

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

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P R O C E E D I N G S

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

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

1 Health, Safety & Training to  
2 gather information to  
3 determine the cause of the  
4 accident. And these  
5 interviews are an important  
6 part of the investigation.

7 At this time, the  
8 accident investigation team  
9 intends to interview a number  
10 of people to discuss anything  
11 that may be relevant to the  
12 cause of the accident.

13 After the investigation  
14 is complete, MSHA will issue a  
15 written report detailing the  
16 nature and causes of the  
17 accident.

18 MSHA accident reports  
19 are made available to the  
20 public in the hope that  
21 greater awareness about the  
22 causes of accidents can reduce  
23 their occurrence in the  
24 future. Information obtained  
25 through witness interviews is

1 frequently included in these  
2 reports. Your statement may  
3 also be used in other  
4 enforcement proceedings.

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

14 We understand the  
15 difficulty for you in  
16 discussing the events that  
17 took place and we greatly  
18 appreciate your efforts to  
19 help us understand what  
20 happened.

21 This interview with Mr.  
22 Hess is being conducted under  
23 Section 103(a) of the Federal  
24 Mine, Safety and Health Act of  
25 1977 as a part of an



1 investigation by the Mine  
2 Safety & Health Administration  
3 and the West Virginia Office  
4 of Miners' Health, Safety &  
5 Training into the conditions,  
6 events and circumstances  
7 surrounding the fatalities  
8 that occurred at the Sago  
9 Mine, owned by International  
10 Coal Group in Buckhannon, West  
11 Virginia on January the 2nd,  
12 2006.

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

18 Questioning will be  
19 conducted by representatives  
20 of MSHA and the Office of  
21 Miners' Health, Safety &  
22 Training. This is not an  
23 adversarial proceeding,  
24 therefore cross examination  
25 will not be permitted.

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

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

17                   If at any time after  
18                   the interview, you recall any  
19                   additional information that  
20                   you believe may be useful in  
21                   the investigation, please  
22                   contact Richard Gates at the  
23                   phone number or e-mail address  
24                   provided to you. That's his  
25                   card right there. And the

1 state will also provide you  
2 with a card.

3 Your statement is  
4 completely voluntary. You may  
5 refuse to answer any question  
6 and you may terminate your  
7 interview at any time. If you  
8 need a break for any reason,  
9 let me know.

10 A court reporter will  
11 record your interview and will  
12 later produce a written  
13 transcript of the interview.  
14 Please try and respond to all  
15 questions verbally, since the  
16 court reporter cannot record  
17 non-verbal responses. Try and  
18 keep your voice up. Copies of  
19 the written transcripts will  
20 be available at a later time.

21 If any part of your  
22 statement is based not on your  
23 own first-hand knowledge, but  
24 on information that you  
25 learned from someone else,

1 please let us know. Please  
2 answer each question as fully  
3 as you can, including any  
4 information you have learned  
5 from someone else.

6 We may not ask the  
7 right questions to learn the  
8 information you have, so don't  
9 feel limited by the precise  
10 question. If you have  
11 information about the subject  
12 area of a question, please  
13 provide us with that  
14 information.

15 At this time, Mr.  
16 Collins, do you have anything  
17 you'd like to add on behalf of  
18 the State of West Virginia?

19 MR. COLLINS:

20 Yes. Mr. Hess, the  
21 West Virginia Office of  
22 Miners' Health, Safety &  
23 Training is conducting this  
24 interview session jointly with  
25 MSHA and are in agreement with

1 the procedures outlined by Mr.  
2 O'Donnell for these interviews  
3 that will be conducted here  
4 today.

5 But the Director  
6 reserves the right, if  
7 necessary, to call or subpoena  
8 witnesses or require the  
9 production of any record,  
10 document, photograph or other  
11 relevant materials necessary  
12 to conduct this investigation.  
13 And also here's a card for Mr.  
14 Brian Mills, should you have  
15 any questions or other  
16 comments. Thank you.

17 MR. O'DONNELL:

18 Mr. Hess, are you aware  
19 that you may have a personal  
20 representative present during  
21 the taking of this statement?

22 MR. HESS:

23 Yes, sir.

24 MR. O'DONNELL:

25 And do you have a

1 representative present here  
2 today?

3 MR. HESS:

4 Yes, I do.

5 MR. O'DONNELL:

6 Could you identify him?

7 MR. HESS:

8 Joe Yuhas.

9 MR. O'DONNELL:

10 And has anyone  
11 suggested to you that you use  
12 this representative?

13 MR. HESS:

14 No.

15 MR. O'DONNELL:

16 Are you aware that your  
17 representative may have a  
18 conflict of interest in  
19 representing you while being  
20 provided by someone else?

21 MR. HESS:

22 Uh-huh (yes). Yeah.

23 MR. O'DONNELL:

24 Okay. With this  
25 understanding, do you still

1 want this person as your  
2 representative?

3 MR. HESS:

4 Yes, I do.

5 MR. O'DONNELL:

6 Have you been pressured  
7 in any way to accept this  
8 person as your representative?

9 MR. HESS:

10 No, I have not.

11 MR. O'DONNELL:

12 Okay. Do you have any  
13 questions regarding the manner  
14 in which the interview will be  
15 conducted?

16 MR. HESS:

17 No, I don't.

18 MR. STUART:

19 May I inquire?

20 MR. O'DONNELL:

21 Oh, I'm sorry.

22 MR. STUART:

23 Just so we all  
24 understand each other, Mr.  
25 Hess, is it fair to say that

1 Mr. Yuhas is here, to your  
2 knowledge and based upon your  
3 understanding, as your  
4 representative?

5 MR. HESS:

6 Yes.

7 MR. STUART:

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

12 MR. HESS:

13 Yes.

14 MR. STUART:

15 I'm sorry.

16 MR. HESS:

17 He was provided for me  
18 and I asked him to be here.

19 MR. STUART:

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

24 MR. HESS:

25 Right.



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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. It's 822 Stewart Street, Grafton, West Virginia, 26354.

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

A. Yes.

1 Q. Okay. How many years of  
2 mining experience do you have?

3 A. Eleven (11).

4 Q. And just give us a brief  
5 description of what you've done since  
6 you started working underground?

7 A. I worked as a general laborer  
8 inside for two years before I ever  
9 saw a working section. Then since  
10 then I've learned how to run just  
11 about all the equipment on the face,  
12 miner, shuttle cars, roof bolters,  
13 scoops, done belt moves, power moves,  
14 just a little bit of everything.

15 Q. All at this mine?

16 A. No. No. I've worked at ---  
17 started out as a red hat in Mettiki  
18 up in Red House, Maryland. From  
19 there I went to Philippi Development  
20 and then from there I went to Bass  
21 Energy. And then from there, I went  
22 back to Philippi Development. And  
23 then from there to Spruce II, then to  
24 Spruce Forks and then to Sago.

25 Q. A lot of moves in 11 years?

1 A. Yeah.

2 Q. And how long have you been at  
3 Sago?

4 A. For about a year and five  
5 months, probably, a year and four  
6 months.

7 Q. And what do you do --- what's  
8 your present position?

9 A. Scoop operator.

10 Q. And is that the job that you  
11 held on January 2nd, the day of the  
12 accident?

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

14 Q. What other jobs have you done?

15 A. Mine operator and shuttle car  
16 operator.

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

18 A. No. Well, I was on the mains  
19 going up through. I was there when  
20 we went through Trubie Run, went up  
21 through the mains and then broke off.  
22 When we had the super section, I was  
23 on the left side of the super section  
24 and since then I've been on the One  
25 Left section.

1 Q. Okay. So how long have you  
2 been a scoop operator in ---?

3 A. Probably seven months probably  
4 or eight months.

5 Q. And what kind of mining  
6 certificates do you have?

7 A. I have undergrounds miners'  
8 card and I'm working on getting my  
9 foreman's papers right now.

10 Q. Who's your immediate  
11 supervisor?

12 A. Owen Jones.

13 Q. How long has Owen been your  
14 supervisor?

15 A. I want to say probably seven  
16 months. That's about the same time  
17 frame as I've been running the scoop  
18 because I've been running the scoop  
19 for --- only for seven months now,  
20 about that much time.

21 Q. What's your normal starting  
22 time in your shift?

23 A. 6:00 a.m.

24 Q. And were you working the day  
25 of the accident?

1 A. Yes.

2 Q. Okay. Just describe from the  
3 time you got to the mine, when you  
4 got there, what you did, from the  
5 time you went in the mine until the  
6 time you got out of the mine and left  
7 the mine property.

8 A. Okay. Got there --- usually  
9 get there about 5:30, get dressed,  
10 you know, say hi to everybody. Go  
11 over get your light, tag in, you  
12 know, head down over the hill. Got  
13 in the mantrip --- well, we started  
14 to get in the mantrip and the foreman  
15 had got the wrong size mantrip  
16 because from the outside they all  
17 look the same, they're all white,  
18 they're all big. But this one only  
19 had one seat in it, which only  
20 carries about eight miners on the  
21 inside. So we told him it wasn't  
22 going to haul us all because we got  
23 12 guys in our crew. So he had to go  
24 back up in the yard and switch  
25 mantrips out and bring a bigger

1 mantrip. And by this time, the other  
2 crew had already started in.

3 Got down to where the doors  
4 are and the doors were already shut,  
5 so you know, the other crew had  
6 already made it through the doors.  
7 And I'm going to say probably seven  
8 or eight minutes behind because we  
9 usually follow them right behind  
10 them, you know, going in. We're  
11 usually behind them every morning.

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

1 heat and some debris flying around.

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

11 And so as soon as it --- you  
12 know, as soon as it quit, we ---  
13 everybody's asking each other, you  
14 know, are you okay, is everybody all  
15 right. So then we started climbing  
16 out of the mantrip and you couldn't  
17 see a foot away from you. And so  
18 after we got together that nobody was  
19 hurt bad, of course a couple bumps  
20 and bruises, but after we figured  
21 nobody was hurt bad, nobody needed  
22 medical attention, that's when we  
23 started feeling our way down the rib  
24 trying to find the --- trying to find  
25 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  
23                   block number it's at, but there's a  
24                   phone on the crib. And that's when  
25                   my boss called outside and told them



1 that we had an explosion underground,  
2 and that we needed to get help and  
3 get what we needed to do to ---.

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

15 And then as we're doing this,  
16 he stayed with us as we're walking  
17 down. And we finally get in the  
18 intake probably, I'm going to guess,  
19 around 34 block or 35, somewhere in  
20 that area to get in the intake, fresh  
21 air. And I think it was at 26 or 27  
22 block where we had fresh air, because  
23 you could see there was no dust. You  
24 could feel the air, you could see the  
25 green reflector, you know, indicating

1 the intake. You could see it moving,  
2 so we knew we had fresh air. And as  
3 everybody --- we were kind of spread  
4 out, there was like a couple guys in  
5 front and then there's some guys in  
6 the middle and then some guys helping  
7 some of the guys in the back. But  
8 nobody ever lost sight of each other.  
9 Everybody was within a block or two,  
10 you know, within sight and sound of  
11 each other so we could communicate,  
12 you know, when we found air. Those  
13 guys found the air, they told the  
14 group I was with. I was in the  
15 middle group and then guys in behind,  
16 you know, told them we got fresh air  
17 up here.

18           And just as everybody's coming  
19 together in the intake, we heard the  
20 mantrip coming in on the rail, so one  
21 of our guys ran over and stuck his  
22 head through the man door, flagged  
23 them off. And that was --- it was  
24 Jeff Toler, the superintendent, Al  
25 Schoonover, the safety director, Dick

1 Wilfong, the maintenance  
2 superintendent, and Vern Hofer, who's  
3 a maintenance foreman, had came in.  
4 And so we went through the man door  
5 and started to get on the mantrip and  
6 as we waited for the rest of the guys  
7 to catch up, they're getting on the  
8 mantrip. And Jeff Toler and Al  
9 Schoonover and Owen Jones, they  
10 stayed in and went to see how far  
11 they could get, see how close they  
12 could get, see if they could hear  
13 those guys, going to see if they  
14 could do anything for them. And  
15 that's when Dick Wilfong and Vern  
16 took us outside.

17 And when we got outside, one  
18 of the --- our mechanic was having a  
19 hard time breathing, so we went and  
20 got a truck from the parking lot,  
21 which I took, which belonged to the  
22 yard man. I took his truck down in  
23 the pit and we put him on the  
24 tailgate so we could drive him up ---  
25 drive him up on the hill and get up

1 in the bathhouse.

2 So after we did that, then I  
3 grabbed all my stuff off, my light  
4 and everything, and got it hung up,  
5 got tagged out, and that's when we  
6 went into the bathhouse.

7 And after I went in there and  
8 put all my stuff down, you know, I  
9 thought that I should call my wife  
10 because, you know, I knew that once  
11 it got out it was going to be on the  
12 news. So I called her and from the  
13 time it happened until this time, I  
14 had no idea what time exactly things  
15 happened.

16 But I looked on the caller ID  
17 that night and I called her at 7:38  
18 that morning. And they said  
19 explosion happened at 6:31 and that  
20 my foreman called out at 6:40. And  
21 from that time until then, I had no  
22 idea, you know, what times were. But  
23 I do know that I called her at 7:38  
24 that morning.

25 And then that's when we were

1 in the bathhouse and of course, you  
2 know, the EMTs and the emergency  
3 personnel were showing up and that's  
4 when they were checking us.

5 And they checked our oxygen  
6 levels and checked to make sure  
7 nobody was hurt bad. And just, you  
8 know, tried to assess the situation,  
9 see if anybody needed medical  
10 attention. Then that's when the  
11 first --- the first inspector that I  
12 talked to was John Collins. He was  
13 like the first one there. And he  
14 asked me what happened and then I  
15 told him just right off the bat, you  
16 know, and he took that information  
17 and went from there with it.

18 So then after waiting around,  
19 you know, all day, I think it was ---  
20 I'm going to say between one or two  
21 o'clock that afternoon, they had made  
22 everyone, including the rescue teams  
23 and everybody leave, leave the mine  
24 bathhouse. They made everybody go  
25 outside the gate because of gas

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

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

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

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

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

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

23 Q. Okay. Did you have any  
24 conversation with him?

25 A. No. No, I didn't. The only

1 person that I really --- that I can  
2 remember talking to that morning was  
3 Jackie Weaver. And his light and my  
4 light are in the same --- on the same  
5 side of the rack and every time there  
6 was a Miner football game, we'd  
7 always talk about the game. And he  
8 asked me, you know, if I was going to  
9 watch the game. And I said yeah.  
10 And then that's --- until I got down  
11 to our mantrip, that was the last  
12 person I talked to, I believe.

13 Q. Did you notice if the belts  
14 were running?

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

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

21 A. No, because usually I don't go  
22 right in his office. You know, I  
23 walk by the door and, you know, say  
24 good morning to him or something, but  
25 as far as going in through the



1 doorway, I didn't go in there that  
2 morning. I usually don't go unless  
3 it's to get a pair of gloves or  
4 something, but that morning I didn't  
5 get gloves or paper towels or  
6 anything.

7 Q. So you said you normally talk  
8 to the --- or you ride right in  
9 behind that Second Left crew, but  
10 today because you had --- that day  
11 because you had to make the change  
12 that there was a delay.

13 A. Yeah.

14 Q. Do you ever talk back and  
15 forth to him when you're riding in on  
16 the walkie?

17 A. Not really unless --- unless  
18 the outside dispatcher would be  
19 trying to reach him and then they  
20 would, you know, ask us if you see  
21 him, tell him, or see if you can ---  
22 you know, see if you can reach him.  
23 But no, not that morning. We usually  
24 don't talk to him on the --- on the  
25 trolley phone.

1 Q. What was the weather like that  
2 day, do you recall?

3 A. It was --- you could see  
4 lightning. I mean, it was strange  
5 because it's --- you know, it's  
6 January and it was, you know, between  
7 --- I would say, between 45 and 50  
8 degrees in January. That's unheard  
9 of in West Virginia. And you could  
10 see the lightning because where me  
11 and --- I can't remember who it was,  
12 were walking down the hill, down into  
13 the pit and you know, we're talking  
14 about the lightning, so it was crazy  
15 having thunderstorms in January. But  
16 you know, it wasn't raining yet, but  
17 it was warm and you could see the  
18 lightning coming. And it was just  
19 weird that we were having a  
20 thunderstorm in January.

21 Q. So as you traveled in, you had  
22 couple more people than normal?

23 A. Yeah.

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

1       A.           Yeah.  Yeah, we let off --- we  
2       had Ron Grall, who's a fire boss.  He  
3       was on the mantrip.  He usually rides  
4       to the section with us and he'll  
5       check pumps and that kind of thing.  
6       And then that morning John Boni,  
7       who's a fire boss was dropped off at  
8       One Right, which is on the section,  
9       One Right switch.  And then John's  
10      son Pat, who's a beltman, was dropped  
11      off at Four Head that morning.

12     Q.           Before --- let me back up.  
13     Before you went in that day, was  
14     there anybody else, any mine  
15     examiners outside, other than ---  
16     it'd be Grall; right?

17     A.           Yeah.

18     Q.           Was there anybody else  
19     outside?

20     A.           Not that I remember.  I don't  
21     remember seeing any, other than just  
22     John and Ron that rode in with us.

23     Q.           Okay.  So you dropped those  
24     guys off, went up to the One Left  
25     switch and Perry gets back in the

1 mantrip and where were you positioned  
2 at in the mantrip?

3 A. I was sitting --- there was  
4 --- I was sitting on the inby end of  
5 the mantrip with my back toward the  
6 section. And Roger was sitting the  
7 same way I was and Joe Ryan was  
8 sitting --- because you know how you  
9 load mantrips, one gets in this way  
10 then you just --- you know, you  
11 stagger so everybody has room. There  
12 was three guys sitting on this side  
13 and there was four guys sitting on  
14 that side that morning. And Roger  
15 was on the outside, that's why he got  
16 out at the switch.

17 Q. Did you hear anything, Eric?

18 A. No, didn't hear. I've been  
19 asked that question. I didn't hear.  
20 You know, I didn't hear an explosion,  
21 no boom, no nothing, just --- the  
22 only thing we heard was you could  
23 hear like when you run your car off  
24 the road and you hear gravel hitting  
25 underneath your car, you could hear

1 that hitting the end of the mantrip  
2 and that's all we heard and just the  
3 wind was all we heard.

4 Q. And how long did it last?

5 A. I've always said 12 to 15  
6 seconds. And then there's some guys  
7 that say a minute, there's some guys  
8 that say five seconds. But around 12  
9 seconds probably.

10 Q. Did you lose your hat or your  
11 light or anything?

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

19 Q. What else did you hear? Did  
20 you hear anything --- any big things?

21 A. No.

22 Q. Nothing big hitting the  
23 mantrip or the rib or ---?

24 A. Uh-uh (no). Just the wind.  
25 The wind and just the stuff hitting

1 the end of the mantrip, which sounded  
2 like gravel, you know, rocks hitting  
3 it. That's all I heard.

4 Q. And you said --- did you say  
5 you felt heat?

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

23 Q. What did it smell like, do you  
24 remember?

25 A. Just burnt stuff. I don't

1 know if it was burnt coal, burnt  
2 whatever, it was just --- it stunk  
3 bad.

4 Q. And was it smoke?

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

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

16 A. Yeah, boss' detector went off.

17 Q. Right then?

18 A. Yeah, just as soon as --- you  
19 know, as soon as it quit, you could  
20 hear his detector beeping because I'm  
21 assuming he turns it on outside, you  
22 know. He does the check on  
23 everything and it's --- of course you  
24 couldn't see. I know that they have  
25 lights on them but you couldn't see

1 the lights on it, but you could hear  
2 it beeping.

3 Q. So you couldn't tell what kind  
4 of readings ---

5 A. No. I don't even remember  
6 anybody asking. I don't even know if  
7 anybody noticed, but I did notice it  
8 beeping and going off.

9 Q. Right from the beginning?

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

15 Q. So how did you feel your way?  
16 Everybody got out, you accounted for  
17 all your people; right?

18 A. Yeah. Made sure everybody was  
19 all right, could move and walk and  
20 talk and everything. And then that's  
21 when we got to the left rib because  
22 we knew that there was a man door,  
23 there had to be a man door down  
24 through there somewhere. Of course,  
25 we didn't know which ---.



1 Q. Is that how you got down, you  
2 just felt the way?

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

14 Q. When did you put your SCSR on?

15 A. Just as soon as we got out of  
16 the mantrip and walked down --- like  
17 I said, the mantrip was sitting in 50  
18 block, that's where the switch is.  
19 The mantrip was sitting right there  
20 at the switch. We got out of the  
21 mantrip and went to the first  
22 crosscut and we knew that that's  
23 where power --- the power shutters  
24 were. So we went to the next  
25 crosscut back and there was a man

1 door. So we went through the door  
2 and noticed that we didn't have any  
3 fresh air at that point. So that's  
4 when me and Alton Wamsley, that's  
5 when we put ours on, just  
6 immediately. We both agreed, you  
7 know, this is bad. You know, we're  
8 breathing --- we don't know what  
9 we're breathing, but it's bad, we  
10 need to get them on. So that's when  
11 we put them on.

12 Q. Did anybody else put theirs  
13 on, too?

14 A. Yeah, Joe Ryan and Doc  
15 Anderson and I can't remember if  
16 anybody --- yeah, Roger Perry put his  
17 on and Hoy Keith and I can't --- I'm  
18 not sure if anybody else put theirs  
19 on or not. But yeah, we were telling  
20 them to. Of course, you know, that  
21 was their preference. We weren't  
22 going to make them do anything.

23 Q. But there were a couple that  
24 ---

25 A. Right.

1 Q. --- decided not to?

2 A. Right.

3 Q. Okay. When you put your SCSR  
4 on, did you have any difficulty with  
5 it?

6 A. No.

7 Q. I mean, you went through your  
8 donning process just like ---?

9 A. Yeah.

10 Q. And were you trained to put it  
11 on?

12 A. Yeah. And it's always been a  
13 big question in the back of my head,  
14 you know, if you have to put this  
15 thing on, do you think you could do  
16 it. And they tell you, you know, it  
17 takes approximately 30 seconds to get  
18 it on. That's about right. To get  
19 that thing broke down and get it on  
20 and get it working, it doesn't take  
21 very long.

22 Q. How did you activate it?

23 A. With the pull cord on it.

24 Q. And it worked okay, blew the  
25 bag up?

1 A. Yeah.

2 Q. And you had no problem?

3 A. Uh-uh (no).

4 Q. That was good.

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

23 Q. Did anybody have any problems  
24 with the SCSRs or did you assist  
25 anyone?

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

22      Q.       So as far as you know,  
23      everybody's SCSR functioned the way  
24      it intended; right?

25      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  
23 wall or did you go through a door?

24 A. We went through a door that  
25 was at 48 block.

1 Q. Forty-eight (48) block. And  
2 that what's got you into the intake  
3 escapeway?

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

10 Q. And then did you continue down  
11 the intake escapeway?

12 A. No. We went back out into the  
13 track, because that's where the rest  
14 of the crew was.

15 Q. Okay. And then you headed  
16 out?

17 A. Yeah, that's when we started  
18 walking out, then that's when we  
19 heard somebody --- we heard a mine  
20 phone. So of course, we're going by  
21 sound because you can't see anything,  
22 so we're all going by sound to get to  
23 the phone.

24 Q. Let me get this right. When  
25 did you leave the track and go to the

1 intake?

2 A. To stay in the intake?

3 Q. Yes.

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

7 Q. And is that --- you only poked  
8 through one door to see if it was the  
9 same?

10 A. Yeah, that one because like I  
11 said, there was more or less three  
12 groups of us and there was --- I was  
13 in the middle group, so the guys in  
14 front were checking the doors going  
15 down through. And that's when ---  
16 when they went through that door and  
17 they didn't come back out, I knew  
18 that's where we needed to go. Like I  
19 said, they were within a block and a  
20 half to two, no more than two blocks  
21 away.

22 Q. Was there a noticeable  
23 difference then?

24 A. Yeah. Yeah.

25 Q. Did you guys keep your SCSRs



1 on then for some time?

2 A. I kept mine on until we  
3 reached 26 block. And then at 26  
4 block, that's when, like I said, the  
5 air was clear, you could see the ---  
6 like the green reflectors indicating  
7 the intake escapeway. You could see  
8 those moving and the fire boss tags,  
9 anything hanging you could see it  
10 moving.

11 Q. Was it still pretty hazy  
12 though?

13 A. No. There was --- you didn't  
14 see any of the dust. It was pretty  
15 much gone at that point.

16 Q. Okay. That's when you got the  
17 mantrip and went out?

18 A. Right.

19 Q. Okay. And on the outside, you  
20 say you talked to Mr. Collins ---

21 A. Yeah.

22 Q. --- and briefed him? Were  
23 there any other detectors that were  
24 going off? Did anybody --- at any  
25 time from the time that you heard the

1 alarms go off, do you know what any  
2 of the readings were?

3 A. No, I have no idea.

4 Q. Okay. So were you injured at  
5 all?

6 A. All I had was some small welts  
7 on my back just from where like the  
8 rocks and then there was pieces of  
9 rock that was picked up. I just had  
10 some welts on my back. And the EMTs  
11 checked me out to make sure that  
12 there wasn't anything in my back, but  
13 it was just small welts and they went  
14 away within two or three days.

15 Q. And you didn't get sick or  
16 anything?

17 A. No, didn't get sick. Just has  
18 that stinking smell in my nose for  
19 about three days, but it --- you  
20 know, it finally went away. No, I  
21 didn't have any.

22 Q. Do you remember Owen making  
23 any calls?

24 A. Just to call from the  
25 underground to the outside.

1 Q. That's what I mean.

2 A. Yeah.

3 Q. Whenever it happened.

4 A. Yeah, he made the call when we  
5 found the mine phone. And like I  
6 said, I'm not sure what block the  
7 mine phone is at, but he called  
8 outside and told them that we had had  
9 some kind of explosion underground  
10 and that they needed to do what they  
11 needed to do to get us.

12 Q. Do you know who he talked to?

13 A. No.

14 Q. Just a one-sided conversation?

15 A. Yeah. I mean, I don't know  
16 --- when he called outside, I don't  
17 know if the dispatcher answered or if  
18 it was --- which I'm sure it probably  
19 was the dispatcher, but I can't say  
20 for sure because I don't know  
21 exactly.

22 Q. Did you hear any time the  
23 trolley phone, any conversations on  
24 the trolley phone?

25 A. No.

1 Q. Any time at all from the time  
2 you went in until the time you got  
3 out?

4 A. No, because coming out, you  
5 know, everybody was talking in the  
6 mantrip about what happened and we  
7 couldn't --- you know, just talking  
8 amongst ourselves.

9 Q. Did you hear any other kind of  
10 chatter on the mine phone, the pager  
11 phone?

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

23 Q. Did you have anything to do  
24 with any of the assisted work with  
25 the teams or ---?

1 A. No. No, I didn't. I mean, we  
2 just --- you know, I can't --- I'm  
3 not sure of the time again. But  
4 family members of the trapped miners  
5 ---

6 Q. Yeah.

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

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

19 A. No. No. Just waited.

20 MR. O'DONNELL:

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

23 MR. COLLINS:

24 I don't think we have  
25 anything at this time, Eric.

1 BY MR. O'DONNELL:

2 Q. Did any of you guys have any  
3 walkies with you?

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

14 Q. But they did make an attempt  
15 ---

16 A. Yeah.

17 Q. --- with their walkies to try  
18 to get ahold of Two Left crew?

19 A. Yes, they both did.

20 Q. Okay.

21 A. Because I know because Chris  
22 Tenney, I was standing beside Chris  
23 when he was trying to call but Paul  
24 answered it, but there was no --- no  
25 response from the other crew. It was

1 probably too great of a distance from  
2 --- at that point, we're --- you  
3 know, we're down around in the 20  
4 block area, the 26 block area when he  
5 tried that. And that would be too  
6 great of a distance for those radios  
7 underground. I'm guessing. I'm not  
8 a professional. But that was  
9 probably too great of a distance.

10 Q. But he tried?

11 A. Right. Yeah, they did try.

12 Q. When did you take your SCSR  
13 off?

14 A. At 26 block when we got there,  
15 there was a scoop sitting there and a  
16 scoop charger. And when we got there  
17 and you know, we waited there for a  
18 minute, we looked back and the other  
19 crew --- the other group was right  
20 --- you know, they're within a couple  
21 blocks of us, they're coming. And  
22 like I said, you could see that there  
23 was no dust, you know, there was  
24 fresh air, you could see the air  
25 movement. So that's when I took mine

1 off at that time.

2 Q. Did you take it with you?

3 A. Yeah, I still had it around my  
4 neck. I never took it off. I just  
5 took the mouthpiece out and the nose  
6 clips off.

7 Q. Okay. Anything that you might  
8 want to add that I didn't ask you  
9 about that? Any information that  
10 might be important?

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

12 Q. You say you've been working in  
13 the mine there for, oh, a year and so  
14 many months?

15 A. Yeah, almost a year and a  
16 half.

17 Q. Did you ever work in that old  
18 Two Left main seal area? The seals  
19 that blew out, in that area, did you  
20 ever work up there?

21 A. I worked up there one day. I  
22 come out --- I worked an extra shift  
23 on a Friday, because at that time we  
24 were working four tens, so I worked  
25 the Friday. And all I did was --- I



1 was running the scoop and all I did  
2 was haul blocks over to the seals,  
3 spotted some seals where the guys  
4 were going to build them and then  
5 they brought in a couple more loads  
6 of the blocks and the B-Bond in the  
7 sealant form. And that's pretty much  
8 all I did was just unload cars all day  
9 and then stockpile blocks for the  
10 seals. And that's the only time I  
11 ever worked on it.

12 Q. Who was your boss up there that  
13 day?

14 A. Jeff Snyder.

15 Q. And was it all new block that  
16 was delivered there?

17 A. Yeah. Yeah, they came from  
18 outside but still in the --- bundled  
19 in the plastic and I pulled it off.

20 Q. Did you do any of the cleanup  
21 work, repair the area with your scoop  
22 for those --- did you clean any  
23 places out with the scoop where the  
24 seals were going to be built?

25 A. Well, the two --- the one or

1 two that they worked on that day, I  
2 think had already been cleaned. I  
3 don't know if Jeff did it because I  
4 was getting one scoop and Jeff - - -  
5 I'm pretty sure Jeff had taken one  
6 scoop because there was two scoops in  
7 that area when we went up there. And  
8 he told me to get the scoop off the  
9 charger and start unloading the  
10 blocks because there was already a  
11 load of blocks up there waiting to  
12 get loaded. And I'm pretty sure Jeff  
13 took the scoop, but when he left with  
14 it, I'm not sure where he took it to.

15 I don't know if he went over  
16 there to do that or he went over  
17 there to maybe scoop up a bundle of  
18 blocks, because like I said, we had  
19 them stockpiled in there. I don't  
20 know if he wanted to go ahead and  
21 deliver them while I was getting some  
22 of them, unloading them. I'm not  
23 sure exactly what he did.

24 Q. Were they starting to build  
25 them?

1 A. Yeah, they were working on ---  
2 I know that they worked on at least  
3 one that day that they ---.

4 Q. About how many guys were up  
5 there? Do you know who they were?

6 A. There was Jeff Snyder, Alton  
7 Wamsley, Jeremy Toler and a red hat,  
8 and I'm not sure what his name was.

9 Q. Wamsley, Toler ---?

10 A. Jeff Snyder and the red hat.

11 Q. You don't know who the red hat  
12 was?

13 A. No. I think his first name  
14 was Seth, but I can't remember his  
15 last name. He doesn't work there  
16 now.

17 Q. He doesn't?

18 A. No.

19 Q. And who was their boss?

20 A. Jeff.

21 Q. Snyder was everybody's boss?

22 A. Yeah. He was the outby. I'm  
23 assuming Jeff was the outby foreman  
24 at that time. I'm going to guess.  
25 I'm not sure but I ---.

1 Q. So you didn't do any building  
2 yourself?

3 A. No.

4 Q. Did you watch them do any  
5 building?

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

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

21 A. I'm going to guess it was  
22 somewhere right in the middle.

23 Q. In the middle?

24 A. Yeah. I'm going to guess. I'm  
25 not sure. Of course at that time, I

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

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

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

16 Q. Yeah.

17 A. And everything was laid up  
18 wet. Before they --- before the  
19 second row went on, this was all  
20 wetted down with the sealer, with the  
21 mine sealer. And then these went  
22 down and when you put those two down,  
23 then they'd wet those down and down  
24 in the cracks and in the seams and  
25 everything like that. And I hope I

1       showed you that right because I  
2       didn't do any building.

3       Q.       Yeah, we're going to go over  
4       there, maybe you can show us  
5       something on a diagram.  Were you  
6       there when you built the bottom row?

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

18      Q.       So how high was the wall when  
19      you were over there?

20      A.       I'm going to guess maybe about  
21      waist high only probably.

22      Q.       So that's where you got  
23      involved with it there?

24      A.       Yeah.

25      Q.       What kind of cement were you

1 using?

2 A. Well, the regular B-Bond's in  
3 the green bag, and I know because  
4 this was in a blue bag, so I'm  
5 assuming it was special. I don't  
6 know if it was a special sealer for,  
7 you know, certain walls or what.

8 But I know regular B-Bond is  
9 in the green and this was in the blue  
10 because they had delivered it ---  
11 actually they had sent that blue  
12 sealer to our section. And I asked  
13 somebody --- I asked the motorman I  
14 said, did they get different B-Bond  
15 and they said no, why.

16 And I said, well that's got  
17 blue stuff on it. They said, oh,  
18 don't take that off. It goes to Two  
19 Left. And I said okay. So I knew  
20 that wasn't regular B-Bond.

21 Q. So all the bags that you  
22 delivered at the seal area, were they  
23 blue bags?

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

25 Q. Or were there any green bags?

1 A. No. It was still wrapped. It  
2 was still --- there was a brand new  
3 pallet that was on the end of the car  
4 and it still had the plastic on it,  
5 never been busted.

6 Q. Did you do any of the mixing?

7 A. Uh-uh (no).

8 Q. You just helped smear it?

9 A. I just helped smear some for a  
10 while.

11 Q. Do you remember wetting the  
12 blocks down before you put the bond  
13 on it?

14 A. No.

15 Q. And did you lay any blocks?

16 A. I handed some, but I didn't  
17 actually place any.

18 Q. Do you remember if they put  
19 any --- were they laid up dry and  
20 then smeared on the top or did they  
21 put ---?

22 A. Well, the --- like I said,  
23 this row was laid up wet so  
24 everything here was wet, the tops of  
25 them are wet and they laid the blocks



1 down and then they --- before they  
2 did any more, they did these two and  
3 made sure they got the seams and then  
4 they put, you know, down in here if  
5 there was a crack, if it wasn't real  
6 tight, they made sure it went down in  
7 there and they smeared everything up  
8 wet.

9 Q. But they didn't put any ---  
10 they didn't get a block and smear the  
11 sides up and then set it down. You  
12 laid them all dry and then smeared it  
13 on top and tried to squish it in?

14 A. Yeah.

15 Q. Okay. So how long --- how  
16 many rows did you lay with those  
17 guys?

18 A. I was there probably 15  
19 minutes at the most.

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

21 A. Yeah, I was just there long  
22 enough ---.

23 Q. Was that the only --- Eric,  
24 was that the only part of the  
25 construction that you did?

1       A.           Yeah, that was the only day  
2       that I was ever up there. Like I  
3       said, that was an extra shift and  
4       that was the only reason that I was  
5       even up there that day. It was  
6       because they needed a scoop operator  
7       to unload the block.

8       Q.           Was Jeff around there when you  
9       were doing this?

10      A.           Yeah. Yeah, he was there.

11      Q.           And did he give you any kind  
12      of instructions and tell you how to  
13      build that thing or does this ---?

14      A.           Well, they were talking about,  
15      you know --- and I was asking him how  
16      they were building the seals. And  
17      they were just telling me, you know,  
18      they were going to do this and then  
19      this.

20      Q.           What did they say?

21      A.           They just said, you know,  
22      we're going to lay this one this way  
23      and I was asking them because I had  
24      never seen them build the seals with  
25      --- with these kinds of blocks. And

1 they said that they were going to  
2 double the blocks this way and then  
3 the next one would be laid the  
4 opposite direction.

5 Q. So there were only one block  
6 --- wait a minute. Okay. You have  
7 to tell me.

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

17 Q. Yeah.

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

24 Q. How thick was the seal?

25 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  
23 of them that they had already done,  
24 but I didn't know how they built  
25 them.

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

7 MR. COLLINS:

8 Make sure he speaks up  
9 so that she can hear him.

10 MR. O'DONNELL:

11 We'll mark this Exhibit  
12 One, it's the page seven  
13 eight, seven nine --- seven of  
14 nine.

15 Scratch that last one  
16 and we'll go with page nine of  
17 nine. Okay. \*\*\*

18 (Hess Exhibit Number  
19 One marked for  
20 identification.)

21 BY MR. O'DONNELL:

22 Q. Now, you're saying that the  
23 block was laid lengthwise that way.  
24 Do you recall if there was another  
25 row on the back?

1       A.       Okay. From what this shows,  
2       this is not the way I thought it was  
3       built. Okay. See what I thought ---  
4       the way I thought it was built was  
5       they started with, you know, these  
6       24-inch blocks, turned longways and  
7       then another one ---.

8       Q.       Well, let's go back to this  
9       one, like that?

10      A.       No. I thought that they took  
11      two blocks, like would take these two  
12      right here and I thought they were  
13      turned that way and they did it that  
14      way. So I was wrong. But like I  
15      said, I had went up there and that's  
16      the first time I've ever seen them  
17      working on that.

18      Q.       So which one of these  
19      describes how the block was laid?  
20      And if it wasn't either one of these  
21      ---?

22      A.       No, that's the thing, I don't  
23      know for sure, because I thought that  
24      the way that I described it was the  
25      way they did it, and I was wrong.

1 You know, I should have paid more  
2 attention, but I didn't.

3 Q. Okay. Well, let me ask you  
4 this, you were just smearing the  
5 mortar, you weren't laying block?

6 A. Right.

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

9 A. Well, I do know there was more  
10 than one layer. I do know that there  
11 was more than one layer. I do know  
12 that.

13 Q. Okay. So if you had two  
14 lengthwise, you know there was  
15 another block?

16 A. Right. Yeah, it could have  
17 been --- yeah, exactly.

18 Q. It could have been how thick?  
19 That thick? That we're pointing down  
20 to the ---?

21 A. Yeah, it could have been this  
22 way and then turned this way.

23 Q. Okay.

24 A. Yeah. Yeah. I mean, it was  
25 definitely thicker than just one ---

1       that one row.

2       Q.        Okay.

3       A.        It was definitely more than  
4       one block laying up against another  
5       one from the thickness.

6       Q.        All right. I understand what  
7       you're saying.

8                And was the cement that you  
9       mixed, was it pretty soupy so you  
10      could slide it around pretty good?

11     A.        Yeah, it had enough texture to  
12     it where you didn't have to, you  
13     know, stuff it down in there. It had  
14     enough room --- was wet enough that  
15     you could fill the cracks. It would  
16     just like ooze down in and fill the  
17     cracks.

18     Q.        About how thick do you think  
19     it was on top? How thick did you  
20     make it? Let's sit down. About how  
21     thick was it?

22     A.        Probably half an inch thick,  
23     probably, just guessing.

24     Q.        Do you know when you were  
25     putting the cement on, was there any



1 wood in it?

2 A. I didn't see any.

3 Q. Did you just do the top, Eric,  
4 or did you do sides and face or  
5 anything?

6 A. I just was there long enough  
7 to help smear one row, that's the  
8 longest I was in there.

9 Q. Were you using your bare  
10 hands?

11 A. No. Rubber gloves.

12 Q. Okay.

13 MR. O'DONNELL:

14 Let's take a  
15 five minute break; all right?

16 SHORT BREAK TAKEN

17 MR. O'DONNELL:

18 John, do you have any  
19 follow-up questions?

20 MR. COLLINS:

21 If I may, Eric?

22 A. Okay.

23 BY MR. COLLINS:

24 Q. I think earlier you stated  
25 you're attending a foreman training

1 class?

2 A. Uh-huh (yes).

3 Q. Had you started that class  
4 prior to January the 2nd?

5 A. Yes. I believe the classes  
6 started in November --- the first  
7 week of November, I don't know the  
8 exact dates. The classes were  
9 already in session.

10 We were supposed to have a  
11 class --- we had class the Saturday  
12 before this and then we were supposed  
13 to have another one the Saturday  
14 after but that class was cancelled of  
15 course. And there was supposed to be  
16 Wednesday, but of course classes were  
17 cancelled that week. The test was  
18 originally scheduled for January the  
19 16th, but then everything kind of got  
20 pushed up because of this. But yeah,  
21 the classes started the first week of  
22 November.

23 Q. During these classes, do you  
24 think you had any training that  
25 helped you during this event?

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

1 going for eight hours. I mean, it's  
2 --- you have to do it and it helps.

3 Q. In the foremen trainee class  
4 have you covered gasses yet?

5 A. Yeah. A lot of gasses.

6 Q. The carbon monoxide entering  
7 and outgoing?

8 A. Yeah.

9 Q. So you also said Alton Wamsley  
10 was with you at the same time?

11 A. Uh-huh (yes).

12 Q. He's also in this foreman  
13 training?

14 A. Right.

15 Q. Then, Eric, you put the SCSR  
16 on at block 50 then?

17 A. Forty-eight (48).

18 Q. Forty-eight (48)?

19 A. Uh-huh (yes).

20 Q. And you wore that to block 26  
21 of Four Belt?

22 A. Uh-huh (yes).

23 Q. And how long total would you  
24 say you wore that?

25 A. I'm going to say probably 25

1 to 30 minutes.

2 Q. And the day that you were  
3 talking about --- that you assisted  
4 in building these seals or had hauled  
5 some blocks and whatever, Jeff Snyder  
6 was the foreman in charge of building  
7 those seals?

8 A. Uh-huh (yes).

9 Q. If I'm clear, you did not  
10 really instruct anyone how to build  
11 those or ---

12 A. No.

13 Q. --- determine how they were  
14 going to be built?

15 A. No. I was just ---.

16 Q. You transported the material  
17 that was up there?

18 A. Yeah. I was the ---.

19 Q. So no one really trained you  
20 on how to lay the blocks because you  
21 weren't laying the blocks?

22 A. Right. Because you know,  
23 that's --- like I said, I worked an  
24 extra shift and that's just --- you  
25 know, when you work an extra shift,

1     you don't know where you'll go. Like  
2     if there would be somebody off, then  
3     you would fill in for them. It's  
4     just, you know, --- and I just worked  
5     an extra shift and that's where I was  
6     sent to work, just to run the scoop  
7     for Jeff.

8     Q.         And Eric, when the explosion  
9     occurred, I think you said the first  
10    thing you thought was a roof fall?

11    A.         Yeah, at the very instant when  
12    we first got the first air, it just  
13    felt like pressure off a roof fall,  
14    like the wind off a roof fall.

15    Q.         Then I think you said you  
16    heard Owen call outside?

17    A.         Uh-huh (yes).

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

20    A.         He said that we have had some  
21    kind of explosion in here. That's  
22    what I remember hearing. We've had  
23    some kind of explosion.

24    Q.         What did you think then?

25    A.         At that time, I knew that we

1 had an explosion, that it wasn't just  
2 a --- it wasn't a roof fall because  
3 I've been on --- worked around the  
4 longwall when it's fell and you can  
5 feel --- you can feel the air of  
6 course and been around roof falls and  
7 you can feel the air. This had the  
8 heat right in the middle of it. I  
9 had never felt anything like that  
10 before.

11 Q. Eric, on the day that you  
12 hauled these blocks up and you  
13 operated the scoop; is that correct,  
14 you operated the scoop?

15 A. Yeah.

16 Q. And was that scoop on charge  
17 when you got up there?

18 A. Yeah.

19 Q. And where was it on charge at?

20 A. Right off the track. When you  
21 get to the end of the track, the  
22 scoop was there at the end of the  
23 track on charge. It was off to the  
24 left of the track like so.

25

MR. COLLINS:

1 I think that's all for  
2 now, Mr. O'Donnell.

3 MR. O'DONNELL:

4 Okay.

5 BY MR. O'DONNELL:

6 Q. Eric, did anybody attempt to  
7 drive the mantrip out?

8 A. No.

9 Q. No. Why?

10 A. Well, number one because it  
11 blew the boss off of it. I mean,  
12 because he had said after, you know,  
13 after we had --- I can't --- I don't  
14 know --- well, I didn't see him the  
15 rest of the day but I do know at some  
16 point after we had gotten back  
17 together, I can't remember if it was  
18 at a meeting or where, he had thought  
19 that a waterline blew. When the air  
20 first started coming, he thought a  
21 waterline blew so he stood up to try  
22 to jump off the mantrip because he  
23 didn't want to get wet. Well, when  
24 he stood up, that's when it came and  
25 blew him off the mantrip. So there



1       was nobody in the driver's seat. And  
2       even just seeing the stuff laying in  
3       the track, I don't know that we would  
4       have went very far with --- before  
5       wrecking, because there was, you  
6       know, blocks from the stoppings blown  
7       out in the track. There was oil cans  
8       blown in the track. I don't know  
9       that we would have went very far even  
10      if we had tried without derailling or  
11      just getting enough stuff underneath  
12      the mantrip to gob it out.

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

20      A.       I do know that not at this  
21      mine, but at another mine that I have  
22      worked, that that had been done  
23      before, just to ---.

24      Q.       Just this mine.

25      A.       This one, no. I've never seen

1 it done at this time. I'm not saying  
2 it wasn't but I've never seen it  
3 done.

4 Q. Okay. Just what you know.  
5 That would be good. Thank you. Did  
6 you ever do any roof bolting in the  
7 mine?

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

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

15 A. No.

16 Q. Okay.

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

23 Q. Outby

24 A. Yeah.

25 Q. Okay. Do you know who the

1 roof bolters were at Second Left  
2 behind the seal area?

3 A. No, I don't.

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

8 A. This past Friday.

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

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

14 Q. Okay.

15 A. --- at the same time.

16 Q. And who was your trainer?

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

19 Q. Philippi Training Center?

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

22 Q. Did they go over the mine  
23 emergency and evacuation program?

24 A. Yes.

25 Q. And do you know who the

1 qualified person is --- or not the  
2 --- who the designated person is?

3 A. To do?

4 Q. In charge of evacuation?

5 A. The designated --- I know the  
6 person that did the map and showed us  
7 the escapeways was the  
8 superintendent. He's the guy that  
9 did it that day.

10 Q. That was the superintendent?

11 A. Uh-huh (yes).

12 Q. So whenever there's a mine  
13 emergency at the mine, the person in  
14 charge, the designated person, is  
15 ---?

16 A. Well, I know that at our mine  
17 when the emergency took place, the  
18 dispatcher was in charge.

19 Q. Okay.

20 A. Okay. I'm getting --- I got a  
21 little bit off ---

22 Q. That's okay.

23 A. --- talking about the training  
24 at the Philippi Mines instead of our  
25 mines. Sorry about that.

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

3 A. Right. That's one thing we  
4 learned in the foreman class is  
5 there's one person in charge. And  
6 I've been told, you know, in the  
7 event of that, that type of  
8 emergency, the dispatcher has control  
9 at that point to try to assess what's  
10 going on and he's the one that relays  
11 the messages from the underground to  
12 outside, or outside to underground.

13 Q. When is the last time you had  
14 a fire drill?

15 A. Last time I had a fire drill?  
16 Exact time I don't remember when the  
17 last time was we had a fire drill.

18 Q. Do you know if you've ever had  
19 one since you've been there?

20 A. I know that we have gone over  
21 the duties of each person.

22 Q. Yeah.

23 A. Or what each person is  
24 responsible for, but I can't --- I  
25 don't remember how long ago it's

1       been.

2       Q.           What about escapeway drills,  
3       have you ever traveled out the  
4       escapeway

5       A.           We walked the escapeway  
6       yesterday.

7       Q.           But prior to that?

8       A.           Prior to that, the day of the  
9       explosion and then prior to that, I  
10      don't know the exact date, how long  
11      it's been.

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

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

14     Q.           Okay. When you did your SCSR  
15     training for your hand --- when your  
16     one-year --- at your annual  
17     retraining, did you have to don it  
18     from start to finish?

19     A.           Yeah.

20     Q.           Okay. Going back to this  
21     diagram. If you believe that they  
22     were laid in any different way, could  
23     you just write them down on there and  
24     if not, then just ---.

25     A.           Well, that looks --- I just

1 know that it was --- that I had  
2 smeared more mud than just on one  
3 block.

4 Q. Okay.

5 A. I know that it was a lot  
6 wider, a lot thicker than that.

7 Q. All right.

8 A. I do know that.

9 Q. Have you ever been searched  
10 for smoking articles?

11 A. Yeah.

12 Q. Did you ever observe anyone  
13 smoking underground?

14 A. No.

15 Q. Have you ever found smoking  
16 articles underground?

17 A. No, I have not.

18 Q. Has anyone offered you  
19 anything or made a promise to you in  
20 exchange for appearing here today?

21 A. No.

22 Q. Do you have anything you would  
23 like to add that may be relevant to  
24 this investigation?

25 A. I don't know if it's relevant

1 but I just want to say thanks to all  
2 the MSHA people and state people. I  
3 know that --- I just want to say  
4 thanks to all the MSHA and the state  
5 because, you know, we're here for one  
6 reason, that's to find out what  
7 happened.

8 MR. O'DONNELL:

9 Okay. We're going to  
10 take a short five-minute break  
11 then finish up.

12 A. Okay.

13 SHORT BREAK TAKEN

14 BY MR. O'DONNELL:

15 Q. Eric, just to go back on a few  
16 things, just to clarify a point. You  
17 said that your annual retraining,  
18 where did you have it at?

19 A. At the --- the one I just had?  
20 At the Philippi Training Center at  
21 the Philippi Mines.

22 Q. Okay. And when you came to  
23 the Sago Mine, what kind of training  
24 did you receive your first day?

25 A. The SCSR training, they went



1 over the escapeway, escapeway map - - -  
2 well, not the escapeway map, but they  
3 went over the map and showed, you  
4 know, the primary and secondary  
5 escapeways. And when I was  
6 underground, I was task trained on  
7 the - - - on the truss bolter which is  
8 the machine that I was running when I  
9 first went to the Sago Mine.

10 Q. Okay.

11 A. I was task trained on it. And  
12 then I was task trained on the  
13 regular upright bolter and task  
14 trained on the scoop and the shuttle  
15 car.

16 Q. Okay. Who gave you that  
17 training?

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

23 Q. Okay. Thank you.

24 A. I mean, and the section  
25 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?

23 A. I don't recall.

24 Q. In front?

25 A. I know it was rock dusted in

1 front just because everything's rock  
2 dusted. I mean, it's just something  
3 you see every day. So I'm not going  
4 to say yes or no because I'm not  
5 sure.

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

11 A. No.

12 Q. Did you see any rock dust pods  
13 in the area?

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

21 Q. Okay. What about any kind of  
22 roof screening above the seal area?

23 A. No, I don't remember.

24 Q. Okay. Or any other cables or  
25 wires or track or anything like that?

1 A. No. I know there wasn't no  
2 track because I would have had to  
3 have run over it, but I don't ---  
4 there was no track, but as far as any  
5 other cables or anything, I don't  
6 remember if there was ---.

7 Q. Okay.

8 MR. O'DONNELL:

9 John, do you have any  
10 follow-up questions?

11 MR. COLLINS:

12 No, I don't. Thank  
13 you.

14 BY MR. O'DONNELL:

15 Q. We forgot to ask you your  
16 phone number?

17 A. Okay. 304-265-2712.

18 Q. Thank you.

19 A. Uh-huh (yes).

20 MR. O'DONNELL:

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

1 to the investigation as we  
2 work to determine the cause of  
3 the accident.

4 We ask that you not  
5 discuss your testimony with  
6 any person who may have  
7 already been interviewed or  
8 who may be interviewed in the  
9 future. This will ensure that  
10 we obtain everyone's  
11 independent recollection of  
12 the events surrounding the  
13 accident.

14 After questioning other  
15 witnesses, we may call you if  
16 we have any follow-up  
17 questions that we feel we need  
18 to ask you. If at any time  
19 you have additional  
20 information regarding the  
21 accident that you'd like to  
22 provide to us, please contact  
23 us at the contact information  
24 that we gave you earlier.

25 The Mine Act provides

1           certain protections to miners  
2           who provide information to  
3           MSHA, and as a result, are  
4           treated adversely. If at any  
5           time, you believe that you've  
6           been treated unfairly because  
7           of your cooperation in this  
8           investigation, you should  
9           immediately notify us.

10                         If you wish, you may  
11           now go back over any answer  
12           that you've given during the  
13           interview and make a statement  
14           if you would like.

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

16                         MR. O'DONNELL:

17                         Again, I'd like to  
18           thank you, Eric. We  
19           appreciate you coming forward.  
20           Thank you.

21  
22                         \* \* \* \* \*

23                         SWORN STATEMENT

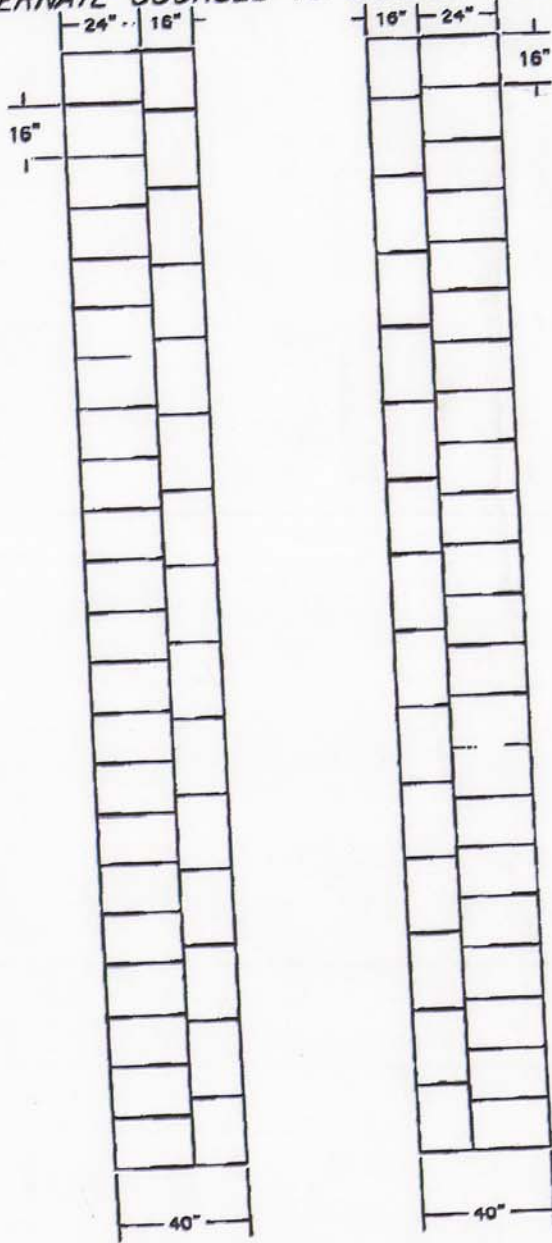
24                         CONCLUDED AT 11:43 A.M.

25                         \* \* \* \* \*

40" THICK OMEGA BLOCK SEAL WITH CONCRETE PIER  
FOR USE WITH SEALS UP TO 12 FT HIGH BY 20 FT WIDE

CONSTRUCTION PLAN

ALTERNATE COURSES TO STAGGER JOINTS



T22

