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1 STATEMENT UNDER OATH
2 OF
3 JAMES SCOTT
4

5
6 Taken pursuant to Notice by Miranda
7 D. Elkins, a Court Reporter and
8 Notary Public in and for the State of
9 West Virginia, at the Mine Safety and
10 Health Administration Office, 105
11 Platinum Drive, Suite B, Bridgeport,
12 West Virginia, on Wednesday, April 5,
13 2006, at 1:05 p.m.
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1 A P P E A R A N C E S (cont.)
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ROBERT S. WILSON, ESQUIRE

U.S. Department of Labor

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

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

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1 information to determine the
2 cause of the accident. This
3 is a continuation of an
4 interview of Mr. James Scott
5 previously conducted by the
6 accident investigation team.
7 Mr. Scott has agreed to come
8 back so that we may ask some
9 follow-up questions. This
10 interview is being conducted
11 at MSHA'S Bridgeport office,
12 in Bridgeport, West Virginia,
13 on April 5th, 2006.
14 I would like to thank

15 you for your agreement to
16 appear here today. We
17 appreciate your assistance in
18 this investigation.
19 This interview with Mr.
20 Scott is being conducted under
21 Section 103(a) of the Federal
22 Mine Safety & Health Act of
23 1977 as part of an
24 investigation by the Mine
25 Safety and Health

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1 Administration and the West
2 Virginia Office of Miners'
3 Health, Safety & Training.
4 Questioning will be conducted
5 by representatives of MSHA and
6 the Office of Miners' Health,
7 Safety & Training.
8 Mr. Scott, as in the
9 last interview, we will ask
10 you a series of questions. If
11 you do not understand a
12 question, please ask me to
13 rephrase it. Feel free at any
14 time to clarify any statements
15 that you make in response to
16 the questions. If at any time
17 after the interview you recall
18 any additional information
19 that you believe may be useful
20 in our investigation, please
21 contact Richard Gates at the
22 telephone number or e-mail
23 address that has been
24 previously provided to you.
25 Your statement is

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1 completely voluntary. You may
2 refuse to answer any question
3 and you may terminate this
4 interview at any time. If you
5 need a break for any reason,
6 just let me know.
7 As before, the court
8 reporter will record your
9 interview and will later
10 produce a written transcript
11 of the interview. Please try
12 and respond to all questions
13 verbally since the court
14 reporter cannot record
15 nonverbal responses.
16 At this time, Mr.
17 Rutledge, do you have anything
18 that you would like to add on
19 behalf of the Office of

20 Miners' Health, Safety &
21 Training?
22 MR. RUTLEDGE:
23 Mr. Scott, a short
24 statement you've probably
25 heard before, that the Office

0010

1 of Miners' Health, Safety &
2 Training is conducting this
3 interview jointly with MSHA
4 and is in agreement with the
5 procedures outlined for the
6 interviews that will be
7 conducted here today.
8 The Director of the
9 Office of Miners' Health,
10 Safety & Training does reserve
11 the right, if necessary, to
12 call or subpoena witnesses or
13 require the production of any
14 record, document, photograph
15 or other relevant materials
16 necessary to conduct this
17 investigation.

18 With all that, we
19 appreciate you being here.
20 Thank you for taking the time
21 to come out. If you have any
22 questions, you can contact Mr.
23 Mills at those numbers there.
24 Thank you.

25 MR. UROSEK:

0011

1 Mr. Scott, do you have
2 any questions regarding the
3 manner in which this interview
4 will be conducted?

5 MR. SCOTT:

6 No.

7 MR. UROSEK:

8 You have a right to
9 have a representative present
10 with you. Do you have a
11 representative?

12 MR. SCOTT:

13 Yes.

14 MR. UROSEK:

15 And will you please
16 identify that person?

17 MR. SCOTT:

18 It's Butthead.

19 ATTORNEY RAJKOVICH:

20 Butthead. Put that on
21 the record. Marco Rajkovich.
22 And just as before, I assume
23 everybody in the room is part
24 of the investigating team?

25 MR. UROSEK:

0012

1 Yes.

2 ATTORNEY RAJKOVICH:

3 Okay. And from what I

4 understand, the transcripts

5 have been transcribed, but

6 they're not available yet for

7 him; is that correct?

8 ATTORNEY WILSON:

9 That is correct. When

10 we get to that public hearing,

11 then they'll be released

12 around that time.

13 ATTORNEY RAJKOVICH:

14 Okay. Thank you.

15 MR. UROSEK:

16 Will you please swear

17 in Mr. Scott?

18

19 JAMES SCOTT, HAVING FIRST BEEN DULY

20 SWORN, TESTIFIED AS FOLLOWS:

21

22 BY MR. UROSEK:

23 Q. Mr. Scott, will you please

24 state your full name?

25 A. James Franklin Scott.

0013

1 Q. And can I call you Skip?

2 A. Yes.

3 Q. And you can call me John. And

4 is your address and telephone number

5 the same as it was?

6 A. Yes.

7 Q. And are you appearing today

8 voluntarily?

9 A. Yes.

10 Q. Today we're going to focus on

11 some of the intricacies of actually

12 constructing the seals. And we

13 appreciate all the information you

14 gave us last time. I apologize in

15 advance if we re-ask some of those

16 questions. We're really just trying

17 to get into the details of how

18 they're constructed, of how to

19 construct. So that's what our focus

20 will be on today.

21 On the seals, how many of

22 those did you actually help them

23 construct?

24 A. Approximately five of them.

25 Q. Five of them. Do you recall

0014

1 which ones they were?

2 A. Yeah, number one --- in Number

3 One entry and Number Nine entry and

4 Number Two entry, and I believe there
5 was two of them in Number Three.

6 Q. The ones in Number One and
7 Number Nine, those are the ones that
8 were left open for a period of time
9 to leave the area ventilate?

10 A. Yeah, for the state inspector
11 to inspect behind them.

12 Q. And were you there when you
13 actually closed them up?

14 A. Yes.

15 Q. Okay. The seals that you were
16 involved with, were they all built in
17 the same manner?

18 A. Yes.

19 Q. Talking a little bit about
20 actually the Omega blocks, when they
21 got into the mine, when they were
22 delivered, are you familiar how they
23 got into the mine?

24 A. They were brought in on a
25 supply car and unloaded by a scoop

0015

1 and delivered back into the area
2 where I was building.

3 Q. Were they brought in on a
4 pallet?

5 A. Yeah, you had a pallet.

6 Q. Would they have been wrapped
7 with plastic?

8 A. They had plastic around them
9 and --- yeah, they had plastic around
10 them.

11 Q. Talking about those blocks a
12 little bit, now, did you or someone
13 on your crew actually take the
14 plastic off of them when you brought
15 them underground?

16 A. As I went and got --- I'd use
17 the scoop to haul them up. They just
18 unloaded them off and set them off on
19 the ground before I even started
20 building them. And as I needed them,
21 I went and I got a scoop and went and
22 scooped them up and took them up to
23 the seals and unloaded them myself.
24 If there was plastic on them, I cut
25 it off. Some of them had the plastic

0016

1 already cut. They was damaged a
2 little bit, but the damaged ones we
3 didn't use.

4 Q. On the ones that you just cut
5 off --- and I guess what --- I'm
6 trying to get the feeling or an
7 understanding of what the blocks
8 looked like when you first got them.

9 Were they damp? Were they dry? What
10 did they look like, do you remember,
11 as they were coming out of the
12 plastic?

13 A. Some of them was freshly ---
14 you could tell they was freshly made
15 from the factory.

16 Q. Is that right?

17 A. They was green like.

18 Q. Do they have a date or
19 anything on them that you could tell
20 when they were made? Did you notice
21 anything like that?

22 A. No. Uh-uh (no).

23 Q. Okay. So some of them were
24 --- would they be a darker color, the
25 ones that were green?

0017

1 A. Yeah. The dryer ones was like
2 whitish, and the other ones was ---
3 some of them come in and they was
4 green.

5 Q. In looking at each skid, would
6 typically all of them be green or
7 would all of them be dry or would
8 there be a mixture in each skid load
9 as you got them?

10 A. All of them was about the same
11 in the same lift. That was a skid,
12 what I call a lift. But they was
13 heavier. The greener ones was
14 heavier.

15 Q. Okay. To make sure I
16 understand that, so if you got a lift
17 in, they were either mostly all green
18 or they were mostly all dry?

19 A. Most of them I've used to
20 build the seals was green. I mean,
21 they was --- they was heavier than
22 some of the other ones I built,
23 regular walls and overcasts with.

24 Q. Okay. Do you think they came
25 from the same place, I mean, on the

0018

1 surface? Were you ever involved with
2 how they got from the surface or from
3 wherever they came from to the
4 surface?

5 A. Oh, as soon as they come in on
6 a tractor and trailer, they loaded
7 them on a car and sent them
8 underground. They weren't never out
9 in the weather.

10 Q. So they were never stored out
11 there for very long?

12 A. No. They were stored
13 underground. As soon as they came in

14 on a tractor and trailer to the mine
15 property, they loaded them straight
16 on a car and sent them straight in.
17 Q. So they may have been sitting
18 underground for a few days before you
19 actually started to use them?
20 A. Oh, yes. Yes.
21 Q. Where would you store them
22 underground?
23 A. In crosscuts outby where I
24 built the seals.
25 Q. Okay. When you started using

0019

1 the green ones versus the dryer ones,
2 did you notice any --- did the mortar
3 stick any different to the ones that
4 were green than it did to the dry
5 ones?
6 A. It seemed like it was easier
7 to do on the greener ones, you know,
8 to spread out ---
9 Q. Okay.
10 A. --- for mortar joints and
11 stuff.
12 Q. Okay. How about the size of
13 these blocks, were they all the same
14 size? Were some of them a little bit
15 bigger or a little bit smaller?
16 A. No. We had two different
17 sizes for them. We had --- some of
18 them was --- we was only allowed to
19 use one layer of six-inch and the
20 rest of them had to be eight-inch.
21 Q. Okay. But in the eight-inch
22 ones, were some of them maybe a
23 half inch taller than others or maybe
24 a quarter inch taller or maybe a
25 quarter inch smaller?

0020

1 A. You're getting technical now.
2 I don't know. They just seemed all
3 about the same to me.
4 Q. I guess the question comes
5 from when you lay --- if you were to
6 lay all the blocks down, when you put
7 a row of these blocks together and if
8 they were on a flat surface, one of
9 them may be sticking up more than the
10 other and you had to fill them in
11 somehow or --- did that ever happen?
12 Do you ever recall anything like
13 that?
14 A. No. No.
15 Q. So if they were different in
16 size, it wasn't enough to cause you
17 any problem?
18 A. No, no problems.

19 Q. On the blocks that were
20 greener versus the ones that were
21 dry, did you ever notice any of them
22 are harder than other ones?

23 A. The greener one was harder.

24 Q. Harder?

25 A. Yeah.

0021

1 Q. Okay. To the point that the
2 ones that weren't as green --- I
3 mean, were they powdery at all, the
4 dryer ones?

5 A. Well, the only way I really
6 know --- we had to cut some of them
7 with a bow saw. And the dryer ones
8 was easier to cut versus the greener
9 ones.

10 Q. Okay. Did you ever notice
11 when you're cutting them with the
12 saw, that some of them, the --- and
13 I'll say the fiberglass material
14 that's inside would sometimes plug up
15 your saw more than others?

16 A. The green ones did, yes.

17 Q. The green ones. Did you ever
18 notice the consistency of each
19 individual block, that some of them
20 may have more fiberglass than others?
21 Did you ever notice that?

22 A. You mean compared to the dryer
23 ones?

24 Q. Or just compared from one
25 block to another. Is there certain

0022

1 ones, for example, when you're
2 cutting that might plug up your saw
3 because there might have been more
4 fiber?

5 A. Well, the greener ones did
6 plug up my saw. I mean, it did,
7 because --- I'd just say the greener
8 ones plugged up more.

9 Q. Okay.

10 A. You had to take it up and
11 clean the teeth off of it and put it
12 back in and start cutting again.

13 Q. Okay. And let's go back to
14 the construction method. And I'll
15 kind of get specific on some of these
16 matters when you did it. At the very
17 beginning, when you're going to put a
18 seal into the area, did someone mark
19 with tape or with paint or something
20 exactly where you're going to put the
21 seal?

22 A. I did.

23 Q. You did that. And how did you

24 do that?
25 A. I measured it with a tape
0023
1 measure. It had to be back in ten
2 feet and it had to have a certain
3 height of it.
4 Q. But I mean, did you actually
5 put a mark on the rib on the floor or
6 did you just --- after you measured
7 it, you maybe put a little mark and
8 said, this is where we're going to do
9 it? Did you actually outline the
10 entire entry?
11 A. No, not the entire entry. I
12 probably put a chalk mark or
13 something like that on it. I usually
14 carried chalk in my pocket.
15 Q. Okay. And where would you
16 chalk it, on the ceiling or the rib
17 or ---?
18 A. On a rib.
19 Q. On a rib.
20 A. I can't reach the top.
21 Q. Okay. Then what would be the
22 next thing you would do after you
23 figured out where you're going to put
24 it?
25 A. Well, if there was any wire,
0024
1 we'd cut the wire down off the top
2 and brush the dirt and loose
3 material, dust and stuff, away.
4 Q. Did you ever use a scoop to
5 kind of clear it off?
6 A. The foot --- yeah, the bottom.
7 Q. The bottom?
8 A. We scooped it out and made it
9 level.
10 Q. And on the bottom, and I think
11 you said this before, ---
12 A. The foot wall.
13 Q. --- on the foot wall, was it
14 dry, muddy, standing water?
15 A. It wasn't muddy, but it wasn't
16 dry. I mean, it was damp.
17 Q. Damp.
18 A. It was damp. There was no
19 standing water or nothing like that.
20 Q. No little puddles or anything
21 like that?
22 A. No.
23 Q. Okay. So after you cleaned
24 this off, you got it all cleaned off
25 and you're ready to go, and you would
0025
1 use a --- what would you do next?
2 What would be the next thing you

3 would do after --- it's all cleaned
4 off, ready to go, what ---?
5 A. Most of them I've built, I
6 opened up bags of BBond and just
7 dumped it out dry to kind of give me
8 something to work off of for a better
9 footer.
10 Q. Okay. Now, ---.
11 A. And that wasn't mixed up wet.
12 It was dry.
13 Q. It was dry. So you would put
14 this ---?
15 A. It wasn't very thick. I mean,
16 ---.
17 Q. About how many bags ---?
18 A. For the whole entry, ---
19 Q. For doing the whole way
20 across, yeah, how many bags?
21 A. Probably six bags.
22 Q. About six bags. You would
23 dump six bags. Would you put them
24 like in piles and then spread it out?
25 A. Spread it out.

0026

1 Q. Okay.
2 A. Trying to just make something
3 level --- trying to get it as level
4 as we could starting off.
5 Q. And would you do the entire
6 width of the seal and the entire ---?
7 A. Forty (40) inches wide.
8 Q. All the way across? Before
9 you put any block down, would that be
10 the first thing you do? So the first
11 thing you do is you put the dry
12 mortar and then spread it out all the
13 way across before you put any block?
14 A. No, I don't think.
15 Q. Okay.
16 A. Maybe enough for two or three
17 blocks. Because I got back and tried
18 to make it straight.
19 Q. Sure. So you make --- so you
20 go a couple feet across the entry and
21 then you would come back and start a
22 block?
23 A. More than that. A block is 40
24 inches by 27, something like that.
25 Q. Halfway across the entry or

0027

1 something?
2 A. Yeah.
3 Q. Okay. And then you would
4 start putting the block on top of
5 that. Now, the mortar, did it start
6 soaking up the dampness right away or
7 did it stay pretty dry while you were

8 first starting that first row?
9 A. It stayed pretty dry. And
10 heck, we almost had it all the way
11 built up before it really --- well,
12 the slop we got, the mud and the
13 stuff falling down ---
14 Q. Sure. Sure.
15 A. --- and spitting Copenhagen
16 and stuff like that. I mean, we got
17 it wet.
18 Q. And as we're going across now,
19 okay, so you would keep the mortar in
20 front of the blocks, right, as you're
21 going across?
22 A. Yeah.
23 Q. And if you were to say on ---
24 let's say the thinnest it would be to
25 the thickest it would be across that

0028

1 entry, and obviously there's some
2 areas that there's some undulations
3 in the floor, can you give me some
4 idea on that?
5 A. Well, particularly in that
6 Number One entry, it was thicker on
7 one side than what it was on the
8 other. Because we had like a ditch
9 where the buggies went all the time.
10 It wasn't quite level.
11 Q. So on the thinnest side of
12 that, what would it be?
13 A. For the BBond?
14 Q. For the BBond, yeah, that you
15 put on there.
16 A. The thinnest or ---?
17 Q. The thinnest.
18 A. Probably a half inch.
19 Q. Probably a half inch, okay.
20 And on the sides, say if you had to
21 fill some in, what would be the
22 thickest you would ---?
23 A. I believe like in the Number
24 One entry, it went up probably even
25 three inches.

0029

1 Q. Three inches. And did you
2 tell me six bags is what you would
3 use?
4 A. In that Number One entry, it
5 took more than six bags.
6 Q. Took more than six?
7 A. Yes.
8 Q. But is six like the least you
9 would use?
10 A. Yeah.
11 Q. And is it the same material
12 that you mixed the mortar with ---

13 the BBond that you used on the floor,
14 was it the same BlocBond that you
15 used to ---?
16 A. Yes, it was. That's all I had
17 in that area.
18 Q. So it would be the same stuff?
19 A. Didn't want to get it mixed up
20 with other stuff.
21 Q. Okay. Now, when you start
22 laying that first course, did you
23 start with a solid, complete block
24 against one rib or the other and work
25 your way across?

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1 A. I usually start on my left
2 side and work towards the right with
3 the solid blocks.
4 Q. I'm going to show you a
5 picture, and we'll mark this as
6 Exhibit One, but the purpose is so
7 that I can understand.
8 (Scott Exhibit One
9 marked for
10 identification,
11 4/5/06.)
12 BY MR. UROSEK:
13 Q. There's two --- for the first
14 course, there's two rows, a front row
15 and a back row.
16 A. Uh-huh (yes).
17 Q. Would you lay the front row
18 across first and then follow-up with
19 a back row or how would you ---?
20 A. Do them at the same time.
21 Q. So you would work the front
22 and the back and then the front on
23 the next one and just keep working
24 your way across the entry?
25 A. Yes.

0031

1 Q. And then when you reached the
2 other width, if there wasn't enough
3 room for an entire block and you had
4 to cut a block, would you put the
5 half a block against the rib or the
6 partial block or would you put a full
7 block and put the half block in the
8 middle? How would you do that?
9 A. If we had to cut it, it went
10 against the rib.
11 Q. It would go against the rib?
12 A. Yeah.
13 Q. Okay. So now I'm completing
14 --- I'm getting near the completion
15 of the first row. And I want to make
16 sure I understand how we're doing
17 this. We start at one rib. We have

18 the mortar down. We start at one
19 rib. We work across both rows, the
20 front row and the back. And I'm
21 clear at the other side now. What
22 would I do at that point, after I
23 have them laid down? I lay them down
24 dry; right?
25 A. Uh-huh (yes). The first row,

0032

1 yeah.
2 Q. The first row. Then what
3 would I do?
4 A. Well, I mix the BBond up in a
5 wheelbarrow and we took buckets of it
6 out and just poured it over top and
7 approximately got a quarter to a half
8 inch thick joints across it and tried
9 to --- we used our trowels and gloves
10 and hands and got it down to the
11 joints.
12 Q. Now, when you did that, did
13 you wait until you got the entire
14 first course all the way across
15 before you started putting the BBond,
16 or would somebody start putting the
17 BBond on it as someone else was
18 putting the blocks across?
19 A. There have been times we done
20 it that way --- I mean, both ways.
21 Q. Okay. So it could have been
22 either way?
23 A. Yeah.
24 Q. Would that be depending on how
25 many people you had helping you there

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1 that day?
2 A. It was usually just me and I
3 had two red hats.
4 Q. Okay. And how about as far as
5 coating the front of the block on
6 this first row, would you coat the
7 front of the block when you did that
8 ---?
9 A. No. We usually got up three,
10 maybe four rows before we started
11 that.
12 Q. So now we have the first ---?
13 A. I mean, the purpose of that
14 was so we could see the joints.
15 Q. Okay. What would those joints
16 typically be? About how far?
17 A. My next row, I didn't want my
18 joints in the same place.
19 Q. But I mean on the first row
20 that you put in, you know, so that
21 you could --- how far apart would
22 each block be as you --- when you

23 laid those down dry at the beginning?
24 A. They're approximately ---
25 well, the block was 27 inches, I

0034

1 believe they was.
2 Q. I mean in between the blocks.
3 Yeah, in between the joints.
4 A. Oh, you still had a --- by the
5 time we shoved the mortar and stuff
6 down in there, they had --- I don't
7 know. It's a half, quarter of an
8 inch.
9 Q. Would it vary? I mean, ---
10 A. Yeah.
11 Q. --- because the floor would
12 not be even.
13 A. Every joint had mortar shoved
14 in it, I mean, ---
15 Q. Sure. Okay.
16 A. --- but it might have not been
17 --- you know, we tried to fill all
18 the joints up the best we could.
19 Q. Okay. But I guess where I'm
20 looking, sometimes on that first row,
21 because the floor might be uneven,
22 the joints might be a little bit
23 bigger at the top than they are at
24 the bottom or vice versa, is that ---
25 and you then filled it in from there?

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1 A. Yes.
2 Q. How about along the ribs?
3 What did you do along the ribs?
4 A. When we got closer --- I mean,
5 they was wedged down in there and
6 then we put mortar down ---.
7 Q. You put mortar down in there,
8 too?
9 A. Yeah.
10 Q. Did you use a --- did you
11 change the consistency of the mortar
12 that you used from what you put on
13 the top of each block versus what you
14 put down in the ribs, or was it the
15 same consistency all the time?
16 A. It was the same all the time.
17 Q. What would you call that
18 consistency? If you were to try to
19 describe it to the best that you can
20 for us the consistency of that
21 mortar?
22 A. What do you mean, the
23 thickness of it?
24 Q. Yes.
25 A. Quarter of an inch.

0036

1 Q. Well, no. I mean, as you

2 mixed it in the wheelbarrow.
3 A. Oh, I mixed all the mud.
4 Q. Okay. What would be your ---
5 what would you mix? I mean, how
6 would you do it? Would it be so much
7 water to so much mortar or ---?
8 A. I usually used like a
9 five-gallon bucket of water and
10 dumped it into the wheelbarrow. Then
11 I had approximately two bags of
12 mortar mix.
13 Q. And that would be ---.
14 A. And if it was too thick, I
15 would always thin it down a little
16 bit.
17 Q. Thin it down. And if you were
18 --- after you were done and before
19 you started putting it on a seal, I
20 mean, what would you call it? Would
21 you call it soupy? Would you call it
22 ---? What was the best description
23 you could give us of that mortar?
24 A. It wasn't soupy. It was ---.
25 Q. If you put it in your

0037

1 hands ---?
2 A. I could make a ball, well, not
3 quite a ball.
4 Q. Would it just run off your
5 hands totally or would it kind of
6 stay?
7 A. Oh, it would stay.
8 Q. It had a consistency with it?
9 A. It was sticky enough.
10 Q. Okay. Okay. So now we have
11 --- would you complete the first ---
12 entire first row, the front and the
13 back, before you would start the
14 second row?
15 A. Yeah, except for sealing,
16 putting mud on the outside of it,
17 yeah.
18 Q. So we have this entire first
19 row in. Now we're going to start the
20 second row.
21 A. Okay.
22 Q. Would you start with a full
23 block again on the rib on that side?
24 A. It mostly depends on how this
25 side come out. If I had to cut one

0038

1 over here, I usually had to start
2 over here and come back that way.
3 That kept my joints apart.
4 Q. Okay. So it would depend on
5 where the joints were, but you would
6 start it so that your joints would

7 work out?
8 A. Yeah.
9 Q. Okay.
10 A. Usually, like if I had to cut
11 one over here, it would be best for
12 me to start there and come back this
13 way instead of having to cut one here
14 and go ---.
15 Q. So basically where you start
16 ---?

17 ATTORNEY WILSON:
18 Wait a second, John.
19 When he's saying here and this
20 way, it's not going to show
21 up.

22 MR. UROSEK:
23 I'm going to try to
24 explain.

25 ATTORNEY WILSON:

0039

1 Okay.
2 BY MR. UROSEK:
3 Q. If you were to start on the
4 left and work your way across to the
5 right for the first course, for the
6 second course you would start on the
7 right and work your way back to the
8 left?
9 A. If I had to cut the one.
10 Q. If you had to cut ---.
11 A. But if I didn't have to cut
12 it, ---
13 Q. Then you would start ---?
14 A. --- I had to cut the one on
15 the left and start on the left. I
16 usually worked left to right.
17 Q. Okay. You normally worked
18 left to right, is that ---?
19 A. But if I had to cut one --- I
20 mean, if this one here was cut, I'd
21 start over here and come back to the
22 left. But if I didn't have to cut
23 it, I'd start on the left and come
24 back that way. I had to cut the one
25 on the left on my second row to make

0040

1 the joints staggered.
2 Q. To make the joints. But you
3 always started on one side, you
4 didn't start in the middle?
5 A. No. No.
6 Q. You always started on one side
7 and worked your way across?
8 A. I always started on one side.
9 Q. Okay. So let's talk about
10 that second row now. On the top of
11 the first row there would be mud that

12 you would put down; is that right?
13 A. Yeah.
14 Q. So now we're starting the
15 second row. You would put the block
16 up dry. Would you do the same thing
17 and work the front and the back all
18 the way across?
19 A. The second row would have gone
20 up dry.
21 Q. Okay. Describe ---.
22 A. We had to put mortar joints
23 in.
24 Q. Mortar joints?
25 A. We had to have a quarter inch

0041

1 --- a mortar in between the bottom
2 row and the --- from there on up, we
3 had to have mortar joints in.
4 Q. That's in between each row;
5 right?
6 A. Yeah. We tried to get a
7 quarter inch of mortar in between.
8 Q. In between, okay.
9 A. But we just poured the mortar
10 out on top of that whole first row.
11 Q. So the whole first row ---?
12 A. No. Well, not --- well, yeah,
13 but ---.
14 Q. Okay.
15 A. We tried to move out three
16 blocks and tried to smear mortar out
17 for three blocks when you laid the
18 blocks on top of it.
19 Q. Okay. So we're looking ---
20 we'd have three blocks covered with
21 mortar. And now we would --- we're
22 going to start putting the next row
23 on top of that.
24 A. Right.
25 Q. Now, that block --- that block

0042

1 doesn't have any mortar on it; right?
2 You're putting it on top of the
3 mortar that's ---
4 A. That's right.
5 Q. --- from the row before?
6 A. That's right.
7 Q. And you would start working
8 your way across. Would you do the
9 front and the back the same way and
10 just work your way across the second
11 row, doing the front block ---?
12 A. You mean the end pieces? Is
13 that what you're talking ---?
14 Q. Yeah, starting at the end
15 pieces.
16 A. Yeah. We tried to --- after

17 we got the first one down, we tried
18 to get the joint to stick to the
19 first block, then we laid the second
20 one up in front of it.
21 Q. Okay. And you would --- would
22 you lay the entire second row before
23 you would start the third row?
24 A. Oh, yeah.
25 Q. Okay. And then ---.

0043

1 A. Except for --- it would be the
2 one in the Number One entry and
3 Number Nine entry. Because I had to
4 leave a hole up here for them.
5 Q. Okay.
6 A. I mean, we had like a 40-inch
7 hole up here for that inspector and
8 me and Marty --- I forget his last
9 name, but anyway, it's Marty, to
10 crawl. We had to go in behind and
11 inspect --- the state inspector had
12 to check in behind it before we
13 sealed it up.
14 Q. You're indicating a hole
15 somewhere near the top and the right
16 of the seal?
17 A. In the right-hand corner of
18 the one in Number One entry and the
19 one in Number Nine entry.
20 Q. Okay.
21 A. Three of us walked back in,
22 inspected in behind it, then he gave
23 us the okay to finish blocking that
24 in.
25 Q. Okay. And as we're working

0044

1 this --- let's go back to our second
2 row. As we're working it across,
3 would you put in, say, three or four
4 blocks and then start putting mortar
5 on the top of them, or would you work
6 all the way across and then fill the
7 entire ---?
8 A. We went all the way across on
9 the second row.
10 Q. So you put the whole second
11 row in and then you would come in and
12 put mortar on top of that?
13 A. And you'd start the third row
14 the same way.
15 Q. Okay. Now, getting back to
16 the second row. Now, it's ---
17 there's mortar in between the first
18 row and the second row, and the top
19 of the second row is dry. There's no
20 mortar on it yet.
21 A. Not yet.

22 Q. Not yet. Okay. Now you're
23 getting ready to start the third row.
24 Before you start the third row, you
25 come back to the second row and put

0045

1 mortar on the top, is that what you
2 did?

3 A. That's right.

4 Q. Correct me if I'm getting off
5 on this because I want to make sure I
6 understand it. You would maybe go
7 three or four blocks, put the mortar
8 on, try to squeeze it in, and then
9 you would start the row on top of
10 that? You would put mortar on top of
11 the second row for three or four
12 blocks, and then you'd come back to
13 the third row and start again?

14 A. Yeah.

15 Q. And when would you put the
16 mortar on the side, between the side
17 and the ---?

18 A. After we got it all the way
19 across and wedged and --- well, like
20 the first row, when we got the first
21 row laid in, we wedged it and then
22 put mortar, we'd jam mortar down in
23 the ends.

24 Q. What kind of wedges did you
25 use? Did you use the normal wedges

0046

1 or glucks, I think you called them?

2 A. I don't know. Some of them
3 was bigger. I mean, I think they
4 called them super wedges.

5 Q. Super wedges?

6 A. They was pretty good-sized
7 wedges.

8 Q. Was there so many that you
9 would use on the side or is it just
10 whatever fit, or how would you
11 determine that?

12 A. Approximately three on each
13 end.

14 Q. On each end?

15 A. Yeah.

16 Q. Did you ever use anything
17 else?

18 A. Well, you ---.

19 Q. Say a piece of block, piece of
20 Omega block or anything like that to
21 stick down in there?

22 A. No.

23 Q. Okay. Now, would you continue
24 that same construction method until
25 you got to, say, the next-to-the-last

0047

1 row of --- you would put the mortar
2 down, put the blocks up, put the
3 entire row across, then go to the
4 next row, put the mortar down, put
5 the blocks, and you would work that
6 same method until you got --- let's
7 say, to the next-to-the-last row, to
8 the top of the seal?

9 A. Yeah, because we had to keep
10 measuring --- because we had to
11 either use an eight-inch or a
12 six-inch block. That top row was the
13 only one we was allowed to use a
14 six-inch Omega block on because we
15 had to have our board on top of it.

16 Q. Okay.

17 A. Because we had to keep
18 measuring to make sure --- but we
19 could use all eight-inch, but we was
20 only allowed one row of six-inch.

21 Q. One row of six-inch.

22 A. All of them usually took a
23 six-inch row.

24 Q. Okay. When we get up to that
25 next-to-the-last row, did you still

0048

1 do it the same way? Now, we're
2 talking the next-to-the-last row to
3 the roof.

4 A. Uh-huh (yes).

5 Q. Did you put the mortar on the
6 row below that and then put that row
7 intact?

8 A. Uh-huh (yes).

9 Q. Is that how you would --- and
10 you would put that entire
11 next-to-the-last row in ---

12 A. Uh-huh (yes).

13 Q. --- before you started the
14 final row that you may have to cut?
15 You used six-inch ones or cut them?

16 A. Yeah, that's the way we done
17 it.

18 Q. That's the way you done it.
19 Okay. So as I look at the seal now,
20 it's --- we're almost done except for
21 the last row. But the entire seal is
22 complete and there's a gap at the
23 top, ranging from eight inches to two
24 inches or whatever is at the top of
25 it; is that ---? That's all that's

0049

1 open? That's all I would see, is a
2 gap across the top; is that right?

3 A. That's right.

4 Q. Okay. Now, once that --- now
5 you're ready to start to finish that.

6 How would you do that?
7 A. Well, if I took an eight-inch
8 block in there, we stuck an
9 eight-inch block up there, ---
10 Q. Okay.
11 A. --- the way we put the BBond
12 on is the same we did any other
13 place, put the BBond on it and laid
14 our block up there.
15 Q. How would you put that BBond
16 up there?
17 A. How?
18 Q. Yeah.
19 A. With our hands and gloves and
20 wipe it on.
21 Q. Just reach it up into that
22 hole and smear it up in there?
23 A. Uh-huh (yes).
24 Q. Okay. Would you have people
25 working on both sides of the seal?
0050
1 A. I usually did, yes. I had a
2 red hat working on the inby side and
3 me and a red hat stood on the outby
4 side.
5 Q. What if that gap at the top
6 was less than eight inches, what
7 would you do? Or let's say it's less
8 than six inches.
9 A. Less than six inches?
10 Q. Yes. There's less than six
11 inches between the last full course
12 of blocks and the roof. Would you
13 cut those blocks? Would you cut that
14 block to like four inches or
15 something like that or ---?
16 A. No, we never --- we never had
17 to slice any of them like that.
18 Q. You never had to slice any?
19 A. We always used either an
20 eight-inch full block or a six-inch
21 full block, then we had room for our
22 wedges and our three boards on top.
23 Q. Okay. So it always worked out
24 that you really didn't have to cut
25 that top --- you never had to slice
0051
1 the top row?
2 A. No.
3 Q. And what would be the biggest
4 gap that you would have up there that
5 you can remember?
6 A. The biggest?
7 Q. Yeah, the biggest gap, above
8 the Omega block, the last row of
9 Omega block, between it and the roof.
10 A. I'm going to say eight-and-a-

11 half inches.
12 Q. Okay. If I had eight-and-a-
13 half inches and I put the last row,
14 then I'll only have a half inch left;
15 right?
16 A. That's enough for your board.
17 Q. That's enough for the board
18 that goes in?
19 A. Yeah.
20 Q. Did you ever have a case where
21 you don't have enough room to get the
22 board in there?
23 A. No. All the mine took boards.
24 Q. All of them had some kind of
25 board up in there?

0052

1 A. Yes.
2 Q. Okay. And how would you
3 mortar that last one that you put up
4 in there?
5 A. We didn't.
6 Q. Okay. You didn't put mortar
7 on top of that one?
8 A. No.
9 Q. Okay.
10 A. We just wedged it and BBonded
11 heavy around the edges.
12 Q. Heavy around the edges, you
13 mean edges on the front, on the
14 outside?
15 A. The outby side and the inby
16 side, yeah.
17 Q. Out and the inby side. So
18 that would be on the face of the
19 seals, the out and inby faces of the
20 seals?
21 A. Yes.
22 Q. And how about along the ---
23 where the block met the rib, how did
24 you ---?
25 A. Usually, I mean, ---.

0053

1 Q. On that last row, how did you
2 get in there and get that ---?
3 A. It's just probably the same
4 way we did the --- we couldn't get
5 mud down in it.
6 Q. Okay. Because ---.
7 A. I mean, we just sealed ---.
8 Q. You would put it on the
9 outside?
10 A. Wedged it tight. I mean, that
11 last row, we usually got it wedged
12 tight as we could, and BBond on the
13 face of it.
14 Q. Okay. Did you always get
15 three boards on top of all the seals?

16 A. On the ones I built, yes.
17 Q. On the ones you built, you
18 could get them. How did you get that
19 middle board in there?
20 A. It wasn't too difficult. We
21 just slid it in.
22 Q. You just slid it in. Did you
23 wedge it all or ---?
24 A. Yeah.
25 Q. How did you get the wedges in?

0054

1 I mean, there's ---.
2 A. That was kind of touchy
3 sometimes.
4 Q. Okay.
5 A. We started a wedge in there
6 and we got it drove in as far as we
7 could with the ax, and we used
8 another wedge and put against it and
9 hit it harder.
10 Q. Okay.
11 A. Wedged it as tight as we
12 could.
13 Q. Okay. Would they be
14 continuous wedges all the way across
15 on that middle one, just ---?
16 A. No.
17 Q. What would be ---?
18 A. They would be approximately,
19 I'd say, a foot to 18 inches apart.
20 Q. So on that board, the top of
21 the Omega block would be dry and we'd
22 put the board up in there, the middle
23 board we're --- would you put the
24 metal board in first?
25 A. Yeah.

0055

1 Q. The middle board would go in
2 first?
3 A. Yeah.
4 Q. Okay. So the top of the Omega
5 block would not have any mortar on
6 it. We'd put the board in there and
7 then we wedged that board in. Then
8 what did you do after you got that
9 board in?
10 A. The middle board?
11 Q. Yeah.
12 A. We put the outside boards on.
13 Q. Would you put mortar in
14 between the two boards?
15 A. No. No, sir, I didn't.
16 Q. Okay. Now, on this outside
17 board, how did you put it up in
18 there? Was it flush with the edge of
19 the seal?
20 A. Yeah. Well, it might have

21 been back in a quarter inch to a half
22 inch, but it was pretty close to
23 being flush.

24 Q. How long were those boards?

25 A. Approximately 14 to 16 foot, I

0056

1 believe it was.

2 Q. And the entry was bigger than
3 that?

4 A. Yes.

5 Q. So what did you do for that
6 area that was left over?

7 A. Took a bow saw and cut another
8 board.

9 Q. Oh, you cut another board? So
10 when I looked at the top of the seal
11 from the front or the back, would I
12 see a board going all the way across?

13 A. You'd see --- after I mudded
14 it, you ---.

15 Q. Before you mudded it.

16 A. Yeah.

17 Q. So before you mudded it, when
18 I looked at that, I'd see a board.
19 What would the wedges look like at
20 that board? Would there be wedges
21 going all the way across it, too, or
22 ---?

23 A. When facing like that, mine
24 was wedged in and turned sideways.
25 Wedged in and turned sideways, flush.

0057

1 Q. Would it be continuous? Would
2 you keep ---?

3 A. Continuous.

4 Q. So there would be wedges all
5 the way across?

6 A. Yes.

7 Q. So when I looked at that, I
8 would see a board and then I'd see
9 --- would the wedges be on top of the
10 board against the roof or would they
11 be between the board and the Omega
12 block?

13 A. I believe they was above it.

14 Q. They was above it?

15 A. Yes.

16 Q. And were you able to get them
17 in all the time? I mean, was the
18 roof ever in a position where you
19 couldn't get all the wedges in or
20 maybe you had to use more than one
21 wedge?

22 A. That's the reason we got an
23 ax. If we didn't get it drove down
24 right, took an ax and whacked it off.

25 Q. Okay. So some of those wedges

0058

1 you had to break off, you couldn't
2 get them in there right; is that
3 right?

4 A. Yeah.

5 Q. Okay. But if I looked at it
6 from the outside, I would see a board
7 and I would see --- before you put
8 the mud on, I would see the wedges on
9 top of that all the way across. It
10 would be solid wood in other words
11 across?

12 A. Yeah.

13 Q. Okay. And then how did you do
14 the mortar after that?

15 A. Well, I mixed it the same way,
16 the same thickness, took our gloves
17 and ---

18 Q. Covered that in?

19 A. --- covered all the wood up
20 and the holes the best we could.

21 Q. Would you do the front board
22 and the back board about the same
23 time or how ---?

24 A. We would at the same time. I
25 told you, I had to ---.

0059

1 Q. On the guy that's in the back,
2 putting that board on, would you pass
3 the board back to him ahead of time
4 or it would be sitting back there
5 where he was because ---?

6 A. Well, usually I had three
7 lifts of Omega block sitting behind
8 there for him to work with and the
9 wedges and the board. And I handed
10 the mud over to him, the BBond. I
11 mixed the mud and handed it over to
12 him.

13 Q. Now, if I were --- I can't do
14 this, but if I were on top of this
15 seal looking down, if I were up in
16 the roof looking down on it, I would
17 see an Omega block. I would see a
18 board on the front side of the seal.
19 I would see a board in the middle of
20 the seal. And I would see a board on
21 the backside of the seal. And there
22 would be a gap in between those
23 boards. The same view as we were
24 looking at here. This is what I
25 would see. But the wedges would be

0060

1 the opposite direction.

2 ATTORNEY WILSON:

3 When you say looking

4 here, referring to Exhibit

5 One.
6 MR. UROSEK:
7 Looking at Exhibit One.
8 BY ATTORNEY UROSEK:
9 Q. Is this what it would look
10 like, except the wedges ---?
11 A. But my outside wedges was
12 turned catty-corner, the other way.
13 Q. Wedges. And I'll just draw on
14 here. They would be the same
15 direction as the board?
16 A. Yeah.
17 Q. Okay. And in between the
18 middle board and the outside board,
19 in between here, there's no mortar in
20 there, in between those two?
21 A. There ain't no way you can get
22 it in there.
23 Q. Okay.
24 A. I mean, I couldn't get my hand
25 in there.

0061

1 Q. Okay.
2 ATTORNEY WILSON:
3 Can I ask a question?
4 BY ATTORNEY WILSON:
5 Q. Well, to follow up on that,
6 could you explain --- how would you
7 get the wedges on top of that middle
8 board? I mean, if you're saying you
9 couldn't get your hand in there to
10 get mortar in there, how would you
11 get the wedges in there?
12 A. The wedges is approximately
13 that long.
14 Q. You're holding your fingers
15 about ---?
16 A. Eighteen (18) --- or 16 to 18
17 inches. And you stuck it in there
18 and you drove it in as far as you
19 could. And you took another wedge
20 and put it in behind it or a drill
21 steel. Some of them, you used short
22 pieces of drill steel and you took an
23 ax and whacked it in as tight as you
24 could. There was room for a wedge to
25 get on top of it.

0062

1 Q. Okay. I guess it's just hard
2 for me to picture, sitting here, how
3 you did that when you were there
4 underground.
5 A. Well, these boys is on
6 scaffolding, too. I mean, ---.
7 BY MR. UROSEK:
8 Q. Did you use Omega blocks as
9 kind of --- make a scaffolding out of

10 Omega block?
11 A. Yeah.
12 Q. Okay.
13 A. Or a scoop bucket. We stood
14 in a scoop bucket.
15 Q. On the Omega block, of each
16 pallet that you got in of Omega
17 block, how many would you say you
18 were able to use? Was there a
19 certain amount of waste in each
20 pallet that you got in?
21 A. I believe there was 32 in a
22 lift of --- a pallet of Omega, you
23 might have lost four of them out of
24 the lift.
25 Q. So that wouldn't be unusual to
0063
1 use four. Okay. And did you ever
2 have a full lift of those come in and
3 a lot of them were damaged?
4 A. No. No. I'd say at the most
5 it would be four.
6 Q. Okay.
7 A. That's just --- but using the
8 scoop to shovel them out. No, I
9 caught them in the bucket, whatever
10 you call it. This thing here in the
11 bucket would damage it a little bit.
12 Q. On those old Omega blocks that
13 were damaged, what did you do with
14 those then?
15 A. Well, like if I had to cut one
16 of them, I mean, it --- I didn't
17 throw the whole thing away. I might
18 be able to use part of it because on
19 some of them sides I can cut, cut the
20 bad part off and use the rest of it.
21 Q. But on ---?
22 A. But the damaged part, if there
23 was damage to that, I'd throw them in
24 a rut and mash them in.
25 Q. Okay.
0064
1 A. Destroy them.
2 Q. How many do you think ---
3 during the construction of the
4 building of the seals, how many of
5 them do you think would have gotten
6 destroyed --- or would have gotten
7 put into ruts and destroyed?
8 A. A bunch of them.
9 Q. A hundred?
10 A. Possibly. A lot of them come
11 in there. I probably junked four
12 lifts.
13 Q. Four lifts, okay. Okay.
14 MR. UROSEK:

15 Mike?

16 BY MR. RUTLEDGE:

17 Q. While you were building these
18 seals, did you see the inspectors
19 there? Any of them visit you, visit
20 that area while you were building
21 those seals?

22 A. No, sir.

23 Q. Okay.

24 A. But when Jeff Snyder was in
25 charge of building them, there was a

0065

1 federal inspector come up.

2 Q. And you said that you
3 accompanied an inspector to inspect
4 the backside of those seals after
5 they were finished?

6 A. Yes, John Collins.

7 Q. John Collins. So you had all
8 of them finished, except for the
9 opposite entries, One and Nine. And
10 you had a 40-inch hole in each one,
11 and you were able to go through that
12 hole and --- did you go all the way
13 across and come out the other hole
14 when you checked the backside of
15 those or what?

16 A. Yes, he did. Now, me,
17 personally, didn't. But I was on the
18 outby side. I didn't go behind ---.
19 John Collins and a foreman named
20 Marty --- I forget his last name.
21 And they come back out and handed me
22 a piece of paper on what I had to do
23 behind it before I sealed it up. He
24 had three or four things for me to do
25 in behind.

0066

1 Q. Like what?

2 A. I had to finish wedging in a
3 crib at a seal that I didn't build
4 and drag out some old line curtain.

5 Q. Was there a standard width or
6 length that you were supposed to cut
7 down the chain mesh off the roof when
8 you got ready to build a seal? Was
9 there a certain distance you were
10 supposed to do?

11 A. I just cut --- no, there
12 wasn't --- let me see. I cut like in
13 between bolts. There's approximately
14 four foot.

15 Q. So probably a four-foot area
16 in there?

17 A. Yeah, there was a four-foot
18 area.

19 Q. And if you were doing the

20 seals there, you had the boards put
21 up. Did you --- well, you said you
22 were mixing mortar most of the time?
23 A. Yes, sir.
24 Q. Okay. So you had the other
25 two guys that were actually smearing

0067

1 the mud and laying the blocks?
2 A. Yes, sir.
3 Q. Okay. And would those guys
4 --- do you think they were just
5 getting handfuls and trying to throw
6 up in there or --- did you ever see
7 them do that or hear that or get
8 splashed by that or ---?
9 A. I had good guys. They went by
10 the plan.
11 Q. Okay.
12 A. They done good work. I mean,
13 I can't bitch about their work.
14 Probably the best two red hats I ever
15 had.
16 Q. That's good. But do you think
17 they did what they could as far as
18 taking their hands and pushing or
19 throwing mud up on top of that?
20 A. They done a good job on the
21 seals.

22 MR. RUTLEDGE:

23 Okay. That's all I
24 have for now. Thanks.

25 BY MR. UROSEK:

0068

1 Q. The dry mortar on the bottom,
2 did you ever use the blocks to kind
3 of push it down or level it out when
4 you were putting it ---?
5 A. That was the purpose of the
6 mortar on the bottom, to try to get a
7 good level rut.
8 Q. Okay. And tools, did you use
9 a trowel at all?
10 A. Yes, I had a --- it's not a
11 trowel. It's a trowel, but it's one
12 of them square trowels. The handle
13 is in the middle of it where you used
14 a --- I think what you're thinking of
15 a trowel is on the end. Mine was a
16 --- I liked the ones in the middle.
17 I bought them specially myself at
18 Lowe's.
19 Q. What did they use those for,
20 the trowels?
21 A. When we dumped the buckets of
22 mud on top of the Omega block, we
23 used it to kind of smear it around.
24 Q. Okay. Was that easier than

25 using gloves?

0069

1 A. My own use, yes.

2 Q. Okay. Cutting the blocks, did
3 you always cut them with a saw?

4 A. No.

5 Q. What else did you use to cut
6 them?

7 A. My ax.

8 Q. An ax. Did that work out
9 pretty good, using the ax versus the
10 ---? Why did you use the ax versus
11 the saw?

12 A. I don't know. It just seemed
13 like it was easier. That saw stuck
14 so dang much in the --- got them
15 teeth jammed up. But it was a good,
16 tight fit down in. I mean, it cut
17 out good.

18 Q. Did you ever have to make any
19 like curves or anything in the blocks
20 to fit against the rib, you know,
21 rather than make a straight cut, as
22 you would with a saw?

23 A. Yes. It didn't come out, I
24 mean, straight squared, no. I mean,
25 it was like at an angle, like --- it

0070

1 might have went from --- say the
2 block was 27. I'll say from 22 to
3 23, at an angle.

4 Q. Okay.

5 A. And around the pipe, we had to
6 have a curve for the pipe in the
7 Number One entry and Number Nine
8 entry.

9 Q. Do you know when you would
10 have finished all the seals, except
11 for the two that had the holes in
12 them, the Number One and the Number
13 Nine? Do you know when you would
14 have finished all the work, except
15 the holes?

16 A. When did I finish them?

17 Q. Well, were all the seals
18 completed, except for the holes?

19 A. Yeah. And when he inspected
20 them?

21 Q. Yes. And when was that
22 completed, except for the holes?

23 A. The holes completed?

24 Q. Well, when --- that's --- when
25 were the holes completed?

0071

1 A. I forget. I mean, 12 days
2 before the explosion.

3 Q. Was it sometime in early

4 December?
5 A. I believe it was around the
6 26th of December. I don't really
7 know. It was 12 days before the
8 explosion.
9 Q. Twelve (12) days before the
10 explosion, the holes were actually
11 filled in?
12 A. That's when I done my final
13 air change and sealing the seals, 12
14 --- approximately 12 days before the
15 explosion.
16 Q. Do you have notes or
17 something? What makes you think it
18 was 12 days before? It seems like
19 that number is sticking in your mind
20 for some reason.
21 A. I think that's what I put in
22 the fire boss books when I done the
23 air change.
24 Q. Okay. So if we read the fire
25 boss books and it said whatever date

0072

1 it is, that's the day you closed it
2 in?
3 A. Yes.
4 Q. Okay. I guess what I'm
5 looking at is, did the seal sit for
6 some period of time complete, except
7 for the holes, while you did other
8 work? In other words, did you
9 complete the seals in November and
10 then you did other work until you put
11 the final closure on them?
12 A. Out of my five seals I built,
13 they sat idle for a while because I
14 had to build overcasts and other
15 walls outby the seals to be able to
16 do an air change to ventilate the
17 seals before I built them, yeah.
18 Q. Okay. That's what I'm getting
19 at. How long was that period of
20 time?
21 A. Oh, goodness.
22 Q. Was it before Thanksgiving?
23 A. I worked Thanksgiving. I'd
24 say yes.
25 Q. So you think that the

0073

1 seals ---?
2 A. It took a while. I mean, I've
3 had --- oh, my. I had four overcasts
4 to build and probably 20 walls outby.
5 I mean, a regulator. I had a lot of
6 stuff to build outby before I even
7 finished the seals.
8 Q. Okay. So do you think it was

9 a couple weeks before?
10 A. I'm going to say a month or
11 six weeks.
12 Q. So it might --- so the seals
13 were all complicated except there
14 were two holes, a hole in two
15 different seals, six weeks before you
16 finally closed those two holes up?
17 A. I'm not going to ---.
18 Q. Okay. That's okay. There
19 were holes left in the Number One and
20 the Number Nine seals; is that
21 correct?
22 A. Yes.
23 Q. Okay.
24 A. But I may not have even
25 started Number One and Number Nine

0074

1 entry whenever I was working on these
2 overcasts.
3 Q. Okay. So the seals in Number
4 One and Number Nine may have not been
5 started. Do you know when they were
6 completed, except for the holes?
7 A. Except for the holes?
8 Q. Yes.
9 A. Man, you got me on a good
10 question. I don't know. I don't
11 know the date.
12 Q. Did you keep a log or anything
13 that we might be able to find that
14 out?
15 A. The only thing, I had a fire
16 boss book. I had to fire boss it
17 every time I went up there.
18 Q. Did you mark in that fire boss
19 books what would have been open
20 or ---?
21 A. No. No. All I did was just
22 like a pre-shift examination. It
23 wasn't --- I didn't mark nothing ---
24 what was done on the seals or
25 nothing. I took a gas test and

0075

1 examination, a pre-shift examination
2 so my guys could go up there to work.
3 Q. Do you think that eight seals
4 were completed before Thanksgiving?
5 A. Yeah. I'll say, yes.
6 Q. So eight were. So that just
7 leaves the last two that we're not
8 exactly sure when?
9 A. Yeah.
10 Q. Okay.
11 A. But the last two were finally
12 built --- I believe it was 12 days
13 before the explosion.

14 Q. How big were the holes on
15 those last two; do you remember?

16 A. Approximately 40 inches
17 square.

18 Q. Forty (40) inches by 40
19 inches?

20 A. Yeah.

21 Q. Were those holes up near the
22 roof?

23 A. I'm going to say the last four
24 rows in the right-hand corner.

25 Q. Would it be the same size on

0076

1 both of them?

2 A. On both of them.

3 Q. Did you build like a stairway
4 or something to get through?

5 A. They stepped up. I mean, the
6 wall was built over and just left
7 them built. I mean, like the last
8 four rows, they was stepped up. How
9 would you call it? Just the last
10 four rows wasn't completed on that
11 one side.

12 Q. And when you completed that
13 --- when you were working on those
14 and you left the opening there, were
15 there boards across the top that were
16 just hanging there while it was open
17 or did you put those boards in at the
18 end, when you finally finished it?

19 A. I put the boards in at the
20 end.

21 Q. You put the boards in at the
22 end, okay. So the boards would have
23 been in place across the rest of the
24 seal, except for where the opening
25 is?

0077

1 A. I'm not sure on that question.
2 I really don't know if I had this
3 here seal on top or not. I may have
4 done that after it was sealed up.
5 I'm not sure. But it may have not
6 been up there ---

7 Q. Okay.

8 A. --- until I finished it.

9 Q. So you might have finished the
10 top and the hole at the same time?

11 A. Yeah.

12 Q. Okay. Along the side, when
13 you filled the gaps in, did anyone
14 --- did you ever use any paper or
15 anything to fill in ---?

16 A. No, sir. No, sir.

17 Q. Do you know if any of your
18 guys ever would have done that?

19 A. No. No.
20 Q. Okay.
21 MR. UROSEK:
22 If we can take just a
23 three-minute break? I think
24 we're almost done.
25 SHORT BREAK TAKEN

0078

1 MR. UROSEK:
2 Back on the record.
3 BY MR. UROSEK:
4 Q. You had mentioned some red
5 hats that you were working with. Do
6 you know what their names were?
7 A. I sure do. I had two red
8 hats. One of them was Casey Short
9 and George Brooks.
10 Q. Okay. Who taught you how to
11 build the seal? I mean, how did you
12 learn how to do this?
13 A. Thirty-seven (37) years in the
14 mine.
15 Q. Have you built these before?
16 A. No, not the Omega ones. No.
17 Q. Well, who taught you how to
18 build these?
19 A. Jeff Toler went over the plan
20 with me and Carl Crumrine. And
21 before that, I mean, Jeff Snyder
22 built five of them. And I worked
23 outby all the time at the mines, and
24 I, more or less, would tour around,
25 go up there and nose in on what he

0079

1 was doing.
2 Q. The dry mortar on the floor,
3 did you come up with that idea or did
4 they teach you that? Who taught you
5 how to use that to level out the
6 floor?
7 A. I think that's my own --- I'll
8 take that on my own shoulders.
9 Q. Okay. Were they using that
10 same method before, do you know, on
11 the other ones?
12 A. I don't know about that. I
13 really don't know.
14 Q. Okay. Were you involved in
15 putting a water trap in?
16 A. Yes.
17 Q. Can you describe how you did
18 that?
19 A. The plan said so many inches
20 off --- the water trap?
21 Q. Yes.
22 A. Well, it was so many inches
23 off of the bottom, and we had to ---

24 the pipe, it come in separate pieces.
25 And we went by a plan to put them

0080

1 together, and we had to glue the
2 joints.

3 Q. Did you put it in as you were
4 putting the courses in or did you
5 make a hole in it afterwards or how
6 did you ---?

7 A. No. Approximately where it
8 went, I curved Omega block and laid
9 that straight piece in, and let the
10 trap off itself.

11 Q. How did you make that curve in
12 that Omega block?

13 A. With an ax.

14 Q. With an ax, okay. The actual
15 trap part of that pipe, was it two
16 elbows? Is that what the trap part
17 was?

18 A. Four.

19 Q. Four elbows?

20 A. Four elbows.

21 Q. This was plastic pipe?

22 A. Yeah.

23 Q. Did you glue that together or
24 screw it together or how were those
25 elbows attached?

0081

1 A. We call that PC pipe. It was
2 glued.

3 Q. It was glued. Did you put
4 screws through it also or just glue
5 it or ---?

6 A. No. I just used glue.

7 Q. You glued it down, okay. How
8 about that --- the air sample pipe,
9 did you put that in?

10 A. I put it in.

11 Q. Can you describe how that was
12 put in?

13 A. I left it outby the seal
14 --- three foot approximately outby
15 the seal. The rest --- it was 40
16 feet long. And the rest of it was
17 stuck inby. And I built three cribs,
18 and it rested on the cribs on the
19 inby side.

20 Q. Okay. Was it attached to the
21 roof with anything or ---?

22 A. No, it was laying on the seal
23 and the three --- I believe it was
24 three cribs I built inby. I held it
25 up 12 inches from the top.

0082

1 Q. Was there a copper pipe put in
2 between there, inside that ---?

3 A. Yes, there was, copper --- I
4 think it was three-eighths. Or it
5 might have been a half inch.
6 Q. How long were the two pieces
7 of black pipe that you used to put
8 through there? Was there a steel
9 pipe?
10 A. The steel pipe?
11 Q. Yes.
12 A. I believe there was 40 foot.
13 Q. Forty (40) foot. Was the
14 copper pipe longer than that?
15 A. The copper pipe didn't stick
16 out the other end of it, no.
17 Q. So the copper pipe didn't go
18 all the way through the steel pipe?
19 A. They gave me a roll of copper
20 pipe and a shutoff valve, and I
21 shoved it back in, used all they gave
22 me. It wasn't stuck out the other
23 end of the ---.
24 Q. So it wasn't 40 feet long. It
25 was less than that?

0083

1 A. That was all I knew. I didn't
2 see it in the 40-foot piece of pipe.
3 Q. So when you saw the inby end
4 of that 40-foot piece of pipe, there
5 was no copper sticking out?
6 A. No. But I didn't go back in
7 there and stick my eyeball up to look
8 back in to see how far it was or
9 nothing. But it was a pretty long
10 piece of copper pipe.
11 Q. Okay.
12 A. But I had a whole --- it was
13 in a whole box. I don't know how
14 many feet was in it.
15 Q. You just know it wasn't
16 sticking out the end of it?
17 A. No, it wasn't sticking out
18 past the end of the pipe, the
19 40-foot.
20 Q. How did you connect that
21 copper pipe to the steel pipe? Or
22 did you?
23 A. It was reduced down somehow to
24 that size on that end. Vern, a
25 mechanic, made it up for me. It was

0084

1 reduced down to that size and they
2 had the shutoff valve. So all I did
3 was screw it on.
4 Q. Just screw it on, okay. These
5 cribs, did you build the cribs?
6 A. At the seals I built.
7 Q. Now, how close were those

8 cribs to the seals themselves?
9 A. Approximately three and a half
10 to four feet from the seals on each
11 side.

12 Q. And when you built the cribs,
13 did the crib blocks overlap each
14 other at the end or were they right
15 on the end of each other?

16 A. They was back in I'd say
17 three-quarters of an inch. A half
18 inch to three-quarters of an inch
19 back in. They wasn't flush.

20 Q. They weren't flush?

21 A. No.

22 Q. They were about three-quarters
23 of an inch or so sticking out?

24 A. Yes.

25 Q. Kind of like an X pattern?

0085

1 A. And always laid the flat side
2 --- the crib was thicker one way than
3 what it is the --- they laid the
4 smallest way.

5 Q. Okay.

6 A. You don't get me?

7 Q. No.

8 A. You don't get me?

9 Q. No.

10 A. I'm glad I got you. Well, I
11 got caught one time with John
12 Collins. I was building them the
13 wrong way. He made me tear all mine
14 down. But this wasn't at the seals.
15 But one side of the --- I think a
16 crib is like maybe six inches one way
17 and five inches the other.

18 Q. Okay

19 A. We had to lay them the
20 five-inch way.

21 Q. So they were five inches high?

22 A. Yeah.

23 Q. Okay. And they were
24 overlapped on the edges by about
25 three-quarters of an inch?

0086

1 A. Yeah.

2 Q. And did you wedge those in at
3 the top or the bottom? Or how did
4 you wedge those tight?

5 A. I usually tried to get three
6 wedges going up each corner. And
7 then if I had to have wedges at the
8 top, put them in, or header boards.

9 Q. Okay. Behind the seals ---
10 were there any stoppings built behind
11 the seals?

12 A. In the entry behind the seals?

13 Q. Yes.
14 A. No. It was open all the way.
15 Q. Open all --- in all of them?
16 A. Now, there's stoppings in the
17 crosscuts, ---
18 Q. Okay.
19 A. --- but ---.
20 Q. In the main entries?
21 A. Yeah. There was nine entries.
22 In the crosscuts, there was stoppings
23 off the --- but they had holes in
24 them. You could walk through them.
25 Q. Did you put the holes in those

0087

1 stoppings?
2 A. No, I didn't.
3 Q. Were they Omega block
4 stoppings?
5 A. No. No. They was holed
6 block.
7 Q. Concrete block stoppings?
8 A. They wasn't solid block. They
9 had the block --- they had the holes
10 down in them.
11 Q. Okay. You had mentioned about
12 the Omega blocks when you were
13 building, that you would stack ---
14 you would take some behind the seals
15 and use those to build. Someone
16 would be working on one side of the
17 seal and working on the other.
18 A. Uh-huh (yes).
19 Q. When you were done, did you
20 ever have any extra that were laying
21 back there?
22 A. I can't remember. I doubt it.
23 I doubt it.
24 Q. If there were, would there
25 have been a lot of them?

0088

1 A. No.
2 Q. Okay. On these pallets of
3 block as they came in, did you ever
4 notice there was like a white tag or
5 a colored tag on the plastic?
6 A. Now, you got me lost there. I
7 don't --- no, I don't remember none.
8 Q. Don't remember on the pallets
9 that it was wrapped in?
10 A. Uh-uh (no).
11 Q. Okay. How about the BlocBond
12 itself? And when we're talking about
13 BBond, BlocBond, are we referring to
14 BlocBond? Is that what it exactly
15 is?
16 A. I call them all BBond, but ---
17 we had special BBond for the seals.

18 Q. It's the special stuff for the
19 seals? That's what you're referring
20 to?

21 A. It would be stronger.

22 Q. Okay. Did that come in on a
23 pallet?

24 A. Yeah.

25 Q. Do you remember how many

0089

1 pallets of that you got?

2 A. I approximately used two for
3 each seal.

4 Q. Two for each seal. Was it
5 wrapped in plastic also when it came
6 in?

7 A. Yes.

8 Q. When the mine got that, did
9 they order it the same way as they
10 did the block? Did it come right
11 underground or was it stored on the
12 surface for a while before it came
13 underground?

14 A. It came in on the truck, as
15 far as I know, the same time --- it
16 come with the Omega block and come
17 straight in. It come --- usually
18 every load that come in the mine,
19 they had a lift or two of BBond on
20 it.

21 Q. Okay.

22 A. And it was unloaded in my
23 area.

24 Q. So they wouldn't have stored
25 --- the BlocBond or BBond, they

0090

1 wouldn't have stored that on the
2 surface and just brought it in as
3 they needed it?

4 A. Not that there. It was too
5 expensive. You know what I mean? It
6 cost more money. As far as I know,
7 it cost more money. Because it was
8 sent straight to my area where I was
9 working.

10 Q. Okay. Did you ever notice
11 that that material --- does it have
12 dates on it when you have to use it
13 by or when it was manufactured?

14 We're talking about the BlocBond?

15 A. No. But it had directions on
16 the back. No dates.

17 Q. There were no dates on it?

18 A. Uh-huh (yes).

19 Q. Okay. You mentioned about a
20 book that you used. Was there a seal
21 construction book or a book that just
22 had information about the

23 construction of the seals that you
24 kept?

25 A. It was the seal construction

0091

1 area fire boss book.

2 Q. A seal construction area fire
3 boss ---?

4 A. For pre-shift and on-shift.

5 Q. Okay. So if I were looking
6 for that book, it would say that on
7 it?

8 A. It said, seal --- yeah. It
9 said --- with a black Magic marker I
10 had wrote on it, seal construction
11 area.

12 Q. Okay. What information would
13 you keep in that book?

14 A. The time I pre-shifted it or
15 on-shifted it, the gas I got in there
16 and an air reading.

17 Q. Would you put anything in
18 there about how far you were with
19 building the seals on that particular
20 day?

21 A. No. I always wrote notes on
22 yellow people like that and handed it
23 to Jeff Toler, when I got done that
24 day.

25 Q. Okay. Did you ever have an

0092

1 occasion when you were building a
2 seal that you didn't get it done in a
3 shift?

4 A. Oh, yeah.

5 Q. Well, how would you leave that
6 seal before the end of that shift?
7 Is there anything special you would
8 do? Would you coat it all or ---?

9 A. No. The top --- if we had to
10 have a top layer of Omega block put
11 on it, we couldn't put it on there.
12 I mean, it had to be dry because
13 that's --- it had to be wet to lay
14 the next row on it.

15 Q. If I came in the mine, you
16 just had finished for the day and you
17 had left and I looked at this part of
18 the seal that was there, you just had
19 finished on, and I looked at the top
20 course, it would be dry?

21 A. No BBond.

22 Q. No BBond on it. And then how
23 would you begin your next day?

24 A. Mixing up mud and smearing it
25 on top and put the next layer.

0093

1 Q. So you would start the next

2 day by smearing the mud up and
3 putting it on. Okay. You mentioned
4 about the trowel that you used to do
5 that. Was it a standard ---? What
6 size trowel was it?
7 A. Six-inch.
8 Q. Six-inch wide?
9 A. No, no, long. It was six
10 inches long and probably three inches
11 wide. It had a handle right smack
12 dab in the middle.
13 Q. Okay. And would you use that
14 to get the mortar down in the joints
15 or would you use that to spread it
16 across the top?
17 A. Both.
18 Q. For both?
19 A. I mean, you'd just stick it
20 down in the end and ---
21 Q. Okay.
22 A. --- or smear it. Mostly just
23 smear it and make it a quarter inch
24 thick.
25 Q. Okay. On the six-inch block

0094

1 versus the eight-inch block, how did
2 you learn to use six-inch block? I
3 mean, where did --- did someone tell
4 you that or ---?
5 A. No. It's in that plan. That
6 was what we was allowed to use, just
7 one row of six-inch block.
8 Q. Was that from the plan itself
9 or did somebody tell you that?
10 A. It's in the plan itself.
11 Q. Okay. So that was in the
12 plan. So you read it from the plan
13 that you could use that?
14 A. Yeah, just one row of six-inch
15 block.
16 Q. Did you have a lot of six-inch
17 block?
18 A. Mostly all of them --- I'd say
19 maybe two of them out of five I had
20 to have a six-inch row.
21 Q. Okay. I think I asked you
22 this about the date on the --- well,
23 we just did talk about the BlocBond
24 and the dates on it. The Omega
25 blocks, did you ever notice there's

0095

1 any dates on the Omega blocks, when
2 they were made or ---?
3 A. No, sir.
4 Q. Okay. When you were done with
5 all the seals, were there a lot of
6 full pallets of block left over?

7 A. There was quite a few
8 six-inches left over. But we hauled
9 them all out and cleaned the area up.
10 I mean, it was --- we got rid of
11 them. I mean, there wasn't any left
12 up in there.

13 Q. After the incident, there were
14 a lot of Omega block pallets on the
15 surface of the mine. Were those
16 pallets that were there that were
17 left over from building the seals or
18 ---?

19 A. You mean after the explosion?

20 Q. Yes.

21 A. No, there wasn't no left over
22 block left up in there.

23 Q. So there weren't ---?

24 A. I cleaned up every bit of
25 Omega block, junk, good, and hauled

0096

1 it out.

2 Q. Okay.

3 A. All the trash, them things,
4 hauled it out of there.

5 Q. Were there any full pallets
6 that you took out?

7 A. Full pallets of?

8 Q. Omega block, still in the
9 plastic.

10 A. If I did, it was took down in
11 Two Left section.

12 Q. So you would not have hauled
13 them outside and put them in the
14 yard?

15 A. No. I took them down on the
16 section, Two Left.

17 Q. So if on January 10th I went
18 to the surface of the mine, this is
19 after the explosion, and I found
20 eight pallets of Omega block, they
21 would not have been the Omega blocks
22 that were in the mine used for the
23 seals, they were extra?

24 A. No, they wasn't --- no. They
25 wasn't from my seals, no.

0097

1 Q. Okay.

2 A. Or the other seals. Because I
3 cleaned up his seals, too, the trash
4 in front of Jeff Snyder's seals. He
5 built some of them. I cleaned up in
6 front of his. In front of all the
7 seals, I cleaned up and rock dusted
8 and hung curtain, built the cribs. I
9 mean, it was just cleaned up. It
10 looked --- housekeeping, I cleaned it
11 up.

12 Q. How much rock dust did you
13 apply on the outby side of the seals?
14 A. It was approximately two to
15 three inches thick. I used 20 ---
16 I'm thinking 20 one-ton bags of rock
17 dust ---
18 Q. Okay.
19 A. --- in four entries.
20 Q. In four entries. How many
21 crosscuts outby the seals did you
22 actually ---?
23 A. Four.
24 Q. Four of them. Four crosscuts
25 outby?

0098

1 A. Yeah.
2 Q. Okay.
3 A. From where the seals was built
4 clear to --- I believe it's 50 wall.
5 I put 20 one-ton bags, me and them
6 two red hats.
7 Q. Did you put any inby the
8 seals?
9 A. No, I didn't.
10 Q. Do you remember what the
11 conditions looked like inby the
12 seals?
13 A. I'd say from where the seals
14 end was rock dusted at least 60, 80
15 feet. But I didn't do it. I didn't
16 scoop up around there. That was
17 undermined up there, and I wasn't
18 allowed in. I took gas tests and I
19 didn't go in that area.
20 Q. What was the highest gas
21 reading you ever got in that area?
22 A. Before or after?
23 Q. Well, let's start with before.
24 A. Two-tenths.
25 Q. Two-tenths. And how about

0099

1 after?
2 A. 1.2 percent.
3 Q. 1.2. And where did you get
4 the 1.2?
5 A. I didn't have to keep a record
6 of it. It was in that gas testing
7 tube.
8 Q. In the tube itself?
9 A. Yeah.
10 Q. Now, was air coming out that
11 tube?
12 A. There was some gas coming out
13 that tube.
14 Q. There was gas coming out that
15 tube? Would you open that valve
16 and ---?

17 A. Yeah.
18 Q. Was there any gas in ---?
19 A. I was just being nosy.
20 Q. Was there any gas in the area
21 around it?
22 A. No.
23 Q. Just what was coming out that
24 tube?
25 A. That's right.

0100

1 Q. Was it strong coming out? I
2 mean, was there a lot of flow or just
3 a little bit of flow?
4 A. It was just --- when the
5 methane detector tested 1.2 percent,
6 I shut the valve back off and stuck
7 my methane detector in my pocket.
8 Q. Did that seem unusual to you?
9 A. I didn't like it. I asked if
10 I had to put it in the book. And
11 they told me, no, I didn't have to
12 keep a record of that.

13 Q. Okay.

14 ATTORNEY WILSON:

15 Who did you ask? Who
16 told you that?

17 A. Carl Crumrine and Jeff Toler
18 was there that day. Anything behind
19 a sealed area you don't have to keep
20 a record of.

21 ATTORNEY WILSON:

22 Do you remember when
23 that was?

24 A. No.

25 BY MR. UROSEK:

0101

1 Q. Approximately? You know, a
2 week before January 2nd or right
3 after the seals were completed?

4 A. It was after the seals --- I
5 mean, the seals was completed.

6 Q. Okay.

7 A. And I was just playing around,
8 being snoopy really.

9 Q. Okay. Do you remember what
10 the oxygen concentration was?

11 A. No, I don't remember. No, no.

12 Q. I mean, coming out of that
13 pipe. Do you carry --- is it just a
14 methane detector you carry or is it
15 ---?

16 A. Mine checks CO and methane and
17 oxygen. Mine checks all three of
18 them.

19 Q. Do you remember what the
20 oxygen was coming out?

21 A. No.

22 Q. Did it beep, ---

23 A. No.

24 Q. --- your detector?

25 A. My detector didn't beep.

0102

1 Q. Okay. In the Number One
2 entry, I think you told me you had to
3 use more BlocBond on the floor.

4 A. Yeah, on the left-hand side.

5 Q. On the left-hand side. There
6 was a rut there or something?

7 A. Yeah.

8 Q. Okay.

9 A. I couldn't get it quite smooth
10 and level enough to suit me to lay my
11 first row of Omega block across.

12 Q. Who decided where to put that
13 Number One seal?

14 A. Who decided? And there was a
15 mark on the rib there. I didn't put
16 it there. It was on there with
17 paint. Because it was longer and
18 higher. I guess Jeff Toler done it,
19 but it was already marked for me to
20 put it there.

21 Q. Do you remember how wide and
22 how high that was?

23 A. It was four inches higher than
24 what it was supposed to be on the
25 left-hand side and --- it was wider,

0103

1 I know, because it was at a diagonal.

2 Q. Do you know if it was wider
3 than 20 feet?

4 A. Yes. By it being at a
5 diagonal, it was wider than 20.

6 Q. Did anyone tell you to do
7 anything different at that seal?

8 A. No. They just approved to go
9 ahead and build it.

10 Q. Who would have approved that
11 to do that?

12 A. I don't know. I actually
13 don't. I ain't going to say
14 something I don't know.

15 Q. That's okay. Did you ever
16 tell anyone it was wider than 20 feet
17 wide or eight foot?

18 A. All three of them --- all the
19 people I'm thinking of knowed it.
20 They said it was still okay to build
21 it.

22 Q. Okay. Do you know if there's
23 --- do you know if --- do you have to
24 do anything different when you build
25 an Omega seal in an entry that is

0104

1 wider than 20 feet or eight feet
2 high?
3 A. I asked the same question, and
4 they told me to build it the same I
5 did the other ones. So that's what I
6 done.

7 Q. Okay.

8 ATTORNEY WILSON:

9 Who did you ask?

10 A. Jeff Toler, John Collins and
11 Carl Crumrine.

12 BY MR. UROSEK:

13 Q. Would this have been when they
14 came and looked at the --- did the
15 examination?

16 A. That was before I even started
17 it.

18 Q. Okay, before you even started
19 that?

20 A. I measured it, and it was
21 longer than what the plan said. They
22 said for that little bit of
23 difference, for me to go ahead and
24 build it the same as I did the other
25 nine.

0105

1 Q. On the floor or I guess in
2 building the seals, did you ever use
3 a gravel mix rather than this
4 BlocBond?

5 A. No. I've never had any gravel
6 mix up in that area, I don't believe.
7 No.

8 Q. And on the left side of that
9 Number One seal, how deep was that
10 dry BlocBond? Do you remember?

11 A. I'd say probably the deepest
12 part of it might be three inches.

13 Q. Did you pack that down somehow
14 when you put that across to get it to
15 stay or ---?

16 A. It's pretty powdery anyway.
17 Mostly just set our blocks down.

18 Q. And it held up?

19 A. Yeah.

20 Q. Okay. When we talked about
21 the wedges that you used on the side
22 between the blocks and the rib, did
23 you put those on both sides of the
24 seal, on the right and left side, or
25 did you just put them on one side

0106

1 or ---?

2 A. I used two --- what do you
3 mean, both blocks? There's two
4 blocks against the rib.

5 Q. Okay.

6 A. You try to get one almost in
7 the middle. It was --- we tried to
8 get three in each.
9 Q. Three in each. Did you do
10 that for each course?
11 A. I'm going to say no.
12 Q. Okay.
13 A. Probably every other --- it
14 might be every other one.
15 Q. Every other one? Why did you
16 put those in?
17 A. Good question. Try to keep it
18 stronger and steadier.
19 Q. Okay. We talked earlier about
20 finishing the top of the seals. And
21 I think you said that it always
22 worked out that you never had to
23 slice a block at the top; is that
24 right?
25 A. That's correct.

0107

1 Q. What would have been the
2 biggest gap that you had to deal with
3 at the top?
4 A. What do you mean, the last
5 row?
6 Q. Yes, on that last row.
7 A. I'm going to say
8 eight-and-a-half inches.
9 Q. Okay. So if I had
10 eight-and-a-half inches, what would
11 you fill it with, an eight-inch
12 block?
13 A. Eight-inch block or a
14 half inch.
15 Q. So the biggest gap above that
16 would be then a half inch you had? I
17 mean, did you ever have any that had
18 like four inches above the last
19 course?
20 A. No. I mean --- I'm not really
21 complaining. It usually come up ---
22 it come a good free wedge in your
23 board on top.
24 Q. So that it always worked out
25 that you only had two inches or

0108

1 something in that neighborhood?
2 A. Two inches or less?
3 Q. Or less, at the top. Okay.
4 If you had to slice the blocks, could
5 you?
6 A. I'm going to say, yes, I
7 could.
8 Q. Okay.
9 A. I can do anything.
10 Q. I mean, it's physically

11 possible to do that?
12 A. Yes, it is.
13 Q. Okay. When you cut the blocks
14 with an ax, did you score them first
15 and then break them or just kind of
16 chop them and --- how did you do
17 that?
18 A. I'm good. Just tap on it
19 across just like you was wanting to
20 break a block or --- just hit --- it
21 would finally go through. I had a
22 sharp ax.
23 Q. Would they crack?
24 A. I had a sharp ax. Mine was a
25 sharp ax.

0109

1 Q. Would they crack then after
2 you made a dent across them with an
3 ax, or did you have to actually go
4 all the way through with the ax?
5 A. Oh, I cut all the way through.
6 It was a nice, smooth edge.
7 Q. Okay.

8 MR. UROSEK:
9 Mike?

10 MR. RUTLEDGE:

11 I have a few questions
12 here.

13 BY MR. RUTLEDGE:

14 Q. You said that when John
15 Collins went behind and made the
16 seals, there was a couple things that
17 he had you do ---

18 A. Yes.

19 Q. --- or had your crew do? That
20 was ---.

21 A. Marty went with him.

22 Q. Okay. What were those things
23 that he asked to be done?

24 A. When Jeff Snyder was building
25 his seals, he was a foreman involved

0110

1 in it, he didn't sit the cribs up all
2 the way, and I had to carry cribs in
3 there to finish his cribs and wedge
4 them in. And he left some old
5 brattice cloth back in there,
6 garbage. I mean, it was junk. We
7 had to drag it out.

8 Q. Did somebody help you finish
9 those cribs, your two guys, two red
10 hats?

11 A. The red hats. My two red
12 hats. Tomato heads.

13 Q. That's good. In the Number
14 Nine entry, where the sample pipe
15 went through the cribs, ---

16 A. Yeah.
17 Q. --- was those cribs wedged
18 tight against the roof or were they
19 just standing there?
20 A. They was wedged tight against
21 the rib or the roof and the ---
22 against the roof.
23 Q. And did you help --- you said
24 that pipe was in two joints.
25 A. It was in two joints.

0111

1 Q. And how did those joints get
2 connected together?
3 A. What do you call that, a
4 collar and it had threads on it.
5 Q. So they were screwed together?
6 A. Screwed together with a pipe
7 wrench.
8 Q. And you'd tighten them with a
9 pipe wrench?
10 A. Tighten them with a pipe
11 wrench.
12 Q. Okay. And in any of the
13 entries or any of the places where
14 you built seals, was there any of
15 that roof screen left in place? Was
16 it separated at each crib? Was the
17 roof screen separated --- excuse me,
18 not crib, at each seal, okay. Was
19 the screen separated at each seal?
20 A. Yeah, it was cut. I only had
21 to build one, but there was two
22 entries that there was screen in, the
23 belt entry and the track entry. But
24 the one I built in, it was cut.
25 Q. Okay. And during the

0112

1 construction of the seals that you
2 built, did somebody from the company
3 come by and look at them, check on
4 them, see how you all were doing?
5 A. You mean somebody from ICG?
6 Q. Uh-huh (yes).
7 A. Not at the time I was there.
8 But they was --- they had to be there
9 whenever I wasn't there.
10 Q. Okay. You said that you had
11 all the seals built except One and
12 Nine, and then you had to do a lot of
13 outby work on overcasts and other
14 stoppings and stuff like that. Were
15 ventilation changes made outby prior
16 to those two seals being finished,
17 the last two holes being finished up
18 in there?
19 A. Yes. Yes, it was. Yeah.
20 Q. Can you describe what those

21 changes were?
22 A. What do you mean, how much in
23 cubic feet of air?
24 Q. Well, was there just ---?
25 A. I had to change --- right in
0113
1 front, there's --- in the front of
2 the seals was the main intake going
3 to the Two Left section.
4 Q. Uh-huh (yes).
5 A. Whenever I done an air change
6 outby the seals, that intake turned
7 into return for the seals, and the
8 main intake was moved outby two
9 breaks and going into Two Left
10 section.
11 Q. So what was an intake became a
12 return ---
13 A. Became a return just for the
14 sealed area.
15 Q. --- for that seal. And that
16 main intake for Two Left was moved
17 two breaks outby?
18 A. Approximately two breaks
19 outby.
20 Q. Okay. Any other changes done
21 on ---
22 A. Ventilation?
23 Q. --- First Right or Second
24 Right?
25 A. No.
0114
1 Q. Okay.
2 MR. RUTLEDGE:
3 That's all I have.
4 BY MR. UROSEK:
5 Q. You mentioned the size crib
6 blocks that you used. Do you know
7 what size they were?
8 A. Crib block?
9 Q. Yeah.
10 A. I thought all of them was 30
11 inches long and five-by-sevens.
12 Q. Five-by-sevens?
13 A. Don't get me wrong, but I'm
14 thinking that's what they are.
15 Q. Were all of them that you used
16 the same size for the seals, around
17 the seals?
18 A. Yeah. They come in the same
19 bundle.
20 Q. Okay. Is that a standard at
21 the Sago Mine, they always used the
22 same type --- whatever size they use
23 is the same size they're using, or do
24 they have multiple sizes?
25 A. They had some that come in

0115

1 that was left over they used for
2 cribs that was I call it lagging for
3 what we call tunnel liner. We built
4 a lot of tunnel liner in there. And
5 there was a lot of lagging left over,
6 but it's --- lagging is --- what is
7 it? It might be four-by-five and 40
8 inches. What was left over in that
9 we used for cribs. But I never used
10 none of that up in the sealed area.
11 Q. Up in the sealed area, okay.
12 And I think my last question is, what
13 we're trying to determine is when the
14 last two seals were started and
15 finished. And I think finished we'll
16 be able to get from the book.
17 Because you said it's indicated in
18 the book.
19 A. I put the air change.
20 Q. On the day of the air change,
21 did you complete the seals that day?
22 A. What I entered in that book,
23 that's when it was completed. The
24 amount of air --- I had been sweeping
25 in front of the seals and going

0116

1 through the regulator. I put in the
2 book that's when I believe, yeah, the
3 seals was done.
4 Q. And what we're trying to get
5 to is when were those last two seals
6 started? Do you have any
7 recollection?
8 A. When they were started? My
9 goodness. Just approximately 12 days
10 before the explosion they was
11 finished. I don't know.
12 Q. If you ever recall that, we'd
13 appreciate you letting us know.
14 BY ATTORNEY WILSON:
15 Q. If I could just ask something
16 to clarify something in my mind. The
17 very top row of blocks up against the
18 roof, you said that it sometimes was
19 hard to even get your hand in there?
20 A. Yes, sir.
21 Q. How would you get the mortar
22 on the joints on that very top row?
23 A. On that very top row, we
24 didn't get mortar on it. On the very
25 top row, I don't believe there was

0117

1 ever mortar put on it. The only
2 mortar that was put on was on the
3 outby and inby side of that top row,
4 against the board and the wedges.

5 BY MR. RUTLEDGE:
6 Q. All right. Just to clarify
7 that question. You said you couldn't
8 get any mortar on top of that very
9 last row. Okay. What about between
10 the blocks on the last row?
11 A. If any at all got in it, it's
12 what it was when we rubbed on the
13 front part of it, got back in.

14 Q. Okay.
15 BY MR. UROSEK:
16 Q. Just one final question that
17 leads me to. When you were putting
18 it across the top, and not on the
19 last row, of the normal row, the
20 middle row, and you were pushing it,
21 you know, across and trying to get it
22 down into the joints, how far do you
23 think it made it down into those
24 joints?

25 A. I'd say it made it a full
0118 1 distance of each block. Every hole
2 and crack was filled up good.

3 Q. Okay.
4 MR. UROSEK:
5 I have no more
6 questions. I want to thank
7 you very much for your
8 appearing today, and it really
9 helped us out a lot.

10 * * * * *
11 SWORN STATEMENT
12 CONCLUDED AT 2:48 P.M.
13 * * * * *

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