

CONTINUED STATEMENT UNDER OATH
OF
SETH OSBORNE

Taken pursuant to Notice by Miranda
D. Elkins, a Court Reporter and
Notary Public in and for the State of
West Virginia, at the Mine Safety and
Health Administration Building, 818-D
Arbuckle Road, Summersville, West
Virginia, on Tuesday, March 28, 2006,
at 6:09 p.m.

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2

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1 A P P E A R A N C E S (continued)

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I N D E X

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16
17
18
19
20
21
22
23
24
25

INTRODUCTION	6 - 10
WITNESS: SETH OSBORNE	
QUESTIONS	
By Mr. Urosek	10 - 53
By Mr. Rutledge	53 - 56
By Mr. Urosek	56 - 63
CONCLUDING REMARKS	63 - 64
CERTIFICATE	65

EXHIBIT PAGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>PAGE IDENTIFIED</u>
One	Diagram of Seals	60

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

MR. UROSEK:

My name is John Urosek. I'm a mining engineer with the Mine Safety and Health Administration, an agency of the United States Department of Labor. With me is Robert Wilson and Tim Williams of MSHA, and also of the State we have Mike Rutledge and Dave Stuart.

This interview is being conducted as part of the investigation being conducted by MSHA and the West Virginia Office of Miners' Health, Safety & Training into the events surrounding the explosion accident that occurred at the Sago Mine owned by International Coal Group on January 2nd, 2006.

This interview is being

1 conducted pursuant to section
2 103 (a) of the Federal Mine
3 Safety & Health Act of 1977.

4 This interview of Mr.
5 Seth Osborne is a continuation
6 of an interview that was held
7 on February 23rd, 2006. We
8 are reconvening this interview
9 for the purpose of asking Mr.
10 Osborne additional questions.

11 This interview is being
12 conducted at the MSHA
13 Summersville field office in
14 Summersville, West Virginia on
15 March 28th, 2006 at about 6:00
16 p.m.

17 The questioning will be
18 conducted in the same manner
19 as the previous interview was
20 conducted. As before, you are
21 permitted to have a
22 representative with you during
23 this interview, and you may
24 consult your representative at
25 any time. You may designate

1 any person to be your
2 representative.

3 And the court reporter
4 will record your interview and
5 later produce a written
6 transcript of your interview.

7 And your representative is?

8 MR. OSBORNE:

9 My mom, Louise Osborne.

10 MR. UROSEK:

11 Okay. And Mike, is
12 there --- do you have an
13 opening statement?

14 MR. RUTLEDGE:

15 Seth, I don't know
16 whether you were advised
17 before, but just for the ---
18 the Office of Miners' Health,
19 Safety & Training, is
20 conducting this interview
21 session jointly with MSHA, we
22 are in agreement with the
23 procedures that's been
24 outlined by Mr. Urosek for the
25 interviews that we'll do here

1 today.

2 However, the Director
3 of the Office of Miners'
4 Health, Safety & Training
5 reserves the right, if
6 necessary, to call or subpoena
7 witnesses or to require the
8 production of any record,
9 document, photograph or other
10 relevant materials necessary
11 to conduct this investigation.

12 We appreciate you being
13 here. We thank you for taking
14 the time to come out here and
15 talk to us and give us what
16 information you can. If you
17 have any questions from the
18 State's side of the interviews
19 or part of investigation, you
20 could use that contact
21 information there. And thanks
22 for being here.

23 MR. UROSEK:

24 Do you have any
25 questions regarding the manner

1 in which this interview will
2 be conducted?

3 MR. OSBORNE:

4 No, sir.

5 MR. UROSEK:

6 Okay. If you'd swear
7 in Mr. Osborne.

8 -----

9 SETH OSBORNE, HAVING FIRST BEEN DULY
10 SWORN, TESTIFIED AS FOLLOWS:

11 -----

12 BY MR. UROSEK:

13 Q. For the record, could you just
14 state your full name?

15 A. Seth Monroe Osborne.

16 Q. Is your address and phone
17 number the same as it was during the
18 interview in February?

19 A. Yes, sir.

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

22 A. Yes, sir.

23 Q. And can I call you Seth?

24 A. Yes, sir.

25 Q. And I'm John.

1 A. Okay.

2 Q. And if you ever need a break
3 or anything during the interview,
4 just let us know.

5 A. Okay.

6 Q. And as we mentioned earlier,
7 the purpose really, of this
8 discussion today is to learn some
9 more about the seals and the seal
10 construction. So we're going to
11 focus in on a few different areas and
12 try not to repeat some of the
13 questions we had, but try to get in
14 as much depth as we can, and we hope
15 that you can remember as much as you
16 can about it for us.

17 So the last time we talked, we
18 did discuss the old Two main Left
19 seals.

20 A. Yes, sir.

21 Q. And I think you told us at the
22 time, on how many of the seals you
23 did help construct, but could you go
24 over it again for us?

25 A. I was in entries Two, Three,

1 Four, Five, Six, Seven and Eight.

2 Q. So you helped with most of the
3 seals then that were constructed?

4 A. Yes.

5 Q. Was the construction method
6 the same on all the seals?

7 A. Yeah, for the most part.

8 Q. For the most part. When the
9 blocks were brought up to the seals,
10 were they brought up for each
11 individual seal, all the blocks to
12 build that seal at one time, or did
13 they bring some at a time and then
14 bring some more later?

15 A. Yeah, because we'd use those
16 blocks up, and then they'd bring us
17 up some more.

18 Q. When they brought them up,
19 were they wrapped in plastic?

20 A. Yes, sir.

21 Q. And what would you do with the
22 ones in the plastic? Would you cut
23 the plastic off, or ---?

24 A. Yes.

25 Q. Did you notice anything about

1 the blocks, you know, when you first
2 cut them off? Were they a grayer
3 color than the ones that might not
4 have been in plastic, or --- is there
5 anything you remember about the
6 blocks at all?

7 A. I can't remember exactly.

8 Q. Okay. So the color, whether
9 they were damp --- did they feel damp
10 to you as you remember?

11 A. I don't remember.

12 Q. Okay. Was there ever a case
13 that some of the blocks that they
14 brought up weren't in the plastic?

15 A. From what I remember, they all
16 were in plastic.

17 Q. Okay. And in building the
18 seals, I know that maybe there was a
19 time that you didn't get them all
20 completed in a day?

21 A. Uh-uh (no).

22 Q. You may have left the blocks
23 overnight that were there and come
24 back the next day to rebuild them.

25 A. Uh-huh (yes).

1 Q. Did you ever notice anything
2 different about the blocks that had
3 sit overnight that might not have
4 been in plastic? Were they a
5 different color, or maybe more with
6 kind of a dry material on them on the
7 outside, or ---?

8 A. I don't remember.

9 Q. You don't remember?

10 A. No.

11 Q. Okay. When you were building
12 these seals, did you ever notice that
13 the blocks were a little bit
14 different size, some of them a little
15 bit bigger than others?

16 A. It seems like I remember
17 something about that.

18 Q. For example, maybe when you
19 were putting a row together, that one
20 was kind of sticking up more than the
21 other ones, or maybe you had to fill
22 in or something?

23 A. I don't remember nothing like
24 that. There's something I forgot.
25 Yeah, they brought us in, I think,

1 some smaller block when we were
2 getting close to the top, because we
3 were cutting some of them in half, so
4 they just brought us in smaller block
5 so we wouldn't have to cut them, but
6 that's all I remember.

7 Q. Okay. That's fine. When you
8 were handling the blocks for the
9 different seals at the different
10 times they'd come in, did you ever
11 notice that some of the blocks might
12 have been harder than some of the
13 other ones?

14 A. I wouldn't really know that.

15 Q. How about heavier? Did you
16 ever notice that some of them might
17 have been a little --- seemed like
18 they were a little heavier than the
19 other ones?

20 A. All I did, pretty much mix the
21 mud, so ---. I didn't really handle
22 much of the blocks.

23 Q. Okay. Well, let's see what
24 you can --- you can help us out on
25 the actual construction methods.

1 When you first started, okay, before
2 you did anything, did someone mark
3 for you exactly where you were going
4 to put the seal?

5 A. Yeah.

6 Q. How did they do that? Did
7 they do it with a string, or with
8 paint, or ---?

9 A. I think they marked a few of
10 them with paint.

11 Q. With paint? Now, would they
12 paint along the roof ribs and floor,
13 or just on the ribs?

14 A. Just put kind of a mark there
15 on the rib where --- pretty much
16 where it needed to go.

17 Q. Along the rib?

18 A. Yeah.

19 Q. Okay. And after they marked
20 it, or maybe even before they marked
21 it, when would they have cleaned the
22 area before they started the seal?
23 Would they have done it before they
24 marked it, do you remember?

25 A. We did it, I guess, after.

1 Q. After? So the area's now nice
2 and clean, you took all the loose
3 material off?

4 A. We cleaned up the bottom.

5 Q. Cleaned up the bottom. And
6 how did you do that?

7 A. I shoveled, hammered, block
8 hammer.

9 Q. Did you try --- were there
10 ruts in the bottom?

11 A. Uh-huh (yes).

12 Q. And what did you do --- I
13 mean, did you try to shovel those
14 away, or ---?

15 A. No. We shoveled them out,
16 filled them in with some block --- or
17 the mortar, or whatever you want to
18 call it.

19 Q. The BlocBond?

20 A. Yes.

21 Q. Okay. So let's start with
22 that. After you cleaned the area
23 off, okay, and you --- would you
24 clean the whole --- the entire area
25 off at the bottom where the seal

1 would be?

2 A. Yes.

3 Q. Okay. And now you're going to
4 put the dry --- or the BlocBond. Was
5 it dry when you put it down?

6 A. Yes, sir.

7 Q. And would you do it the entire
8 way across the seal, or would you do
9 it a little bit at a time? How would
10 you do that?

11 A. From what I remember, we just
12 went all the way across to try to
13 level it up.

14 Q. So would you make it --- about
15 how --- would it be as wide as the
16 seal, the area that you leveled off?

17 A. Yeah.

18 Q. So it would be about --- a
19 little over 40 inches wide, I guess?

20 A. I think that's the measurement
21 of it, yeah. Somewhere like that. I
22 know it went from --- it was width of
23 the seal.

24 Q. Okay. And you would just dump
25 the dry mortar on the ground in like

1 a pile and spread it out, or how
2 would you do that?

3 A. Well, we put it down on the
4 ground and smooth it out.

5 Q. And what would you that, with
6 your hands, or ---?

7 A. Yeah.

8 Q. Do you remember about how many
9 bags you would put down when you did
10 that?

11 A. Just whatever we needed.

12 Q. I mean, maybe as few as two or
13 three, or 10 bags or 20 bags, any
14 rough ideas on ---?

15 A. I don't remember.

16 Q. You can't remember that?

17 A. No.

18 Q. Do you remember how thick it
19 would have been? In other words,
20 were there places that it might have
21 been maybe a half inch or a quarter
22 inch, maybe places that were a couple
23 inches, or ---?

24 A. Yeah, I mean, pretty much what
25 we used it for was to level it up.

1 So I mean --- try to get a solid end
2 that's all the way across, something
3 like that. I know we just used it
4 for leveling.

5 Q. Okay. So before you did
6 anything else, you put the mortar and
7 you spread it across the entire
8 bottom; is that right?

9 A. Yeah.

10 Q. Now, did you level it with a
11 level, or you just kind of eyeballed
12 it?

13 A. Eyeball it.

14 Q. Eyeball it. So now I have
15 this nice --- the material down.
16 Now, did it --- before you started
17 putting any blocks down, did it get
18 damp at all, or did --- or was it
19 still like dry looking; do you
20 remember?

21 A. What, when we laid block on
22 it?

23 Q. Well, before you put any block
24 down, right, because I understand ---
25 make sure I get the sequence right,

1 because this was really important to
2 us. So you cleaned the area, and
3 then you put the mortar down where
4 the seal was going to go and you
5 leveled that off; is that the first
6 thing?

7 A. I don't remember. I just ---.

8 Q. Okay. As long as --- we just
9 need the best you can remember.

10 OFF RECORD DISCUSSION

11 A. All I remember is just
12 throwing some block on there.

13 BY MR. UROSEK:

14 Q. Okay. Well, let's go to when
15 you started the block. Okay. Now,
16 how would you do that? Where would
17 you start putting your block down?
18 Would it be in the middle, or on one
19 side or the other?

20 A. You go from one rib to
21 another.

22 Q. One rib to the other?

23 A. Uh-huh (yes).

24 Q. So you'd start on one side,
25 and you'd --- would you put --- you

1 know, there's two courses of blocks;
2 right? One in the front ---

3 A. Right.

4 Q. --- and one in the other
5 direction.

6 A. Right.

7 Q. Would you put one course all
8 the way across first and then come
9 back and put the second, or would you
10 just work your way across?

11 A. No, I don't know that. Like I
12 said, I was mixing mud while they
13 were doing that, so ---.

14 Q. Okay. On that first row, you
15 know, it's --- you have the dry
16 mortar and you have the blocks. And
17 when they'd go to put them in place,
18 the first row, would they put mortar
19 on the block as they put each block
20 down, or would they lay the blocks
21 and then put the mortar down?

22 A. I don't know. All I can tell
23 you is the ones I laid ---.

24 Q. Okay. Well, I mean, if you
25 can --- whatever you remember.

1 A. The ones I laid, I put some on
2 the side, made sure some on the block
3 under it and lay it, so ---.

4 Q. On the first row, or was that
5 on ---?

6 A. I didn't start the first tray.
7 I was started --- I was too busy
8 mixing ---.

9 Q. Mixing the mud?

10 A. Yeah.

11 Q. Okay. So that's a pretty ---
12 that job keeps you pretty busy from
13 what we've learned?

14 A. Oh, yeah.

15 Q. And in that mixing that, when
16 --- the mixture of the mud itself,
17 can you explain what the texture
18 would be like that you tried to keep
19 for it?

20 A. It wasn't runny, but it --- I
21 mean, it wasn't thick either. It was
22 medium grade, you know.

23 Q. Uh-huh (yes).

24 A. I don't know what to describe
25 it as.

1 Q. Kind of a cement-like finish,
2 like if you were pouring cement
3 outside or something?

4 A. I --- more of your mortar,
5 like if you're laying brick.

6 Q. Thicker. A little thicker
7 than that?

8 A. Yeah.

9 Q. Okay. When --- I know you
10 don't remember the first course, but
11 I'm trying to think, you know, the
12 way you were making the mortar, when
13 they would start really using it
14 more. For example, would they move
15 the block to try and get the mortar
16 down in the joints and use more
17 mortar that way? Do you remember how
18 they were actually trying to get the
19 mortar on the joints?

20 A. I don't know. I mean, I've
21 seen a few of them, you know, just
22 rub it across there, and it would
23 drop down in there, and they'd rub
24 some more on it, you know.

25 Q. Do you remember the gaps that

1 would be in between the blocks? I
2 mean, was it, I mean, pretty big that
3 you could get the mortar in, or was
4 it pretty small and kind of hard to
5 get the mortar in? Maybe you'll have
6 to make the mortar maybe even a
7 little thinner to get it in there or
8 something?

9 A. I don't know.

10 Q. You don't remember?

11 A. I don't know, I just seen a
12 few of them just --- you know, I
13 could see, you know, where it would
14 fall down in there.

15 Q. Uh-huh (yes).

16 A. You know, you have a gap, it
17 would fall down in there, you know.
18 That's just what I've seen.

19 Q. Well, that's --- you're doing
20 good giving us what you can for us.
21 We appreciate that. When they put
22 the rows down, can you remember --- I
23 think you said they would put an
24 entire row across, and you know how
25 sometimes when you lay blocks you

1 start the second row while the first
2 row's already down. Would they go
3 all the way across before they
4 started the second row, or would
5 they, you know, have the first row
6 started like halfway and then start
7 at the second one? Do you remember
8 --- can you remember any of that for
9 us?

10 A. Yeah, I seen them do it a few
11 times like that.

12 Q. Okay. So they might have
13 actually two rows going at a time?

14 A. Yeah.

15 Q. On the edges, you know, where
16 the blocks met the rib, there might
17 be a bigger gap there. Do you know
18 what they would fill that in with if
19 they filled it in with anything?

20 A. They usually told me to mix
21 some thicker mud and put it down in
22 there.

23 Q. And fill it up with mud from
24 that?

25 A. Yeah.

1 Q. The blocks, when they were
2 putting them across, did they fit the
3 entire entry, or did someone have to
4 cut them?

5 A. We had to cut some of them.

6 Q. Okay. And would you help them
7 cut those sometimes?

8 A. I cut a few if I had time.

9 Q. And would you use like a hand
10 saw, or ---?

11 A. Yeah. We call it a buck saw.

12 Q. A buck saw.

13 A. I guess that's what you're
14 talking about.

15 Q. Okay. And when you put those
16 across, or if you saw them put them
17 across, would they lay the full
18 blocks to the very end, and then put
19 the piece of the block in the end, or
20 how would they do that? Do you
21 remember that at all?

22 A. I don't know. They just told
23 me what they need, and that's what I
24 cut them, so ---.

25 Q. Okay. So they said cut me

1 one, what, six inches or something,
2 and you'd cut six ---?

3 A. Yeah, something like that.

4 Q. Okay.

5 A. If I could reach over and grab
6 one and cut it.

7 Q. Did you always cut it with a
8 saw, or did you ever use an axe to
9 cut those?

10 A. No.

11 Q. Did you cut them with a saw?

12 A. Yeah.

13 Q. Do they cut pretty easy?

14 A. Some of them.

15 Q. Some of them. Some of them
16 are a little tougher?

17 A. Yeah, sometimes.

18 Q. Did you ever have to cut any
19 --- like a wedge, where you had to
20 cut at an angle, or maybe something
21 to fit into the rib or something on
22 those blocks?

23 A. Yeah.

24 Q. Okay. I know this is hard for
25 you to remember, and I do appreciate

1 you trying for us. When you were
2 making like a row of blocks, if you
3 were putting a row in, do you
4 remember how much mud you would
5 usually make for that? How were you
6 making them, or what were you making
7 it in?

8 A. A wheelbarrow.

9 Q. A wheelbarrow. And about how
10 many bags would you put in there at a
11 time?

12 A. I'd start off with one bag.

13 Q. One bag.

14 A. And usually I'd end up using
15 two.

16 Q. Okay.

17 A. Throwing another one in there.

18 Q. And about how far did that go?
19 How many blocks would they get laid
20 with that wheelbarrow filled?

21 A. I don't know about that. I
22 know it was about four buckets full.

23 Q. Four buckets full?

24 A. Yeah.

25 Q. Okay. That's how much you'd

1 get out of a wheelbarrow, is - - -

2 A. Yeah.

3 Q. - - - four buckets?

4 A. Yeah.

5 Q. And can you remember at all
6 like on a row how many buckets they
7 would use?

8 A. I know the buckets were always
9 coming in, so there was buckets
10 always to fill up.

11 Q. Okay. So you just had a tough
12 time keeping up - - -

13 A. Uh-huh (yes).

14 Q. - - - up with the buckets?

15 A. Yeah.

16 Q. Okay. Do you remember
17 anything different when they were
18 putting each row up? In other words,
19 from the first row to the second,
20 third or fourth, some of them you
21 could reach fairly easily.

22 A. Uh-huh (yes).

23 Q. But did they do anything
24 different on that lower set, or the
25 lower half of the seal when they put

1 the blocks on? For example, did they
2 always put the mortar on the joints,
3 on the lower half, or did they just
4 save that for the upper half? Do you
5 remember any of that?

6 A. I don't really know.

7 Q. Okay. When they were putting
8 the rows in, do you remember, did
9 they coat the front of the block, or
10 each row of blocks as they went, or
11 did they coat those later?

12 A. Like the face of them?

13 Q. The face of them, yes.

14 A. I don't know.

15 Q. You don't remember?

16 A. Uh-uh (no).

17 Q. Okay.

18 A. I know I helped go back and
19 put a second coat on them, but ---.

20 Q. Well, when you did that, did
21 you do that when the entire seal was
22 completed, or ---?

23 A. Yeah.

24 Q. Oh, when it was completed, ---

25 A. Yeah.

1 Q. --- you'd go back and put
2 another coat on it?

3 A. Uh-huh (yes).

4 Q. Okay. And were there a lot of
5 areas to fill in when you had to do
6 that, or was ---?

7 A. No, just small holes and
8 stuff, but nothing too major.

9 Q. Okay. And that just filled in
10 pretty easily?

11 A. Yeah.

12 Q. How deep would some of those
13 --- what would have been the --- like
14 the deepest you had to put in in some
15 of those holes?

16 A. Maybe a couple inches.

17 Q. A couple inches?

18 A. Yeah.

19 Q. Okay. Would your crew ---
20 normally how many guys would you have
21 with you on a --- building a ---
22 building one of those seals?

23 A. I'd say about five or six.

24 Q. It would be five to six?

25 A. Yeah.

1 Q. Five or six of you there? So
2 you would be mixing the mud, and what
3 would there be --- where would the
4 other folks be?

5 A. Laying block, spreading mud.

6 Q. Would they all be on the same
7 side of the seal as you were, or
8 would some of them be on the other
9 side?

10 A. No, we --- once it got so high
11 a couple went on the other side.

12 Q. Okay. And would you supply
13 mud to both sides?

14 A. Uh-huh (yes).

15 Q. And what would they do, just
16 hand it over the seal to the guys on
17 the back side?

18 A. Yeah, hand them buckets.

19 Q. Just back and forth?

20 A. Yeah.

21 Q. Okay. As they got --- as the
22 rows went up, of course, when you got
23 closer to the top now, and the guy
24 --- you still had the guys on the
25 other side?

1 A. Right.

2 Q. How would you do the buckets,
3 getting them back and forth? At some
4 point when it gets so high, would the
5 buckets --- how would you get them
6 across? How would you do that?

7 A. Well, we had to --- we'd get
8 it close to a corner as well as we
9 could, leave no space, just keep
10 passing buckets, and once we had to
11 close that corner off, I'd mix as
12 much mud as I could, fill up as many
13 buckets as it would take to finish
14 them off, and just pass them all over
15 there, close up the hole.

16 Q. Okay. So let's see if I
17 understand that. When you get to the
18 last full row, you have the last full
19 row, and now that you're going to put
20 the top, the very top row on, did you
21 have to cut that row sometimes to
22 make it fit?

23 A. Uh-huh (yes).

24 Q. And how close to the roof
25 would you actually cut that row?

1 A. Well, if I remember, just
2 enough to leave, you know, for the
3 fly board and stuff.

4 Q. Okay. And would you have the
5 next to the last row all the way
6 across before they started that last
7 row?

8 A. Say again.

9 Q. Well, you know, as you're
10 building your seals up in the
11 different rows, before you get to
12 that final row, that's right up
13 against the roof before the fly
14 board, did you have the next to the
15 last row the entire way across from
16 rib to rib before you started that
17 last one?

18 A. I don't remember. I just
19 remember we just had enough room to
20 pass them buckets back and forth.

21 Q. That's what I was thinking.
22 Like, could it have been that maybe
23 the ---?

24 A. I'd say it about --- it had to
25 have been.

1 Q. So there would have been some
2 opening? You wouldn't have it
3 completely filled?

4 A. Right.

5 Q. So you could get the buckets
6 across?

7 A. Right.

8 Q. Do you remember how they would
9 do it then? In other words, would
10 you make the blocks for the top ---
11 and how would you put those in? In
12 other words, would somebody put them
13 in from one side and somebody would
14 be putting them in from the back
15 side?

16 A. Yeah.

17 Q. And what --- would you be
18 cutting them on the side that you're
19 on, or how would you --- do you
20 remember how they did that?

21 A. They had some block on their
22 side, too, so they just cut what they
23 needed to fill that hole, you know.

24 Q. So they would be cutting the
25 blocks also?

1 A. Right.

2 Q. And they would be fitting them
3 in at the top?

4 A. Right.

5 Q. So you would be putting the
6 top, or they would be working the top
7 row across until they got to the hole
8 where you were putting mortar back
9 and forth?

10 A. Yeah.

11 Q. And how would they do that
12 then? They'd just put the --- can
13 you explain how they would fill that
14 hole at the end?

15 A. Put --- cut your block to fit,
16 cap it off, cover it up with mud.

17 Q. Okay. So now I have --- I
18 have my rows almost to the top.
19 There's just enough gap at the top to
20 put the fly board in?

21 A. Uh-huh (yes).

22 Q. And how would you put the ---
23 how would they put the fly board in?
24 Did you ever help them put the fly
25 board in?

1 A. Yeah.

2 Q. Okay. Can you explain that
3 the best you can for us, how you got
4 it in there?

5 A. A man got in on each side and
6 just shoved it up in there.

7 Q. Okay. So how about the guys
8 on the back of the seal, they would
9 just put it up on top of that row?

10 A. They would put a fly board on
11 their side, too.

12 Q. Okay.

13 A. So they'd put theirs up ---
14 we'd put one up, then we usually ---
15 we had one for the middle, you know,
16 they'd get it up there, put ours in.

17 Q. Okay.

18 A. Wedge that.

19 Q. On the ones that you were
20 putting in --- okay, yours would have
21 been the one that's on the, I guess
22 the ---

23 A. The face.

24 Q. --- the face side of it. And
25 would that --- those boards were not

1 as long as the entry?

2 A. Right.

3 Q. So how would --- where would
4 you put them? In other words, would
5 you cut other boards to fit, or how
6 would you do that?

7 A. Center it up. The ones I put
8 up, we centered it up and filled it
9 in with wedges, put them in.

10 Q. So that gap on the edges where
11 there was no wood, you would fill
12 those with wedges?

13 A. Yes.

14 Q. Okay. The boards --- the edge
15 board that you're working on, how did
16 you put the wedges into that? Would
17 you put them in the same direction as
18 the board, or would you drive them
19 into the board?

20 A. No. We usually put them in
21 the same direction as the board.

22 Q. Okay. So when I looked at
23 this before you put mud on it, would
24 I see pretty much wedges continuously
25 across the face of the board, across

1 the top of the seal?

2 A. Yeah.

3 Q. How did you tighten those
4 wedges up?

5 A. A hammer.

6 Q. Like a little claw hammer,
7 or ---?

8 A. A block hammer.

9 Q. A block hammer. Those are
10 about a two-pound hammer? Do you
11 know what those are?

12 A. I know mine's ---.

13 Q. About how long is it?

14 A. Probably about that long. I
15 think about an 18-ounce hammer.

16 Q. About 18, okay. Okay. And
17 you would drive those wedges in tight
18 all the way across. And then on the
19 ends you would just build those
20 wedges in also, ---

21 A. Right.

22 Q. --- to fill the gap in? So it
23 would be a solid board the whole way?

24 A. Yeah.

25 Q. Okay. Now, before you put the

1 --- your end board on, the middle
2 board, how would you get it in there?
3 How did you get it back --- back into
4 the seal?

5 A. Shove it back in there.

6 Q. You'd just shove it back in
7 there? And how would you get back in
8 there to --- because you got a small
9 gap; right? How would you get back
10 in to put wedges on that?

11 A. I don't remember really
12 putting any wedges on it.

13 Q. Okay. And how about mortar on
14 top of that. You know, you put the
15 middle board in, how would you get
16 mortar up in that little gap?

17 A. I've seen some of it fling up,
18 flung in there. It's pretty much how
19 most of it was done, I guess.

20 Q. Was it hard to do?

21 A. I don't know. I didn't do
22 that.

23 Q. Okay. You just made the
24 mortar for them to fling up in ---?

25 A. Yeah. I'd set the boards for

1 them and they'd do the rest.

2 Q. Do the rest with that. Do you
3 remember at all about how much mortar
4 you would have had to make --- once
5 they have the top row on and now
6 they're going to put the boards in,
7 did it take a lot of mortar ---

8 A. Yeah.

9 Q. --- to finish that top area?

10 A. Yeah.

11 Q. Do you have any recall how
12 many wheelbarrows you might have made
13 or buckets to do that?

14 A. I'd say about two wheelbarrows
15 full.

16 Q. Two wheelbarrows full?

17 A. Yeah.

18 Q. So it'd be about eight
19 five-gallon buckets or so ---

20 A. Yeah.

21 Q. --- to do that? Okay. On
22 that top row, did you ever have to
23 cut the block in like a wedge to get
24 them to fit up there or around any
25 roof bolt or anything coming down

1 from the roof to get that to fit?

2 A. I don't know. I don't
3 remember.

4 Q. You don't remember? Okay.
5 Going back to that first row again,
6 when that was put down, did you use a
7 level or anything to level that off,
8 or you just kept building the rows
9 up?

10 A. Yeah, just kind of eyeballed
11 it.

12 Q. Okay. Eyeballed it especially
13 on the first row, I mean, because
14 that's the hardest one to kind of get
15 it level.

16 A. Right.

17 Q. Did it take more mortar on
18 that row to get it level? I mean,
19 because some of the blocks might have
20 been fitting the side of --- the way
21 the mine floor was?

22 A. Yeah. I was remembering now.
23 It took a little bit more when they
24 first started.

25 Q. On the first row ---

1 A. Yeah.

2 Q. --- to get it right? Because
3 the blocks would have not been
4 sitting perfectly level on that first
5 row, because the floors might not
6 have been quite level, ---

7 A. Right.

8 Q. --- there might been some gaps
9 in the blocks the way they were
10 sitting, do you remember how they ---
11 what they did there to try to --- did
12 they do anything to try to get that
13 mortar in there?

14 A. I don't know. They might push
15 more in, I don't know. I don't
16 remember.

17 Q. Okay. Against the rib when
18 they had the gaps, do they ever put
19 pieces of block in there to try and
20 fill some of that gap, you know,
21 rather than just fill it the thicker
22 mortar as you said?

23 A. Yeah. I remember something
24 about that.

25 Q. Could they have used some

1 wedges in there maybe, to fill that?

2 A. I don't remember. I remember
3 using some kind of small block to
4 fill in there, but ---.

5 Q. Could it have been some of the
6 pieces, maybe that you'd cut off?

7 A. Yeah, cut off the Omega block.

8 Q. Okay. When you were getting
9 those Omega blocks off the pallets,
10 were there any of them you just had
11 to throw away because they were
12 either busted or even with like
13 cracks in them and things?

14 A. Yes. Some of them would be
15 busted up pretty bad, and we just
16 throw them off the rib or something.

17 Q. Okay. If you were to --- how
18 about how many per pallet do you
19 remember might have been bad? Was it
20 one just one or two, or was it five
21 or six, or ---?

22 A. It was whoever was running the
23 scoop.

24 Q. Whoever run the scoop. So
25 basically if they ran into something,

1 they were going to have more ---?

2 A. Yeah.

3 Q. Okay. When the boards were
4 being installed against the roof,
5 what board would be put in first? I
6 realize you have a crew in the back
7 and a crew in the front. Do you
8 remember which one would have ---
9 would the middle one have been put in
10 first?

11 A. Well, I mean, no, not really.
12 I mean, usually as soon as we gave
13 them one, so we'd wait for them to
14 put theirs in, shove that one back in
15 there.

16 Q. You mean the middle one?
17 Shove the middle one ---?

18 A. Yeah.

19 Q. After they put theirs all the
20 way across, would they complete it?
21 I mean, get it in and get it wedged,
22 and then you'd put the middle one in?

23 A. I don't know if they had it
24 completed or not, but ---.

25 Q. Okay. So they might still be

1 working on it, then you'd start
2 putting the middle one in?

3 A. Uh-huh (yes).

4 Q. Okay. And the mortar, would
5 they throw mortar in from the back
6 side also, or was it all coming in
7 from the front side, do you remember?

8 A. They might have. I don't
9 know.

10 Q. Okay. And the wedges that you
11 were using, were you putting them on
12 top of the board, or were you putting
13 them between the board and the seal?

14 A. Mostly between the top and the
15 board.

16 Q. Okay. And as you put those
17 in, did you notice that it would kind
18 of squeeze the top joint at all? Did
19 you ever kind of notice mortar kind
20 of coming out of there when you were
21 doing that?

22 A. I don't remember.

23 Q. You don't remember? Okay.
24 Were there any tools --- other than
25 the hammer that you mentioned that

1 you had and the saw, any other tools
2 that you had during the construction
3 of the seals?

4 A. A wheelbarrow and hose.

5 Q. Wheelbarrow and hose. Any
6 kind of trowel or anything like that,
7 was it done pretty much done with
8 rubber gloves?

9 A. Yes.

10 Q. Do rubber gloves last very
11 long?

12 A. No.

13 Q. Do you change those out quite
14 a bit?

15 A. Yeah. Once they start getting
16 down in there, they weren't worth
17 much.

18 Q. Yeah. And the guys that were
19 especially near the top of the
20 seal ---

21 A. Yeah.

22 Q. --- were they getting a lot of
23 mortar all over them ---

24 A. Oh, yeah.

25 Q. --- as they were kind of going

1 on that?

2 A. Yeah.

3 Q. Okay. Did you have some way
4 to --- like, did you have a hose
5 there or something to kind of wash
6 all that off, or ---?

7 A. Not really.

8 Q. Okay. The area around the
9 seals, was it --- do you remember
10 seeing any water there?

11 A. It was kind of mud, kind of
12 muddy.

13 Q. Kind of muddy?

14 A. Yeah.

15 Q. And did it stay that way the
16 whole time you were building the
17 seals?

18 A. Pretty much.

19 Q. Do you remember seeing any
20 water, I mean, like standing water,
21 or was it just kind of muddy?

22 A. I don't remember any standing
23 water.

24 Q. Okay. And then, of course,
25 where the dry mortar was, that was

1 dry - - -

2 A. Right.

3 Q. - - - when you started?

4 A. Right.

5 Q. Okay. Do you know if they
6 ever used any paper, either on the
7 top in between the boards or along
8 the side to kind of fill in the gaps,
9 or - - - say, like mortar bags?

10 A. I don't know.

11 Q. You don't remember that? And
12 when you were building these seals,
13 did you usually get them done in a
14 day?

15 A. No.

16 Q. About how far would you get in
17 a day?

18 A. Well, there was a couple - - -
19 there was three or four bosses that
20 if they would help us, we could get
21 one done a day, and then we could get
22 started on another one, maybe get two
23 or three rows done on it and be done
24 for the day.

25 Q. Okay. And you would just

1 leave that. And when you came back
2 the next day, or before you left,
3 actually, on the one that you just
4 finished, what would you leave it
5 like? Would you put mortar on the
6 top and leave it, or would you leave
7 the top there dry, or --- do you
8 remember how you did that?

9 A. We usually put mud, covered it
10 up before we headed out for the day.

11 Q. Okay. So you'd cover it up.
12 Would you coat the faces, the front
13 and the back of it before you left?

14 A. I would say. I know they got
15 the top of it before we left.

16 Q. Okay. And then --- and then
17 when you came back the next morning
18 to start again, how would you
19 restart? What would you do?

20 A. Put a fresh coat of mud on.

21 Q. Oh, you'd put a fresh coat of
22 mud --- would you cover the whole way
23 across ---

24 A. Yeah.

25 Q. --- and then start the blocks

1 from there?

2 A. Fresh row of mud on ---.

3 Q. Would you put a fresh row of
4 mud all the way across the top of the
5 blocks that had been left from the
6 night before?

7 A. Yes, sir.

8 ATTORNEY WILLIAMS:

9 I think you're going a
10 little fast sometimes, John.
11 He's not getting all the
12 answers out on the record.

13 MR. UROSEK:

14 Oh, I apologize.

15 BY MR. UROSEK:

16 Q. The blocks, as far as coating
17 the blocks, when they would do that,
18 would they do that away from the
19 seal, or where would they actually
20 put the mud on the blocks before they
21 put it up?

22 A. I just know they kept the mud
23 there with them. What they did there
24 with it, I don't know.

25 Q. Okay. And you don't remember

1 where all they put it on the blocks,
2 before they put them up?

3 A. No, I don't know.

4 Q. Okay. That's okay. The
5 mortar, when it came in, did it come
6 in on a pallet?

7 A. Yes, sir.

8 Q. Do you remember about how many
9 pallets you would use per seal?

10 A. I think it was usually at
11 least one.

12 Q. At least one?

13 A. Yeah.

14 Q. Okay. So you'd mix a pallet
15 full of mortar every day?

16 A. Pretty much.

17 MR. UROSEK:

18 Mike?

19 BY MR. RUTLEDGE:

20 Q. Seth, you --- if I can call
21 you Seth; is that all right?

22 A. Yes, sir.

23 Q. You said that you worked on
24 Number --- probably Number Two,
25 Three, Four, Five, Six, Seven and

1 Eight; does that mean you didn't work
2 on the far left and the far right
3 seals?

4 A. From what I can remember,
5 yeah, I didn't --- I know I didn't
6 have nothing to do with Number One.
7 And I can't remember nothing on
8 Number Nine either, so I'm pretty
9 sure I didn't work on it.

10 Q. Okay. And you think --- why
11 would that have been? Why would you
12 have not worked on either of those
13 two?

14 A. I know a gas line was going in
15 Number Nine. And the water trap and
16 all that was going in Number One, and
17 that's all I know about it.

18 Q. Uh-huh (yes).

19 A. That's all they told me.

20 Q. Then the actual product that
21 you were using, have you all
22 identified that, or have you --- have
23 these guys asked you, what --- what's
24 the brand name on the bag of the
25 stuff you're mixing?

1 A. I don't remember. It was bond
2 sealant or something like that on it.

3 Q. Okay.

4 A. I remember it was in a green
5 bag.

6 Q. The green bag. And did it
7 have a lot of fibers in it, like
8 fiberglass or whatever in it?

9 A. Yeah.

10 Q. And that's --- you always wore
11 gloves?

12 A. Yes, sir.

13 Q. Anybody get it on their hands
14 and get it to burning right good?

15 A. Yeah. I remember a couple
16 boys they --- I got it a little bit.

17 Q. Uh-huh (yes). Were you there
18 --- or were there ever any
19 inspectors, any state or federal
20 inspectors that were there while you
21 were building those seals, or helping
22 with those?

23 A. I don't remember any.

24 Q. And where did you get your
25 water for mixing?

1 A. Usually from the water supply
2 there at the feeder.

3 Q. Uh-huh (yes).

4 A. We took the hydraulic oil cans
5 down there, ---

6 Q. Uh-huh (yes).

7 A. --- filled them up.

8 Q. Okay. So you would have
9 carried them from just right down
10 below Two Left switch?

11 A. Well, they'd put them in a
12 scoop and brought them to us.

13 MR. RUTLEDGE:

14 That's all I have.

15 MR. UROSEK:

16 Okay. We can just take
17 about a two-minute break and
18 we'll finish up.

19 SHORT BREAK TAKEN

20 BY MR. UROSEK:

21 Q. I just have a couple more
22 questions. When they were trying to
23 put mortar on the blocks, do you know
24 if anyone --- do you remember you or
25 anyone using a tool to try and

1 separate the blocks to get the mortar
2 in between them after they were down?

3 A. I never did. I didn't see
4 anybody else.

5 Q. Okay. And we talked before
6 about the blocks, and you would start
7 out the row of blocks with a full
8 block along the rib, and then work
9 your way across the entry. Did they
10 do that on each row, do you remember?

11 A. I think for the most part,
12 yeah, from what I remember.

13 Q. So basically each row would
14 start against the rib and work its
15 way across?

16 A. Oh, yeah. We always start
17 from that rib and ---

18 Q. Okay.

19 A. --- go to the other.

20 Q. Okay. And to get the joints
21 to be offset, did they ever start
22 that with maybe a half a block or
23 something to adjust the joints?

24 A. They never really had to.

25 Q. Okay. I was a little confused

1 on the top of the block and before
2 you put the boards in and how you got
3 the mortar back and forth. I have a
4 picture, and this isn't intended to
5 confuse at all, but this is a picture
6 of construction of the seal.

7 ATTORNEY WILSON:

8 It's actually a
9 diagram, it's not a --- just
10 so the record's clear.

11 BY MR. UROSEK:

12 Q. And just to make sure that I
13 can understand, so that you can get
14 the mortar, you know, back and forth,
15 could you kind of draw for me what
16 the seal would look like so that you
17 could get the ---?

18 A. Passing the mortar back and
19 forth?

20 Q. Yes, yes.

21 A. Leave these two out.

22 Q. You would leave the two blocks
23 out that you're marking with an X.

24 A. Right.

25 Q. And then you could put the

1 mortar back through there?

2 A. Yeah. I mean, whatever
3 direction you're going through, and
4 then that way and, you know, that
5 way.

6 Q. It would be the opposite side
7 that would have the opening?

8 A. Yeah, you know. Only, we were
9 always passing them back and forth
10 through there, so I mean, you know,
11 you always had this open, you know,
12 until you got this done.

13 Q. So what you're referring to is
14 the top row. As they were working
15 the top row across, you left one edge
16 of the seal or the other edge, you
17 would leave the first two courses of
18 the corner off?

19 A. Yeah, until they got all they
20 needed and filled it in and finished
21 it up.

22 Q. Okay. And on this diagram,
23 you also see that they have boards
24 across the top, and that top board,
25 or the middle board, I guess, were

1 you always able to get that board in
2 there?

3 A. Uh-uh (no). A remember a few
4 we couldn't get it in.

5 Q. It was just too tight to get
6 your hand in there, or too tight to
7 get the board in there?

8 A. Yeah. It was too tight.

9 MR. UROSEK:

10 Okay. We'll use that
11 as Exhibit One.

12 (Osborne Exhibit One
13 marked for
14 identification.)

15 BY MR. UROSEK:

16 Q. We talked a little about the
17 amount of mortar that you would try
18 to put on the top of that, and I
19 think you said you used two
20 wheelbarrows full ---

21 A. Yes.

22 Q. --- to get up in there?

23 A. Once all that was finished
24 through there, you probably used
25 about two wheelbarrows full.

1 Q. Two wheelbarrows. And then
2 would that be pretty much what's on
3 --- I guess the --- I guess the
4 question that I'm searching for is,
5 the fly boards at the edge, would
6 they be right at the edge of the
7 blocks?

8 A. Yeah.

9 Q. So the mortar that you're
10 using these two wheelbarrows would be
11 mortar that's inside the fly board,
12 between the fly board and the top of
13 the block?

14 A. Do you mean does that include
15 it?

16 Q. Yes.

17 A. Yeah.

18 Q. Okay.

19 A. Yeah. That two wheelbarrows
20 included flinging it back in there,
21 setting the fly board and then
22 covering all that up.

23 Q. And covering all that up?

24 A. Yeah.

25 Q. Okay. Now, those wedges, do

1 you remember --- did the wedges come
2 in a --- were they wrapped together
3 with wire or something when they
4 came ---?

5 A. Yeah, they came in bundles.

6 Q. Came in a bundle?

7 A. Yeah.

8 Q. Do you remember about how many
9 bundles you would use per seal?

10 A. I don't remember.

11 Q. Was there quite a few bundles
12 of these?

13 A. Oh, yeah. They brought us
14 quite a few.

15 Q. Were they pretty much all the
16 same size? Did you ever use a
17 thicker wedge when you were building
18 these?

19 A. From what I seen, they're all
20 the same.

21 Q. Okay. Do you know what a
22 gluck is?

23 A. Yeah. It's bigger than a
24 wedge.

25 Q. Did you ever use any glucks in

1 building these seals?

2 A. I was thinking glucks was
3 pretty much what we used.

4 Q. Okay. Instead of the standard
5 thinner wedge, glucks you used, the
6 thicker ---?

7 A. Yeah.

8 Q. And they're twice as big as a
9 normal wedge, and on the thick side
10 of a gluck, approximately how thick
11 would that be?

12 A. I'd say it's as big as a half
13 header.

14 Q. And that's about an inch and a
15 half or two inches?

16 A. I guess, I don't know really
17 what the measurement is on it.

18 Q. Okay. Do you know how long,
19 approximately, they would be?

20 A. I'd say they're about ten
21 inches.

22 Q. About ten inches long. Okay.

23 OFF RECORD DISCUSSION

24 MR. UROSEK:

25 Okay. Mike? Well,

1 Seth, I really appreciate your
2 assistance today in helping us
3 out. You've helped us
4 tremendously try to get an
5 understanding of these
6 construction techniques. And
7 if you can think of anything
8 on these techniques, any of
9 the questions that maybe you
10 just couldn't remember today,
11 I would greatly appreciate it
12 if you'd call us, because it's
13 very important to us to try
14 and understand on how you did
15 the --- how this was
16 constructed.

17 A. All right.

18 MR. UROSEK:

19 Okay. Thank you very
20 much.

21 * * * * *

22 SWORN STATEMENT CONCLUDED

23 AT 7:02 P.M.

24 * * * * *

25

