

STATEMENT UNDER OATH

OF

ERIC MICHAEL HESS

Taken pursuant to Notice by Miranda
D. Elkins, a Court Reporter and
Notary Public in and for the State of
West Virginia, at the U.S. Bankruptcy
Court, 324 West Main Street,
Clarksburg, West Virginia, on
Tuesday, February 14, 2006, at 10:24
a.m.

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A P P E A R A N C E S

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

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I N D E X

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P R O C E E D I N G S

MR. O'DONNELL:

My name is Joe

O'Donnell. I'm an accident
investigator with the Mine
Safety and Health
Administration, an agency of
the United States Department
of Labor. With me, I'd like

1 to introduce Bob Wilson with
2 the Solicitor's Office. With
3 the West Virginia Office of
4 Miners' Safety Health &
5 Training are John Collins and
6 David Stuart.

7 I've been assigned to
8 conduct an investigation into
9 the accident that occurred at
10 the Sago Mine on January the
11 2nd, 2006 in which 12 miners
12 died and one was injured. The
13 investigation is being
14 conducted by MSHA and the West
15 Virginia Office of Miners'
16 Health, Safety & Training to
17 gather information to
18 determine the cause of the
19 accident. And these
20 interviews are an important
21 part of the investigation.

22 At this time, the

1 accident investigation team
2 intends to interview a number
3 of people to discuss anything
4 that may be relevant to the
5 cause of the accident.

6 After the investigation
7 is complete, MSHA will issue a
8 written report detailing the
9 nature and causes of the
10 accident.

11 MSHA accident reports
12 are made available to the
13 public in the hope that
14 greater awareness about the
15 causes of accidents can reduce
16 their occurrence in the
17 future. Information obtained
18 through witness interviews is
19 frequently included in these
20 reports. Your statement may
21 also be used in other
22 enforcement proceedings.

1 I'd like to thank you
2 in advance for your appearance
3 here. We appreciate your
4 assistance in this
5 investigation. The
6 willingness of miners and mine
7 operators to work with us is
8 critical to our goal of making
9 the mines safer.

10 We understand the
11 difficulty for you in
12 discussing the events that
13 took place and we greatly
14 appreciate your efforts to
15 help us understand what
16 happened.

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

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

12 This interview is being
13 conducted at the U.S.
14 Bankruptcy Court in
15 Clarksburg, West Virginia on
16 February 14th, 2006.

17 Questioning will be
18 conducted by representatives
19 of MSHA and the Office of
20 Miners' Health, Safety &
21 Training. This is not an
22 adversarial proceeding,

1 therefore cross examination
2 will not be permitted.

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

12 And after we've
13 finished asking questions, you
14 will also have an opportunity
15 to make a statement and
16 provide us with any
17 information you believe may be
18 important.

19 If at any time after
20 the interview, you recall any
21 additional information that
22 you believe may be useful in

1 the investigation, please
2 contact Richard Gates at the
3 phone number or e-mail address
4 provided to you. That's his
5 card right there. And the
6 state will also provide you
7 with a card.

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

15 A court reporter will
16 record your interview and will
17 later produce a written
18 transcript of the interview.
19 Please try and respond to all
20 questions verbally, since the
21 court reporter cannot record
22 non-verbal responses. Try and

1 keep your voice up. Copies of
2 the written transcripts will
3 be available at a later time.

4 If any part of your
5 statement is based not on your
6 own first-hand knowledge, but
7 on information that you
8 learned from someone else,
9 please let us know. Please
10 answer each question as fully
11 as you can, including any
12 information you have learned
13 from someone else.

14 We may not ask the
15 right questions to learn the
16 information you have, so don't
17 feel limited by the precise
18 question. If you have
19 information about the subject
20 area of a question, please
21 provide us with that
22 information.

1 At this time, Mr.
2 Collins, do you have anything
3 you'd like to add on behalf of
4 the State of West Virginia?

5 MR. COLLINS:

6 Yes. Mr. Hess, the
7 West Virginia Office of
8 Miners' Health, Safety &
9 Training is conducting this
10 interview session jointly with
11 MSHA and are in agreement with
12 the procedures outlined by Mr.
13 O'Donnell for these interviews
14 that will be conducted here
15 today.

16 But the Director
17 reserves the right, if
18 necessary, to call or subpoena
19 witnesses or require the
20 production of any record,
21 document, photograph or other
22 relevant materials necessary

1 to conduct this investigation.
2 And also here's a card for Mr.
3 Brian Mills, should you have
4 any questions or other
5 comments. Thank you.

6 MR. O'DONNELL:

7 Mr. Hess, are you aware
8 that you may have a personal
9 representative present during
10 the taking of this statement?

11 MR. HESS:

12 Yes, sir.

13 MR. O'DONNELL:

14 And do you have a
15 representative present here
16 today?

17 MR. HESS:

18 Yes, I do.

19 MR. O'DONNELL:

20 Could you identify him?

21 MR. HESS:

22 Joe Yuhas.

1 MR. O'DONNELL:

2 And has anyone
3 suggested to you that you use
4 this representative?

5 MR. HESS:

6 No.

7 MR. O'DONNELL:

8 Are you aware that your
9 representative may have a
10 conflict of interest in
11 representing you while being
12 provided by someone else?

13 MR. HESS:

14 Uh-huh (yes). Yeah.

15 MR. O'DONNELL:

16 Okay. With this
17 understanding, do you still
18 want this person as your
19 representative?

20 MR. HESS:

21 Yes, I do.

22 MR. O'DONNELL:

1 Have you been pressured
2 in any way to accept this
3 person as your representative?

4 MR. HESS:

5 No, I have not.

6 MR. O'DONNELL:

7 Okay. Do you have any
8 questions regarding the manner
9 in which the interview will be
10 conducted?

11 MR. HESS:

12 No, I don't.

13 MR. STUART:

14 May I inquire?

15 MR. O'DONNELL:

16 Oh, I'm sorry.

17 MR. STUART:

18 Just so we all
19 understand each other, Mr.
20 Hess, is it fair to say that
21 Mr. Yugas is here, to your
22 knowledge and based upon your

1 understanding, as your
2 representative?

3 MR. HESS:

4 Yes.

5 MR. STUART:

6 And is it your
7 understanding that Mr. Yuhas
8 does not represent the
9 interest of the UMWA?

10 MR. HESS:

11 Yes.

12 MR. STUART:

13 I'm sorry.

14 MR. HESS:

15 He was provided for me
16 and I asked him to be here.

17 MR. STUART:

18 And is it your
19 understanding that Mr. Yuhas
20 does not represent the
21 interest of the employer?

22 MR. HESS:

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Right.

MR. STUART:

Okay.

MR. O'DONNELL:

Do you have any
questions?

MR. HESS:

I don't think so.

MR. O'DONNELL:

Would you like to swear
him in?

ERIC MICHAEL HESS, HAVING FIRST BEEN
DULY SWORN, TESTIFIED AS FOLLOWS:

BY MR. O'DONNELL:

Q. Please state your full name
and spell your last name.

A. Eric Michael Hess, H-E-S-S.

Q. And your address and telephone
number, please?

A. 

1

2 Q. And Eric, are you appearing
3 here today voluntarily?

4

A. Yes.

5

6 Q. Okay. How many years of
7 mining experience do you have?

8

A. Eleven (11).

9

10 Q. And just give us a brief
11 description of what you've done since
12 you started working underground?

13

14 A. I worked as a general laborer
15 inside for two years before I ever
16 saw a working section. Then since
17 then I've learned how to run just
18 about all the equipment on the face,
19 miner, shuttle cars, roof bolters,
20 scoops, done belt moves, power moves,
21 just a little bit of everything.

22

Q. All at this mine?

23

24 A. No. No. I've worked at ---
25 started out as a red hat in Mettiki
26 up in Red House, Maryland. From

1 there I went to Philippi Development
2 and then from there I went to Bass
3 Energy. And then from there, I went
4 back to Philippi Development. And
5 then from there to Spruce II, then to
6 Spruce Forks and then to Sago.

7 Q. A lot of moves in 11 years?

8 A. Yeah.

9 Q. And how long have you been at
10 Sago?

11 A. For about a year and five
12 months, probably, a year and four
13 months.

14 Q. And what do you do --- what's
15 your present position?

16 A. Scoop operator.

17 Q. And is that the job that you
18 held on January 2nd, the day of the
19 accident?

20 A. Yes. Uh-huh (yes).

21 Q. What other jobs have you done?

22 A. Mine operator and shuttle car

1 operator.

2 Q. All in this section or ---?

3 A. No. Well, I was on the mains
4 going up through. I was there when
5 we went through Trubie Run, went up
6 through the mains and then broke off.
7 When we had the super section, I was
8 on the left side of the super section
9 and since then I've been on the One
10 Left section.

11 Q. Okay. So how long have you
12 been a scoop operator in ---?

13 A. Probably seven months probably
14 or eight months.

15 Q. And what kind of mining
16 certificates do you have?

17 A. I have undergrounds miners'
18 card and I'm working on getting my
19 foreman's papers right now.

20 Q. Who's your immediate
21 supervisor?

22 A. Owen Jones.

1 Q. How long has Owen been your
2 supervisor?

3 A. I want to say probably seven
4 months. That's about the same time
5 frame as I've been running the scoop
6 because I've been running the scoop
7 for --- only for seven months now,
8 about that much time.

9 Q. What's your normal starting
10 time in your shift?

11 A. 6:00 a.m.

12 Q. And were you working the day
13 of the accident?

14 A. Yes.

15 Q. Okay. Just describe from the
16 time you got to the mine, when you
17 got there, what you did, from the
18 time you went in the mine until the
19 time you got out of the mine and left
20 the mine property.

21 A. Okay. Got there --- usually
22 get there about 5:30, get dressed,

1 you know, say hi to everybody. Go
2 over get your light, tag in, you
3 know, head down over the hill. Got
4 in the mantrip --- well, we started
5 to get in the mantrip and the foreman
6 had got the wrong size mantrip
7 because from the outside they all
8 look the same, they're all white,
9 they're all big. But this one only
10 had one seat in it, which only
11 carries about eight miners on the
12 inside. So we told him it wasn't
13 going to haul us all because we got
14 12 guys in our crew. So he had to go
15 back up in the yard and switch
16 mantrips out and bring a bigger
17 mantrip. And by this time, the other
18 crew had already started in.

19 Got down to where the doors
20 are and the doors were already shut,
21 so you know, the other crew had
22 already made it through the doors.

1 And I'm going to say probably seven
2 or eight minutes behind because we
3 usually follow them right behind
4 them, you know, going in. We're
5 usually behind them every morning.

6 We go in just cruising along
7 as normal. We got up to the One Left
8 switch and the switch is turned
9 straight because the Two Left crew
10 had already went through the switch
11 so it was turned straight. So the
12 miner operator, Roger Perry, got out
13 of the mantrip to throw the switch so
14 we could head into the One Left
15 section. And as soon as he got out
16 and threw the switch, he got back in
17 and that's when we got just --- boom,
18 that's when we got the explosion.
19 That's when we got the wind and the
20 heat and some debris flying around.

21 And at the time, at the very
22 instant it started, you know, we

1 thought it was --- I thought it was a
2 roof fall, but after talking to some
3 of the other guys that's what they
4 thought, but once the main blast was
5 on top of us, you know, we could feel
6 the heat and everything, we knew it
7 wasn't a roof fall.

8 And so as soon as it --- you
9 know, as soon as it quit, we ---
10 everybody's asking each other, you
11 know, are you okay, is everybody all
12 right. So then we started climbing
13 out of the mantrip and you couldn't
14 see a foot away from you. And so
15 after we got together that nobody was
16 hurt bad, of course a couple bumps
17 and bruises, but after we figured
18 nobody was hurt bad, nobody needed
19 medical attention, that's when we
20 started feeling our way down the rib
21 trying to find the --- trying to find
22 the man door to get to the intake.

1 And our switch is in 50 block
2 and myself and another guy went to 48
3 block where the first door was. So
4 we went through the man door and the
5 intake looked just like the track.
6 Of course at this time, we didn't
7 know that the stoppings outby had
8 been blowed out. So when we went
9 through the man door and saw that
10 there was no fresh air there, that's
11 when we put our self rescuers on.

12 Came back through the man door
13 and there was two other guys there.
14 They were having a little bit of
15 trouble getting their rescuers on, so
16 we helped them get strapped on, get
17 ready to go and then that's when we
18 proceeded down the track. And as
19 we're getting --- as we're walking,
20 we could hear a mine phone. And
21 there was a mine phone on the track
22 and I'm not --- I can't remember what

1 block number it's at, but there's a
2 phone on the crib. And that's when
3 my boss called outside and told them
4 that we had an explosion underground,
5 and that we needed to get help and
6 get what we needed to do to ---.

7 So from that point, we tried
8 to talk him into coming out with us,
9 but he had a brother on the other
10 section. So he said, you guys ---
11 you guys need to go. He said, I'm
12 going --- he said I'm going up to see
13 if I can help Jesse. So of course we
14 tried to talk him out of it. We told
15 him, you know, you need to go with
16 us, so we talked to him for a few
17 minutes.

18 And then as we're doing this,
19 he stayed with us as we're walking
20 down. And we finally get in the
21 intake probably, I'm going to guess,
22 around 34 block or 35, somewhere in

1 that area to get in the intake, fresh
2 air. And I think it was at 26 or 27
3 block where we had fresh air, because
4 you could see there was no dust. You
5 could feel the air, you could see the
6 green reflector, you know, indicating
7 the intake. You could see it moving,
8 so we knew we had fresh air. And as
9 everybody --- we were kind of spread
10 out, there was like a couple guys in
11 front and then there's some guys in
12 the middle and then some guys helping
13 some of the guys in the back. But
14 nobody ever lost sight of each other.
15 Everybody was within a block or two,
16 you know, within sight and sound of
17 each other so we could communicate,
18 you know, when we found air. Those
19 guys found the air, they told the
20 group I was with. I was in the
21 middle group and then guys in behind,
22 you know, told them we got fresh air

1 up here.

2 And just as everybody's coming
3 together in the intake, we heard the
4 mantrip coming in on the rail, so one
5 of our guys ran over and stuck his
6 head through the man door, flagged
7 them off. And that was --- it was
8 Jeff Toler, the superintendent, Al
9 Schoonover, the safety director, Dick
10 Wilfong, the maintenance
11 superintendent, and Vern Hofer, who's
12 a maintenance foreman, had came in.
13 And so we went through the man door
14 and started to get on the mantrip and
15 as we waited for the rest of the guys
16 to catch up, they're getting on the
17 mantrip. And Jeff Toler and Al
18 Schoonover and Owen Jones, they
19 stayed in and went to see how far
20 they could get, see how close they
21 could get, see if they could hear
22 those guys, going to see if they

1 could do anything for them. And
2 that's when Dick Wilfong and Vern
3 took us outside.

4 And when we got outside, one
5 of the --- our mechanic was having a
6 hard time breathing, so we went and
7 got a truck from the parking lot,
8 which I took, which belonged to the
9 yard man. I took his truck down in
10 the pit and we put him on the
11 tailgate so we could drive him up ---
12 drive him up on the hill and get up
13 in the bathhouse.

14 So after we did that, then I
15 grabbed all my stuff off, my light
16 and everything, and got it hung up,
17 got tagged out, and that's when we
18 went into the bathhouse.

19 And after I went in there and
20 put all my stuff down, you know, I
21 thought that I should call my wife
22 because, you know, I knew that once

1 it got out it was going to be on the
2 news. So I called her and from the
3 time it happened until this time, I
4 had no idea what time exactly things
5 happened.

6 But I looked on the caller ID
7 that night and I called her at 7:38
8 that morning. And they said
9 explosion happened at 6:31 and that
10 my foreman called out at 6:40. And
11 from that time until then, I had no
12 idea, you know, what times were. But
13 I do know that I called her at 7:38
14 that morning.

15 And then that's when we were
16 in the bathhouse and of course, you
17 know, the EMTs and the emergency
18 personnel were showing up and that's
19 when they were checking us.

20 And they checked our oxygen
21 levels and checked to make sure
22 nobody was hurt bad. And just, you

1 know, tried to assess the situation,
2 see if anybody needed medical
3 attention. Then that's when the
4 first --- the first inspector that I
5 talked to was John Collins. He was
6 like the first one there. And he
7 asked me what happened and then I
8 told him just right off the bat, you
9 know, and he took that information
10 and went from there with it.

11 So then after waiting around,
12 you know, all day, I think it was ---
13 I'm going to say between one or two
14 o'clock that afternoon, they had made
15 everyone, including the rescue teams
16 and everybody leave, leave the mine
17 bathhouse. They made everybody go
18 outside the gate because of gas
19 levels and carbon monoxide levels
20 coming out of the mine. At that
21 time, they made everybody evacuate
22 the property outside the gate. At

1 that time, myself and the other guys
2 on the One Left crew were directed to
3 go to the prep plant where they told
4 us we could go over there and then
5 that would be away from the media and
6 be away from the --- and we could be
7 there, that way if they needed to
8 come and talk to us, they knew where
9 everybody was. And so I was there
10 from --- I'm going to say around 2:00
11 p.m. until --- I probably didn't
12 leave the prep plant until probably
13 close to five o'clock p.m. that
14 evening. And from there I went to my
15 sister in-law's house who lives in
16 Buckhannon. My brother in-law works
17 at the Sago Mine but he's on the
18 weekend crew and you know, they
19 weren't there because of it being a
20 holiday weekend, they didn't work
21 that night. So we spent --- we ended
22 up spending the night there and of

1 course, trying to watch the news and
2 everything. We went to bed and I
3 probably slept for probably two
4 hours. Probably went to bed about
5 6:00 a.m., got back up at 8:00 and
6 went back to the prep plant at about
7 9:00 and then stayed there until
8 about one o'clock before I went home.
9 So that's pretty much ---.

10 Q. And you said you got there
11 about 5:30 that morning, Eric?

12 A. Yeah. Yeah, I usually get to
13 work about a half hour before
14 starting time.

15 Q. When you went into --- you
16 said you tagged in and got your light
17 and all that. Did you notice
18 anything in the --- who was the
19 dispatcher that day?

20 A. I believe it was Bill Chisolm
21 was the dispatcher.

22 Q. Okay. Did you have any

1 conversation with him?

2 A. No. No, I didn't. The only
3 person that I really --- that I can
4 remember talking to that morning was
5 Jackie Weaver. And his light and my
6 light are in the same --- on the same
7 side of the rack and every time there
8 was a Miner football game, we'd
9 always talk about the game. And he
10 asked me, you know, if I was going to
11 watch the game. And I said yeah.
12 And then that's --- until I got down
13 to our mantrip, that was the last
14 person I talked to, I believe.

15 Q. Did you notice if the belts
16 were running?

17 A. No, I didn't pay attention.

18 Q. And did you --- like when you
19 went in there and you talked to Flea,
20 did you notice if there was any kind
21 of --- anything on his display that
22 was unusual?

1 A. No, because usually I don't go
2 right in his office. You know, I
3 walk by the door and, you know, say
4 good morning to him or something, but
5 as far as going in through the
6 doorway, I didn't go in there that
7 morning. I usually don't go unless
8 it's to get a pair of gloves or
9 something, but that morning I didn't
10 get gloves or paper towels or
11 anything.

12 Q. So you said you normally talk
13 to the --- or you ride right in
14 behind that Second Left crew, but
15 today because you had --- that day
16 because you had to make the change
17 that there was a delay.

18 A. Yeah.

19 Q. Do you ever talk back and
20 forth to him when you're riding in on
21 the walkie?

22 A. Not really unless --- unless

1 the outside dispatcher would be
2 trying to reach him and then they
3 would, you know, ask us if you see
4 him, tell him, or see if you can ---
5 you know, see if you can reach him.
6 But no, not that morning. We usually
7 don't talk to him on the --- on the
8 trolley phone.

9 Q. What was the weather like that
10 day, do you recall?

11 A. It was --- you could see
12 lightning. I mean, it was strange
13 because it's --- you know, it's
14 January and it was, you know, between
15 --- I would say, between 45 and 50
16 degrees in January. That's unheard
17 of in West Virginia. And you could
18 see the lightning because where me
19 and --- I can't remember who it was,
20 were walking down the hill, down into
21 the pit and you know, we're talking
22 about the lightning, so it was crazy

1 having thunderstorms in January. But
2 you know, it wasn't raining yet, but
3 it was warm and you could see the
4 lightning coming. And it was just
5 weird that we were having a
6 thunderstorm in January.

7 Q. So as you traveled in, you had
8 couple more people than normal?

9 A. Yeah.

10 Q. And did you stop before you
11 got to the One Left for any reason?

12 A. Yeah. Yeah, we let off --- we
13 had Ron Grall, who's a fire boss. He
14 was on the mantrip. He usually rides
15 to the section with us and he'll
16 check pumps and that kind of thing.
17 And then that morning John Boni,
18 who's a fire boss was dropped off at
19 One Right, which is on the section,
20 One Right switch. And then John's
21 son Pat, who's a beltman, was dropped
22 off at Four Head that morning.

1 Q. Before --- let me back up.
2 Before you went in that day, was
3 there anybody else, any mine
4 examiners outside, other than ---
5 it'd be Grall; right?

6 A. Yeah.

7 Q. Was there anybody else
8 outside?

9 A. Not that I remember. I don't
10 remember seeing any, other than just
11 John and Ron that rode in with us.

12 Q. Okay. So you dropped those
13 guys off, went up to the One Left
14 switch and Perry gets back in the
15 mantrip and where were you positioned
16 at in the mantrip?

17 A. I was sitting --- there was
18 --- I was sitting on the inby end of
19 the mantrip with my back toward the
20 section. And Roger was sitting the
21 same way I was and Joe Ryan was
22 sitting --- because you know how you

1 load mantrips, one gets in this way
2 then you just --- you know, you
3 stagger so everybody has room. There
4 was three guys sitting on this side
5 and there was four guys sitting on
6 that side that morning. And Roger
7 was on the outside, that's why he got
8 out at the switch.

9 Q. Did you hear anything, Eric?

10 A. No, didn't hear. I've been
11 asked that question. I didn't hear.
12 You know, I didn't hear an explosion,
13 no boom, no nothing, just --- the
14 only thing we heard was you could
15 hear like when you run your car off
16 the road and you hear gravel hitting
17 underneath your car, you could hear
18 that hitting the end of the mantrip
19 and that's all we heard and just the
20 wind was all we heard.

21 Q. And how long did it last?

22 A. I've always said 12 to 15

1 seconds. And then there's some guys
2 that say a minute, there's some guys
3 that say five seconds. But around 12
4 seconds probably.

5 Q. Did you lose your hat or your
6 light or anything?

7 A. No. No. I had a hooded
8 sweatshirt on and I had my hood up.
9 And I always ride with my hood up
10 going in to keep --- just to keep the
11 air off my neck and --- but no, I
12 didn't lose my hat or my light or
13 anything.

14 Q. What else did you hear? Did
15 you hear anything --- any big things?

16 A. No.

17 Q. Nothing big hitting the
18 mantrip or the rib or ---?

19 A. Uh-uh (no). Just the wind.
20 The wind and just the stuff hitting
21 the end of the mantrip, which sounded
22 like gravel, you know, rocks hitting

1 it. That's all I heard.

2 Q. And you said --- did you say
3 you felt heat?

4 A. Yeah. Right at the very
5 beginning of it, it was just some
6 wind coming and just kind of like
7 being the pressure off a roof fall is
8 what it was like at first. But when
9 it was at its maximum force, you
10 could feel heat. But we never saw a
11 flame, never saw any kind of flash,
12 never saw any fire at all. Just felt
13 heat and it wasn't unbearable heat,
14 but it definitely, you know, made it
15 harder to breathe with the dust and
16 everything, but it never --- you
17 know, it never --- nobody got burned
18 or anything like that. It was just
19 like a moist heat that was right ---
20 right in the middle of the explosion.

21 Q. What did it smell like, do you
22 remember?

1 A. Just burnt stuff. I don't
2 know if it was burnt coal, burnt
3 whatever, it was just --- it stunk
4 bad.

5 Q. And was it smoke?

6 A. I will say there probably was
7 smoke with the dust, but it was just
8 so thick you couldn't see it. It was
9 like a whitish-yellow color probably.
10 You know, like I said, you couldn't
11 see. With a cap light, you could see
12 your hand maybe eight or ten inches
13 away from your face and that's all
14 the farther you could see.

15 Q. Do you recall any detectors
16 going off then?

17 A. Yeah, boss' detector went off.

18 Q. Right then?

19 A. Yeah, just as soon as --- you
20 know, as soon as it quit, you could
21 hear his detector beeping because I'm
22 assuming he turns it on outside, you

1 know. He does the check on
2 everything and it's --- of course you
3 couldn't see. I know that they have
4 lights on them but you couldn't see
5 the lights on it, but you could hear
6 it beeping.

7 Q. So you couldn't tell what kind
8 of readings ---

9 A. No. I don't even remember
10 anybody asking. I don't even know if
11 anybody noticed, but I did notice it
12 beeping and going off.

13 Q. Right from the beginning?

14 A. Yeah, just as soon as the wind
15 quit and everybody got, you know,
16 semi-calmed down to where we were
17 talking instead of yelling, you could
18 hear it go off.

19 Q. So how did you feel your way?
20 Everybody got out, you accounted for
21 all your people; right?

22 A. Yeah. Made sure everybody was

1 all right, could move and walk and
2 talk and everything. And then that's
3 when we got to the left rib because
4 we knew that there was a man door,
5 there had to be a man door down
6 through there somewhere. Of course,
7 we didn't know which ---.

8 Q. Is that how you got down, you
9 just felt the way?

10 A. Felt the rib. Yeah, because
11 you couldn't see to walk. You
12 couldn't see your feet, so you just
13 had to put your hand --- you know, we
14 were --- everybody was just about
15 close enough where you could keep ---
16 you know, grab a shirt or a belt or a
17 belt loop or something, just so
18 everybody could stay kind of together
19 until we got figured out what was
20 going on.

21 Q. When did you put your SCSR on?

22 A. Just as soon as we got out of

1 the mantrip and walked down --- like
2 I said, the mantrip was sitting in 50
3 block, that's where the switch is.
4 The mantrip was sitting right there
5 at the switch. We got out of the
6 mantrip and went to the first
7 crosscut and we knew that that's
8 where power --- the power shutters
9 were. So we went to the next
10 crosscut back and there was a man
11 door. So we went through the door
12 and noticed that we didn't have any
13 fresh air at that point. So that's
14 when me and Alton Wamsley, that's
15 when we put ours on, just
16 immediately. We both agreed, you
17 know, this is bad. You know, we're
18 breathing --- we don't know what
19 we're breathing, but it's bad, we
20 need to get them on. So that's when
21 we put them on.
22 Q. Did anybody else put theirs

1 on, too?

2 A. Yeah, Joe Ryan and Doc
3 Anderson and I can't remember if
4 anybody --- yeah, Roger Perry put his
5 on and Hoy Keith and I can't --- I'm
6 not sure if anybody else put theirs
7 on or not. But yeah, we were telling
8 them to. Of course, you know, that
9 was their preference. We weren't
10 going to make them do anything.

11 Q. But there were a couple that
12 ---

13 A. Right.

14 Q. --- decided not to?

15 A. Right.

16 Q. Okay. When you put your SCSR
17 on, did you have any difficulty with
18 it?

19 A. No.

20 Q. I mean, you went through your
21 donning process just like ---?

22 A. Yeah.

1 Q. And were you trained to put it
2 on?

3 A. Yeah. And it's always been a
4 big question in the back of my head,
5 you know, if you have to put this
6 thing on, do you think you could do
7 it. And they tell you, you know, it
8 takes approximately 30 seconds to get
9 it on. That's about right. To get
10 that thing broke down and get it on
11 and get it working, it doesn't take
12 very long.

13 Q. How did you activate it?

14 A. With the pull cord on it.

15 Q. And it worked okay, blew the
16 bag up?

17 A. Yeah.

18 Q. And you had no problem?

19 A. Uh-uh (no).

20 Q. That was good.

21 A. I mean, at the point of course
22 you're nervous, but you know you've

1 got to get that thing on. If you want
2 to start breathing good air, you've
3 got to get it on. So you know, once
4 I got it on and got --- you know, got
5 everything strapped on and got it
6 where it needed to be, you know, a
7 little bit of calmness starts setting
8 in because you know you're breathing
9 and you know, you're going to be all
10 right. Or you think you're going to
11 be all right, but at the time, we
12 didn't know what was happening. But
13 just having that thing on and
14 breathing fresh air gives you a
15 little bit of a sense that, you
16 know ---.

17 Q. Did anybody have any problems
18 with the SCSRs or did you assist
19 anyone?

20 A. Yeah, me and Alton helped Joe
21 and Doc because Doc's on the section.
22 He's like the utility man, so he does

1 a lot of stoppings and does, you
2 know, a lot of the B-Bond and
3 plastering, And his rescuer had B-
4 Bond on it and he was having trouble
5 with where it was on his belt,
6 getting it up out of the pouch. So
7 he had the channel locks down in his
8 pouch, too, so I pulled those out and
9 of course, you know, I'm beside him
10 so I kept my hands under it and got
11 it pushed up out. And I pulled the
12 strap off, the metal band off for him
13 and got it broke down, then gave it
14 to him and he got it --- he got it
15 put on and got it working. Alton was
16 helping Joe. I'm not sure what kind
17 of trouble Joe was having with his
18 but he got it.

19 Q. So as far as you know,
20 everybody's SCSR functioned the way
21 it intended; right?

22 A. Yeah, as far as I know. I

1 mean, ---.

2 Q. You don't know of anybody
3 saying this thing doesn't work and
4 they threw it off?

5 A. No. I don't ever remember
6 anybody taking theirs off and saying
7 it doesn't work. Now, I do know that
8 Hoy Keith said that his wasn't
9 working the way it should, but he
10 still had it on. Now, I know that
11 these rescuers, if it doesn't work,
12 you're supposed to blow like three
13 times hard in the bag to try to
14 activate that because it's a chemical
15 thing in there. And I do know you're
16 supposed to do that if it doesn't
17 work. Right off the bat, you're
18 supposed to try to activate that
19 chemical, which I don't know if he
20 did that or not. I never asked him.

21 Q. What stopping do you think you
22 were --- you went through a blown

1 wall or did you go through a door?

2 A. We went through a door that
3 was at 48 block.

4 Q. Forty-eight (48) block. And
5 that what's got you into the intake
6 escapeway?

7 A. That's where we started to go
8 in and we noticed that it was the
9 same as the track. Of course at that
10 time, you know, we're just getting
11 started, we didn't know that the
12 stoppings outby had been damaged.

13 Q. And then did you continue down
14 the intake escapeway?

15 A. No. We went back out into the
16 track, because that's where the rest
17 of the crew was.

18 Q. Okay. And then you headed
19 out?

20 A. Yeah, that's when we started
21 walking out, then that's when we
22 heard somebody --- we heard a mine

1 phone. So of course, we're going by
2 sound because you can't see anything,
3 so we're all going by sound to get to
4 the phone.

5 Q. Let me get this right. When
6 did you leave the track and go to the
7 intake?

8 A. To stay in the intake?

9 Q. Yes.

10 A. I will say it was in the --- I
11 don't know the exact block number, 35
12 block or 34, somewhere in that area.

13 Q. And is that --- you only poked
14 through one door to see if it was the
15 same?

16 A. Yeah, that one because like I
17 said, there was more or less three
18 groups of us and there was --- I was
19 in the middle group, so the guys in
20 front were checking the doors going
21 down through. And that's when ---
22 when they went through that door and

1 they didn't come back out, I knew
2 that's where we needed to go. Like I
3 said, they were within a block and a
4 half to two, no more than two blocks
5 away.

6 Q. Was there a noticeable
7 difference then?

8 A. Yeah. Yeah.

9 Q. Did you guys keep your SCSRs
10 on then for some time?

11 A. I kept mine on until we
12 reached 26 block. And then at 26
13 block, that's when, like I said, the
14 air was clear, you could see the ---
15 like the green reflectors indicating
16 the intake escapeway. You could see
17 those moving and the fire boss tags,
18 anything hanging you could see it
19 moving.

20 Q. Was it still pretty hazy
21 though?

22 A. No. There was --- you didn't

1 see any of the dust. It was pretty
2 much gone at that point.

3 Q. Okay. That's when you got the
4 mantrip and went out?

5 A. Right.

6 Q. Okay. And on the outside, you
7 say you talked to Mr. Collins ---

8 A. Yeah.

9 Q. --- and briefed him? Were
10 there any other detectors that were
11 going off? Did anybody --- at any
12 time from the time that you heard the
13 alarms go off, do you know what any
14 of the readings were?

15 A. No, I have no idea.

16 Q. Okay. So were you injured at
17 all?

18 A. All I had was some small welts
19 on my back just from where like the
20 rocks and then there was pieces of
21 rock that was picked up. I just had
22 some welts on my back. And the EMTs

1 checked me out to make sure that
2 there wasn't anything in my back, but
3 it was just small welts and they went
4 away within two or three days.

5 Q. And you didn't get sick or
6 anything?

7 A. No, didn't get sick. Just has
8 that stinking smell in my nose for
9 about three days, but it --- you
10 know, it finally went away. No, I
11 didn't have any.

12 Q. Do you remember Owen making
13 any calls?

14 A. Just to call from the
15 underground to the outside.

16 Q. That's what I mean.

17 A. Yeah.

18 Q. Whenever it happened.

19 A. Yeah, he made the call when we
20 found the mine phone. And like I
21 said, I'm not sure what block the
22 mine phone is at, but he called

1 outside and told them that we had had
2 some kind of explosion underground
3 and that they needed to do what they
4 needed to do to get us.

5 Q. Do you know who he talked to?

6 A. No.

7 Q. Just a one-sided conversation?

8 A. Yeah. I mean, I don't know
9 --- when he called outside, I don't
10 know if the dispatcher answered or if
11 it was --- which I'm sure it probably
12 was the dispatcher, but I can't say
13 for sure because I don't know
14 exactly.

15 Q. Did you hear any time the
16 trolley phone, any conversations on
17 the trolley phone?

18 A. No.

19 Q. Any time at all from the time
20 you went in until the time you got
21 out?

22 A. No, because coming out, you

1 know, everybody was talking in the
2 mantrip about what happened and we
3 couldn't --- you know, just talking
4 amongst ourselves.

5 Q. Did you hear any other kind of
6 chatter on the mine phone, the pager
7 phone?

8 A. No. Well, I do know that
9 after we had gotten outside, they had
10 --- I believe it was Hoy Keith, they
11 put him in the maintenance office and
12 he was calling underground every five
13 minutes for the Two Left crew to see
14 if he could get anybody to answer
15 him. About every five minutes, he
16 would yell for one or two minutes and
17 then he'd stop and then every five
18 minutes, he would yell again.

19 Q. Did you have anything to do
20 with any of the assisted work with
21 the teams or ---?

22 A. No. No, I didn't. I mean, we

1 just --- you know, I can't --- I'm
2 not sure of the time again. But
3 family members of the trapped miners
4 ---

5 Q. Yeah.

6 A. --- started showing up, so we
7 put them on --- if you're looking at
8 the end of the bathhouse from the
9 gate, they were putting them on the
10 right-hand side of the bathhouse and
11 we were on the left-hand side. And
12 our bathhouse has a divider in it
13 with doors on either --- you know,
14 hallways on either end.

15 Q. So Eric, when you got out of
16 the mine, you really didn't do
17 anything else that day?

18 A. No. No. Just waited.

19 MR. O'DONNELL:

20 John, do you have any
21 follow-up questions?

22 MR. COLLINS:

1 I don't think we have
2 anything at this time, Eric.

3 BY MR. O'DONNELL:

4 Q. Did any of you guys have any
5 walkies with you?

6 A. Yes, the --- both the shuttle
7 car operators, Paul Avington and
8 Chris Tenney both had walkie-talkies
9 with them and they tried there to see
10 if they could call the other crew and
11 it didn't work. Yeah, I mean, they
12 could hear each other on theirs but
13 they didn't --- I don't think --- the
14 distance was just too great of a
15 distance.

16 Q. But they did make an attempt
17 ---

18 A. Yeah.

19 Q. --- with their walkies to try
20 to get ahold of Two Left crew?

21 A. Yes, they both did.

22 Q. Okay.

1 A. Because I know because Chris
2 Tenney, I was standing beside Chris
3 when he was trying to call but Paul
4 answered it, but there was no --- no
5 response from the other crew. It was
6 probably too great of a distance from
7 --- at that point, we're --- you
8 know, we're down around in the 20
9 block area, the 26 block area when he
10 tried that. And that would be too
11 great of a distance for those radios
12 underground. I'm guessing. I'm not
13 a professional. But that was
14 probably too great of a distance.

15 Q. But he tried?

16 A. Right. Yeah, they did try.

17 Q. When did you take your SCSR
18 off?

19 A. At 26 block when we got there,
20 there was a scoop sitting there and a
21 scoop charger. And when we got there
22 and you know, we waited there for a

1 minute, we looked back and the other
2 crew --- the other group was right
3 --- you know, they're within a couple
4 blocks of us, they're coming. And
5 like I said, you could see that there
6 was no dust, you know, there was
7 fresh air, you could see the air
8 movement. So that's when I took mine
9 off at that time.

10 Q. Did you take it with you?

11 A. Yeah, I still had it around my
12 neck. I never took it off. I just
13 took the mouthpiece out and the nose
14 clips off.

15 Q. Okay. Anything that you might
16 want to add that I didn't ask you
17 about that? Any information that
18 might be important?

19 A. No, none that I can think of.

20 Q. You say you've been working in
21 the mine there for, oh, a year and so
22 many months?

1 A. Yeah, almost a year and a
2 half.

3 Q. Did you ever work in that old
4 Two Left main seal area? The seals
5 that blew out, in that area, did you
6 ever work up there?

7 A. I worked up there one day. I
8 come out --- I worked an extra shift
9 on a Friday, because at that time we
10 were working four tens, so I worked
11 the Friday. And all I did was --- I
12 was running the scoop and all I did
13 was haul blocks over to the seals,
14 spotted some seals where the guys
15 were going to build them and then
16 they brought in a couple more loads
17 of the blocks and the B-Bond in the
18 sealant form. And that's pretty much
19 all I did was just unload cars all day
20 and then stockpile blocks for the
21 seals. And that's the only time I
22 ever worked on it.

1 Q. Who was your boss up there that
2 day?

3 A. Jeff Snyder.

4 Q. And was it all new block that
5 was delivered there?

6 A. Yeah. Yeah, they came from
7 outside but still in the --- bundled
8 in the plastic and I pulled it off.

9 Q. Did you do any of the cleanup
10 work, repair the area with your scoop
11 for those --- did you clean any
12 places out with the scoop where the
13 seals were going to be built?

14 A. Well, the two --- the one or
15 two that they worked on that day, I
16 think had already been cleaned. I
17 don't know if Jeff did it because I
18 was getting one scoop and Jeff ---
19 I'm pretty sure Jeff had taken one
20 scoop because there was two scoops in
21 that area when we went up there. And
22 he told me to get the scoop off the

1 charger and start unloading the
2 blocks because there was already a
3 load of blocks up there waiting to
4 get loaded. And I'm pretty sure Jeff
5 took the scoop, but when he left with
6 it, I'm not sure where he took it to.

7 I don't know if he went over
8 there to do that or he went over
9 there to maybe scoop up a bundle of
10 blocks, because like I said, we had
11 them stockpiled in there. I don't
12 know if he wanted to go ahead and
13 deliver them while I was getting some
14 of them, unloading them. I'm not
15 sure exactly what he did.

16 Q. Were they starting to build
17 them?

18 A. Yeah, they were working on ---
19 I know that they worked on at least
20 one that day that they ---.

21 Q. About how many guys were up
22 there? Do you know who they were?

1 A. There was Jeff Snyder, Alton
2 Wamsley, Jeremy Toler and a red hat,
3 and I'm not sure what his name was.

4 Q. Wamsley, Toler ---?

5 A. Jeff Snyder and the red hat.

6 Q. You don't know who the red hat
7 was?

8 A. No. I think his first name
9 was Seth, but I can't remember his
10 last name. He doesn't work there
11 now.

12 Q. He doesn't?

13 A. No.

14 Q. And who was their boss?

15 A. Jeff.

16 Q. Snyder was everybody's boss?

17 A. Yeah. He was the outby. I'm
18 assuming Jeff was the outby foreman
19 at that time. I'm going to guess.
20 I'm not sure but I ---.

21 Q. So you didn't do any building
22 yourself?

1 A. No.

2 Q. Did you watch them do any
3 building?

4 A. Yeah. I watched for a little
5 bit. I did help smear some B-Bond
6 from the sealer. I did smear some of
7 that. And they had --- the way that
8 they had built the seals, I had never
9 seen it built that way but they took
10 two of the Omega blocks, you know,
11 and they put the first row down this
12 way. And then of course, you know,
13 the bottom rows laid width and then,
14 you know, they mix it up and then
15 they smear everything on wet.

16 Q. Let me go back a little bit.
17 Which seal are you talking about?
18 Now if you number from left to right.

19 A. I'm going to guess it was
20 somewhere right in the middle.

21 Q. In the middle?

22 A. Yeah. I'm going to guess. I'm

1 not sure. Of course at that time, I
2 didn't know how many seals were being
3 built. I said I was only up there
4 for one day so I never really got too
5 look around and I wasn't familiar at
6 all with the Two Left section.

7 Q. Was that the whole bottom row
8 that was laid lengthwise?

9 A. Yeah, like they laid two this
10 way and then they put this row down.
11 I hope I'm doing this right. And
12 then they laid that row this way and
13 then I'm pretty sure the next row
14 went this way. They had to lock
15 them, you know what I mean, to lock
16 them in.

17 Q. Yeah.

18 A. And everything was laid up
19 wet. Before they --- before the
20 second row went on, this was all
21 wetted down with the sealer, with the
22 mine sealer. And then these went

1 down and when you put those two down,
2 then they'd wet those down and down
3 in the cracks and in the seams and
4 everything like that. And I hope I
5 showed you that right because I
6 didn't do any building.

7 Q. Yeah, we're going to go over
8 there, maybe you can show us
9 something on a diagram. Were you
10 there when you built the bottom row?

11 A. No. They probably had --- I'm
12 going to guess they may have had
13 three or four rows. By the time I
14 got --- I had brought the last load
15 of blocks over and they were working
16 on it and I told Jeff, I said, you
17 know, they've got to bring in a load
18 of blocks. And actually said that
19 they'd be back shortly so I went over
20 with them and helped --- like I said,
21 helped to smear some B-Bond and ---.

22 Q. So how high was the wall when

1 you were over there?

2 A. I'm going to guess maybe about
3 waist high only probably.

4 Q. So that's where you got
5 involved with it there?

6 A. Yeah.

7 Q. What kind of cement were you
8 using?

9 A. Well, the regular B-Bond's in
10 the green bag, and I know because
11 this was in a blue bag, so I'm
12 assuming it was special. I don't
13 know if it was a special sealer for,
14 you know, certain walls or what.

15 But I know regular B-Bond is
16 in the green and this was in the blue
17 because they had delivered it ---
18 actually they had sent that blue
19 sealer to our section. And I asked
20 somebody --- I asked the motorman I
21 said, did they get different B-Bond
22 and they said no, why.

1 And I said, well that's got
2 blue stuff on it. They said, oh,
3 don't take that off. It goes to Two
4 Left. And I said okay. So I knew
5 that wasn't regular B-Bond.

6 Q. So all the bags that you
7 delivered at the seal area, were they
8 blue bags?

9 A. Yeah, it was still ---.

10 Q. Or were there any green bags?

11 A. No. It was still wrapped. It
12 was still --- there was a brand new
13 pallet that was on the end of the car
14 and it still had the plastic on it,
15 never been busted.

16 Q. Did you do any of the mixing?

17 A. Uh-uh (no).

18 Q. You just helped smear it?

19 A. I just helped smear some for a
20 while.

21 Q. Do you remember wetting the
22 blocks down before you put the bond

1 on it?

2 A. No.

3 Q. And did you lay any blocks?

4 A. I handed some, but I didn't
5 actually place any.

6 Q. Do you remember if they put
7 any --- were they laid up dry and
8 then smeared on the top or did they
9 put ---?

10 A. Well, the --- like I said,
11 this row was laid up wet so
12 everything here was wet, the tops of
13 them are wet and they laid the blocks
14 down and then they --- before they
15 did any more, they did these two and
16 made sure they got the seams and then
17 they put, you know, down in here if
18 there was a crack, if it wasn't real
19 tight, they made sure it went down in
20 there and they smeared everything up
21 wet.

22 Q. But they didn't put any ---

1 they didn't get a block and smear the
2 sides up and then set it down. You
3 laid them all dry and then smeared it
4 on top and tried to squish it in?

5 A. Yeah.

6 Q. Okay. So how long --- how
7 many rows did you lay with those
8 guys?

9 A. I was there probably 15
10 minutes at the most.

11 Q. Oh, so that was ---?

12 A. Yeah, I was just there long
13 enough ---.

14 Q. Was that the only --- Eric,
15 was that the only part of the
16 construction that you did?

17 A. Yeah, that was the only day
18 that I was ever up there. Like I
19 said, that was an extra shift and
20 that was the only reason that I was
21 even up there that day. It was
22 because they needed a scoop operator

1 to unload the block.

2 Q. Was Jeff around there when you
3 were doing this?

4 A. Yeah. Yeah, he was there.

5 Q. And did he give you any kind
6 of instructions and tell you how to
7 build that thing or does this ---?

8 A. Well, they were talking about,
9 you know --- and I was asking him how
10 they were building the seals. And
11 they were just telling me, you know,
12 they were going to do this and then
13 this.

14 Q. What did they say?

15 A. They just said, you know,
16 we're going to lay this one this way
17 and I was asking them because I had
18 never seen them build the seals with
19 --- with these kinds of blocks. And
20 they said that they were going to
21 double the blocks this way and then
22 the next one would be laid the

1 opposite direction.

2 Q. So there were only one block
3 --- wait a minute. Okay. You have
4 to tell me.

5 A. Okay. Well, they just said,
6 you know, they're going --- to make
7 the seals stronger, they were going
8 to double the blocks and these blocks
9 are --- I don't know the exact
10 measurements. I could show you like
11 they're this wide and this long, so
12 they're a good size block and about
13 that thick.

14 Q. Yeah.

15 A. They were going to double the
16 blocks. They were going to lay, you
17 know, wherever the mark was on the
18 rib because Jeff had marked
19 everything on the rib where the block
20 was.

21 Q. How thick was the seal?

22 A. How thick was the seal?

1 Exactly I'm not sure.

2 Q. Well, I mean, just roughly,
3 from say the wall up, would that be
4 in the --- how thick was the seal?

5 A. I'm going to say probably ---
6 I don't understand what you mean by
7 thick. I don't ---.

8 Q. You know, it's so far wide,
9 but how thick was it? How many block
10 thick?

11 A. Oh, it was two blocks thick.
12 The Omega blocks, I don't have the
13 exact measurement on how wide an
14 Omega block is. But it was the ---
15 it was the thickest seal I've ever
16 seen built, you know. In other
17 places I've worked I've seen them
18 use, you know, solid concrete blocks,
19 but I've never seen them use these
20 and, you know, that's why they went
21 --- they were doubling those up. And
22 I just --- I had seen ones, a couple

1 of them that they had already done,
2 but I didn't know how they built
3 them.

4 Q. So if an Omega block is ---
5 let me --- I think we have a picture
6 of the Omega block. Why don't you
7 come on over here, we'll take a look
8 at this. I know we had one. Let me
9 get my glasses.

10 MR. COLLINS:

11 Make sure he speaks up
12 so that she can hear him.

13 MR. O'DONNELL:

14 We'll mark this Exhibit
15 One, it's the page seven
16 eight, seven nine --- seven of
17 nine.

18 Scratch that last one
19 and we'll go with page nine of
20 nine. Okay. ***

21 (Hess Exhibit Number
22 One marked for

1 identification.)

2 BY MR. O'DONNELL:

3 Q. Now, you're saying that the
4 block was laid lengthwise that way.
5 Do you recall if there was another
6 row on the back?

7 A. Okay. From what this shows,
8 this is not the way I thought it was
9 built. Okay. See what I thought ---
10 the way I thought it was built was
11 they started with, you know, these
12 24-inch blocks, turned longways and
13 then another one ---.

14 Q. Well, let's go back to this
15 one, like that?

16 A. No. I thought that they took
17 two blocks, like would take these two
18 right here and I thought they were
19 turned that way and they did it that
20 way. So I was wrong. But like I
21 said, I had went up there and that's
22 the first time I've ever seen them

1 working on that.

2 Q. So which one of these
3 describes how the block was laid?
4 And if it wasn't either one of these
5 ---?

6 A. No, that's the thing, I don't
7 know for sure, because I thought that
8 the way that I described it was the
9 way they did it, and I was wrong.
10 You know, I should have paid more
11 attention, but I didn't.

12 Q. Okay. Well, let me ask you
13 this, you were just smearing the
14 mortar, you weren't laying block?

15 A. Right.

16 Q. So you don't --- do you know
17 for sure if they just laid ---?

18 A. Well, I do know there was more
19 than one layer. I do know that there
20 was more than one layer. I do know
21 that.

22 Q. Okay. So if you had two

1 lengthwise, you know there was
2 another block?

3 A. Right. Yeah, it could have
4 been --- yeah, exactly.

5 Q. It could have been how thick?
6 That thick? That we're pointing down
7 to the ---?

8 A. Yeah, it could have been this
9 way and then turned this way.

10 Q. Okay.

11 A. Yeah. Yeah. I mean, it was
12 definitely thicker than just one ---
13 that one row.

14 Q. Okay.

15 A. It was definitely more than
16 one block laying up against another
17 one from the thickness.

18 Q. All right. I understand what
19 you're saying.

20 And was the cement that you
21 mixed, was it pretty soupy so you
22 could slide it around pretty good?

1 A. Yeah, it had enough texture to
2 it where you didn't have to, you
3 know, stuff it down in there. It had
4 enough room --- was wet enough that
5 you could fill the cracks. It would
6 just like ooze down in and fill the
7 cracks.

8 Q. About how thick do you think
9 it was on top? How thick did you
10 make it? Let's sit down. About how
11 thick was it?

12 A. Probably half an inch thick,
13 probably, just guessing.

14 Q. Do you know when you were
15 putting the cement on, was there any
16 wood in it?

17 A. I didn't see any.

18 Q. Did you just do the top, Eric,
19 or did you do sides and face or
20 anything?

21 A. I just was there long enough
22 to help smear one row, that's the

1 longest I was in there.

2 Q. Were you using your bare
3 hands?

4 A. No. Rubber gloves.

5 Q. Okay.

6 MR. O'DONNELL:

7 Let's take a
8 five minute break; all right?

9 SHORT BREAK TAKEN

10 MR. O'DONNELL:

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

13 MR. COLLINS:

14 If I may, Eric?

15 A. Okay.

16 BY MR. COLLINS:

17 Q. I think earlier you stated
18 you're attending a foreman training
19 class?

20 A. Uh-huh (yes).

21 Q. Had you started that class
22 prior to January the 2nd?

1 A. Yes. I believe the classes
2 started in November --- the first
3 week of November, I don't know the
4 exact dates. The classes were
5 already in session.

6 We were supposed to have a
7 class --- we had class the Saturday
8 before this and then we were supposed
9 to have another one the Saturday
10 after but that class was cancelled of
11 course. And there was supposed to be
12 Wednesday, but of course classes were
13 cancelled that week. The test was
14 originally scheduled for January the
15 16th, but then everything kind of got
16 pushed up because of this. But yeah,
17 the classes started the first week of
18 November.

19 Q. During these classes, do you
20 think you had any training that
21 helped you during this event?

22 A. It may have. I'd say just the

1 training that you get every year in
2 your annual retraining course you go
3 over your escapeways and you know,
4 each mine you work at --- just like
5 when I got transferred to the
6 Philippi Mine after the explosion,
7 you know, the very first day, I
8 didn't even get to do anything, I was
9 outside, you know, going over --- of
10 course, they have a different rescuer
11 there than what we have. So we went
12 over --- he went over all that with
13 me, went over the mine map, the
14 escapeways, you know, which is the
15 primary, which is the secondary. But
16 I was taken underground with the
17 superintendent and the mine foreman.
18 But yeah, just stuff that you go over
19 year after year after year with your
20 training, your annual refresher
21 classes and things like that. That
22 stuff sticks in the back of your

1 head. Even though you think it's
2 dumb, and it's not, you know, worth
3 going for eight hours. I mean, it's
4 --- you have to do it and it helps.

5 Q. In the foremen trainee class
6 have you covered gasses yet?

7 A. Yeah. A lot of gasses.

8 Q. The carbon monoxide entering
9 and outgoing?

10 A. Yeah.

11 Q. So you also said Alton Wamsley
12 was with you at the same time?

13 A. Uh-huh (yes).

14 Q. He's also in this foreman
15 training?

16 A. Right.

17 Q. Then, Eric, you put the SCSR
18 on at block 50 then?

19 A. Forty-eight (48).

20 Q. Forty-eight (48)?

21 A. Uh-huh (yes).

22 Q. And you wore that to block 26

1 of Four Belt?

2 A. Uh-huh (yes).

3 Q. And how long total would you
4 say you wore that?

5 A. I'm going to say probably 25
6 to 30 minutes.

7 Q. And the day that you were
8 talking about --- that you assisted
9 in building these seals or had hauled
10 some blocks and whatever, Jeff Snyder
11 was the foreman in charge of building
12 those seals?

13 A. Uh-huh (yes).

14 Q. If I'm clear, you did not
15 really instruct anyone how to build
16 those or ---

17 A. No.

18 Q. --- determine how they were
19 going to be built?

20 A. No. I was just ---.

21 Q. You transported the material
22 that was up there?

1 A. Yeah. I was the ---.

2 Q. So no one really trained you
3 on how to lay the blocks because you
4 weren't laying the blocks?

5 A. Right. Because you know,
6 that's --- like I said, I worked an
7 extra shift and that's just --- you
8 know, when you work an extra shift,
9 you don't know where you'll go. Like
10 if there would be somebody off, then
11 you would fill in for them. It's
12 just, you know, --- and I just worked
13 an extra shift and that's where I was
14 sent to work, just to run the scoop
15 for Jeff.

16 Q. And Eric, when the explosion
17 occurred, I think you said the first
18 thing you thought was a roof fall?

19 A. Yeah, at the very instant when
20 we first got the first air, it just
21 felt like pressure off a roof fall,
22 like the wind off a roof fall.

1 Q. Then I think you said you
2 heard Owen call outside?

3 A. Uh-huh (yes).

4 Q. Did he --- do you remember if
5 he said we have had an explosion?

6 A. He said that we have had some
7 kind of explosion in here. That's
8 what I remember hearing. We've had
9 some kind of explosion.

10 Q. What did you think then?

11 A. At that time, I knew that we
12 had an explosion, that it wasn't just
13 a --- it wasn't a roof fall because
14 I've been on --- worked around the
15 longwall when it's fell and you can
16 feel --- you can feel the air of
17 course and been around roof falls and
18 you can feel the air. This had the
19 heat right in the middle of it. I
20 had never felt anything like that
21 before.

22 Q. Eric, on the day that you

1 hauled these blocks up and you
2 operated the scoop; is that correct,
3 you operated the scoop?

4 A. Yeah.

5 Q. And was that scoop on charge
6 when you got up there?

7 A. Yeah.

8 Q. And where was it on charge at?

9 A. Right off the track. When you
10 get to the end of the track, the
11 scoop was there at the end of the
12 track on charge. It was off to the
13 left of the track like so.

14 MR. COLLINS:

15 I think that's all for
16 now, Mr. O'Donnell.

17 MR. O'DONNELL:

18 Okay.

19 BY MR. O'DONNELL:

20 Q. Eric, did anybody attempt to
21 drive the mantrip out?

22 A. No.

1 Q. No. Why?

2 A. Well, number one because it
3 blew the boss off of it. I mean,
4 because he had said after, you know,
5 after we had --- I can't --- I don't
6 know --- well, I didn't see him the
7 rest of the day but I do know at some
8 point after we had gotten back
9 together, I can't remember if it was
10 at a meeting or where, he had thought
11 that a waterline blew. When the air
12 first started coming, he thought a
13 waterline blew so he stood up to try
14 to jump off the mantrip because he
15 didn't want to get wet. Well, when
16 he stood up, that's when it came and
17 blew him off the mantrip. So there
18 was nobody in the driver's seat. And
19 even just seeing the stuff laying in
20 the track, I don't know that we would
21 have went very far with --- before
22 wrecking, because there was, you

1 know, blocks from the stoppings blown
2 out in the track. There was oil cans
3 blown in the track. I don't know
4 that we would have went very far even
5 if we had tried without derailling or
6 just getting enough stuff underneath
7 the mantrip to gob it out.

8 Q. Okay. This is just a little
9 question. When you normally work in
10 the section and when you're using
11 that pager phone, do they ever use
12 the visual alarm, put the flasher on
13 or turn it on to notify you that
14 somebody wants to call inside?

15 A. I do know that not at this
16 mine, but at another mine that I have
17 worked, that that had been done
18 before, just to ---.

19 Q. Just this mine.

20 A. This one, no. I've never seen
21 it done at this time. I'm not saying
22 it wasn't but I've never seen it

1 done.

2 Q. Okay. Just what you know.

3 That would be good. Thank you. Did
4 you ever do any roof bolting in the
5 mine?

6 A. Very little. Well, when I
7 first went over there, that's what I
8 was there for, is to truss bolt.

9 Q. Okay. You said that you
10 worked at the seal area to deliver
11 blocks. Did you ever work inby that
12 area at all?

13 A. No.

14 Q. Okay.

15 A. I've worked in that section
16 one day before that and that was to
17 fill in for a shuttle car operator.
18 But I can't --- it wasn't even back
19 in that part, it was on --- on the
20 Two Left section.

21 Q. Outby

22 A. Yeah.

1 Q. Okay. Do you know who the
2 roof bolters were at Second Left
3 behind the seal area?

4 A. No, I don't.

5 Q. Okay. Let's ask you some
6 training questions. Do you remember
7 when your last retraining, annual
8 retraining, was?

9 A. This past Friday.

10 Q. This past Friday. And when
11 was it before?

12 A. I'd say probably right around
13 the year, because that's --- we
14 always have them every year ---

15 Q. Okay.

16 A. --- at the same time.

17 Q. And who was your trainer?

18 A. Greg Lester at the Philippi
19 Training Center.

20 Q. Philippi Training Center?

21 A. Uh-huh (yes). Philippi
22 Development Training Center, sorry.

1 Q. Did they go over the mine
2 emergency and evacuation program?

3 A. Yes.

4 Q. And do you know who the
5 qualified person is --- or not the
6 --- who the designated person is?

7 A. To do?

8 Q. In charge of evacuation?

9 A. The designated --- I know the
10 person that did the map and showed us
11 the escapeways was the
12 superintendent. He's the guy that
13 did it that day.

14 Q. That was the superintendent?

15 A. Uh-huh (yes).

16 Q. So whenever there's a mine
17 emergency at the mine, the person in
18 charge, the designated person, is
19 ---?

20 A. Well, I know that at our mine
21 when the emergency took place, the
22 dispatcher was in charge.

1 Q. Okay.

2 A. Okay. I'm getting --- I got a
3 little bit off ---

4 Q. That's okay.

5 A. --- talking about the training
6 at the Philippi Mines instead of our
7 mines. Sorry about that.

8 Q. And is he that --- you're
9 saying he's the responsible person?

10 A. Right. That's one thing we
11 learned in the foreman class is
12 there's one person in charge. And
13 I've been told, you know, in the
14 event of that, that type of
15 emergency, the dispatcher has control
16 at that point to try to assess what's
17 going on and he's the one that relays
18 the messages from the underground to
19 outside, or outside to underground.

20 Q. When is the last time you had
21 a fire drill?

22 A. Last time I had a fire drill?

1 Exact time I don't remember when the
2 last time was we had a fire drill.

3 Q. Do you know if you've ever had
4 one since you've been there?

5 A. I know that we have gone over
6 the duties of each person.

7 Q. Yeah.

8 A. Or what each person is
9 responsible for, but I can't --- I
10 don't remember how long ago it's
11 been.

12 Q. What about escapeway drills,
13 have you ever traveled out the
14 escapeway

15 A. We walked the escapeway
16 yesterday.

17 Q. But prior to that?

18 A. Prior to that, the day of the
19 explosion and then prior to that, I
20 don't know the exact date, how long
21 it's been.

22 Q. Did you, in fact, ever do it?

1 A. Yeah. Yeah, I have done it.

2 Q. Okay. When you did your SCSR
3 training for your hand --- when your
4 one-year --- at your annual
5 retraining, did you have to don it
6 from start to finish?

7 A. Yeah.

8 Q. Okay. Going back to this
9 diagram. If you believe that they
10 were laid in any different way, could
11 you just write then down on there and
12 if not, then just ---.

13 A. Well, that looks --- I just
14 know that it was --- that I had
15 smeared more mud than just on one
16 block.

17 Q. Okay.

18 A. I know that it was a lot
19 wider, a lot thicker than that.

20 Q. All right.

21 A. I do know that.

22 Q. Have you ever been searched

1 for smoking articles?

2 A. Yeah.

3 Q. Did you ever observe anyone
4 smoking underground?

5 A. No.

6 Q. Have you ever found smoking
7 articles underground?

8 A. No, I have not.

9 Q. Has anyone offered you
10 anything or made a promise to you in
11 exchange for appearing here today?

12 A. No.

13 Q. Do you have anything you would
14 like to add that may be relevant to
15 this investigation?

16 A. I don't know if it's relevant
17 but I just want to say thanks to all
18 the MSHA people and state people. I
19 know that --- I just want to say
20 thanks to all the MSHA and the state
21 because, you know, we're here for one
22 reason, that's to find out what

1 happened.

2 MR. O'DONNELL:

3 Okay. We're going to
4 take a short five-minute break
5 then finish up.

6 A. Okay.

7 SHORT BREAK TAKEN

8 BY MR. O'DONNELL:

9 Q. Eric, just to go back on a few
10 things, just to clarify a point. You
11 said that your annual retraining,
12 where did you have it at?

13 A. At the --- the one I just had?
14 At the Philippi Training Center at
15 the Philippi Mines.

16 Q. Okay. And when you came to
17 the Sago Mine, what kind of training
18 did you receive your first day?

19 A. The SCSR training, they went
20 over the escapeway, escapeway map ---
21 well, not the escapeway map, but they
22 went over the map and showed, you

1 know, the primary and secondary
2 escapeways. And when I was
3 underground, I was task trained on
4 the --- on the truss bolter which is
5 the machine that I was running when I
6 first went to the Sago Mine.

7 Q. Okay.

8 A. I was task trained on it. And
9 then I was task trained on the
10 regular upright bolter and task
11 trained on the scoop and the shuttle
12 car.

13 Q. Okay. Who gave you that
14 training?

15 A. At the mines, the
16 superintendent. Jim Schwartz was the
17 superintendent there at the time. He
18 went over the escapeways with us and
19 Al Schoonover went over the rescuer.

20 Q. Okay. Thank you.

21 A. I mean, and the section
22 foreman went over the equipment with

1 one of the equipment operators, but
2 the foreman was there at the time
3 when they went over the truss bolter
4 and the upright bolter and the scoop
5 and the shuttle car.

6 Q. Okay. Getting back to the
7 time that you were at the seals.

8 A. Uh-huh (yes).

9 Q. Did you notice anything behind
10 that seal?

11 A. No. Like I said, I don't ---
12 I don't remember seeing anything, but
13 I'm not saying it wasn't there
14 because I wasn't really paying much
15 attention.

16 Q. Okay. Like a roof support or
17 another wall or ---?

18 A. I don't remember.

19 Q. Okay. What about the rock
20 dusting in the area, do you recall if
21 the area behind the seals was rock
22 dusted?

1 A. I don't recall.

2 Q. In front?

3 A. I know it was rock dusted in
4 front just because everything's rock
5 dusted. I mean, it's just something
6 you see every day. So I'm not going
7 to say yes or no because I'm not
8 sure.

9 Q. Okay. Did you deliver ---
10 along with the supplies that you
11 delivered there for construction of
12 the seals, did you deliver any pods
13 of rock dust or ---?

14 A. No.

15 Q. Did you see any rock dust pods
16 in the area?

17 A. There was --- I saw two
18 pallets of rock dust that had been
19 set off at the end of the track.
20 Now, they may have been --- because
21 that's where the section supplies
22 were, the bolt supplies were in that

1 area, too.

2 Q. Okay. What about any kind of
3 roof screening above the seal area?

4 A. No, I don't remember.

5 Q. Okay. Or any other cables or
6 wires or track or anything like that?

7 A. No. I know there wasn't no
8 track because I would have had to
9 have run over it, but I don't ---
10 there was no track, but as far as any
11 other cables or anything, I don't
12 remember if there was ---.

13 Q. Okay.

14 MR. O'DONNELL:

15 John, do you have any
16 follow-up questions?

17 MR. COLLINS:

18 No, I don't. Thank
19 you.

20 BY MR. O'DONNELL:

21 Q. We forgot to ask you your
22 phone number?

1 A. Okay. 304-265-2712.

2 Q. Thank you.

3 A. Uh-huh (yes).

4 MR. O'DONNELL:

5 Eric, on behalf of
6 MSHA, I want like to thank you
7 for appearing and answering
8 the questions today. Your
9 cooperation is very important
10 to the investigation as we
11 work to determine the cause of
12 the accident.

13 We ask that you not
14 discuss your testimony with
15 any person who may have
16 already been interviewed or
17 who may be interviewed in the
18 future. This will ensure that
19 we obtain everyone's
20 independent recollection of
21 the events surrounding the
22 accident.

1 After questioning other
2 witnesses, we may call you if
3 we have any follow-up
4 questions that we feel we need
5 to ask you. If at any time
6 you have additional
7 information regarding the
8 accident that you'd like to
9 provide to us, please contact
10 us at the contact information
11 that we gave you earlier.

12 The Mine Act provides
13 certain protections to miners
14 who provide information to
15 MSHA, and as a result, are
16 treated adversely. If at any
17 time, you believe that you've
18 been treated unfairly because
19 of your cooperation in this
20 investigation, you should
21 immediately notify us.

22 If you wish, you may

1 now go back over any answer
2 that you've given during the
3 interview and make a statement
4 if you would like.

5 A. No, I don't think so.

6 MR. O'DONNELL:

7 Again, I'd like to
8 thank you, Eric. We
9 appreciate you coming forward.
10 Thank you.

11

12

* * * * *

13

SWORN STATEMENT

14

CONCLUDED AT 11:43 A.M.

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16