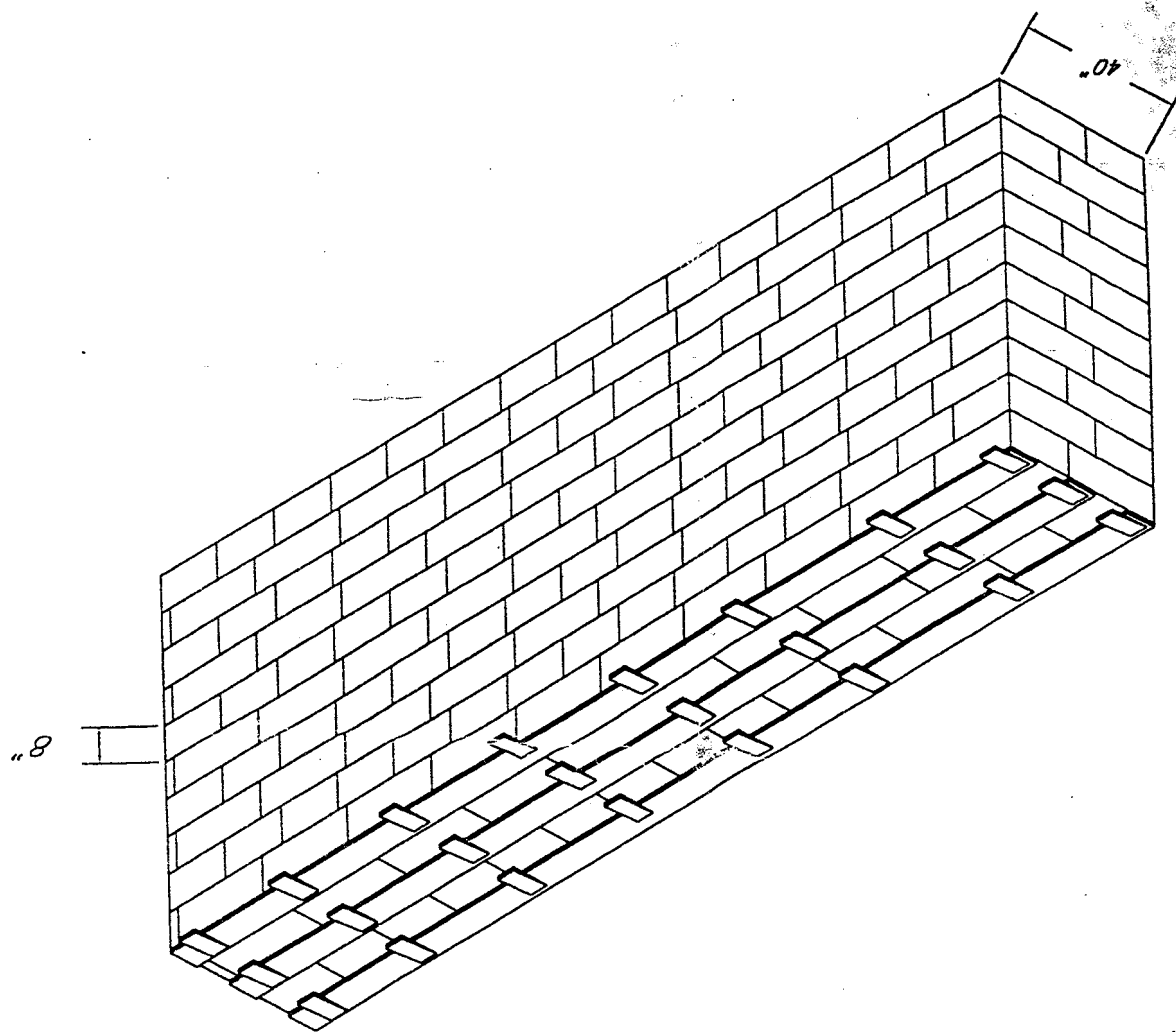
ALTERNATE COURSES TO STAGGER JOINTS



40" THICK OMEGA BLOCK SEAL
FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE

SAGO MINE

1. Total thickness 40 inches
2. No hitching required
3. Joints must be staggered
4. All joints shall be a minimum $\frac{1}{4}$ inch thick and be motared using an approved motor/sealant
5. Three rows of wood planks running the entire length of the seal shall be installed across the top of the seal
6. Wedges will be placed on 1' centers or less with an approved sealant used to fill the gaps
7. An approved sealant shall be used as full face coating on both sides of the seal.

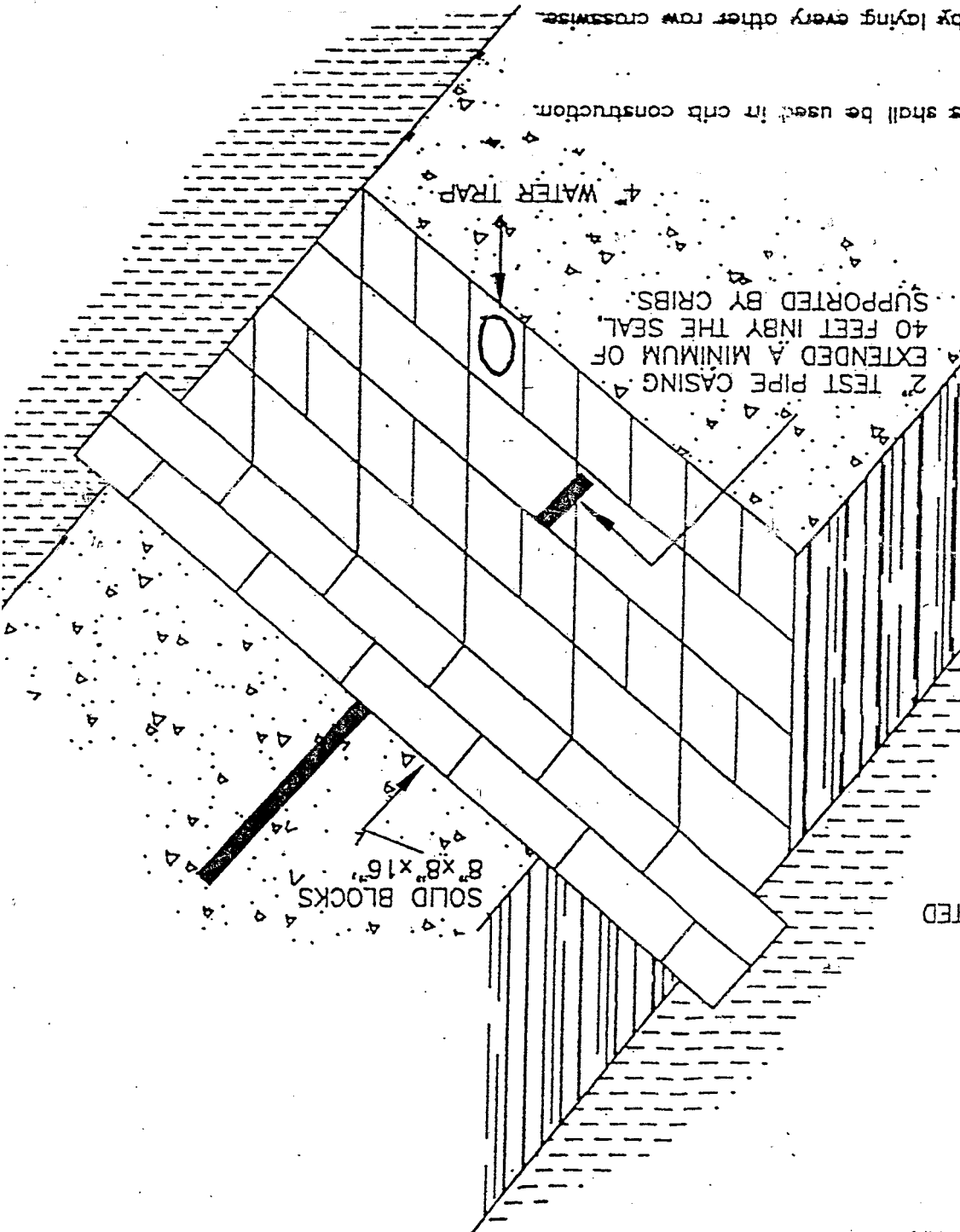


- Seals shall be at least 10 feet from the corner of the pillar
- Sampling pipes shall be installed as per 36-17-4, and as prescribed by the Director

METHOD FOR SEALING ABANDONED OR WORKED OUT AREAS

BLOCKS TO BE ANCHORED
ONE FOOT IN SOLID COAL
AND SHALL BE CONSTRUCTED
ON SOLID BOTTOM.

TWO ROWS OF BLOCKS
WITH CONCRETE MORTAR
LINES AND 1/2" PLASTER
ON THE OUT-BY-SIDE AND
WHERE POSSIBLE ON THE
WBY-SIDE.



A minimum of 30" crib blocks shall be used in crib construction.
Blocks are to be interlocked by laying every other row crosswise.
A minimum of two cribs are to be built inby and outby each seal.
Seals must be built a minimum of 10 feet inby the corner of the
coal block.

All stoppings to be removed in the line of crosscuts inby each set
of seals. 1/4" copper tubing is to be installed through the entire
length of the 2" test pipe casing.

Each of the above pipes must be installed in each set of seals.
The 2" test pipe casing must be in the seal of the highest elevation.
The division office shall be notified before the seals are finished so
that the district inspector can check to see if the seals have
been constructed to specifications.

SIGNATURE OF COMPANY OFFICIAL & T

COMPANY: MINE:

ANCHORED ONE FOOT

SOLID COAL AND THE

SHALL BE CONSTRUCTED

SOLID BOTTOM.

BLOCKS TO BE

ALL STOPPINGS TO BE REMOVED IN THE FIRST LINE OF

CROSSCUTS INBY EACH SET OF SEATS. 1/4 INCH COPPER

TUBING IS TO BE INSTALLED THROUGH THE ENTIRE

LENGTH OF THE 2" TEST PIPE CASING.

EACH SET OF SEATS. THE 2" TEST PIPE CASING MUST

BE IN THE SEAL OF THE HIGHEST ELEVATION AND

THE WATER TRAP IN THE SEAL OF LOWEST ELEVATION.

THE SEATS ARE FINISHED SO THAT THE DISTRICT

INSPECTOR CAN CHECK TO SEE IF THE SEATS HAVE

BEEN CONSTRUCTED TO SPECIFICATIONS.

TEST: ..

A MINIMUM OF 30 IN. CRIB BLOCKS THAT HAVE BEEN TREATED OR THE

EQUIVALENT SHALL BE USED IN CRIB CONSTRUCTION.

BLOCKS ARE TO BE INTERLOCKED BY LAYING EVERY OTHER ROW

A MINIMUM OF TWO CRIBS ARE TO BE BUILT INBY AND OUTBY EACH

SEAT.

SEATS MUST BE BUILT A MINIMUM OF 10 FT. INBY THE CORNER

OF THE COAL BLOCK

ALL STOPPINGS TO BE REMOVED IN THE FIRST LINE OF

CROSSCUTS INBY EACH SET OF SEATS. 1/4 INCH COPPER

TUBING IS TO BE INSTALLED THROUGH THE ENTIRE

LENGTH OF THE 2" TEST PIPE CASING.

EACH SET OF SEATS. THE 2" TEST PIPE CASING MUST

BE IN THE SEAL OF THE HIGHEST ELEVATION AND

2" TEST PIPE CASING
EXTENDED A MINIMUM OF 40 FEET
INBY SEAL, SUPPORTED BY CRIBS
4" WATER TRAP

COAL

NO ROWS OF BLOCKS WITH
CONCRETE MORTAR LINES AND 1/2"
ASTER ON OUT-BY-SIDE AND WHERE
ASSISTE ON THE INBY-SIDE

PLAN FOR SEALING
ABANDONED OR
WORKED OUT AREAS

Division of Mines and Minerals
Effective as of 12/13/85

Distribute 6
to All
Companies