

01 EXAMINATION UNDER OATH  
02 OF  
03 JEFFREY KEITH TOLER  
04  
05  
06 Taken pursuant to Notice by Miranda  
07 D. Elkins, a Court Reporter and  
08 Notary Public in and for the State of  
09 West Virginia, at U.S. Bankruptcy  
10 Court, 324 West Main Street, on  
11 Wednesday, January 18, 2006, at 9:30  
12 a.m.

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

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06

P R O C E E D I N G S

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MR. GATES:  
My name is Richard  
Gates, and I am a District  
Manager with the Mine Safety &  
Page 6

07 Health Administration, an  
08 agency with the U. S.  
09 Department of Labor. With me  
10 is James B. Crawford from the  
11 Solicitor's Office, Doug  
12 Conaway with the West Virginia  
13 Office of Miners' Health,  
14 Safety & Training, and Dave  
15 Stuart with the same State  
16 office.

17 Representing  
18 International Coal Group is R.  
19 Henry Moore and Sam Kitts.  
20 Also, representing the miners  
21 of Sago Mine are Gary Trout  
22 and Ron Bowersox.

23 I have been assigned to  
24 conduct an investigation into  
25 the accident that occurred ---

9

01 MR. TOLER:

02 Is now ---?

03 ATTORNEY MOORE:

04 Wait a minute. We'll  
05 raise that at the appropriate  
06 point. It'll be a minute or  
07 so, Jeff.

08 MR. GATES:

09 I've been assigned to  
10 conduct an investigation into  
11 the accident that occurred at

12 the Sago Mine on January 2nd,  
13 2006, in which 12 miners died  
14 and one was injured. The  
15 investigation is being  
16 conducted by MSHA and the West  
17 Virginia Office of Miners  
18 Health, Safety & Training to  
19 gather information to  
20 determine the cause of the  
21 accident, and these interviews  
22 are an important part of the  
23 investigation.

24 At the time of the  
25 accident investigation --- at

10

01 this time, the accident  
02 investigation team intends to  
03 interview a number of people  
04 to discuss anything that may  
05 be relevant to the cause of  
06 the accident.

07 After the investigation  
08 is completed, MSHA will issue  
09 a written report detailing the  
10 nature and causes of the  
11 accident. MSHA accident  
12 reports are made available to  
13 the public in the hopes that  
14 greater awareness about the  
15 causes of accidents can reduce  
16 their occurrence in the  
17 future.

18 Information obtained  
19 through witness interviews is  
20 frequently included in these  
21 reports. Your statement may  
22 also be used in other  
23 enforcement proceedings. I'd  
24 like to thank you in advance  
25 for your appearance here. We

11

01 appreciate your assistance in  
02 this investigation.

03 The willingness of  
04 miners and mine operators to  
05 work with us is critical to  
06 our goal of making the  
07 nation's mines safer. We  
08 understand the difficulty for  
09 you in discussing the events  
10 that took place, and we  
11 greatly appreciate your  
12 efforts to help us understand  
13 what happened.

14 This interview with  
15 Jeffrey Toler is being  
16 conducted under Section 103(a)  
17 of the Federal Mine Safety &  
18 Health Act of 1977 as a part  
19 of an investigation by MSHA  
20 and the West Virginia Office  
21 of Miners' Health, Safety &  
22 Training, into the conditions,

23 events and circumstances  
24 surrounding the fatalities  
25 that occurred at the Sago

12

01 Mine, owned by International  
02 Coal Group in Buckhannon, West  
03 Virginia on January 2nd, 2006.

04 This interview is being  
05 conducted at the U.S.

06 Bankruptcy Courthouse in  
07 Clarksburg, West Virginia on  
08 January 18th, 2006.

09 Questioning will be  
10 conducted by representatives  
11 of MSHA and the Office of  
12 Miners' Health, Safety &  
13 Training. After MSHA and  
14 State officials have finished  
15 asking questions, the  
16 representative of the mining  
17 company and representative of  
18 the miners may ask  
19 clarification questions only.

20 This is not an adversarial  
21 proceeding. Therefore cross  
22 examination will not be  
23 permitted.

24 Mr. Toler, the  
25 interview will begin by my

13

01 asking you a series of  
02 questions. If you do not

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

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

21 Your statement is  
22 completely voluntary. You may  
23 refuse to answer any question,  
24 and you may end your interview  
25 at any time. If you feel you

14

01 need a break for any reason,  
02 please let me know, and we  
03 will take one.

04 A court reporter will  
05 record your interview and will  
06 later produce a written  
07 transcript of the interview.

08 Please try and respond to all  
09 questions verbally, since the  
10 court reporter cannot record  
11 non-verbal responses. Also,  
12 please try and keep your voice  
13 up. Copies of the written  
14 transcripts will be made  
15 available to you at a later  
16 time.

17 If any part of your  
18 statement is based not on your  
19 own firsthand knowledge, but  
20 on information that you  
21 learned from someone else,  
22 please let us know. Please  
23 answer each question as fully  
24 as you can, including any  
25 information you have learned

15

01 from someone else.

02 We may not ask the  
03 right questions to learn the  
04 information you have, so do  
05 not feel limited by the  
06 precise question asked. If  
07 you have information about a  
08 subject area of a question,  
09 please provide that  
10 information.

11 At this time, Mr.  
12 Conaway, do you have anything  
13 you would like to add on

14 behal f of the State of West  
15 Vi rgi ni a?

16 MR. CONAWAY:

17 Yeah. Jeff, we  
18 appreci ate you appeari ng here  
19 wi th us today. I hope we can  
20 get the facts surroundi ng ---  
21 the ci rcumstances around thi s  
22 acci dent.

23 I 'd just l ike to make a  
24 statement. The West Vi rgi ni a  
25 Offi ce of Mi ners' Heal th,

16

01 Safety & Traini ng i s  
02 conducti ng thi s i ntervi ew  
03 sessi on joi ntly wi th the Mi ne  
04 Safety & Heal th  
05 Admi ni strati on. And we are i n  
06 agreement wi th the procedures  
07 outli ned by Mr. Gates for  
08 these i ntervi ews that wi ll be  
09 conducted here today. But the  
10 Di rector reserves hi s ri ght,  
11 i f necessary, as outli ned i n  
12 West Vi rgi ni a Code to call or  
13 subpoena wi tnesses or requi re  
14 producti on of any record,  
15 document, photograph, or other  
16 releva nt materi als necessary  
17 to conduct thi s i nvesti gati on.

18 Mr. Gates wi ll do the

19 initial questioning, and then

20 I'll follow up with additional

21 questions.

22 MR. GATES:

23 Mr. Toler, you're

24 permitted to have a

25 representative with you during

17

01 this interview, and you may

02 consult with your

03 representative at any time.

04 You may designate any person

05 to be your representative. Do

06 you have a representative with

07 you?

08 MR. TOLER:

09 No, sir.

10 ATTORNEY MOORE:

11 And I think this would

12 be the appropriate forum to

13 raise the issue.

14 MR. GATES:

15 Okay. Do you have any

16 questions regarding the manner

17 in which this interview will

18 be conducted?

19 MR. TOLER:

20 I would prefer to

21 conduct this interview without

22 the presence of the UMWA.

23 MR. GATES:

24 And Mr. Bowersox and

25 Mr. Trout, how do you respond,

18

01 or how will you respond to the  
02 interviewee requesting that  
03 you not be present during this  
04 interview?

05 OFF RECORD DISCUSSION

06 MR. GATES:

07 Gary, could you please  
08 respond to my question a  
09 little louder, please?

10 ATTORNEY TROUT:

11 Yes. We would prefer  
12 to stay. We have no reason to  
13 leave, but we will respect the  
14 witness' wishes, and we will  
15 leave.

16 MR. GATES:

17 Thank you. Could we go  
18 off the record, please?

19 OFF RECORD DISCUSSION

20 MR. GATES:

21 Let the record indicate  
22 that Mr. Bowersox and Mr.  
23 Trout have left the courtroom.  
24 And the court reporter, can  
25 you please swear in Mr. Toler?

19

01 -----  
02 JEFFREY KEITH TOLER, HAVING FIRST  
03 BEEN DULY SWORN, TESTIFIED AS

04 FOLLOWS:

05 -----

06 BY MR. GATES:

07 Q. Mr. Toler, or do you prefer  
08 Jeff?

09 A. Jeff's fine. Thank you.

10 Q. Jeff, would you please state  
11 your full name and spell your last  
12 name?

13 A. Jeffrey Keith Toler,  
14 T-O-L-E-R.

15 Q. Please state your address and  
16 telephone number.

17 A. Post Office Box 148, Canvas,  
18 West Virginia, 306 Toler Lane, Ward  
19 Road. It's 26662. And the telephone  
20 number is 304-872-5477.

21 Q. And do you have an e-mail  
22 address that you'd be willing to  
23 share with us?

24 A. Jtoler62@yahoo.com.

25 Q. Okay. Jeff, and are you

20

01 appearing here today voluntarily?

02 A. Yes, sir.

03 Q. How many years of mining  
04 experience do you have, Jeff?

05 A. About 24, 25 years.

06 Q. Okay. And could you give a  
07 brief description of that employment  
08 history?

09 A. Right out of high school into  
Page 16

10 the mines. I worked --- my father  
11 operated the coal mines in Boone  
12 County. I was there roughly long  
13 enough to get a black hat. I then  
14 went to work for my uncle, who  
15 operated the contract mines for  
16 Brooks Run, and worked for him for 18  
17 years. In 2001 Brooks Run bought the  
18 contract mines out and made it a  
19 company mine, and I just stayed on  
20 with Brooks Run. I worked for Brooks  
21 Run up until August of this year and  
22 came to work for International Coal  
23 Group then.

24 Q. Okay. How much of your  
25 employment has been spent at the Sago

21

01 Mine?

02 A. Since August the 1st of 2005.

03 Q. And what is your present  
04 position at the Sago Mine?

05 A. Superintendent.

06 Q. Superintendent. And did you  
07 hold that same position on January  
08 2nd, 2006?

09 A. Yes, sir.

10 Q. Could you describe your ---  
11 the general duties on that particular  
12 day?

13 A. I don't know. Just run the  
14 mine, you know. A little

15 administrative, a little underground.

16 Q. Do you recall anything  
17 specific about that day that would  
18 have been any different as far as  
19 your duties going into the day?

20 A. No.

21 Q. And how long have you been the  
22 superintendent at the Sago Mine?

23 A. Since --- it was roughly five  
24 months.

25 Q. And have you held any other

22

01 positions at the Sago Mine?

02 A. No, sir.

03 Q. Jeff, do you have any state or  
04 federal mining certifications?

05 A. Yes, sir.

06 Q. And could you just briefly  
07 describe what those are?

08 A. Of course, certified  
09 underground miner, certified  
10 underground mine foreman, certified  
11 shop fireman, EMT, certified dust  
12 sampler.

13 Q. And those state certifications  
14 that you mentioned are all with the  
15 State of West Virginia?

16 A. Yes, sir.

17 Q. Any other states that you have  
18 ---

19 A. No.

20 Q. --- certifications?

21 A. Only West Virginia.

22 Q. Okay. And Jeff, who's your

23 immediate supervisor at the Sago

24 Mine?

25 A. It would be Raymond Coleman.

23

01 Q. And how long has Raymond been

02 your supervisor?

03 A. Since the day I started at

04 Sago.

05 Q. Okay. Since August ---?

06 A. August 1st. Yes, sir.

07 Q. Okay. And what time does your

08 normal shift begin?

09 A. I typically arrive at the

10 mines at around 5:30, 5:35, somewhere

11 in that range.

12 Q. And were you working at the

13 Sago Mine on January 2nd, 2006?

14 A. Yes, sir.

15 Q. And starting at the time you

16 arrived at the mines on January 2nd,

17 could you just describe what you did

18 during the course of that day and

19 just kind of tell the stories you

20 remember with details and times?

21 A. I'll do the best I can on

22 times, but I probably --- I arrived

23 at the mines around 5:35 that day.

24 Typically, and that day was no

25 exception, I go in and speak to the

01 section foreman, just check on what's  
02 being called out from the fire boss,  
03 just make sure we're ready to go more  
04 or less. I went to my office,  
05 started my computer. I typically  
06 will start my day checking e-mail,  
07 and I'll usually go in and download  
08 our daily direct mine costs just to  
09 see how our mine costs ran the day  
10 before.

11 Look over timesheets that's  
12 been left on my desk over the weekend  
13 and make sure everybody's being paid  
14 that needed to be paid before I file  
15 them away. Basically, that's pretty  
16 much how I would spend a typical  
17 morning. That morning was no  
18 exception. Like around 6:25 we had  
19 been talking about the storm coming  
20 through, very unusual to have a  
21 lightning storm in January. And my  
22 safety director, his office is across  
23 the hall. He had even stuck his head  
24 in my door and said, you know, the  
25 old timers probably have an old

01 saying about this, lightning in  
02 January is bound to mean something.

03 And I have a mine phone in my  
04 office, and I was communicating with  
05 the dispatcher, Bill Chi sol m. His

06 dispatch office, he has a window. I  
07 don't have a window in my office, but  
08 he was commenting on the storm as  
09 well. He commented on a flash of  
10 lightning, and immediately followed  
11 by some loud thunder.

12 The CO alarms I could hear  
13 over the mine phone. I could hear  
14 the CO alarms going off on the belt  
15 boss. My first thought, and that of  
16 --- I'm thinking of my chief  
17 electrician, because he kind of got  
18 on the phone at this time, too. Our  
19 first thought was that the lightning  
20 had just shorted something out on the  
21 CO alarms. They'll blow fuses on  
22 them. And I told Mr. Chisolm to  
23 radio the crews that were en route to  
24 the section. I had him radio the  
25 crews just to have him check all the

26

01 sensors that were going off and see  
02 what was going on with them.

03 And when he tried to radio  
04 them the only crew that he could  
05 raise was the crew on the One Left  
06 section. And of course, me being on  
07 the phone with him, I was overhearing  
08 their conversation. The foreman was  
09 on the phone, Owen Jones, and Owen  
10 just said that --- he said, you know,

11 something's happened. There was a  
12 big rush of air that came from in by  
13 toward the Two Left panel. He said I  
14 don't know what it was, but it was a  
15 very strong --- you know, a lot of  
16 air, and he said there's a lot of  
17 smoke in the air. And myself and my  
18 maintenance chief Dick Wilfong were  
19 both on the mine phone at that time,  
20 and I think we both told him, you  
21 know, get the men into the intake.  
22 You know, if there's smoke, get the  
23 men into the intake and start exiting  
24 the mines.  
25 And my thoughts were, you

27

01 know, we hadn't talked to the Two  
02 Left crew at all. So I jumped up and  
03 started putting my gear on. I  
04 hollered at my safety director across  
05 the hall, I said, Al, let's get  
06 ready. Let's go. And probably  
07 within ten minutes Al and myself and  
08 my maintenance chief, Dick Wilfong,  
09 were down in the pit ready to get on  
10 a mantrip and go underground. We  
11 were joined by one of Dick's  
12 assistants, maintenance chief, Vernon  
13 Hofer. So the four of us got on a  
14 mantrip and started underground.

15 We got roughly two to three  
16 breaks underground and encountered

17 one of the belt examiners, Fred  
18 Jamison. He was working his way out.  
19 I just hollered --- I just basically  
20 just asked him if he's all right. He  
21 said, yeah. And I said just go ahead  
22 and head on outside. And we started  
23 on in, I would say within ten minutes  
24 after whatever happened we were ---  
25 within 10 to 15 minutes, we were on

28

01 our way underground. It probably  
02 took us 15 minutes to 20 minutes to  
03 get --- we were going on the down  
04 line.

05 When we went by the one  
06 section on there, we called the old  
07 one First Right panel. One of mine  
08 examiners was standing there beside  
09 the track, and we just, for a second,  
10 stopped and spoke to him. That was  
11 John Boni. I asked John if he was  
12 all right, and then John was fine,  
13 and he was likewise, you know,  
14 heading out of the mines.

15 So we started on in --- if I'm  
16 guessing the times here, I would say  
17 that by 15 'til 7:00 we started  
18 underground, and probably about 7:00  
19 we were --- or shortly thereafter we  
20 were going down Number Four beltline.  
21 And somewhere around 25 block, 30

22 block along there, we passed a  
23 telephone right beside the rail, a  
24 mine phone. So we stopped there to  
25 see if they had ever gotten ahold of

29

01 the Two Left crew. I think Mr.  
02 Wilfong was the one that made that  
03 phone call.

04 And while we were talking to  
05 them, the One Left crew had been  
06 working their way down the intake.  
07 They heard us coming up the rail, and  
08 one of them stuck their head through  
09 --- I think there was a man door  
10 right there, and one of them stuck  
11 their head through and said that the  
12 electrician on that crew, he's older  
13 and a bigger man, and not in very  
14 good condition. They said Hoy is  
15 having a hard time getting out. So I  
16 said there's no smoke or anything in  
17 that area, we just said, well, get  
18 all the men over here and we'll put  
19 them on this mantrip and send them  
20 out on the mantrip.

21 And we got all the men over  
22 there, and I think somewhere at this  
23 point the dispatcher put me through  
24 to Johnny Stemple, and Johnny asked  
25 me what was going on. And I said I'm

30

01 not sure, but I think we need to  
Page 24

02 notify Mine Rescue, at least start  
03 trying to get ahold of Mine Rescue.

04 We got all that crew over  
05 there, and all of them were right  
06 there except for the foreman, Owen  
07 Jones. And up the track at 41 block,  
08 there's another telephone beside the  
09 track, and Owie was by that phone.

10 And Mr. Wilfong, very colorfully,  
11 told Owen to come down there to where  
12 we were at. But Owen was fine. I  
13 mean, he wasn't hurt or anything, so  
14 I told Mr. Wilfong, go ahead and take  
15 what men he had and go on out, we'd  
16 keep Owen in there with us, as we  
17 went on in to look for the other  
18 crew.

19 Everyone went out, except for  
20 myself and my safety director, Al  
21 Schoonover, and Owen Jones. And when  
22 Owen got down there I noticed he  
23 didn't even have a hard hat. He had  
24 lost his hard hat in that --- in  
25 whatever had happened. So I told

31

01 Owen to just stay right there by that  
02 telephone. The One Left crew had  
03 told us there had been stopping  
04 damage. They had noticed some  
05 stopping damage as they were coming  
06 down. And I told Owen to stay there

07 by the phone, that me and Mr.  
08 Schoonover would --- me and Al would  
09 go up and assess some of the damage.  
10 And we went up to 32 wall,  
11 that's we noticed the first stopping  
12 out. And walked on up to --- I think  
13 the next one, it was all the way up  
14 to 42 wall before we saw another one.  
15 So seeing that there was more than  
16 one wall down, and not knowing what  
17 we might see on deeper in the mines,  
18 I went to that phone there at 41 wall  
19 and I called back outside, and I said  
20 that when Mr. Wilfong got the One  
21 Left crew outside to get curtain,  
22 nails, boards, saws, all of the  
23 detectors that we had and Owen Jones  
24 a hard hat. And have Mr. Wilfong and  
25 Mr. Hofer bring that stuff back to

32

01 us.  
02 And we walked back down to  
03 where Owen was at, at the other  
04 telephone and just waited on there.  
05 When they got there --- again, I have  
06 no idea on times at this point. When  
07 they got to that point, we were all  
08 on the track --- on the track jeep.  
09 We rode up to 32. We put a piece of  
10 curtain up there and blocked that  
11 wall off. We trammed on in by the  
12 42, and started picking up some ---

13 the CO alarms --- some of the CO  
14 alarms was starting to go off. So we  
15 made the decision to leave the  
16 mantrip there. We de-energized it.  
17 And thought it would be best if we  
18 got into the intake and advanced  
19 ourselves into the intake.

20 So from 42 we were on foot,  
21 and I don't have any idea how many  
22 stoppings we repaired. You might  
23 repair two and then one would be  
24 intact. But we gradually worked our  
25 way in, keeping the fresh air on our

33

01 backs. When we got to 49 wall, 49  
02 wall was down. That is the location  
03 of the belt going onto One Left  
04 section. That is the location where  
05 One Left crew was at when the  
06 explosion happened. And that's where  
07 there was a telephone there that I  
08 knew was a functioning telephone that  
09 they'd called out from.

10 So I stepped over into the  
11 track entry. There wasn't any smoke  
12 in the air at that point. If there  
13 was, it wasn't a significant amount  
14 that it would catch my attention, but  
15 the CO level was high at that point.  
16 I stepped over toward the belt head  
17 and cut the cable for the mine phone,

18 going toward that belt head. I  
19 didn't want to cut the phone line  
20 going in by toward Two Left. So I  
21 just --- I cut it going toward that  
22 belt head and worked the slack over  
23 and put it in the intake and moved  
24 that telephone into the intake.

25 We also had an EMT station at

34

01 that point, too, so I moved all the  
02 EMT supplies into the intake at that  
03 point, too. We repaired that one and  
04 worked our way up to just maybe a  
05 break or two where the air split.

06 The intake split to go to One Left.

07 I noticed the overcast at that  
08 point was damaged, so --- and I knew  
09 that everybody that we were looking  
10 for was on Two Left. So we just put  
11 a solid curtain up there as well to  
12 try to direct all of the air current  
13 toward the Two Left panel. That's at  
14 49.

15 We continued to work our way  
16 in, and the discussion got --- we  
17 started noticing just a little bit of  
18 smoke, taking just a little longer  
19 for the CO to --- when we would put a  
20 curtain up, we would wait for the CO  
21 levels to drop, for the fresh air to  
22 dissipate it, before we would move on  
23 into the next one. And we noticed

24 that taking more and more time. We  
25 also felt that the velocity was

35

01 probably not what it should have  
02 been. And my thoughts were that  
03 maybe we had missed something coming  
04 in, because we were kind of helter-  
05 skelter until we got to where that  
06 one --- where we met up that One Left  
07 crew, maybe we had missed something.

08 My thoughts were maybe another  
09 damaged overcast at the Two Right  
10 area. And I asked --- well, I asked  
11 Owen and Vernon Hofer if they would  
12 go outby --- get a roll of curtain  
13 and go down there and check and see  
14 if we maybe had missed something  
15 there.

16 Those two went on out, and  
17 that left me and Dick Wilfong and Al  
18 Schoonover. And we worked our way up  
19 another --- probably another break or  
20 so from beyond that point. We got to  
21 57 block, and put a curtain up at 57  
22 block, and I just walked up to 58 to  
23 see if --- just check and see if it  
24 was intact or if it was out, and it  
25 was out. But the smoke at this point

36

01 was extremely dense.

02 And in our eyes, it seemed

03 that the smoke was just kind of  
04 swirling, that it wasn't wanting to  
05 dissipate, but knowing now what I  
06 know, I think what it was, it was  
07 dissipating, but it was just  
08 continuing to roll out of that panel,  
09 and it was dissipating.

10 So Dick Wilfong and Al  
11 Schoonover both have some mine rescue  
12 training in the past. And the  
13 discussion got to the point that, you  
14 know, if there is --- if there is  
15 something in here that could still --  
16 - the potential to still explode, we  
17 may be pushing fresh air overtop of a  
18 possible explosion and creating  
19 another explosion.

20 We kind of stayed in that area  
21 for a long time and kicked this  
22 around. We would listen. You would  
23 hear something fall, and when I did I  
24 would go and just yell as loud as I  
25 could in that direction. Maybe we

37

01 were hearing somebody moving and just  
02 listening to see if we could hear  
03 anything.

04 I don't have any idea how long  
05 we stayed there and wrestled with it,  
06 but finally we just made the decision  
07 that this was as far as we needed to  
08 go. That we'd probably need to back

09 out and let the professionals come  
10 in, people that were trained in this.  
11 So we made the decision to leave the  
12 mines. And I stopped by the phone on  
13 the way out, that we had moved into  
14 the intake to let people outside know  
15 that we had decided to leave.

16 We worked our way down and we  
17 actually caught up with Owen and  
18 Vernon right in that Two Right area.  
19 And we did notice some damage to a  
20 couple of the overcasts there, the  
21 wing walls were blown out on the  
22 overcasts. And really didn't have  
23 anything to work with at that point,  
24 we just --- I think Owen and Vern had  
25 maybe put a curtain up before we got

38

01 there, but there was nothing else to  
02 work with, so we just continued on  
03 out of the mines.

04 I had no idea what time we  
05 even got out of the mines. I've been  
06 told --- I was told by someone later  
07 that it was around 10:30 when we got  
08 outside.

09 Q. I appreciate that, Jeff. And  
10 would you like to take five minutes?

11 Are you ---

12 A. I'm fine.

13 Q. --- good to go?

14 A. Yes, sir.  
15 Q. And there is some --- there's  
16 a pitcher of water here, too, and  
17 some cups. I should have offered it  
18 to you earlier.  
19 A. Thank you.  
20 MR. GATES:  
21 At this time, Jeff, I'm  
22 going to step back, and Dennis  
23 Swentosky is going to continue  
24 with some of the questions.  
25 Denny?

39

01 MR. SWENTOSKY:  
02 Thanks.  
03 BY MR. SWENTOSKY:  
04 Q. I wonder if we can just kind  
05 of step back and, you know, kind of  
06 go through this again. And maybe I  
07 can ask some specific questions ---  
08 A. Okay.  
09 Q. --- if you don't mind. Okay.  
10 Again, what time do you begin your  
11 shift normally on the day of the  
12 accident?  
13 A. I arrive at the mines --- that  
14 day I arrived around 5:35. I'm there  
15 between, usually around 5:30, 20 'til  
16 6:00 every day. I'm thinking it was  
17 about 5:35 that morning.  
18 Q. Okay.  
19 A. And my shift begins when I get

20 out of the truck.

21 Q. Can you kind of describe,  
22 again, just a little bit of what you  
23 did on the surface prior to entering  
24 the mine that day?

25 A. Like I said, I went in, I

40

01 spoke to both foremen. Actually,  
02 joked around with --- the foreman on  
03 the Two Left panel is --- was my  
04 uncle. And I had missed the Monday  
05 before. It was the day after  
06 Christmas, and I took the day off,  
07 and he was joking with me about not  
08 expecting to see me there today. And  
09 I have a refrigerator in my office,  
10 and every evening he would come in  
11 and steal a Coke out of my  
12 refrigerator. And I told him that he  
13 --- I said, well, you probably better  
14 get your Coke this morning, because  
15 I'll probably get out of here before  
16 you get out this evening.

17 Then I went in my office. I  
18 started up my computer. Like I said,  
19 I'll typically check my e-mail, and I  
20 like to check the daily direct mine  
21 costs just to see how we did the day  
22 before. Timesheets are just  
23 typically on my desk. I'll go ---  
24 that would have been after a weekend,

25 so there would have been a few more

41

01 timesheets than normal on my desk.

02 So I would have looked over the  
03 timesheets before I filed them away.

04 And that's pretty much a typical  
05 morning, and that morning was no  
06 different.

07 Q. How many shifts does the mine  
08 operate?

09 A. We operate three shifts.

10 Q. How many production --- is all  
11 three shifts production shifts?

12 A. No. Two shifts --- Monday  
13 through Thursday we produce coal,  
14 dayshift and afternoon shift, and the  
15 third shift is maintenance.

16 Q. Monday through Thursday.

17 A. And Friday, Saturday and  
18 Sunday we work what we call the  
19 weekend warrior. We have two crews  
20 on the weekends. We have a  
21 production crew that works a 13-hour  
22 shift and then we have a maintenance  
23 crew that works a 13-hour shift on  
24 Friday, Saturday and Sunday.

25 Q. But you don't produce any coal

42

01 on that shift?

02 A. They produce on the dayshift,  
03 on Friday, Saturday and Sunday.

04 Q. And the other two are  
Page 34

05 maintenance?

06 A. And the nightshi ft is  
07 maintenance on Fri day, Saturday and  
08 Sunday. There's only two on the  
09 weekends.

10 Q. How many peopl e are empl oyed  
11 at the mi ne?

12 A. On the morni ng of January 2nd,  
13 I thi nk my staffi ng chart woul d have  
14 total ed out to 148.

15 Q. Was that a normal ---?

16 A. It's probably a li ttle hi gh,  
17 but we had a few extra men that ---.  
18 Well, we had shut down the Spruce  
19 Mi nes a few months pri or that we had  
20 moved a few men over to the Sago  
21 Mi nes to just give them a home unti l  
22 the next mi nes was opened up for  
23 them.

24 Q. Can you expl ai n the management  
25 structure?

43

01 A. From what poi nt? From my  
02 poi nt?

03 Q. Yes.

04 A. Well, I'm the superi ntendent.  
05 Underneath me is a mi ne foreman, Carl  
06 Crumri ne, mai ntenance foreman, Di ck  
07 Wi lfong, and safety di rector, Al  
08 Schoonover. Those are probabl y the  
09 three men that I rely on to make

10 decisions day-to-day in running the  
11 mines. Carl, in turn, we have shift  
12 foremen underneath that fall under  
13 Carl, and then the section foremen  
14 fall under the shift foremen. Mr.  
15 Wilfong has assistant maintenance  
16 chiefs under him, and then, of  
17 course, all of the maintenance  
18 personnel underneath that. All  
19 basically report directly to Mr.  
20 Wilfong.

21 Q. Okay. Who did you mention who  
22 was your supervisor?

23 A. Raymond Coleman is my  
24 immediate supervisor.

25 Q. And how long has he been your

44

01 supervisor?

02 A. Since the day I started with  
03 ICG, which is August 1st. Five  
04 months.

05 Q. What is his position?

06 A. He is mine manager.

07 Q. Where's his office located, if  
08 you can tell me, please?

09 A. His office is in the --- well,  
10 I like to think Raymond has two. He  
11 has an office at the Buckhannon  
12 office, for International Coal Group,  
13 and then his pickup truck.

14 Q. Okay. How many sections are  
15 at the Sago Mine?

16 A. We produce coal in two  
17 sections.

18 Q. And could you describe that  
19 process? I mean, do you have, as an  
20 example, like a super section or  
21 anything like that?

22 A. We run what we call a walking  
23 super section. We run eight ---  
24 typically run eight entries. We have  
25 two miners on the section at all

45

01 times, but we only mine coal with one  
02 miner at a time. The other miner is  
03 setting up --- while one miner is  
04 cutting, the other miner is setting  
05 up. We also have two bolt machines,  
06 a bolt machine really chasing each  
07 miner. And we have three shuttle  
08 cars on the section, but we only run  
09 two at a time. We have a shuttle car  
10 designated on each side, side dump  
11 off our feeder, which is a three-way  
12 dump, and we have one on the end  
13 dump.

14 The operator on the end dump,  
15 his shuttle car will travel to  
16 whichever miner is running. The  
17 other operator will, depending on  
18 which miner is cutting, will  
19 determine which shuttle car he runs.  
20 He may park the left shuttle car and

21 get on the right shuttle car to go to  
22 the right miner.  
23 Q. Okay. Could you describe the  
24 mine ventilation system with the  
25 miner?

46

01 A. A blowing system with --- all  
02 face ventilation is on blowing as  
03 well. The intake's on the right side  
04 of the section so line curtains will  
05 typically run up the right rib.

06 Q. You said you used blowing  
07 ventilation, but did you ever use any  
08 exhaust ventilation?

09 A. It's been a few years ago, but  
10 yeah, I have used some exhaust.

11 Q. Could you describe the mine  
12 roof support system, please?

13 A. Our base roof control plan,  
14 we're setting six-foot fully grouted  
15 resin bolts. On the Two Left panel  
16 we are --- in intersections we're  
17 installing ten-foot cable bolts. I  
18 think we had six --- I think we're  
19 putting six cable bolts per  
20 intersection, unless they're ---  
21 provided if they're anchoring --- if  
22 the resin bolts were anchored in  
23 sandstone, we don't have to set the  
24 cable bolts.

25 We also put, for span control,

47

01 we put --- 5 to 15 feet is the size  
02 of the mesh screen we're bolting  
03 against the roof, and we'd screen our  
04 --- our primary escape way we screen,  
05 our track entry we screen, and our  
06 belt entry we screen.

07 Q. Do you ever screen any other  
08 particular entries, or ---?

09 A. We will screen --- my bolt  
10 crews can put a piece of screen up  
11 anywhere where they feel there's any  
12 adverse roof that they would put a  
13 piece of screen on.

14 Q. Did you ever put any screen on  
15 the ribs?

16 A. No, sir.

17 Q. Who was all at the mine when  
18 you were there that day?

19 A. Well, I know that Al  
20 Schoonover, Dick Wilfong and Martin  
21 Toler and Owen Jones, and --- I know  
22 that they were there, but as far as  
23 --- and the dispatcher, Bill Chisolm,  
24 I spoke to him, but as far as going  
25 back into the bathhouse and seeing

48

01 what men were there, I didn't do  
02 that.

03 Q. Okay. There were some men  
04 already at the mine?

05 A. Yeah. I would say most of the

06 crews were already there when I got  
07 there.  
08 Q. Did the mine operate on the  
09 day prior to the accident?  
10 A. No, sir.  
11 Q. Was there any examiners or  
12 anything ---?  
13 A. Examiners --- I had examiners  
14 scheduled to start at three o'clock  
15 that morning.  
16 Q. That morning the ---.  
17 A. The morning of January 2nd.  
18 Q. Okay. But the day prior  
19 to ---  
20 A. The day prior to?  
21 Q. --- was there any examinations  
22 made or anything like that?  
23 A. I'm not aware if there --- I  
24 don't know.  
25 Q. When was the last time that

49

01 anyone was at the mine prior to the  
02 morning of the accident?  
03 A. I don't know. The last --- I  
04 know I had some men that worked  
05 Saturday, but I don't know if anyone  
06 was there throughout the night or  
07 Sunday.  
08 Q. Okay. So then Saturday would  
09 be the last time that you were aware  
10 of anyone ---  
11 A. That I'm aware of, yes.

12 Q. --- working at the mine? Did  
13 the fan operate continually during  
14 the weekend preceding the accident?

15 A. I haven't heard --- as far as  
16 I know, yes.

17 Q. You routinely just leave the  
18 fan on ---

19 A. Yes.

20 Q. --- for 24 hours?

21 A. Yeah. Routinely, yes.

22 Q. Was the underground power  
23 de-energized during the holiday  
24 shutdown?

25 A. I don't know.

50

01 Q. Okay. Who would know that  
02 possibly?

03 A. I don't know, possibly Mr.  
04 Wilfong.

05 Q. What records did you review  
06 that morning, you know, your routine  
07 there? What records did you --- on  
08 that particular morning, what were  
09 the records that you reviewed?

10 A. Probably what I've already  
11 detailed. This happened so quick, I  
12 probably didn't have any time to look  
13 at anything but maybe the timesheets.

14 Q. You didn't review the ---

15 A. No, sir.

16 Q. --- prior to the ---

17 A. No, sir.  
18 Q. --- the record books and any  
19 sort of underground paperwork?  
20 A. No, sir.  
21 Q. Did you happen to notice  
22 anything on the --- or did you look  
23 at the CO monitor?  
24 A. No, sir.  
25 Q. Did you hand any specific

51

01 assignments out that morning prior to  
02 the accident?  
03 A. No, not ---. I didn't have  
04 anybody available to hand the  
05 assignments to at that point.  
06 Q. And again, you weren't in the  
07 mine prior to the accident?  
08 A. No, sir.  
09 Q. I think you've already said  
10 that. How and when were you notified  
11 of the underground problem? I know  
12 you --- just kind of go through that  
13 again.  
14 A. Like I said, I was on the  
15 phone with the dispatcher, and when  
16 he commented on the flash of  
17 lightning and I heard the thunder,  
18 and then I could hear the CO alarms.  
19 Q. Where are the CO alarms, or  
20 the ---  
21 A. They're in the dispatch ---.  
22 Q. --- CO monitors?

23 A. It's in the dispatcher's  
24 office.

25 Q. In the dispatcher's office?

52

01 A. Yes.

02 Q. It was within the same  
03 building that you were in?

04 A. No. Actually, he's in a  
05 trailer right now, which is separate  
06 from our building.

07 Q. Okay. When you say right now,  
08 I mean, on the day of the accident.

09 A. On the day of the accident, it  
10 was --- he was in a separate trailer.

11 Q. In a separate trailer. And  
12 you say you heard the alarms going  
13 off ---.

14 A. Well, I could just hear ---  
15 they just make a beep, and with him  
16 being on the phone talking to me, I  
17 could I hear it in the background.

18 Q. Oh, in the background?

19 A. Yeah.

20 Q Okay. And at that time then  
21 you realize what --- did you realize  
22 what the extent of the problem was?

23 A. No, sir. Probably not until  
24 Owen Jones got on the mine phone and  
25 told us about the big rush of air

53

01 that he felt.

02 Q. And just again, what  
03 information did you receive?  
04 A. Owen --- like I said, we had  
05 got on the phone to try to --- we  
06 weren't aware that anything had  
07 happened underground. And we were  
08 just trying to get ahold of the crews  
09 to have them check their CO alarms.  
10 And Owen was the first person that  
11 responded, and he informed us that he  
12 had felt a big rush of air coming  
13 from inby toward the Two Left  
14 section.  
15 Q. Did he say anything else?  
16 A. Not that I can recall.  
17 Q. Okay. And then after your  
18 notification then you had said that  
19 you had spoken to Mr. Schoonover, I  
20 believe?  
21 A. Schoonover (corrects  
22 pronunciation).  
23 Q. Schoonover.  
24 A. I yelled at him, actually.  
25 Q. And who all entered the mine

54

01 then?  
02 A. Myself, Al Schoonover, Dick  
03 Wilfong and Vernon Hofer.  
04 Q. Were you actually the one that  
05 was like planning the operations at  
06 that time?  
07 A. I don't think anybody was

08 planning anything at that point. We  
09 were just wanting to get in there and  
10 see what had happened.

11 Q. Okay. Was this a joint  
12 effort, or were you directing the  
13 operations at that time?

14 A. I just hollered at Al to go  
15 with me, and Mr. Wilfong and Mr.  
16 Hofer going along with me was just  
17 --- you know, they were available and  
18 wanted to go.

19 Q. Just again, what instructions  
20 did you give those guys?

21 A. I don't know that I gave any  
22 instructions. After I told Mr.  
23 Schoonover to get his gear on these  
24 guys just followed me.

25 Q. Okay. What agencies --- was

55

01 there any agencies notified at that  
02 time?

03 A. Not at that point, no.

04 Q. Okay. When were they  
05 notified?

06 A. I was underground. I have no  
07 idea.

08 Q. Okay. And you had mentioned  
09 about when you --- to notify the Mine  
10 Rescue team. That was during your  
11 exits from the mine?

12 A. No. That was when we were ---

13 when we had hooked up with the One  
14 Left crew. They patched me through  
15 to Johnny Stemple, and just in our  
16 conversation I told --- Johnny was  
17 just concerned whether we should ---  
18 whether I felt like --- and at this  
19 point, I still hadn't seen any  
20 damage. But I just told Johnny that  
21 we probably ought to go ahead and  
22 notify them.

23 Q. Do you know what time those  
24 teams were notified?

25 A. No, sir.

56

01 Q. Do you know if all the teams  
02 that were called, did they respond?

03 A. I have no idea.

04 Q. Do you know who those teams  
05 are?

06 A. I have no idea.

07 Q. Would there be a list that you  
08 could provide us, or someone provide  
09 us of the teams and what time they  
10 responded or were contacted?

11 A. I'm sure there's a list exists  
12 somewhere.

13 ATTORNEY MOORE:

14 I thought that at this  
15 point the teams themselves  
16 that responded had been  
17 identified to the agencies.  
18 If that's not correct, then

19 we'll gather that information.  
20 My understanding is that the  
21 information is fully available  
22 to MSHA at this point. And  
23 you've also requested  
24 identification of all of the  
25 mine rescue personnel who were

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01 there. And we're compiling  
02 that list, and we'll produce  
03 it if there's suitable  
04 guarantees of confidentiality.

05 MR. SWENTOSKY:

06 We're just wanting as  
07 much information as we can get  
08 to help us in our  
09 investigation.

10 ATTORNEY MOORE:

11 We don't have any  
12 problem with that, but I  
13 thought we had --- you already  
14 were provided with the  
15 information as to what teams  
16 responded.

17 MR. SWENTOSKY:

18 Okay.

19 BY MR. SWENTOSKY:

20 Q. Getting back when you entered  
21 the mine, what equipment and supplies  
22 did you take with you?

23 A. I had a belt and my hat.

24 Q. That's a good start.  
25 A. Yeah, and a light.

01 Q. Okay. At that point there,  
02 you don't recall any --- do you  
03 recall anything else that you might  
04 have taken with you?  
05 A. No, sir. I can't recall  
06 anything in specific that I would  
07 have picked up.  
08 Q. Okay. What instruments did  
09 you take with you?  
10 A. None. Myself, none.  
11 Q. You didn't have a methane  
12 detector or ---  
13 A. No, sir. No, sir.  
14 Q. --- anything? Okay. Did  
15 anyone else with you take ---?  
16 A. I don't know. I don't know.  
17 Q. How did you travel into the  
18 mine?  
19 A. We were on one of our track  
20 rail --- piece of rail equipment, one  
21 of the mantrips.  
22 Q. And who was in the mine when  
23 you entered?  
24 A. Well, everybody that was  
25 supposed to be underground at that

58

01 point. Nobody had exited the mine at  
02 that point.  
03 Q. Okay. Nobody had come out

59

04 yet. And you don't know where they  
05 were?

06 A. Well, like I said, we passed  
07 Fred Jamison. He was on the belt.  
08 He's the belt examiner. We passed  
09 Fred Jamison just a couple breaks  
10 under portal, heading toward the  
11 surface.

12 Q. And where approximately was  
13 that?

14 A. Three breaks in by the drift in  
15 the track entry.

16 MR. SWENTOSKY:

17 We have a map over here  
18 that we'll mark Exhibit Toler  
19 Number One.

20 (Toler Exhibit Number  
21 One marked for  
22 identification.)

23 BY MR. SWENTOSKY:

24 Q. Can you mark where you saw him  
25 using --- use a blue marker?

60

01 A. I can only approximate. I was  
02 up to right here, and then ---.

03 Q. You placed a blue mark by the  
04 third portal, third block on the  
05 portal of entry?

06 A. Yes, sir.

07 Q. Okay. What was he doing at  
08 that point?

09 A. He appeared to be exiting the  
10 mines.  
11 Q. Okay. Did he have a SCSR on,  
12 or ---  
13 A. No.  
14 Q. --- anything on?  
15 A. No. He was on foot. We  
16 probably slowed, and I asked him if  
17 he was all right. He said yeah, and  
18 I maybe told him to just keep going  
19 on out.  
20 Q. Okay. Did the dispatcher  
21 report any CO alerts and alarms to  
22 you?  
23 A. After the ---.  
24 Q. I know you had heard it going  
25 off.

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01 A. That was it.  
02 Q. And you don't know what those  
03 CO levels were?  
04 A. No, sir.  
05 Q. Did you personally check the  
06 levels?  
07 A. No, sir.  
08 Q. Okay. I'm going to hand you a  
09 copy of the readout, and I just  
10 wondered if you would identify that.  
11 Is that the readout off the CO  
12 monitor?  
13 A. It appears to be. I can't ---  
14 I mean, ---.

15 Q. That's the type of readout,  
16 and that's the readout that you  
17 recall at your mine?

18 A. It would appear to be. As far  
19 as the CO alarms go at that mine, I  
20 never went beyond just looking at the  
21 computer screen. So that would  
22 appear to be it. I'm not sure.

23 Q. Who would know?

24 A. Probably Mr. Wilfong.

25 Q. Mr. Wilfong?

62

01 A. Yes.

02 Q. Was the power de-energized  
03 from the underground portion of the  
04 mine before you entered?

05 A. Before we entered the mines,  
06 no, we didn't take the time to  
07 de-energize. I've been told later  
08 that when Mr. Wilfong and Mr. Hofer  
09 brought the One Left crew to the  
10 surface they de-energized the  
11 underground power at that point.

12 Q. Okay. So it wasn't  
13 de-energized?

14 A. No, sir.

15 Q. Okay. Were the belt lines  
16 operating when you entered the mine?

17 A. I have no idea. They had  
18 been, but I don't know if they went  
19 down when this happened or not.

20 Q. How do you know that they had  
21 been?

22 A. I was told.

23 Q. Somebody told you. You didn't  
24 observe them?

25 A. I didn't observe them, no,

63

01 sir. I was told they all had been  
02 running.

03 Q. What types of communication  
04 are used at the mine?

05 A. Well, we have the hard line  
06 telephone system, and ---.

07 Q. Is that like a Bell line? You  
08 know, a regular-type telephone, when  
09 I say Bell.

10 A. It's just like a page box.

11 Q. A pager phone?

12 A. Yeah.

13 Q. Okay. Do you have any Walkie-  
14 talkies or anything like that that  
15 you might use?

16 A. Yes, sir, we do.

17 Q. Are those of a permissible  
18 type?

19 A. Not permissible, but I think  
20 the term is non-synthetic (sic).

21 MR. STUART:

22 Intrinsically safe.

23 A. Intrinsically safe. That's  
24 what I'm looking for. Thank you,  
25 Dave.

01 BY MR. SWENTOSKY:

02 Q. Okay. Who carries those  
03 walkie talkies?

04 A. I have them on --- certain  
05 people that work on the sections  
06 carry those. Miner operators will  
07 have them. The foremen will have  
08 them. Shuttle car operators will  
09 have them.

10 Q. When you use those --- I mean,  
11 do they just use them to communicate  
12 back and forth ---

13 A. On the section.

14 Q. --- on the section?

15 A. That's just on the section,  
16 yes.

17 Q. Do you have any other type of  
18 --- additional types of communication  
19 devices?

20 A. The mantrips have trolley  
21 phones on them.

22 Q. I see. Do you have trolley  
23 wiring in the mine?

24 A. No, we don't have trolley  
25 wire. We just refer to it as a

01 trolley phone. I'm sorry.

02 Q. Oh, okay. That's just like a  
03 battery-type telephone?

04 A. It's a battery-type telephone,

05 and you have an antenna wire running  
06 down the track to bounce the signal  
07 off of it.

08 Q. I see. And I heard you  
09 mention before that you used a pager  
10 phone to try and communicate with the  
11 missing miners?

12 A. Yes, sir.

13 Q. What did you say or ---?

14 A. Well, I wasn't the one doing  
15 the calling. It would have been the  
16 dispatcher.

17 Q. Oh, the dispatcher then was  
18 actually trying to contact the  
19 miners?

20 A. Yeah. He constantly was  
21 trying to get ahold of them.

22 Q. What is the dispatcher's job,  
23 is that his job to contact the miners  
24 underground? He's the --- okay. Go  
25 ahead.

66

01 A. Typically, ---.

02 Q. He's the one that contacts  
03 those people?

04 A. He's as close to a secretary  
05 as I've got.

06 Q. Is he the responsible person  
07 as described in the Fire and  
08 Evacuation Plan? Is that his duties?

09 A. I haven't reviewed the Fire  
10 and Evacuation Plan to that point, so

11 I'm not sure.

12 Q. I see. Did you ever see the  
13 Fire and Evacuation Plan?

14 A. I have briefly looked over  
15 every plan we have.

16 Q. I see.

17 A. But to look at them in depth,  
18 no, I haven't.

19 Q. Okay. What we want to do is  
20 go back over to the map. And using a  
21 blue marker, if you could just kind  
22 of draw a line on the map on Exhibit  
23 One and show us the travel that you  
24 did when you were entering the mine?

25 A. Can we take a short break?

67

01 Q. Absolutely.

02 SHORT BREAK TAKEN

03 BY MR. SWENTOSKY:

04 Q. Mr. Toler, before we continue  
05 on down my larger list, just --- I'd  
06 like to ask some clarifying  
07 questions.

08 A. Okay.

09 Q. The CO alarm level, when it  
10 went off, was that before or after  
11 the lightning?

12 A. After.

13 Q. After?

14 A. Yes.

15 Q. Was it --- can you give any

16 time span or anything like that? I  
17 know times are hard, but I just  
18 wondered if you could ---.  
19 A. I'll just sum it as just bang  
20 bang.  
21 Q. Bang bang?  
22 A. Yeah. First one and then the  
23 other.  
24 Q. Okay. Thank you. These ---  
25 the radio for the mantrips.

68

01 A. Yes, sir.  
02 Q. And you had mentioned that you  
03 have an antenna wire ---  
04 A. Yes, sir.  
05 Q. --- that runs along the track?  
06 A. Yes, sir.  
07 Q. Okay. How far does that run?  
08 Obviously, it goes from the surface,  
09 but how far does it run underground?  
10 A. Right at the end of the track  
11 on each section.  
12 Q. On each section?  
13 A. Yes.  
14 Q. Okay. And then using that  
15 antenna at that position, the walkie  
16 talkies in the section will operate?  
17 A. You mean using that antenna?  
18 Q. Yes.  
19 A. No, sir.  
20 Q. Okay. That's just for ---  
21 A. That's just for the ---.

22 Q. --- the portal buses?

23 A. Yes, sir.

24 Q. Okay. Whenever you entered  
25 the mine, you and the others, okay,

69

01 did you have a walkie talkie with you  
02 or any type of radio with you at all?

03 A. No, sir.

04 Q. Was there one on the bus or  
05 the transportation that you took in,  
06 was there one of these radios?

07 A. No, sir. There was probably  
08 one of the trolley --- the trolley  
09 phone was on there, but one of the  
10 handhelds, no.

11 Q. Okay. The trolley phone was  
12 on there, but that was --- you're  
13 saying that was all?

14 A. Yes.

15 Q. Okay. And you didn't have any  
16 walkie talkies or anything else with  
17 you?

18 A. No, sir.

19 Q. How often --- have you  
20 received any nuisance, what we would  
21 call a nuisance AMS system tripping,  
22 or something, you know, that really  
23 was a problem with the system that  
24 has gone off?

25 A. You mean, on these ---?

70

01 Q. Have you ever experienced that  
02 at all?  
03 A. On what? What system are we  
04 talking about?  
05 Q. The AMS system, I'm sorry.  
06 A. The CO alarm?  
07 Q. The CO alarm, yes.  
08 A. I don't know. Like I said,  
09 that system is set up in the  
10 dispatcher's office over there. He's  
11 in his own office, in his own trailer  
12 over there, and I don't know.  
13 Q. Okay. Just briefly going back  
14 to Saturday, and you had mentioned  
15 you didn't know --- do you know  
16 anything about Saturday, what  
17 occurred ---  
18 A. No, sir.  
19 Q. --- just for clarifying?  
20 A. No, sir.  
21 Q. Was there ever any people  
22 scheduled for Saturday?  
23 A. Are there ever or that  
24 particular Saturday?  
25 Q. Ever.

71

01 A. Yes. We generally have people  
02 there seven days a week.  
03 Q. Seven days a week. Okay. And  
04 it just happened to be --- and why  
05 not this Saturday?  
06 A. New Year's Eve.

07 Q. New Year' s Eve?

08 A. Yeah.

09 MR. CONAWAY:

10 Denny, before we go

11 back to your major list, would

12 it be okay if I pick up?

13 MR. SWENTOSKY:

14 Okay. Can I just ask

15 one more questi on?

16 MR. CONAWAY:

17 Sure.

18 MR. SWENTOSKY:

19 Thank you.

20 BY MR. SWENTOSKY:

21 Q. Was thi s your fi rst

22 superi ntendent posi ti on?

23 A. No, si r. I was previ ously

24 superi ntendent at Brooks Run Mi nes i n

25 the southern part of West Vi rgi ni a.

72

01 Q. Okay. And approxi matel y what  
02 year was that?

03 A. It was i n 2005.

04 Q. 2005.

05 MR. SWENTOSKY:

06 Okay.

07 BY MR. CONAWAY:

08 Q. Does Bi ll Chi sol m, the  
09 di spatcher, have a ni ckname?

10 A. Fl ea.

11 Q. Okay. I j ust wanted to make

12 sure. You said the belt was running  
13 earlier when you got there before you  
14 entered the mine. You said somebody  
15 told you that. Do you remember who  
16 told you that?

17 A. It's probably something I've  
18 heard after the fact. And I have no  
19 idea who ---.

20 Q. Okay. I just thought you  
21 might remember.

22 A. No. No, sir, I don't  
23 remember.

24 Q. You were talking about a call  
25 that you made to the outside, to

73

01 Johnny Stemple, and that was  
02 approximately the time that you ---  
03 when you entered the mine and you  
04 encountered Fred Jamison, three  
05 breaks in, and then you went on in  
06 and you encountered the One Left crew  
07 coming out?

08 A. Uh-huh (yes).

09 Q. Is that the time frame when  
10 you had the call with Johnny Stemple;  
11 do you recall that?

12 A. I'm thinking it was in that  
13 time frame. I'm not sure.

14 Q. Okay. Do you have any feel  
15 for --- you entered the mine, you say  
16 just within ten minutes of ---?

17 A. I would say probably around

18 seven o'clock is where we encountered  
19 the One Left crew, ---  
20 Q. Okay.  
21 A. --- because my understanding  
22 was they were outside by 7:20.  
23 Q. Okay. So about seven o'clock  
24 is when you were on the phone with  
25 Johnny. And what was that

74

01 conversation; do you recall that?  
02 A. It was very --- just a few  
03 quick words. It was just Johnny  
04 asking if I thought we needed to get  
05 the Mine Rescue, and I'm thinking I  
06 told him that we at least needed to  
07 have somebody on standby. We needed  
08 to get ahold of somebody. But we  
09 still, at this point, hadn't had any  
10 idea of what had happened.  
11 Q. Well, I'm just trying to get  
12 the general time frame. You  
13 mentioned that when you were at block  
14 49, you said that you had CO levels,  
15 that's when you went back ---?  
16 A. In the track entry, yes.  
17 Q. How did you know that?  
18 A. I had a handheld with me at  
19 that time.  
20 Q. What did it say; do you  
21 recall?  
22 A. I think it was in excess of

23 700 parts per million at that point.

24 Q. Okay. Where you were standing  
25 and taking the reading, it was ---

75

01 A. Yes.

02 Q. --- in excess of 700 parts per  
03 million? What kind of detector was  
04 that; do you recall?

05 A. I have no --- I don't know.

06 Q. Okay. I understand. I'm just  
07 trying to get what you remember.

08 Also, do you recall any readings that  
09 were discussed among your group? As  
10 you were advancing forward, did  
11 anybody ---?

12 A. No, sir.

13 Q. Were alarms going off on  
14 detectors?

15 A. Yes. Yes, they were. I don't  
16 recall any levels. I don't think  
17 that --- it's just a guess, but I  
18 don't think it was ever over 100  
19 parts per million on the CO, I don't  
20 think. But again, at a certain point  
21 I turned off the detector I had. It  
22 had a low battery on it. And I was  
23 relying on the detectors the other  
24 guys had.

25 Q. Okay. But you don't recall

76

01 somebody just occasionally taking a  
02 reading and saying I've got 300 here,

03 I've got --- you don't recall?  
04 A. No, sir, I don't recall.  
05 Q. Okay. I'm just trying to get  
06 a feel for who took readings and if  
07 you had any idea of what the levels  
08 were. You mentioned you have 148  
09 employees at the mine. Do you have  
10 any --- does that include any  
11 contractors you may have?  
12 A. Yes, sir, it does.  
13 Q. It includes everybody ---?  
14 A. That's everybody that's in the  
15 mines.  
16 Q. Okay. Do you know what  
17 companies --- when I say contractors,  
18 are they miners or are they service?  
19 A. These are miners.  
20 Q. Miners?  
21 A. Yes, sir.  
22 Q. And do you know how many,  
23 roughly, you have, Jeff?  
24 A. That day, I think I had --- I  
25 have a total of five employed, and I

77

01 think three of them would have been  
02 scheduled to work that day.  
03 Q. Okay. Are they rank-and-file  
04 hourly, or are they --- were they  
05 management, or what's --- are they  
06 all?  
07 A. One of them has foreman

08 certification. I typically don't use  
09 them as a foreman. And the other two  
10 were red hats.  
11 Q. And are they employed by the  
12 same company?  
13 A. They're all employed by  
14 Garrett --- GMS, Garrett Mine  
15 Service.  
16 Q. Okay. You mentioned that the  
17 last work before this shift ---  
18 dayshift, or the first shift at six  
19 o'clock on Monday morning, the last  
20 shift was Saturday. Was that day,  
21 evening, or do you recall ---?  
22 A. It should have been day.  
23 Q. It should have been day?  
24 Okay. You said, to your  
25 recollection, that the last time you

78

01 were aware that somebody was at the  
02 mine would have been dayshift?  
03 A. Yes.  
04 Q. And do you have any idea what  
05 those --- I mean, was it just kind of  
06 maintenance protocol?  
07 A. Yeah. It just --- just in  
08 there doing some odd jobs.  
09 Q. Okay. Just a good time  
10 to ---?  
11 A. Yes.  
12 Q. When you were talking to Bill  
13 Chi sol m, Flea, and you saw the flash

14 of light, did Flea say the light  
15 when, where, did he just see it hit?

16 I mean, what ---?

17 A. I don't actually recall what  
18 he did say. And I didn't see the  
19 flash because my office has no  
20 windows.

21 Q. Right.

22 A. But he said something that  
23 gave me --- that I knew that it was a  
24 flash of light. I just can't exactly  
25 recall what his words were.

79

01 Q. He didn't specifically say it  
02 hit ---?

03 A. He may have just yelled, for  
04 all I know.

05 Q. Okay. When you talked to Owen  
06 Jones, that was --- well, tell me  
07 when you first ran into Owen.

08 A. Well, I talked to him from the  
09 surface.

10 Q. Okay. He called out, and that  
11 was ---?

12 A. Yeah. He responded to our  
13 calls.

14 Q. At approximately what time?

15 A. 6:32. Within a minute or so  
16 after this ---.

17 Q. Okay. And what did he tell  
18 you? What was your recollection?

19 A. There was a big gush of air  
20 and some smoke, and he didn't know  
21 what had happened, but he felt that  
22 it was something bad.  
23 Q. Okay. I'll just ask you this.  
24 We can get into this later. When did  
25 you leave the property, or ---?

80

01 A. When did I leave?  
02 Q. Yeah.  
03 A. After that?  
04 Q. Yeah.  
05 A. Well, this happened on Monday  
06 morning. It was approximately five  
07 o'clock Wednesday morning before I  
08 left the property.  
09 Q. I think we've touched on this,  
10 but the only thing you tried to  
11 communicate with was the pager system  
12 when you were underground?  
13 A. Yes, sir.  
14 Q. The trolley phone, you had  
15 left your vehicle; is that correct?  
16 A. Yes, sir.  
17 Q. And you didn't have any walkie  
18 talkies, so it was the pager. In  
19 addition to you --- the dispatcher  
20 may have been trying to contact you  
21 as well?  
22 A. Yes.  
23 Q. One other question here. When  
24 you were underground, did you have

25 any conversations that you recall

81

01 with people on the outside on a pager  
02 or on a telephone; do you recall any  
03 of those?

04 A. No. I wanted to keep  
05 conversations limited to the surface  
06 for fear of being told to withdraw  
07 from the mines.

08 Q. Okay. Do you recall a  
09 conversation you had with state  
10 inspector John Collins at any time?

11 A. I think I may have talked to  
12 John when I told him we were leaving  
13 --- we were getting ready to exit the  
14 mines. I may have talked to John  
15 then.

16 Q. Okay. And you don't recall  
17 what time that was?

18 A. No, sir.

19 Q. Do you recall anything else  
20 about that conversation you may have  
21 had? Did you describe any of the  
22 conditions?

23 A. No, sir. If I do, I just ---  
24 everything is just kind of a blur.

25 Q. Okay. I'm just trying to see

82

01 if you remember.

02 MR. CONAWAY:

03 Okay.

04 MR. SWENTOSKY:

05 Thanks, Doug.

06 BY MR. SWENTOSKY:

07 Q. You had mentioned to a  
08 question Mr. Conaway asked that you  
09 heard the handhelds going off. Did  
10 you take any instruments underground  
11 with you?

12 A. We didn't take any with us,  
13 but when Mr. Wilfong took the One  
14 Left crew to the surface, when I  
15 called out for the ventilation  
16 supplies I had told him to put some  
17 detectors in there with him, and  
18 bring the detectors back with him.

19 Q. Okay. Did you have one after  
20 they came back?

21 A. After he came back, I had one.

22 Q. Okay. And did you make any  
23 attempts to contact the missing  
24 miners underground after you went  
25 underground?

83

01 A. No. The only time that I was  
02 communicating, it was with the  
03 surface.

04 Q. Okay. If we can go over to  
05 the map, and that would be Toler  
06 Exhibit Number One. And use a ---  
07 well, we can't use the blue anymore.  
08 It doesn't work. Here's a purple.  
09 And I would like for you to mark your

10 line of travel while entering the  
11 mine. Just mark on the map, starting  
12 at the surface and going underground,  
13 and just mark on the map where you're  
14 entering. That would be number four;  
15 is that correct?

16 A. Yes, sir.

17 Q. The track entry?

18 A. Yes, sir. The track entry,  
19 and we basically stayed on track at  
20 this point. I'd say we had talked to  
21 Fred, we passed Fred Jamison at this  
22 point.

23 Q. If you would just describe  
24 ---?

25 A. We went right down the track,

84

01 down Number One belt. We turned,  
02 followed the track down Number Two,  
03 turned, followed the track down  
04 Number Three. Right in this area  
05 here, that's around the One ---  
06 that's that track spur --- a side  
07 spur is going into the One Right  
08 panel. Somewhere in this vicinity  
09 here we passed John Boni, one of the  
10 mine examiners. We just stopped for  
11 a second, checked on him, and he was  
12 fine, and he was also exiting the  
13 mines.

14 Q. Okay. Did he have an SCSR on?

15 A. No, sir, he did not have an  
16 SCSR on.  
17 Q. Again, what was the extent of  
18 the conversation?  
19 A. I don't recall.  
20 Q. He didn't indicate any type of  
21 --- or what he thought had happened  
22 or asked what was going on?  
23 A. He may have, but I just --- my  
24 intention was --- you know, once I  
25 seen he was all right, my intentions

85

01 were focused toward ---.  
02 Q. Did you mention to him --- you  
03 told him to get out of the mine?  
04 A. Yes. So we moved on up Number  
05 Three track, and right there is Four  
06 --- now we're on Four --- what we  
07 called the Four Track. And this is  
08 just a guess in this area, but  
09 somewhere in this vicinity is one of  
10 the mine phones is set up right  
11 beside the track. Somewhere between  
12 25 and 30 block. I'm not exactly  
13 sure. I have no idea where it is  
14 exactly.  
15 Q. Did you call anybody at that  
16 phone?  
17 A. We stopped there, and Mr.  
18 Wilfong called outside to see if they  
19 had talked to anybody at that point,  
20 if they had ever gotten ahold of

21 anybody.

22 Q. That' s anybody meani ng?

23 A. Anybody on the Two Left crew.

24 Q. Two Left crew?

25 A. Yes.

86

01 Q. Was that the extent of the  
02 conversati on? Was there anythi ng  
03 else sai d?

04 A. At that point, the One Left  
05 crew was working their way outby in  
06 the intake. They heard us. Wherever  
07 this phone' s at, there must have been  
08 a man door there, because somebody  
09 stuck their head through the man  
10 door, and basi cally sai d Hoy' s havi ng  
11 trouble --- we' re havi ng trouble  
12 getting Hoy out. So we started just  
13 getting those men out of there and  
14 into the track. We were going to  
15 send them out on that track.

16 Q. Before you went underground,  
17 did you know they were working their  
18 way out?

19 A. Yeah. When I talked to Owen  
20 right after the event, Owen called us  
21 from right here. That' s where they  
22 were at. That' s at 49 wall .

23 Q. Forty-nine (49) wall .

24 A. Yes.

25 Q. One Left swi tch?

01 A. Yes. Owen called us from this  
02 point right here, and that's when he  
03 had told us what had happened. And  
04 our instructions to him was to get  
05 into the intake and start toward the  
06 outside.

07 Q. That was the extent of the  
08 conversation?

09 A. Pretty much. Okay. At this  
10 point --- like I said, we were  
11 gathering those men up, and Mr.  
12 Wilfong and Mr. Hofer, after we had  
13 accounted for everyone, they started  
14 toward the outside. Owen --- we have  
15 another mine phone approximately  
16 right here --- again, it's a guess,  
17 but right around 41 block. There's  
18 another phone right beside the track.  
19 And we're down here. We can see Owen  
20 and talk to him through the mine  
21 phone, and I told him to just come  
22 down here and join me and Mr.  
23 Schoonover.

24 Q. Over the phone you told him?

25 A. Yes. Well, Mr. Wilfong, I

01 think, is actually the one that told  
02 him to get down there. Owen traveled  
03 down to where Al and I were at, and I  
04 just had Owen stay there by the  
05 phone, and Al and I started up on

06 foot, and we noticed stopping damage  
07 at 32 wall.

08 Q. Any of the ventilation  
09 controls, we'll use a red marker, if  
10 we can.

11 A. Okay. So the first place that  
12 we noticed the damage was --- would  
13 have been here at 32 wall.

14 Q. Maybe you can move over here.

15 A. Okay. Yeah.

16 Q. Let's move on and we'll ---  
17 this is the second map we'll label it  
18 Exhibit Toler Two.

19 (Toler Exhibit Number

20 Two marked for

21 identification.)

22 BY MR. SWENTOSKY:

23 Q. And it's a blowup of the One  
24 Left, Two Left section area slightly  
25 outby. And if you could circle those

89

01 controls?

02 A. Okay. The first control that  
03 we noticed was right here at 32 wall.

04 Q. Okay. Do you know which way  
05 that was --- did you realize which  
06 way that was blown?

07 A. I don't think I was really  
08 paying attention to it at this point.  
09 I just noticed that it was out. We  
10 just started on in, and I'm not sure,

11 I think the next one that we  
12 encountered, I --- for some reason 42  
13 stands out in my mind that that was  
14 the section. And then we made it  
15 even ---.

16 Q. Do you know which way it was  
17 blown?

18 A. Well, we probably went up and  
19 looked at 43. It seemed that we had  
20 three right there, that's what we  
21 decided, and that --- that might have  
22 been when I noticed that the  
23 direction of them were blown on the  
24 intake towards the track.

25 Q. Okay. The right to the left?

90

01 A. Yes, sir. It was blown from  
02 right to left.

03 Q. What type of blocks were  
04 those?

05 A. Most of those stoppings would  
06 have been six-inch hollow cinder  
07 blocks. There might have been a few  
08 ---.

09 Q. All three blocks?

10 A. Yes. So there may have been  
11 one or two of these stoppings that  
12 were Omega blocks, but for the most  
13 part they were cinder blocks.

14 Q. Okay. So you have these  
15 Omega blocks in the mine for  
16 stoppings?

17 A. Yes. So Al and I withdrew  
18 down --- back down to where Owen was  
19 at, at this phone and waited on Mr.  
20 Wilfong to come back. Once he  
21 got ---.

22 Q. And that furthest point that  
23 you went to ---?

24 A. I don't think it was any  
25 farther than 42, 43 wall, that's

91

01 about as far as we went in. Like I  
02 said, we had no detectors with us at  
03 this point, and didn't know what we  
04 would be walking into, so we withdrew  
05 from that point there.

06 Q. So then you came back to ---?

07 A. So we come back down wherever  
08 this phone was at --- and again, I  
09 cannot tell you what wall, what block  
10 that phone's at. And waited on those  
11 guys to come back in. When they came  
12 back in, we rode the track up here to  
13 32 wall and stopped there and put a  
14 curtain up over --- a check curtain  
15 up into place of where the stopping  
16 was blown out.

17 Q. Okay. Let me have the pink  
18 marker. Is pink okay? Just draw a  
19 circle around the controls that you  
20 re-established. That's on the way  
21 in?

22 A. That's on the way in, yes. So  
23 we fixed that one. Then we rode on  
24 up to 42, and ---.  
25 Q. Excuse me. Did you happen ---

92

01 did you use the transportation that  
02 Wilfong came in with?

03 A. Yes, sir. Yes, sir.

04 Q. Okay. What did you do your  
05 jeep?

06 A. That was the jeep that I was  
07 on. See, Wilfong took --- used our  
08 jeep to take the crew back outside  
09 and got the supplies and came back  
10 in.

11 Q. So at that point you didn't  
12 have any transportation?

13 A. Right. Well, we were on foot  
14 until he got back. So we rode up to  
15 this point ---.

16 Q. And that's 42 wall?

17 A. That's 42. And we hung a ---  
18 we repaired that one as well. I  
19 think that's probably where CO alarms  
20 started picking up some carbon  
21 monoxide, so ---.

22 Q. Did you happen to notice the  
23 parts per million ---

24 A. No, sir.

25 Q. --- or anything like that?

93

01 A. No, sir.

02 Q. What about methane or oxygen,  
03 or anything like that?

04 A. Never did alarm on methane or  
05 low oxygen.

06 Q. Did you happen to notice any  
07 readings at all?

08 A. No, sir. So at that point we  
09 decided --- we de-energized the trip  
10 right there, and stepped over here  
11 into the intake ---.

12 Q. I'm sorry. When you said  
13 de-energize, you're just talking  
14 about turning this switch off?

15 A. And we unplugged the  
16 batteries.

17 Q. You unplugged the batteries?

18 A. Yes, sir.

19 Q. Why did you unplug the  
20 batteries?

21 A. Because if there was something  
22 coming down over, just try to prevent  
23 another explosion. So then we  
24 started on up through here on foot  
25 into the intake, and I think that we

94

01 repaired one there. From 42 to 49, I  
02 can't tell you how many we fixed and  
03 how many were still intact. But I  
04 know we fixed some and some were  
05 intact.

06 Q. Okay. You just don't have any

07 numbers or ---?  
08 A. I have no numbers.  
09 Q. Nothing sticks out?  
10 A. No, sir. You might fix ---  
11 you know, this one may have been in,  
12 it may be fixed too, and then maybe  
13 --- I have no way of knowing.  
14 Q. Can I ask you this then?  
15 A. Yes, sir.  
16 Q. Do you recall like which  
17 direction they were blown?  
18 A. Everything that we had seen  
19 seemed to be blown from right to  
20 left, from the intake toward the  
21 track.  
22 Q. Was the whole wall blown out,  
23 or was it just partial wall ---?  
24 A. The 32 wall, maybe two-thirds  
25 of it was gone. As you got in here,

95

01 it was just about all of it. It was  
02 different. Every one different. But  
03 I think most of them, they were just  
04 about all gone.

05 We worked our way up, like I  
06 said, 49, and I knew there was a  
07 functioning telephone right here,  
08 because that's the one I had  
09 initially talked to Owen when I was  
10 on the surface, before I ever started  
11 underground. This is where he had  
12 called me from. So I stepped over

13 here.

14 Q. You were stepping over into  
15 the track entry?

16 A. I'm stepping back into the  
17 track entry. And like I said, the  
18 phone line runs up the track entry.  
19 I wanted to get us a phone over here  
20 in the fresh air, but I didn't want  
21 to cut the line going toward the Two  
22 Left section. So I stepped over  
23 toward this belt head and just cut  
24 the phone line somewhere in that area  
25 and just worked it back over and

96

01 tossed it back over into the intake.

02 We also had some first-aid ---  
03 an EMT station set up right there,  
04 and we put all those ---.

05 Q. When you say right there,  
06 you're talking about the crosscut  
07 between the track and the ---?

08 A. And the intake, yes. There  
09 were two big EMT boxes and a  
10 stretcher there, and we moved those  
11 over into the intake as well. And I  
12 can say for certain that that was one  
13 that we repaired. I can say that  
14 right here this overcast was ---.

15 Q. Right here, meaning ---?

16 A. At ---.

17 Q. Block 51?

18 A. Block 51. This overcast ---  
19 Q. Over the track entry?  
20 A. --- over the track was  
21 damaged. It was an easy short  
22 circuit for the air. My concern was  
23 getting air up here where these guys  
24 were at, so we just checked that off  
25 totally.

97

01 Q. So there would be no air going  
02 over towards --- a limited amount  
03 going over the overcast ---

04 A. Exactly. Just what leakage  
05 ---.

06 Q. --- on the section?

07 A. Only what leakage we would  
08 have. Then we started working our  
09 way on up through here. Again, I  
10 can't tell you what we fixed and what  
11 we didn't. I have no idea. I do know  
12 that the last place that we repaired  
13 a control was at 57.

14 Q. Fifty-seven (57) block, the  
15 last control between the track and  
16 the ---?

17 A. Yes. At some point along  
18 through here, like I said, we noticed  
19 --- we just didn't feel that we had  
20 the velocity that we felt we should  
21 have. I did start thinking that we  
22 might have had some damage outby,  
23 that we just missed as we was coming

24 in. So somewhere along through here,  
25 that's when I had Owen Jones and

98

01 Vernon Hofer start out the escapeway,  
02 checking the ventilation controls as  
03 they went.

04 ATTORNEY CRAWFORD:

05 For the record, along  
06 through here, what area do you  
07 mean?

08 A. Do what, sir?

09 ATTORNEY CRAWFORD:

10 When you said along  
11 through here ---.

12 A. I'm going to say 55, 56, 57  
13 wall, somewhere in that area.  
14 Because they started out to check  
15 those ---.

16 BY MR. SWENTOSKY:

17 Q. They were in the primary  
18 escapeway?

19 A. They were in the primary  
20 escapeway, yes. And that's me, Dick  
21 Wilfong, and Al Schoonover. I walked  
22 up to this point here ---.

23 Q. This being?

24 A. The 58 wall.

25 Q. The 58 block between the track

99

01 and the primary?

02 A. Yes. And I do know that that

03 one was --- that one was damaged. I  
04 do know that one was --- I got up  
05 there to see if that was damaged, but  
06 as we were sitting here the CO ---.  
07 Q. Sitting there meaning roughly  
08 between 58, 57 block?  
09 A. Yeah. More towards 57. We  
10 were just sitting there just watching  
11 the smoke that --- you could see the  
12 smoke up in this area. Inby 58, the  
13 smoke was very thick, very dense.  
14 Q. What color was it?  
15 A. I don't know. It was smoke.  
16 We just sat there and watched it, and  
17 you would hear something, I don't  
18 know, fall maybe over in this  
19 direction, and I would go to this  
20 point and yell, or you might hear  
21 something over here and I would yell  
22 just in the general direction of  
23 where I'd hear something fall.  
24 Q. Does it sound like something's  
25 falling, like a roof falling?

100

01 A. No, not a roof fall, just  
02 something small. It could have been  
03 a person stumbling for all I knew.  
04 Q. Okay.  
05 A. I'm reaching at this point.  
06 Q. I understand, sir.  
07 A. So at that point, that's where  
08 we decided --- you know, we didn't

09 feel like we could push on any  
10 further.

11 Q. Did you happen to take any  
12 methane or CO2 readings?

13 A. I didn't, no.

14 Q. Did anybody else, or did you  
15 see anybody else?

16 A. We had a detector, but whether  
17 --- we were constantly monitoring the  
18 CO. And all I can tell you is that  
19 it was still ---

20 Q. Beeping.

21 A. --- beeping, but I didn't ask  
22 what the levels were or anything.

23 Q. And you mentioned the velocity  
24 in the air was less at that point at  
25 the outby?

101

01 A. I'm not going to say less now,  
02 but I just probably --- less than  
03 what we felt like we should have at  
04 our backs at that point. You know,  
05 we had just pretty much diverted all  
06 of the air flow toward this one  
07 section. We felt like we should have  
08 more wind to our backs than what we  
09 did. And that just --- we started  
10 questioning that maybe we had missed  
11 something.

12 Q. Okay. And then at that point,  
13 what did you do after your

14 conversation at 57?

15 A. Well, we waiting there, I  
16 don't know how long at that --- we  
17 just finally --- the three of us  
18 agreed that it would be best if we  
19 just go ahead and get out of the  
20 mines and let the professionals come  
21 in at this point.

22 Q. Okay. On the way out then,  
23 did you re-establish any ventilation  
24 controls or do anything on your way  
25 out?

102

01 A. I did stop back at this phone  
02 and called outside to tell them ---  
03 let them know that we were coming  
04 out.

05 Q. At this phone meaning?

06 A. At 49.

07 Q. Forty-nine (49) wall.

08 A. The one I placed in the  
09 intake, 49. I think I may have  
10 talked to John Collins at that point  
11 and informed him that we would be  
12 heading out of the mines.

13 Q. Again, did you make any  
14 ventilation controls --- or changes  
15 in the ventilation controls?

16 A. No, I didn't.

17 Q. Did anybody else?

18 A. I don't know that --- there  
19 was some ventilation control damage

20 that I noticed. When we got to this  
21 point right here, at the Two Right  
22 panel, it looks to be around 12 block  
23 on Four belt. We actually --- they  
24 were traveling what we had marked as  
25 the primary escapeway.

103

01 Q. What do you mean they were  
02 traveling?

03 A. That would be the other ---  
04 Dick and Al. And I had them move  
05 over to this one, and I stayed here.

06 Q. This one being the extreme ---

07 A. Extreme right, yes.

08 Q. --- extreme right entry  
09 against this column?

10 A. Yes. I had them coming down  
11 that one, and I stayed in this one.

12 Q. That would be the primary ---?

13 A. That would be the third from  
14 the right. The one right adjacent to  
15 the ---.

16 Q. Right next to the track?

17 A. And I was just --- I wanted to  
18 check these stoppings down through  
19 this entry and have them check it  
20 through here. And this is where they  
21 caught up with Vernon and Owen. And  
22 Vernon and Owen ---.

23 Q. When you say there meaning  
24 right at --- to your right?

25 A.

Somewhere in that vicinity.

104

01 And Vernon and Owen have since told  
02 me that they had hung the curtain  
03 there, but I have no idea what ---  
04 where they hung it, or what they did.  
05 We didn't --- you know, me, Dick and  
06 Al didn't know. But we walked on  
07 through here and we all got back  
08 together once we got out by this and  
09 just followed the primary escapeway  
10 onto the surface.

11 Q. Whenever you joined up that  
12 was around ---?

13 A. That would have been --- maybe  
14 around One or Two wall on Four belt.

15 Q. One or Two wall on the Four  
16 belt?

17 A. Yeah. Somewhere in that  
18 vicinity we were --- wall five when  
19 we got together.

20 Q. Just draw a line over there.

21 A. It's only a guess.

22 ATTORNEY CRAWFORD:

23 And you're referring to  
24 Exhibit Number One?

25 MR. SWENTOSKY:

105

01 Exhibit Number One.

02 BY MR. SWENTOSKY:

03 Q. Did you or anyone else don an  
04 SCSR at any point?

05 A. None of the men with me donned  
06 an SCSR.  
07 Q. And none, that was you ---?  
08 A. Me, Al Schoonover, Dick  
09 Wilfong, Vern Hofer and Owen Jones.  
10 Q. Did you have an SCSR with you?  
11 A. Yes, sir.  
12 Q. Did you store any additional  
13 SCSRs underground anywhere in the  
14 mine?  
15 A. No, sir. None that I would be  
16 aware of.  
17 Q. At any time prior to the day  
18 of the accident ---?  
19 A. Not to my knowledge.  
20 Q. Did you take any notes or  
21 anything while you were underground  
22 during that ---?  
23 A. No, sir.  
24 Q. Do you know if anyone else  
25 took any notes?

106

01 A. Dick Wilfong just made a  
02 notation that 57 was the last  
03 ventilation control that we put up.  
04 And he may have made a notation that  
05 42 and 32 we put curtains up, but  
06 that was --- he was jotting that down  
07 on the way outside. As far as I know  
08 that's the only ---.  
09 Q. In a notebook, or something of

10 that sort?

11 A. I don't even know if he --- he  
12 may have done it in his mind for all  
13 I know.

14 Q. Is there anyone else that took  
15 any notes?

16 A. Not that I'm aware of, no.

17 Q. Do we know if we can get a  
18 copy of those notes?

19 A. I don't know that they exist.

20 ATTORNEY MOORE:

21 I don't know whether or  
22 if any were made underground  
23 or if they exist at all.

24 BY MR. SWENTOSKY:

25 Q. While you were underground,

107

01 did anybody take any quantity  
02 readings? I know you've told me  
03 about the quality readings, you've  
04 told me ---.

05 A. No. No, quantity, no.

06 Q. No quantity. And the only  
07 conversation that you had with anyone  
08 on the surface on the way out was at  
09 49 wall?

10 A. Forty-nine (49), yes.

11 Q. And who did you speak with,  
12 again?

13 A. I think it was John Collins.

14 Q. John Collins. And that's the  
15 state inspector?

16 A. Yes, sir.

17 Q. And I know we spoke about this  
18 a little bit while we were at the  
19 map, but what caused you to terminate  
20 the rescue attempt?

21 A. The fact that the smoke just  
22 didn't seem to be dissipating. And  
23 Dick's experience and Al's experience  
24 in mine rescue, and their concerns  
25 that if we were forcing fresh air

108

01 over another potentially explosive  
02 atmosphere we could create another  
03 explosion. Those were some of the  
04 things we talked about. The biggest  
05 thing was just the fact that the  
06 smoke just didn't seem to be going  
07 anywhere.

08 Q. And a moment ago I asked you,  
09 did you take any readings  
10 underground, quantity --- did anyone  
11 take any ---?

12 A. Not that I'm aware of.

13 Q. What time did you exit the  
14 mine; do you have any idea?

15 A. I had no idea, but I have been  
16 later told it was approximately 10:30  
17 when we exited the mines.

18 Q. Okay. And I believe you did  
19 say that --- how did you exit the  
20 mine? You said you were on foot?

21 A. On foot.

22 Q. And you exited the mine on

23 foot to the surface?

24 A. To the surface, yes, sir.

25 Q. And you left that mantrip

01 underground?

02 A. Yes, sir.

03 Q. Using your green marker ---

04 we'll go back up. And we talked

05 about it, but we need to mark it for

06 the record. The route that you

07 traveled out of the mine. I know we

08 described it, but I'd like to have it

09 on the map if we could. That would

10 be on Exhibit One. You're using the

11 green marker to mark that.

12 A. This may not be exact. It'd

13 be nice if I had a better memory.

14 Q. Thank you. Did anyone go back

15 into the mine after you exited the

16 mine, or did you go back in, or ---?

17 A. Not that I'm aware of, no.

18 Q. Okay. What took place after

19 you exited the mine?

20 A. We just walked up out of the

21 pit to where the office building was

22 at. We were immediately escorted

23 into my office.

24 Q. Who escorted you?

25 A. I have no recollection of ---

109

01 everything from this point on to me  
02 is a blur. I have no recollection of  
03 --- I know that we were asked to go  
04 into my office for a debriefing. And  
05 I have no recollection of even who  
06 was in there with us at the time. I  
07 know that the guys that were with me  
08 were in there with me, but I couldn't  
09 tell you who was talking to us.

10 Q. Okay. When you exited the  
11 mine --- I haven't been to the mine,  
12 but I understand it's in a pit; ---

13 A. Uh-huh (yes).

14 Q. --- is that correct?

15 A. Yes, sir.

16 Q. Okay. When you got out, was  
17 there anyone there to meet you?

18 A. Yeah, there were people there,  
19 but nobody --- nobody jumps to mind  
20 of who I've talked to or anything. I  
21 couldn't tell you.

22 Q. Did anyone, or someone ask you  
23 to come up, or ---?

24 A. Somebody had --- I think  
25 somebody said they want to talk to

111

01 you up there, come on up. I know  
02 that when I got to the office, to the  
03 building we have a hose that we wash  
04 --- a wash-down hose to hose mud off  
05 our boots. And I went to wash the

06 mud off my boots, and they said no,  
07 don't even do that, come straight to  
08 the office.  
09 Q. Were all the --- were the  
10 other gentlemen ---?  
11 A. We all exited the mines  
12 together.  
13 Q. Together?  
14 A. Yes, sir.  
15 Q. Were they also asked to ---?  
16 A. Yes, sir. Yes, I'm sure they  
17 were, because they were in the office  
18 with me.  
19 Q. So you all went together?  
20 A. Yes.  
21 Q. I was going to ask you who did  
22 you report to on the surface,  
23 but ---.  
24 A. I'm not going to be much help  
25 from here on; okay?

112

01 Q. I understand. I understand.  
02 What's your assessment of the  
03 situation, meaning how was it  
04 handled, and what was your thought  
05 process?  
06 A. At this point?  
07 Q. Yeah.  
08 A. I can't --- I can't give an  
09 answer on any of this, because the  
10 next two days to me, I was no help to  
11 anybody. I was very --- I gave what

12 input I could when asked questions,  
13 but --- I really don't have much  
14 recollection.

15 Q. Okay. What role did you play  
16 in the rest of the rescue operations?

17 A. Just informative. If they  
18 needed information from me, I'd  
19 provide it.

20 Q. What information did you  
21 provide?

22 A. I don't know. They may have  
23 asked locations of --- of course, we  
24 detailed what we had done, but if  
25 there was specific questions about

113

01 his --- should there be a battery ---  
02 where's battery-powered equipment  
03 located in the mines. That was one  
04 thing we were asked to try to  
05 identify. Really very little input  
06 to my recollection.

07 Q. I know you're saying it's a  
08 blur, but what activities was going  
09 on whenever you arrived on the  
10 surface?

11 A. I'm not going to be any help  
12 to you here at all. I'm sorry.

13 Q. Okay. Do you know exactly who  
14 was directing those activities?

15 A. No, sir, I do not.

16 Q. Did you make any decisions on

17 the surface?

18 A. I sincerely doubt if I did. I  
19 have no recollection of it.

20 Q. Did you record --- did anyone  
21 record your debriefing?

22 A. Again, I couldn't tell you.

23 Q. When was the monitoring of the  
24 mine atmosphere at the mine opening,  
25 when did that commence?

114

01 A. I'm sorry, sir.

02 Q. Do you know who made those  
03 decisions?

04 A. No, sir, I do not. You have  
05 to understand that one of the victims  
06 was a family member, so I'm ---.

07 Q. Yes, I understand. I'm  
08 sensitive to that. Unfortunately, we  
09 do have to ask these questions.

10 A. I understand that. I just was  
11 very little help to anybody at this  
12 point.

13 Q. Okay. I just do want to ask  
14 you some of the questions ---

15 A. That's fine.

16 Q. --- maybe to jog your memory  
17 with them or something like that.

18 After the command center was set up,  
19 can you tell me anything about the  
20 rescue efforts after that?

21 A. Not particularly, no. I was  
22 drifting in and out.

23 Q. Do you happen to know when the  
24 decision was made to drill boreholes?

25 A. No, sir, I do not.

115

01 Q. So then, I guess you don't  
02 know who made the final decision?

03 A. No, sir, I do not.

04 Q. Okay. How familiar are you  
05 with the old Two Left main seals?

06 A. With the seals themselves, or  
07 just the area?

08 Q. Anything you know about those.  
09 How familiar you are with that area?  
10 Have you been around there?

11 A. Yeah, I was around there.  
12 Just a little familiar.

13 Q. Okay. Do you know who built  
14 them from start to finish?

15 A. The seals themselves?

16 Q. The seals themselves, yes.

17 A. I made a list of people that,  
18 to my recollection that I know were  
19 involved in the construction of the  
20 seals.

21 Q. Okay. Would you be able to  
22 provide us with ---?

23 ATTORNEY MOORE:

24 I don't know whether  
25 you've seen the list, but we

116

01 can identify it. I believe

02 it's been given to MSHA, but  
03 if not, I'll read it now.  
04 James Scott from Garrett Mine  
05 Services participated,  
06 supervised the completion of  
07 the seals with the two red  
08 hats, was it George Brooks and  
09 Casey ---.

10 A. Casey Short and George Brooks.

11 ATTORNEY MOORE:

12 Casey Short. But prior  
13 to Mr. Scott being involved,  
14 and his nickname is Skip, as I  
15 understand it, Jeff Snyder,  
16 who was a foreman, was  
17 involved. And I'm not sure  
18 who they had working for him  
19 at the time when they did  
20 that.

21 And we have provided  
22 today to Mr. Harris of MSHA  
23 and to Brian Mills of the  
24 State, Mr. Scott's map that he  
25 worked from as well as the

117

01 portion of the ventilation  
02 plan related to the seals that  
03 we had. Bill Patton was there  
04 when he was building,  
05 finishing the seals.

06 MR. SWENTOSKY:

07 And you're going to

08 provide us with that list?

09 ATTORNEY MOORE:

10 Why --- I just gave it  
11 to you verbally. If there's  
12 additional lists that were  
13 missing, we'll add to it, but  
14 those are the people involved  
15 that we are --- that I'm aware  
16 of at this point. And I don't  
17 know whether Jeff is aware of  
18 anybody else who worked with  
19 Jeff Snyder, but if not, we'll  
20 look for an additional list  
21 and provide that to you at the  
22 end.

23 A. I can throw --- I can provide  
24 a few more names there. Marty  
25 Conrad, Harmon Jordon, John Jackson

118

01 and Mike Triplett, they worked on the  
02 seal some as well.

03 BY MR. SWENTOSKY:

04 Q. Who was in charge of building  
05 the seals?

06 A. It was just whoever was ---  
07 Mr. Snyder, when he was there, he  
08 would have been. When Mr. Scott was  
09 there, he would have been. Of those  
10 other four that I mentioned, Marty  
11 Conrad would have taken a lead in  
12 that.

13 Q. They're foremen?  
14 A. Yes, sir.  
15 Q. All from Anker?  
16 A. All but James Scott, George  
17 Brooks and Casey Short. Those three  
18 are Garrett Mines, the rest were  
19 Anker employees.  
20 Q. Let me just ask you, Garrett  
21 Mine Supply, where are they located?  
22 A. Maryland. Oakland, Maryland,  
23 I think is their main office.  
24 Q. You wouldn't have their  
25 address?

119

01 A. Not off the top of my head,  
02 no.  
03 Q. Okay. How was the ventilation  
04 plan submitted to the MSHA district  
05 office?  
06 A. That's done at the office, so  
07 I don't know.  
08 Q. Okay. Do you know who's  
09 responsible for submitting the plans?  
10 A. A couple people that could  
11 have been responsible, but it would  
12 have possibly been Joe Myers or  
13 Johnny Stemple, Ty Coleman, one of  
14 those three probably would have been  
15 the one.  
16 Q. Okay. Are you involved at all  
17 in submitting those plans?  
18 A. No. At this point, no. Joe

19 Myers and I have some history  
20 together. We've worked together in  
21 the past, and I'm familiar with the  
22 process on Omega seals themselves.

23 So Joe --- it was just basically a  
24 standard Omega seal plan.

25 Q. But whenever they submit the

120

01 plan, or whenever the decisions are  
02 made to submit plans, do they speak  
03 to you about them before they're  
04 actually submitted to MSHA?

05 A. Yeah. They'll typically ---  
06 it'll just be to touch base with me  
07 to let me know. If it's something  
08 significant, something I may not be  
09 familiar with, they'll probably fax  
10 me a copy over and let me know, hey,  
11 just look it over, this is what we're  
12 going to submit. But in this  
13 particular plan --- like I said, I'm  
14 familiar --- it was just basically  
15 the same plan we'd use in the past,  
16 Joe and I. He would have just ran  
17 that through without referring to me  
18 on it.

19 Q. Okay. Do you have approval in  
20 your ventilation plan for preloaded  
21 block seals? They're commonly known  
22 as packsetter seals?

23 A. I think we do, because we have

24 a set of seals in the mines that I  
25 think were packsetters.

121

01 Q. That was my next question.

02 A. I think that one of the sets  
03 of seals we had were packsetters.

04 Again, that's just me.

05 Q. What location would that be?

06 A. That's near --- that's behind  
07 the tail of Number One belt.

08 Q. What area would that have been  
09 called?

10 A. I have no idea. It's just  
11 some old workings from when another  
12 company was mining in there.

13 Q. That would have been your  
14 original set of mains?

15 A. Yes, sir. The original mains.  
16 And again, I'm just going from memory  
17 that I think those were packsetter  
18 seals, but I'm not exactly sure.

19 Q. Have you ever been up there?

20 A. Yes, I have. I went by those  
21 seals, but I don't recall if they  
22 were packsetters or not.

23 Q. Do you know when they were  
24 installed?

25 A. No, sir, I do not.

122

01 Q. In October a request was made  
02 to use Omega seal construction of  
03 --- and they were to be eight-foot

04 wide --- or excuse me, eight-foot  
05 high and 20 feet wide. Being that  
06 you had packsetter seals, do you know  
07 why the decision was made to use  
08 Omega seals, or submit that plan?

09 A. Just from my own standpoint  
10 with my --- I have some history.

11 I've built a few seals in my career,  
12 and if I'm building the seal, I would  
13 prefer to build an Omega seal.

14 Q. Can I ask you why?

15 A. I don't know. I've built  
16 several of them, and I'm real  
17 comfortable with that seal.

18 Q. Well, where were those seals  
19 built?

20 A. In the past?

21 Q. Yes.

22 A. When I was employed with  
23 Brooks Run.

24 Q. The reason you like those  
25 seals better than others, is it

123

01 because maybe they're a lighter  
02 block, or ---? I'm just curious why  
03 you like those better than others.

04 A. I'll just put it to you the  
05 way I put it ---.

06 Q. Educate me.

07 A. As my rule of thumb, if I'm  
08 the one doing the labor, I like the

09 Omega seal. If I'm bringing in  
10 somebody from the outside, I like the  
11 packsetter. But I like the Omega  
12 seal. I felt like we got a better  
13 seal, less leakage over time. I was  
14 just --- once I built a few of them  
15 --- I've built a couple different  
16 types, and I was real comfortable  
17 with the Omega seal.

18 Q. I know you had mentioned that  
19 Mr. Stemple submits the plans, but do  
20 you know where the information was  
21 received that was submitted to MSHA?

22 A. No, sir.

23 Q. The information meaning the  
24 drawings?

25 A. No, sir, I do not.

124

01 Q. Who is the manufacturer of the  
02 Omega?

03 A. I think it's Burrell.

04 Q. Burrell (corrects  
05 pronunciati on) ---

06 A. Burrell.

07 Q. --- Mining.

08 A. Okay. That's it.

09 Q. Okay. Burrell Mining  
10 Products. Okay. Have you had any  
11 discussion with their reps about the  
12 Omega seals or the Omega blocks?

13 A. No, sir.

14 Q. You didn't speak to anyone  
Page 102

15 from that company ---

16 A. No, sir.

17 Q. --- concerning these

18 particular blocks?

19 A. No, sir.

20 Q. Did Burrell Mining Products

21 provide any training or any data,

22 installation requirements, or did

23 they participate in the construction

24 of those?

25 A. No, sir.

125

01 Q. The Omega blocks that were

02 used, were they brand new blocks, or

03 did you re-use any of the blocks?

04 A. Recycle any?

05 Q. Recycle any, yes?

06 A. No, sir, they were all new.

07 Q. All new blocks?

08 A. Yes, sir.

09 Q. Okay. Later in October of

10 2005, there was approval granted for

11 Omega blocks and their redesigns.

12 And those redesigns --- and I believe

13 that was --- the approval was given

14 on December 8th, I believe, and it

15 was to use a 10-foot high by a

16 20-foot wide block, or a seal with a

17 pilaster. And then also, 12-foot

18 high by 20-foot wide by using a pier,

19 the seal was shown as eight-foot high

20 and the pier four-foot high.  
21 A. Exactly.  
22 Q. May I ask you why was that  
23 submitted?  
24 A. We have other panels that we  
25 were wanting to seal, and we had a

126

01 concern that it --- it was just  
02 basically trying to cover all the  
03 bases here. If we had an entry that  
04 was over eight-foot high, we would  
05 need another approval to build the  
06 seals a little different. And we  
07 were just anticipating that.

08 Q. Okay. And you had mentioned  
09 that another panel that you wanted to  
10 seal, did I understand you correctly  
11 that you also were going to use them  
12 in the --- on the Two Left main  
13 seals, or you thought you might need  
14 them; is that ---?

15 A. Initially, I think there was  
16 one entry that when the seal crew  
17 came out there was a little  
18 miscommunication. They said they had  
19 a place nine-foot high, and that's  
20 what initially started the discussion  
21 between me and Joe Myers, that we  
22 needed approval for --- that seal was  
23 only good for eight foot, but they  
24 actually located that seal at a point  
25 where it was in the eight-foot range

01 when they --- actually when it was  
02 time to construct that seal.

03 Q. So then all those seals that  
04 we're speaking about, Two Left old  
05 mains, are all those seals eight-foot  
06 or less?

07 A. To the best of my knowledge.

08 Q. Okay. They didn't use any of  
09 this ---?

10 A. No. They only built the  
11 8-foot by 20, the first one we had  
12 the approval on.

13 Q. Okay. And I know sometimes  
14 you do things that do more, but were  
15 there any pilasters ---?

16 A. No, sir. No pilasters.

17 Q. You used no pilasters in any  
18 of those seals?

19 A. No, sir.

20 Q. Were any of them built with a  
21 pier underneath?

22 A. No, sir.

23 Q. Okay. The seal in the Number  
24 One entry, if you recall, it was at  
25 an angle?

01 A. Yes, sir.

02 Q. Okay. Why was that seal  
03 placed in that particular --- do you  
04 want to look at the map?

05 A. Yeah.

06 Q. I think we can see it on

07 Exhibit Two. And that would be in

08 the Number One entry, the seal at an

09 angle.

10 A. Well, to come straight across,

11 it was a matter of getting --- kind

12 of staying in that 20 by 8 room. But

13 if you --- also one of the provisions

14 of this is these have to be ten-foot

15 in by this corner of this rib right

16 here.

17 Q. Okay. That's a rib on the

18 right corner ---

19 A. On the right corner, yes.

20 Q. --- of the seal?

21 A. Yes, sir.

22 Q. And that was the reason?

23 A. Yes, sir.

24 Q. And all ten of those seals are

25 Omega seals?

129

01 A. Yes, sir.

02 Q. Do you recall which of those

03 seals contained the water trap and

04 also the air sampling too?

05 A. The water trap was in the far

06 left seal, which would have been

07 Number One entry.

08 Q. That the angle seal?

09 A. That's the angle seal, yes.

10 The gas sampling pipe was in the far

11 right.

12 Q. Okay. Was there any water  
13 coming out of the water trap?

14 A. Not when it was last examined,  
15 no.

16 Q. Was there ever any water  
17 coming out?

18 A. No, none that I'm aware of.

19 Q. Do you know who examines those  
20 seals?

21 A. I'm not sure. It was probably  
22 --- the last examination done, I  
23 think it was John Boni that did it,  
24 but that's just --- I'm not sure.

25 Q. Do you have a particular

130

01 person that ---?

02 A. John typically does it. John  
03 Boni or Ron Grall, one of those two  
04 would typically do that examination.

05 Q. Are you familiar with the  
06 construction of those ---?

07 A. Yes, sir.

08 Q. Was the --- or did you review  
09 the ventilation plan requirements  
10 with the persons who were involved  
11 with the construction of those seals?

12 A. Yes, sir. I --- again, this  
13 is three months ago we're talking  
14 about.

15 Q. I realize that. To the best

16 of your recollection.  
17 A. To the best of my  
18 recollection, yeah, I would have  
19 reviewed that with them. And I would  
20 think I would have probably given  
21 them a copy of the plan that we  
22 submitted that details the  
23 construction of the seals.  
24 Q. And you think you might have  
25 done that?

131

01 A. I think I would have.  
02 Q. Okay. Would that have been  
03 done before or during the  
04 construction?  
05 A. It probably would have been  
06 done --- the day construction started  
07 I would have probably been over to it  
08 prior to construction starting.  
09 Q. Could you describe that  
10 construction?  
11 A. In general or specifically  
12 these seals, because ---?  
13 Q. These seals here.  
14 A. I didn't witness any of the  
15 construction of them myself.  
16 Q. Was this the first set of  
17 Omega seals?  
18 A. Yes, sir. In Sago, yes.  
19 Q. And in the --- I called it the  
20 One North, what we talked about  
21 earlier, those first set of seals.

22 You said those were packsetter seals;  
23 is that correct?

24 A. To the best of my  
25 recollection.

132

01 Q. Okay. Do you know what date  
02 the old Two Left main seals were  
03 started?

04 A. The first load of blocks that  
05 I ordered for those seals was  
06 delivered on October the 26th, so  
07 construction had started sometime in  
08 that time frame right there.

09 Q. Do you know when they were  
10 completed?

11 A. December 13th, I think is when  
12 we completed construction on them.

13 Q. Was there any water in those  
14 locations where the seals were to be  
15 built?

16 A. No.

17 Q. You didn't have to redirect  
18 any water out of there, or ---?

19 A. Not that I'm --- they didn't  
20 tell me if they did. I'm not aware  
21 of any.

22 Q. Do you remember seeing any  
23 trenches or anything cut into the  
24 ribs?

25 A. No, sir, I don't remember any.

133

01 I don't have any recollection of it.  
02 Q. How thick are those Two Left  
03 seals?  
04 A. Forty (40) inches thick.  
05 Q. Were they all the same  
06 thickness?  
07 A. Yes.  
08 Q. What type of mortar --- and I  
09 know you said that you weren't there,  
10 but what type of mortar was used to  
11 build those seals?  
12 A. Block bond. It's in a blue  
13 bag. I'm not sure --- that's the  
14 only way I distinguish it, is it's in  
15 a blue bag. At one point we had some  
16 delivered in the green --- it comes  
17 in a green bag and a blue bag.  
18 There's different specs on what's in  
19 each bag. And we had some green  
20 delivered, and I wouldn't let them  
21 use it on it. I told them we had to  
22 use the blue bags on the seals,  
23 because that's what it specified.  
24 Q. Okay. I was going to ask you,  
25 what was the reason you used the

134

01 blue?  
02 A. One is block bond and one is B  
03 bond. And it specifies block bond.  
04 Q. Okay. And that was in what  
05 color of bag?  
06 A. Blue.

07 Q. Blue ---  
08 A. Yes.  
09 Q. --- was the block bond?  
10 A. Yes.  
11 Q. The mortar, what does it have  
12 to be mixed with when you mix it?  
13 A. Just water.  
14 Q. Just water? Does the mortar  
15 ever come in buckets? I mean, I know  
16 you said you had it in a bag, but do  
17 you get it in ---?  
18 A. No, nothing --- I'm not aware  
19 that you can get it in buckets. I've  
20 never gotten anything but bags.  
21 Q. Okay. Did you order the  
22 supplies?  
23 A. No, sir. I sign a requisition  
24 to have them ordered, but I don't do  
25 the ordering.

135

01 Q. Can you use any other mortar  
02 --- any other type of mortar than  
03 block bond?  
04 A. No, sir.  
05 Q. Whenever you build these  
06 seals, does the mortar have to be  
07 applied to the entire horizontal  
08 joint?  
09 A. To the entire horizontal  
10 joint?  
11 Q. Entire.

12 A. Entire? It doesn't actually  
13 specify it has to be on the entire  
14 joint, but we typically do.  
15 Q. What about the vertical  
16 joints?  
17 A. It doesn't specify that it's  
18 on the --- it has to be --- there is  
19 a mortar joint there, but --- again,  
20 I wasn't involved in the  
21 construction, so I don't know.  
22 Q. Yeah, I understand.  
23 A. I'm just telling you how ---  
24 when I've built them in the past, we  
25 filled everything up with mortar.

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01 Q. The entire surface?  
02 A. Yes, sir. We filled  
03 everything up with mortar. I have no  
04 reason to believe that these would  
05 have been done any different.  
06 Q. Was B bond mortar ever used  
07 for construction of Omega seals?  
08 A. No. If it was I'm not aware  
09 of it. Like I said, there was some  
10 delivered. I remember when it was  
11 delivered I told them they couldn't  
12 use that on the seals. It had to be  
13 block bond.  
14 Q. Were there any sections of  
15 track that ran through the seals?  
16 A. No. The track was removed  
17 prior to the seals being constructed.

18 Q. Okay. The track was  
19 completely removed, ---  
20 A. Yes, sir.  
21 Q. --- not just broke, or ---?  
22 A. No, it was completely removed.  
23 We recovered it before we constructed  
24 the seals.  
25 Q. Well, were there any roof mats

137

01 present in the vicinity of the old  
02 Two Left main seals?  
03 A. By roof mats you mean?  
04 Q. Meaning wire mesh.  
05 A. Yes, sir. At least three of  
06 the entries would have had screen  
07 extending through them. I instructed  
08 them to cut the screen down where the  
09 seals were going to be constructed so  
10 that the screen wouldn't be extending  
11 through the seals.  
12 Q. Okay. And do you recall what  
13 three seals those were?  
14 A. The seal that was in the old  
15 belt entry, the seal that was in the  
16 old track entry and the seal that was  
17 in the primary escapeway would have  
18 had screen through them.  
19 Q. Okay. Do you know exactly how  
20 that screen was --- well, it was  
21 taken down, but the distance between  
22 the screen that was left up and the

23 screen that was taken down, how much  
24 of it in length was taken down?  
25 A. Well, if the seal's 40 inches

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01 thick they're going to at least cut  
02 down 40 inches. But I would suspect  
03 they would cut down more than that.

04 Q. Okay. So would I be correct  
05 in saying that the mesh directly over  
06 top of the seal was removed?

07 A. You'd be correct that I  
08 instructed them to remove the mesh.

09 Q. Okay. I understand.

10 A. I have no reason to believe  
11 they did not do that, but ---.

12 Q. Okay. How was this screen  
13 attached to the roof?

14 A. With roof bolts.

15 Q. Roof bolts?

16 A. Yes. In most cases it's put  
17 up on pattern as we're advancing the  
18 faces.

19 Q. Were there any cables that  
20 passed through the seals?

21 A. No, sir.

22 Q. Were there any pipes or  
23 anything --- any other conductive  
24 material or metallic material?

25 A. Only the water trap and the

139

01 gas sampling pipe.

02 Q. What was that water trap made  
Page 114

03 of?

04 A. I think --- I'm sorry, I think  
05 the water trap, I think it was PVC  
06 plastic.

07 Q. PVC plastic?

08 A. I think so. So that would be  
09 just the gas sampling pipe, and it  
10 was two-inch steel pipe.

11 Q. Two-inch steel pipe?

12 A. Yes, sir.

13 Q. What was on the outby side  
14 --- what was attached to the outby  
15 side of that pipe?

16 A. Nothing attached to it, it  
17 just extended through the seal.

18 Q. Okay. But I mean, did you  
19 have a valve or anything?

20 A. Yeah. The pipe extended  
21 through the seal is 40 foot inby the  
22 seal, and then we had a half-inch  
23 copper pipe going inside of the  
24 two-inch steel pipe, and it had a  
25 plug --- it sealed up with a plug,

140

01 and the copper tubing had a cutoff  
02 valve on it that you could open for  
03 the gas sampling.

04 Q. Okay. So the steel pipe acted  
05 as a conduit to put the --- am I  
06 understanding that correctly?

07 A. Yes, sir.

08 Q. And then extended 40 feet?  
09 A. Forty (40) feet in by the seal,  
10 yes, sir.  
11 Q. How was it held to the roof?  
12 A. A series of cribs were  
13 installed. It kind of rested in the  
14 cribs.  
15 Q. Was it attached to any roof  
16 bolts at any point, or anything like  
17 that?  
18 A. It's possible that when they  
19 initially put it up they may have  
20 hung it from the roof, supported it  
21 from the roof and maybe never removed  
22 it. I have no idea.  
23 Q. Did you ever question --- or  
24 in your own mind, did you ever  
25 question whether those seals were  
01 installed properly?  
02 A. In my mind, no. They were  
03 good men working on them.  
04 Q. Okay. Did you ever question  
05 the men that were working on them as  
06 they were under construction about,  
07 you know, how they were installing  
08 them, or ---  
09 A. No.  
10 Q. --- question them in any way?  
11 A. I would maybe have questioned  
12 them on their progress. That would  
13 have probably been about it.

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14 Q. And I believe I asked you this  
15 before, but if I didn't, who is the  
16 company person that's responsible for  
17 gaining approval from MSHA for  
18 ventilation plans, which in this case  
19 would have been the seals?

20 A. Again, it could have --- I'm  
21 not sure. I would think that this  
22 one would have been Joe Myers.

23 Q. And you are responsible for  
24 --- are you responsible for the seal  
25 construction selection?

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01 A. Am I responsible for it?

02 Q. Yes.

03 A. Solely? Are you talking about  
04 type of seal, what we're going to  
05 install?

06 Q. Yes.

07 A. I'm not solely responsible,  
08 but I do have some input in that.

09 Q. Okay. Who else would have  
10 been involved?

11 A. Again, Joe Myers and I ---  
12 actually, Joe and I've worked  
13 together a lot in the past.

14 Q. So you worked together on  
15 that; is that correct?

16 A. Yes, sir.

17 Q. Have you ever examined the  
18 seals at Two Left old main?

19 A. No, sir. I never actually  
20 examined those seals myself.  
21 Q. Did you ever walk by them or  
22 observe them, or check them out after  
23 construction?  
24 A. Not after construction, no.  
25 During construction, I breezed by

143

01 them a couple of times just to see  
02 how the progress was going, but that  
03 was ---.  
04 Q. Was everyone --- or were you  
05 satisfied with the procedures that  
06 were being used at that time?  
07 A. Yes. At that time, yeah.  
08 Q. But you never examined the  
09 seals ---?  
10 A. After completion, no.  
11 Q. Do you know the roof  
12 conditions in that area?  
13 A. The roof conditions seemed to  
14 be all right in that area.  
15 Q. There weren't any slips,  
16 cavings, or ---?  
17 A. None that I'm aware of.  
18 Q. Do you know if anyone ever  
19 detected methane around those seals,  
20 or was there ever any methane that  
21 was shown in the record book or  
22 anything?  
23 A. I think there was --- maybe in  
24 the last examination, I think they

25 may have detected two-tenths of a

144

01 percent of methane. Again, I didn't  
02 see that it was in the book, it just  
03 seems to be in conversation I heard  
04 somebody passing that information  
05 along.

06 Q. Who would that be?

07 A. It would have been whoever  
08 examined them the last time they were  
09 examined. I think it was on the  
10 Wednesday prior to January 2nd.

11 Q. And that was the only time  
12 that --- do you recall anyone ever  
13 mentioning any name?

14 A. No, sir.

15 Q. Did anyone ever mention, or  
16 discuss with you or mention to you  
17 anything concerning the seals  
18 breathing in and out, or what they  
19 may have, low oxygen, or ---

20 A. No, sir.

21 Q. --- anything like that?

22 A. These seals were only probably  
23 examined two, maybe three times since  
24 their completion.

25 Q. When was mining stopped in by

145

01 the seal area? And let me ask you  
02 this. What area was that that you  
03 referred to, was that Three Left?

04 A. No. We called that Two Left.  
05 Q. Two Left?  
06 A. Yeah.  
07 Q. Is that why they refer to  
08 these old Two Left main seals?  
09 A. Yes, sir.  
10 Q. Okay. Go ahead with your  
11 answer before I ---.  
12 A. Oh, that's all.  
13 Q. When was mining ---  
14 A. Oh, when was mining ---?  
15 Q. --- stopped. Yes.  
16 A. I'm not exactly sure.  
17 Probably around the 1st of October,  
18 somewhere in that vicinity there.  
19 Q. Why did you choose to stop  
20 mining up there?  
21 A. Well, we were advance mining,  
22 and toward the end of that panel, we  
23 were having some roof conditions and  
24 a lot of water coming in, a lot of  
25 water.

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01 Q. In the face area?  
02 A. In the face area, yes.  
03 Q. How far back did that water  
04 --- if you recall, how far back did  
05 that water start, when you started to  
06 see additional water?  
07 A. Well, just at the point where  
08 we stopped advancing, that's where  
09 the water really started coming in,

10 but the panel was always a wet, muddy  
11 panel. But the water got really bad  
12 toward the end of that.

13 Q. Did you ever do any second  
14 mining in that area?

15 A. Not second mining as far as  
16 pillar extraction, but we had a ---  
17 the bottom split of coal underneath  
18 this, and we would retreat out of a  
19 panel, we would mine that bottom  
20 split as we backed out.

21 Q. Do you know if there was any  
22 equipment left back in there?

23 A. None that I'm aware of.

24 Q. Batteries, ---

25 A. No, sir.

147

01 Q. --- old pieces of equipment,  
02 miners, shuttle cars?

03 A. No, sir. You can't get away  
04 with hiding something like that. No,  
05 nothing that I'm aware of was left  
06 back there. I thought that they did  
07 a real good job of recovering  
08 everything out of there.

09 Q. Belt structure?

10 A. The belt structure was out.

11 Q. Has there ever been any  
12 history of methane problems at the  
13 mine?

14 A. None that I'm --- since I've

15 been there, no.

16 Q. Okay. What type of methane  
17 would you detect at the face  
18 normally?

19 A. I wouldn't know.

20 Q. Did you ever see any methane  
21 readings in the record books?

22 A. No, sir. Not that they're not  
23 there, just none that I've skimmed  
24 over or I had seen.

25 Q. Who reviews the record books?

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01 A. A mine foreman reviews the  
02 record books.

03 Q. Do you ever review them?

04 A. On occasion.

05 Q. When you say on occasion ---?

06 A. If I'm --- on occasion I would  
07 review them just to see what  
08 condition the section was found in.  
09 I don't recall ever really looking  
10 and seeing anything about methane and  
11 oxygen concentrations.

12 Q. Mr. Crumrine is a mine  
13 foreman?

14 A. Yes, sir.

15 Q. Did he ever discuss any  
16 methane detections with you at all?

17 A. No, sir. Not that I recall,  
18 I'm sorry. Not that I recall.

19 Q. That's fine. Do you have any  
20 history of roof control problems back

21 in that area?

22 A. We had a couple of falls in  
23 that area as we were advance mining  
24 in there.

25 Q. When you say a couple of

149

01 falls, length, height?

02 A. My goodness, I don't recall.

03 Two falls, one in --- Number One

04 entry, it was pretty good --- it was

05 a pretty long fall. I'm thinking it

06 went a crosscut, maybe two crosscuts

07 right down the entry, which would put

08 it in excess of 100-foot long,

09 probably six-foot high, at least.

10 And then the other one --- we had one

11 in the track entry that was about a

12 crosscut long. It fell out pretty

13 high.

14 Q. When you say pretty high what

15 ---?

16 A. I don't know, eight, ten-foot,

17 maybe higher.

18 Q. Okay. Above the roof line?

19 A. Above the roof line, yes.

20 Q. Was there any equipment near

21 the intersection of Two Left and Two

22 North mains, such as, you know, power

23 centers, charger stations?

24 A. Exactly where are you asking

25 me about, and ---?

01 Q. Okay. The intersection of Two  
02 Left, the existing Two Left section,  
03 and the Two Left old main seal, that  
04 intersection where Two Left breaks  
05 off the mains.

06 A. There's a power supply down  
07 there near the belt.

08 Q. With a black marker there, if  
09 you would, please, mark where that  
10 equipment is located, please, on  
11 Exhibit Two?

12 A. I'm not exactly sure, but I  
13 think there was a power center  
14 approximately right here. Again, I'm  
15 not exactly sure.

16 Q. Can you draw a line over to  
17 the right and identify what you have  
18 there?

19 ATTORNEY MOORE:

20 Jeff, do you need to  
21 take a break?

22 A. Yes, sir, I do.

23 ATTORNEY MOORE:

24 I think we all do.

25 SHORT BREAK TAKEN

01 BY MR. SWENTOSKY:

02 Q. Mr. Toler, when we just broke,  
03 you were in the process of showing us  
04 equipment that was at the  
05 intersection of Two Left. Can we go

06 up to the map, again, Exhibit Two?

07 A. I know that there's a power  
08 center --- the power supply that this  
09 belt hits in this vicinity here.

10 There's a side spur on this track  
11 that runs up through here.

12 Q. That's a track in by the Two  
13 Left switch?

14 A. Yes, sir. And I'm --- well, I  
15 don't know. I think there's a  
16 charger there, a track jeep charger,  
17 but I'm not sure.

18 Q. If you want to say possibly,  
19 or if you're not sure or whatever you  
20 know about that.

21 A. And as far as I know, I think  
22 that's ---.

23 Q. Is there anything in by the ---  
24 up next to the seal, the entry  
25 between the seals and the stopping

152

01 that runs across?

02 A. No, sir. No, sir, not that  
03 I'm aware of.

04 Q. Okay. Is there anything in  
05 the primary escapeway coming from the  
06 Two Left section?

07 A. Down through here?

08 Q. Down from the section, yeah,  
09 toward that intersection of Two Left?

10 A. Nothing that I'm aware of, no.

11 Q. That's the only thing you're  
12 aware of right there?  
13 A. Yes, sir.  
14 Q. I'd just like to ask  
15 additional questions here about the  
16 --- talk about those seals again. Do  
17 you know if there was any rock dust  
18 applied to the inby or outby end of  
19 the Two Left seals at any time during  
20 the construction?  
21 A. I'm not aware of during, but  
22 after construction there was --- I  
23 can't give you the exact number,  
24 there was quite a lot of rock dust  
25 applied to the outby area of those

153

01 seals.  
02 Q. Was there anything inby the  
03 seals prior to construction?  
04 A. I have no knowledge. I don't  
05 know.  
06 Q. Do you know if it was  
07 required?  
08 A. No, sir, I don't know.  
09 Q. Prior to construction, did you  
10 think about any squeezing, or were  
11 you concerned about any squeezing in  
12 that area?  
13 A. No, sir.  
14 Q. Was that taken into  
15 consideration possibly whenever you  
16 chose those seals or anything like

17 that?

18 A. No. I wasn't anticipating

19 anything in that area, no.

20 Q. Was there any additional roof

21 support installed inby or outby, at

22 the seals?

23 A. They were cribbed behind on

24 the inby and outby side of each seal.

25 Q. Do you know how many cribs?

154

01 A. At least two on the inby of

02 each and outby of each.

03 Q. And was there any additional

04 roof bolting or anything?

05 A. None that I'm aware of.

06 Q. Was that part of the approval,

07 or was that required, ---

08 A. Yes.

09 Q. --- the additional cribs that

10 you're speaking about?

11 A. I'm not sure if it was

12 required or not. It's just something

13 we've always done.

14 Q. I know you said you weren't

15 involved in any of the construction

16 of them, but are blocks required to

17 be wet down before mortar is applied?

18 A. Not that I'm aware of, no.

19 Q. Was there anything on the bags

20 that --- instructions or anything

21 like that that might require ---?

22 A. I don't know.  
23 Q. Have you ever taken gas  
24 samples at the sampling tube that  
25 runs through the seal?

155

01 A. No, sir, I haven't.  
02 Q. Has anybody else? Has anybody  
03 ever mentioned anything --- they had  
04 mentioned that they had taken any gas  
05 samples?  
06 A. No. They haven't mentioned it  
07 to me, no.  
08 Q. Inby that seal area, I believe  
09 it's about halfway up, or whatever,  
10 there's a gas well up in that area?  
11 A. Yes, sir.  
12 Q. How close to that gas well did  
13 you mine?  
14 A. Well, I don't know --- I don't  
15 have the exact number on that.  
16 Q. Okay. Was there any --- did  
17 anybody mention anything --- or were  
18 you up in that area whenever that was  
19 mined?  
20 A. Yes, sir.  
21 Q. Okay. Around the gas well  
22 area at all?  
23 A. I was around that area on  
24 occasion when they were mining that  
25 area.

156

01 Q. Was there ever any additional  
Page 128

02 methane, or was there any methane  
03 detected, gas detected in that area?

04 A. Not that I'm aware of.

05 Q. Whenever that bottom area is  
06 mined, I call it second mining, was  
07 there any additional methane that may  
08 have been detected during that  
09 process at all or anything ---?

10 A. None that I'm aware of. None  
11 that I'm aware of. No, sir.

12 Q. The faces of the seals, during  
13 construction of those --- and I know  
14 previously you had some experience,  
15 but --- and I touched on this  
16 previously, but the face of the Omega  
17 blocks, what quantity of mortar would  
18 be applied to those, or how much of  
19 the block did you apply?

20 A. The quantity of mortar, well,  
21 I think the plan calls for a quarter-  
22 inch joint, but like I say, you know,  
23 mortar joint is top to bottom. A  
24 quarter-inch would be mortar joint.  
25 When we applied, we filled every

157

01 cavity in with mortar. If there was  
02 a quarter-inch mortar joint between a  
03 block there, we would fill that  
04 cavity also with mortar as well.

05 Q. Okay. Were the full face ---  
06 was the full face of the block coated

07 with mortar?

08 A. Yes, sir. That was coated as  
09 well.

10 Q. Was that the horizontal  
11 joints?

12 A. Horizontal and vertical. The  
13 whole surface was coated. Inby and  
14 outby, it was coated.

15 Q. In regard to those seals, was  
16 task training provided to the workers  
17 assigned to the ---?

18 A. I don't recall.

19 Q. Who would know that?

20 A. Mr. Schoonover may know the  
21 answer to that question.

22 Q. Was there any assurance that  
23 the construction was done properly?  
24 Or assurances made that they were  
25 being constructed properly?

158

01 A. Just verbal assurances that  
02 they were being constructed properly.

03 Q. And that was by you?

04 A. Basically. I mean, we  
05 detailed how they were to be  
06 constructed, and I have no reason to  
07 think they didn't do it the way they  
08 were told.

09 Q. Do you know when the last  
10 annual training class was?

11 A. No, sir, I don't. I'm  
12 assuming at Sago?

13 Q. Yes. What I was going to say

14 is ----.

15 A. I'm sorry.

16 Q. When was the last annual  
17 training class that you participated  
18 in?

19 A. I don't recall.

20 Q. Can you describe what was  
21 covered during that training session?

22 A. It was just your basic annual  
23 refresher.

24 Q. Like ventilation, roof  
25 control, or ---?

159

01 A. Well, I wasn't employed by  
02 Anker at that time. I was with  
03 Brooks Run when that was done. And  
04 yeah, ventilation, roof control.  
05 Everything was supposed to be  
06 covered.

07 Q. Okay. At this mine --- and  
08 when did you start at this mine?

09 A. August 1st.

10 Q. August 1st of?

11 A. 2005.

12 Q. Okay. When you came to that  
13 mine, did you participate in any  
14 training at all?

15 A. Experienced miner training.

16 Q. Okay. What was covered during  
17 that?

18 A. Roof control, ventilation,  
19 escapeways. That just jumps to mind,  
20 but ---.  
21 Q. Was the mine emergency  
22 evacuation, firefighting program or  
23 instruction covered? Commonly known  
24 as a firefighting evacuation plan?  
25 A. Yes. Yes, I think it was.

160

01 Q. What did they cover during  
02 that particular training?  
03 A. I don't recall. That's been  
04 several months ago.  
05 Q. Do you know who the  
06 responsible person is on the shift  
07 when emergencies occur as it relates  
08 to that plan?  
09 A. Underground or on the surface?  
10 Q. Well, ---.  
11 A. The responsible person  
12 underground is the section foreman.  
13 On the surface it would be --- I  
14 think it would be the dispatcher.  
15 Q. Okay. But in the fire  
16 fighting evacuation plan, who is the  
17 responsible person that it refers to?  
18 That's the person that in the case of  
19 emergencies he is the one that  
20 directs.  
21 A. I think we --- the section  
22 foreman is designated as the  
23 responsible person.

24 Q. Are you familiar with the  
25 location of the emergency materials?

161

01 A. What are you ---?

02 Q. Okay. Like a thousand feet of  
03 boards?

04 A. Yes, sir.

05 Q. That type of material.

06 A. Yes, sir. I'm familiar with  
07 where that's at.

08 Q. Where is that located?

09 A. It's alongside the track on  
10 Four belt, I'm thinking approximately  
11 at 44 block, between the belt and  
12 primary.

13 Q. Forty-four (44) block?

14 A. I'm sorry, the track and the  
15 primary.

16 Q. Between the track and the  
17 primary at 44 block?

18 A. I think that's where it was  
19 at.

20 Q. Are you familiar with the  
21 evacuation procedures at the mine?

22 A. Right now, no.

23 Q. Have you ever reviewed the  
24 mine emergency evacuation  
25 firefighting program instructions?

162

01 A. I have. As I said, when I  
02 first came to work there, it was

03 covered, but I also took time and ---  
04 I just took a little bit of time and  
05 reviewed them all on my own to try to  
06 get myself familiar with them, but I  
07 am just drawing a blank right now.

08 Q. Were the escapeways covered as  
09 part of the training that you  
10 received?

11 A. Yes, sir.

12 Q. Have you ever participated in  
13 escapeway drills?

14 A. Not actually underground and  
15 evacuating through the escapeway, no.

16 Q. Have you ever traveled the  
17 primary and secondary escapeway?

18 A. Yes, sir.

19 Q. When was that?

20 A. Just at different times.  
21 We've been doing a lot of  
22 rehabilitation work in the primary  
23 escapeway, and to monitor progress, I  
24 would travel that escapeway to ---  
25 just to see how they were coming with

163

01 the progress. I'd say it's been at  
02 least a month since I've traveled up  
03 the ---.

04 Q. Who did you travel the  
05 escapeway with, if you recall?

06 A. I don't recall.

07 Q. Was anybody with you?

08 A. Sometimes --- like I say, I

09 did it on more than one occasion.

10 I'm sure I had people with me, but

11 sometimes I'd be on my own.

12 Q. How are the primary and  
13 secondary escapeways identified in  
14 your mine?

15 A. Primary is identified with  
16 green reflectors, and secondary is  
17 identified with red reflectors.

18 Q. When you say reflectors, is  
19 that --- what type of reflector are  
20 you ---? There's just a stream  
21 or ---?

22 A. No, it's a round --- a round  
23 reflector.

24 Q. Okay. Have you ever  
25 participated in any fire drills?

164

01 A. No, sir.

02 Q. Have you received any hands-on  
03 SCSR training?

04 A. Yes, sir.

05 Q. Was the SCSR training part of  
06 your re-training?

07 A. It's part of my re-training.  
08 It's part of my experienced miner  
09 training.

10 Q. And you received it at those  
11 times?

12 A. Yes, sir.

13 Q. When did you receive your last

14 SCSR training?

15 A. That would have been when I  
16 came to work for Sago on August 1st.

17 Q. Whenever that training's ---  
18 do you put the SCSR on, or how do you  
19 ---? When you receive that training,  
20 how does that ---?

21 A. A little training model that  
22 we go by, and they break it down and  
23 go through the motions. You don't  
24 actually put the mouthpiece in, but  
25 ---. It's kind of hands-on and

165

01 verbal, both. You talk your way  
02 through it while you're doing it.

03 Q. Was first-aid training ever  
04 provided?

05 A. First-aid training was  
06 provided at my last annual  
07 re-training. I'm not sure if we  
08 covered any first-aid training on the  
09 experienced miner training or not.  
10 I'm not sure.

11 Q. Do you recall what areas were  
12 covered, or anything like that?

13 A. No, sir. I'm not going to be  
14 much help on this.

15 Q. The roof control plan, was  
16 that covered? I believe I asked you  
17 that.

18 A. Yes, sir. Yes, sir.

19 Q. What areas of the plan were

20 covered? Can you kind of give me a  
21 description, like what was discussed  
22 during that ---?

23 A. Just --- I don't recall  
24 exactly, but it was just basically  
25 our bolt pattern, type of bolts that

166

01 were permitted set. Just the general  
02 provisions of the plan.

03 Q. Was the ventilation plan  
04 covered?

05 A. Yes, sir.

06 Q. Just a brief description of  
07 it.

08 A. About the same. Just it was a  
09 brief description of it.

10 Q. When changes in the  
11 ventilation plan are made, are they  
12 --- what do you do when you have a  
13 ventilation plan change?

14 A. When a ventilation or roof  
15 control plan changes, we'll have a  
16 crew meeting and go over it with all  
17 of the members of the mines.

18 Q. Okay. Is that done before  
19 implementation of the plan?

20 A. Yes, sir.

21 Q. Do you feel the training that  
22 you received was adequate?

23 A. More than adequate, yes.

24 Q. Just briefly going back to the

25 ventilation plan changes. What all

167

01 persons do you review that with  
02 whenever you have a change in the  
03 ventilation plan?

04 A. Give me an example of what you  
05 mean on a ventilation plan change.

06 If it's something that affects space  
07 ventilation, we'll cover it with

08 everybody in the mines. A

09 ventilation change and change in air  
10 direction are something that may just  
11 be reviewed with the people it  
12 pertains to that are actually doing  
13 the work.

14 Q. Have you ever been searched  
15 for smoking articles?

16 A. Yes, sir.

17 Q. Have you ever observed anyone  
18 smoking underground?

19 A. No, sir.

20 Q. Have you ever been found with  
21 smoking articles underground?

22 A. No, sir.

23 Q. Has anyone offered you  
24 anything or made any promise to you  
25 in exchange for your appearing here

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01 today?

02 A. No, sir.

03 Q. Do you have anything else that  
04 you'd like to tell us that might be

05 relevant to this investigation, or  
06 you know, say whatever you want or  
07 anything like that?

08 A. I think I've said plenty. No,  
09 I really have nothing else to say at  
10 this time.

11 MR. SWENTOSKY:

12 Doug?

13 BY MR. CONAWAY:

14 Q. Jeff, I'll be brief. I know  
15 it's been a long session. I just got  
16 a few things I just want to touch on.  
17 The walkie talkies you guys use on  
18 those sections, do you know what the  
19 range of those things are? Do you  
20 have any feel for that?

21 A. It just depends on whether  
22 they're in straight line  
23 communication. They'll range farther  
24 on that. I have seen them go as far  
25 as close to 1,000 feet in a straight

169

01 line.

02 Q. A straight line.

03 A. Direct line. But on a  
04 section, if you're a couple crosscuts  
05 outby and over a couple entries, you  
06 may not hear what somebody else says.  
07 Typically they're real good right on  
08 the section.

09 Q. Okay. I want to go back just

10 a minute. The vehicle, you rode in  
11 on the vehicle as you guys went back  
12 in the mine, and you walked out. Was  
13 there any reason why you left that  
14 vehicle?

15 A. Well, airflow on the track  
16 entry would have been outby, because  
17 of the normal blowing system. So all  
18 the ventilation controls that we were  
19 repairing was pushing the air down  
20 the track. I didn't feel the air  
21 quality would have been good enough  
22 to step back in.

23 Q. Okay. Did you look back, and  
24 did you see smoke or air?

25 A. On occasion we looked back in

170

01 a spot or two, and I don't think we  
02 --- I don't know that we did or  
03 didn't at 42 wall where we left the  
04 mantrip. I'm not sure.

05 Q. But you had determined that  
06 once you started directing air up in  
07 there that it was going to come back  
08 down?

09 A. I knew it would come back down  
10 the track. That's why we stayed and  
11 stopped where we stopped with the  
12 jeep.

13 Q. Okay. So you were getting the  
14 intended effect, ---

15 A. Yes, sir.

16 Q. --- or you knew what was ---?

17 A. Yes, sir.

18 Q. Okay. So that air was getting

19 worse --- when you originally went in

20 the track and it was starting to get

21 worse in the track entry as you

22 progressed through the time that you

23 were underground?

24 A. Well, it would have had to

25 have.

171

01 Q. Okay. Let me ask you this

02 question. When you're underground,

03 you know, obviously, you're assessing

04 what's going on, and you're trying to

05 process all that, what you see, and

06 understand --- at what point did you

07 make a realization of what you

08 thought happened? Putting everything

09 together you saw, did you ---?

10 A. I just don't know, Doug.

11 Q. I mean, did you think

12 explosion at any time? Is what I'm

13 trying --- I mean, what ---?

14 A. Initially, I probably thought

15 roof fall. When we started

16 encountering the smoke, that's when I

17 was thinking explosion. When we

18 started encountering the CO that we

19 were getting under there, that's when

20 I started thinking explosion.

21 Q. Okay. And that's as you were  
22 pressing on through. I know you may  
23 have touched this, I just want to be  
24 clear, no one expressed any problems  
25 doing seal construction, they didn't

172

01 say, we're having a problem with  
02 this, a problem with that, that was  
03 never expressed?

04 A. No, sir.

05 Q. When you were doing any  
06 mining, since you've been there since  
07 August 1st of last year, any mining  
08 activity, encountered any uncharted  
09 wells, any gas wells, any boreholes,  
10 anything of that nature that you're  
11 aware of?

12 A. Nothing comes to mind, no.

13 Q. You made one comment here that  
14 you instructed someone to remove the  
15 wire mesh. Do you remember who you  
16 instructed to do that?

17 A. No, sir, I don't remember.

18 Q. But you've made that  
19 instruction; correct?

20 A. Yeah, I did tell them that  
21 needed to be done.

22 Q. Just a couple final thoughts  
23 here. After all the things you  
24 assessed here and you were  
25 underground and saw a lot of things

173

01 there, what do you think happened?

02 What's your estimation?

03 A. I'll never believe anything

04 other than lightning ignited methane

05 behind a seal area. I'll never

06 believe anything other than that.

07 Q. Okay. And all that you've

08 seen here and taken place, any

09 thoughts or recommendations, or any

10 ideas of things we can do to prevent

11 a future occurrence?

12 A. Until we determine cause, I

13 don't know that I could.

14 MR. CONAWAY:

15 That's all. Thanks,

16 Jeff. Mr. Moore.

17 BY MR. MOORE:

18 Q. I have a couple clarification

19 questions if I may. When you talked

20 to Owen Jones when he called ---

21 A. Yes, sir.

22 Q. --- he called out, and I

23 believe you said he was --- he

24 described there was a rush of air.

25 Was there anything else that he

174

01 mentioned in that ---?

02 A. I think he said there was some

03 smoke in the air as well.

04 Q. Okay. Jeff, would you clarify

05 --- just estimate the amount of time

06 between the lightning flash --- I'm  
07 sorry, not the lightning flash, but  
08 the thunder you heard and the CO  
09 monitor going off?  
10 A. The same. It was just  
11 instantaneous. I mean, ---.  
12 Q. So they happened at the same  
13 time?  
14 A. As I said earlier, it was just  
15 bang, bang. One happened and the  
16 other and the alarms went off.  
17 Q. Okay. Also, when you went  
18 into the mine, who was operating the  
19 mantrip?  
20 A. Al Schoonover.  
21 Q. And where were you positioned?  
22 A. At the front of the mantrip  
23 looking like a Dalmatian on a fire  
24 truck looking ahead.  
25 Q. I'm not sure I follow.

175

01 A. I was at the front of the jeep  
02 with my head stuck out the side  
03 looking ahead.  
04 Q. Okay. You were inside ---?  
05 A. In the inside compartment  
06 looking out, looking ahead.  
07 ATTORNEY MOORE:  
08 Okay. Thank you, Jeff.  
09 BY MR. CONAWAY:  
10 Q. Did you hear the thunder, or  
11 did ---?

12 A. I did hear the thunder.  
13 Q. The dispatcher, did he tell  
14 you about the thunder also?  
15 A. I think most of the people in  
16 Buckhannon heard the thunder.

17 Q. Okay.

18 MR. GATES:

19 Let's take a short  
20 break.

21 SHORT BREAK TAKEN

22 BY MR. SWENTOSKY:

23 Q. Okay. I have a couple  
24 clarifying questions, if I may. Mr.  
25 Toler, did you ever consider donning

176

01 an SCSR at any time?

02 A. No.

03 Q. Why didn't you ---?

04 A. With us keeping fresh air with  
05 us, I never felt like we were in a  
06 concentration of CO that I felt that  
07 I needed it.

08 Q. And the CO levels that you  
09 observed, I believe you said you  
10 observed some CO levels? Maybe I'm  
11 mistaken.

12 A. No. No, I didn't observe  
13 them, but somebody with me was  
14 monitoring. I just don't recall.  
15 But we stayed in fresh air until the  
16 level was to a point that we could

17 move on.

18 Q. What were those --- you said  
19 they told you the level, or --- what  
20 were those levels?

21 A. No, I don't recall. I don't  
22 think I gave numbers on those levels.  
23 I don't think I recall what they  
24 were.

25 Q. Back to the seals. Who

177

01 explained the guidelines for the  
02 ventilation plan to the people, to  
03 the miners that constructed those  
04 seals? Who explained how to  
05 construct those seals to those  
06 people?

07 A. I don't recall for sure, but  
08 it was probably me.

09 Q. You?

10 A. It was probably me.

11 Q. What instructions did you give  
12 them? Can you explain those  
13 instructions to us, please?

14 A. Not without looking at the  
15 plan, and doing it off of that.

16 Q. Okay. Do you have anything  
17 that you can recollect?

18 A. No, not specifically. I mean,  
19 it's ---.

20 Q. If I show you a copy of the  
21 plan, would that maybe refresh your  
22 recollection?

23 A. I could possibly tell you how  
24 I would want you to construct those  
25 seals, but I can't tell you that

178

01 that's exactly the way I described it  
02 to them in detail. So ---.

03 Q. Go ahead.

04 A. I mean, and then for that, I  
05 would have to --- I'd have to see a  
06 copy of the plan.

07 Q. Just a minute. I have a copy  
08 of the guidelines for constructing  
09 the 40-inch thick Omega block seal  
10 construction plan. For use with  
11 seals up to eight-feet high and  
12 20-foot wide. There's two copies to  
13 this --- or two pages to this  
14 construction. I'll give that to you,  
15 and if you could tell me what  
16 that ---.

17 A. Well, this first page details  
18 how your joints stagger. To get the  
19 seal to be 40 inches wide an Omega  
20 block, a standard Omega block, eight  
21 inches thick, is 16 inches wide, 24  
22 inches long. You have one course  
23 laying this way, which gets you 24  
24 inches of coverage. The other ---  
25 well, you lay them side by side, give

179

01 you that of 16, the total of 40

02 inches.

03 Q. That would be the one laid in  
04 one direction, and one laid the other  
05 direction?

06 A. Yes, sir. And they lay right  
07 across rib to rib. And that gives  
08 you a total of 40-inch thick. When  
09 you lay your next row, you reverse  
10 the direction that you've laid the  
11 blocks. This 24 would be here, and  
12 the 16 would be here.

13 Q. You get a traverse type  
14 construction?

15 A. Exactly. Now, when you're  
16 laying the blocks, if you do it like  
17 that, your total thickness of the  
18 seal is going to be 40 inches thick.  
19 We don't have to hitch, but we got to  
20 stagger the joints. We have to have  
21 a minimum of a quarter-inch thick,  
22 mortar joint using block bond. You  
23 lay them that way rib to rib, bottom  
24 to top, when you get to the top, you  
25 have to have three rows of wooden

180

01 planks run across the top of the  
02 seal.

03 Q. For the record, you're reading  
04 from the page two of the documents  
05 I've provided to you?

06 A. Basically, yes. Yes, I'm  
07 reading off of this. When you put

08 the wooden planks in and wedge them  
09 down, the wedges shall be placed on  
10 one-inch --- one-foot centers or less  
11 with block bond used to fill the  
12 gaps. And I recommended they place  
13 them closer than one foot. And block  
14 bond will be used to fully coat both  
15 sides of the seal as they construct  
16 it. So when you're finished, not  
17 only are the joints mortared, but the  
18 face of the seal is also covered as  
19 well.

20 Q. Do you recognize this as a  
21 copy of the plan that you reviewed  
22 with those people?

23 A. This is a typical Omega seal  
24 plan. This would be the same plan  
25 that we utilized.

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01 MR. SWENTOSKY:  
02 Mark that Exhibit  
03 Three.  
04 (Toler Exhibit Number  
05 Three marked for  
06 identification.)

07 BY MR. SWENTOSKY:

08 Q. In addition to that, would you  
09 clear the loose material away from  
10 the seal, the construction area?

11 A. Yes.

12 Q. How far on each side of that

13 would you ---?

14 A. We would take a scoop and  
15 clean the area completely through,  
16 through that area. We would clean  
17 that, get it down on solid bottom to  
18 build, to start construction.

19 Q. Did you clean the ribs also?

20 A. Yes.

21 BY MR. CONAWAY:

22 Q. I've got just a few questions.  
23 Have you had any other previous  
24 experience with fires or any kind of  
25 ---?

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01 A. No, sir.

02 Q. None whatsoever?

03 A. No, sir.

04 Q. Any kind of burning? You guys  
05 looked at the stopping there. You  
06 looked at the intake and stopping  
07 line. It was primarily your focus?

08 A. Yes, sir.

09 Q. You were getting air up there.  
10 The blocks, they just seemed to be  
11 fallen over or blown out some  
12 distance?

13 A. Blown out.

14 Q. A pretty good distance?

15 A. Yes.

16 Q. And your airflow, when you  
17 made the --- when you got up to it,  
18 Jeff, to stop in there and --- how

19 was the airflow coming as your intake  
20 was coming up through that stopping  
21 line if you're on the track? Was  
22 coming back towards you?  
23 A. It would be coming back down.  
24 Q. It was coming back down the  
25 track generally?

183

01 A. Generally, yes.  
02 Q. Okay. Do you have a set of  
03 doors on the track?  
04 A. Near the surface, yes.  
05 Q. Yeah.  
06 A. Yes, sir.  
07 Q. And those were closed when you  
08 came in?  
09 A. Yes, sir.  
10 Q. Okay. Did anybody look at the  
11 return stop --- did anybody ---?  
12 A. I did look through and noticed  
13 that in most places where intakes  
14 were blown, returns were blown as  
15 well.  
16 Q. Okay. But you looked, what,  
17 maybe a couple times?  
18 A. Just a couple times, and then  
19 I really didn't care. I mean, I just  
20 wanted to keep --- just maintaining  
21 the one line was all I was worried  
22 about.  
23 Q. Okay. And you told us earlier

24 that you really didn't take too many  
25 --- I mean, you were constantly

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01 taking the methane reading with your  
02 meters, but nobody really took an  
03 actual ---?

04 A. I didn't.

05 Q. You didn't. Okay. And you  
06 didn't hear anybody say it?

07 A. I didn't hear anybody else say  
08 it.

09 Q. You unplugged your mantrip ---

10 A. Yes, sir.

11 Q. --- because it was a possible  
12 ignition source, is that it?

13 A. Yes, sir.

14 Q. And what was you thinking that  
15 the fuel might be, or what was  
16 you ---?

17 A. Well, we had no idea what we  
18 would be forcing back down on us.

19 Q. Okay. You didn't know if  
20 there might be methane up there, CO,  
21 or whatever ---

22 A. Exactly.

23 Q. --- could explode? Your old  
24 seals, when you're making those  
25 exams, has anybody detected any

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01 methane or anything peculiar in those  
02 that you're aware of?

03 A. I don't know, Doug. I'm not  
Page 152

04 aware of.

05 Q. Nothing's came to your  
06 attention?

07 A. Yes, sir.

08 Q. The Saturday work that the  
09 guys were doing, were there any  
10 ventilation changes or anything of  
11 that nature done that you might be  
12 aware of?

13 A. Not that I'm aware of, no.

14 Q. Okay.

15 MR. CONAWAY:

16 That's it.

17 MR. KITTS:

18 I'm done.

19 MR. GATES:

20 A brief closing  
21 statement here. On behalf of  
22 MSHA, I would like to thank  
23 you for appearing and  
24 answering questions today.  
25 Your cooperation is very

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01 important to the  
02 investigation, as we work to  
03 determine the cause of the  
04 accident. We ask that you do  
05 not discuss your testimony  
06 with any person who may have  
07 already been interviewed or  
08 who may be interviewed in the

09 future.  
10 This will ensure that  
11 we obtain everyone's  
12 independent recollections of  
13 the events surrounding the  
14 accident. After questioning  
15 other witnesses, we may call  
16 you if we have any follow-up  
17 questions that we feel that  
18 may need to be asked. If at  
19 any time you have additional  
20 information regarding the  
21 accident that you would like  
22 to provide to us, please  
23 contact us at the contact  
24 information that has been  
25 previously provided to you.

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01 The Mine Act provides  
02 certain protections to miners  
03 who provide information to  
04 MSHA, and as a result are  
05 treated adversely. If at any  
06 time you believe that you have  
07 been treated unfairly because  
08 of your cooperation in this  
09 investigation, you should  
10 immediately notify MSHA.

11 If you wish, you may  
12 now go over any answer that  
13 you may have given during this  
14 interview, and you may also

15 make any statement that you  
16 would like to make at this  
17 time.

18 A. Nothing to add right now.

19 MR. GATES:

20 Again, I want to thank  
21 you for your cooperation in  
22 this matter.

23

24 \*\*\*SWORN STATEMENT\*\*\*

25 \*\*\*CONCLUDED AT 1:00 P. M. \*\*\*

Area Shown on Map  
Scale: 1" = 100'

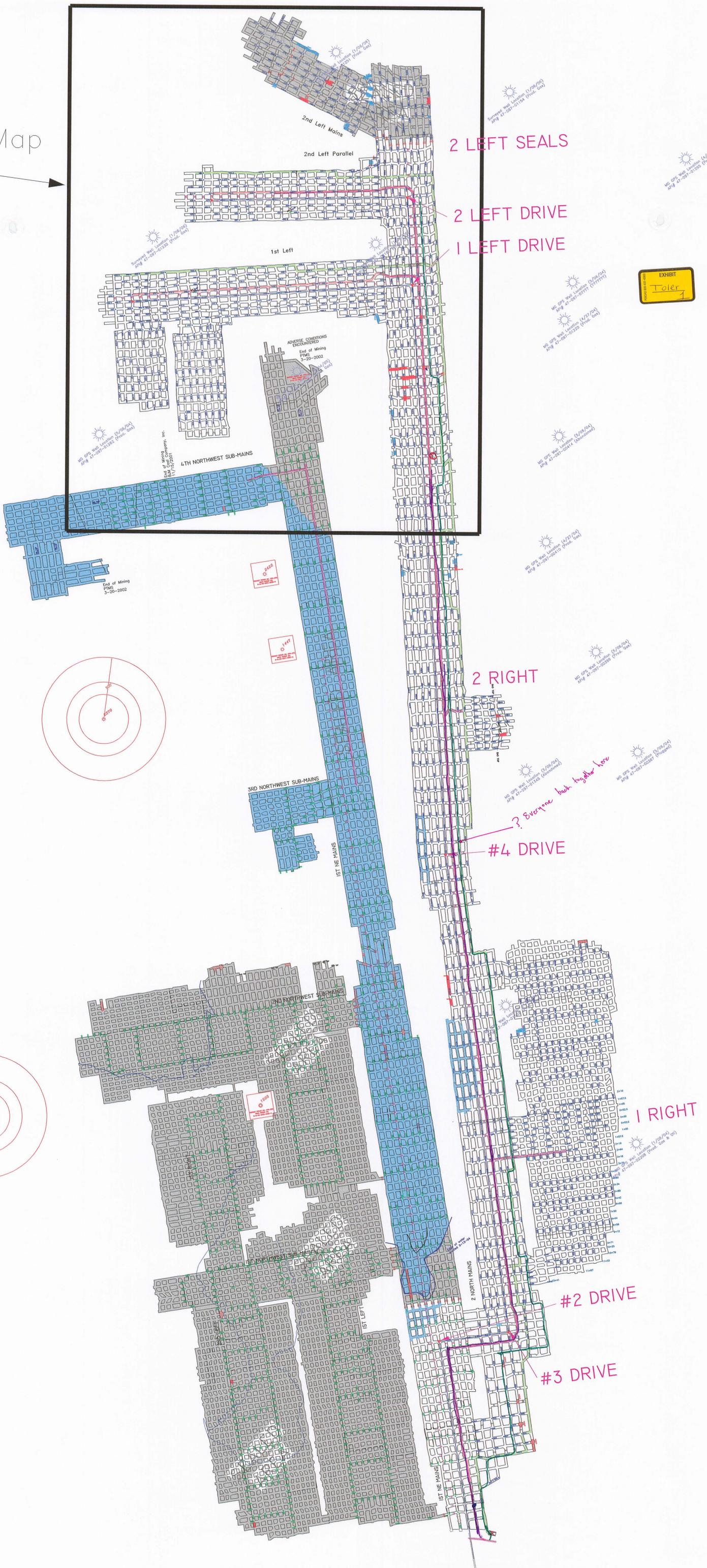


EXHIBIT  
Toler

Well Location (1/27/00)  
Fig 47-297-2126A (Proposed)

Well Location (1/28/00)  
Fig 47-297-2111B (Proposed)

Well Location (4/27/00)  
Fig 47-297-2125A (Proposed)

Well Location (5/27/00)  
Fig 47-297-2121B (Proposed)

Well Location (5/28/00)  
Fig 47-297-21277 (Proposed)

Well Location (1/2/00)  
Fig 47-297-2122A (Proposed)

Well Location (5/28/00)  
Fig 47-297-2122A (Proposed)

Well Location (5/28/00)  
Fig 47-297-21247 (Proposed)

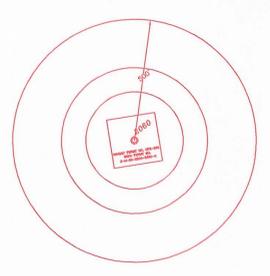
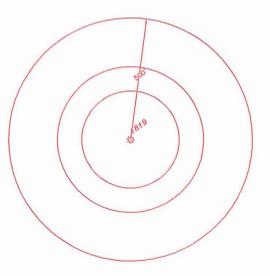
Well Location (5/28/00)  
Fig 47-297-2111A (Proposed)

Well Location (1/27/00)  
Fig 47-297-21211A (Proposed)

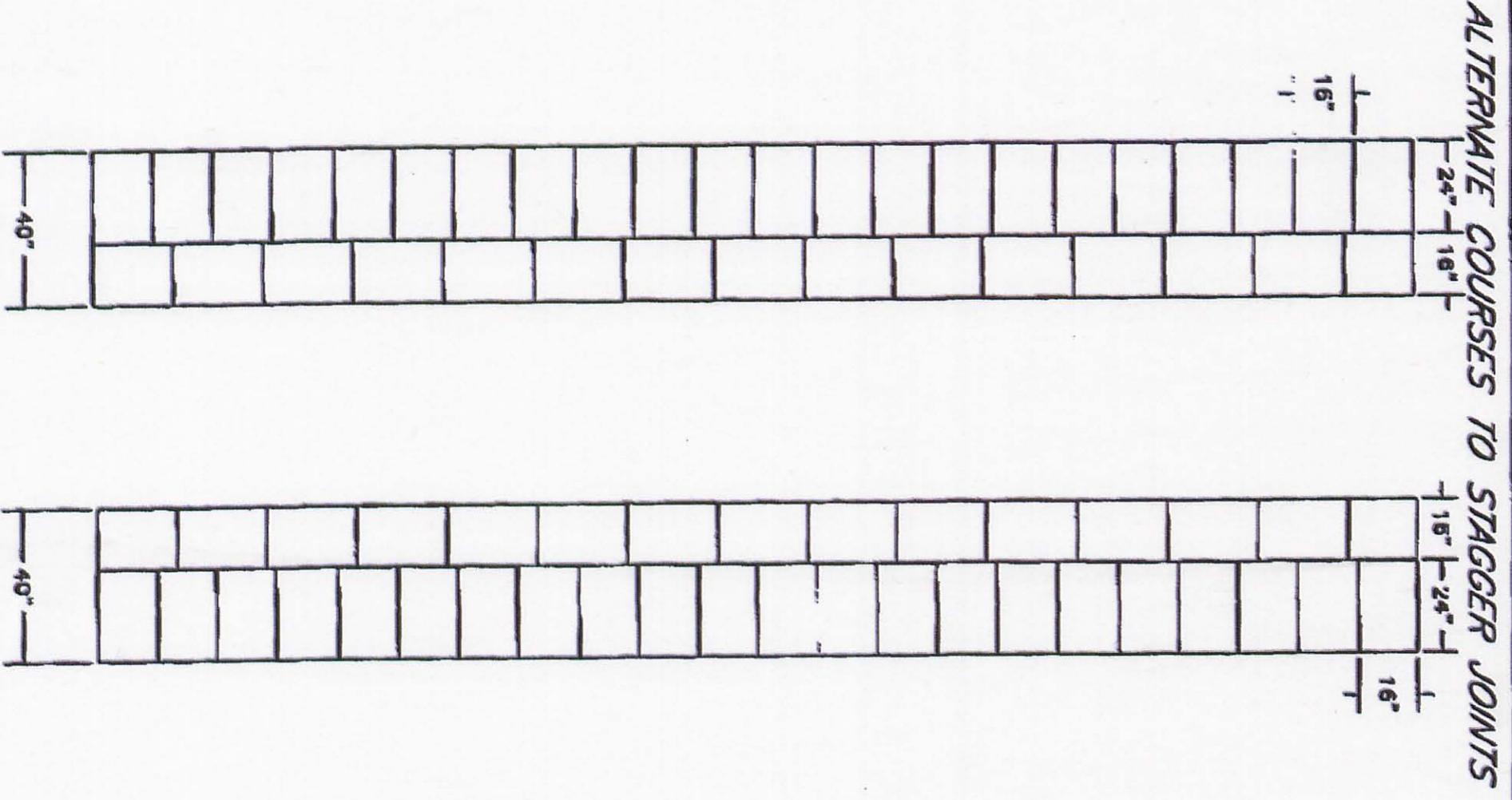
Well Location (5/28/00)  
Fig 47-297-21238A (Proposed)

Well Location (5/28/00)  
Fig 47-297-2111A (Proposed)

Well Location (5/28/00)  
Fig 47-297-21237A (Proposed)



Well Location (1/28/00)  
Fig 47-297-21228A (Proposed)

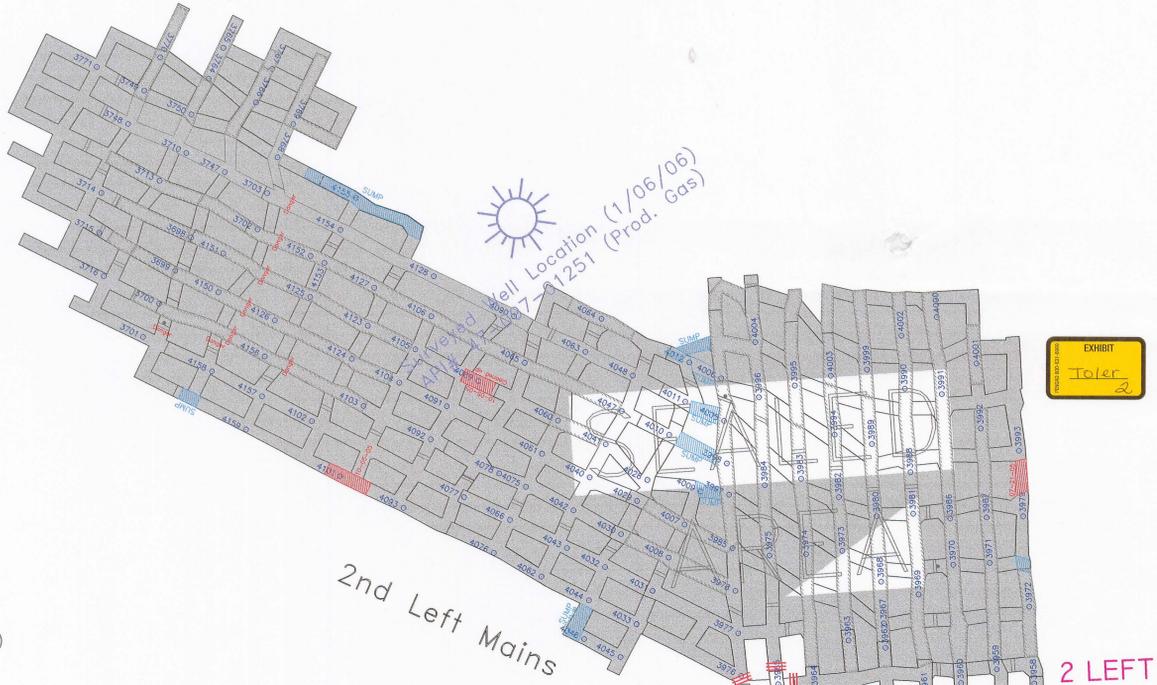


**40" THICK OMEGA BLOCK SEAL  
CONSTRUCTION PLAN**

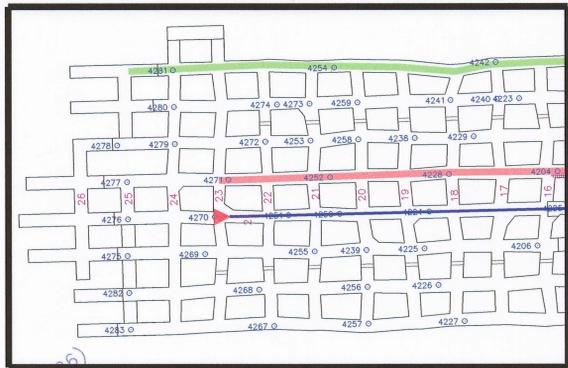
**FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE**



Scale: 1" = 100'



Area Shown on Map  
Scale: 1"=50'



2nd Left Mains

2 LEFT SEALS

2nd Left Parallel

Possible Layer(s)  
P.C.C.

2 LEFT DRIVE

1st Left

Surveyed Well Location (1/06/06)  
API# 47-097-01230 (Prod. Gas)

Surveyed Well Location (1/06/06)  
API# 47-097-01230 (Prod. Gas)

1 LEFT DRIVE

ADVERSE CONDITIONS  
ENCOUNTERED

End of Mining  
PTMS  
3-20-2002

Surveyed Well Location (04/05)  
API# 47-097-01230 (Prod. Gas)

MG GPS Well Location (5/06/04)  
API# 47-097-01282 (Prod. Gas)

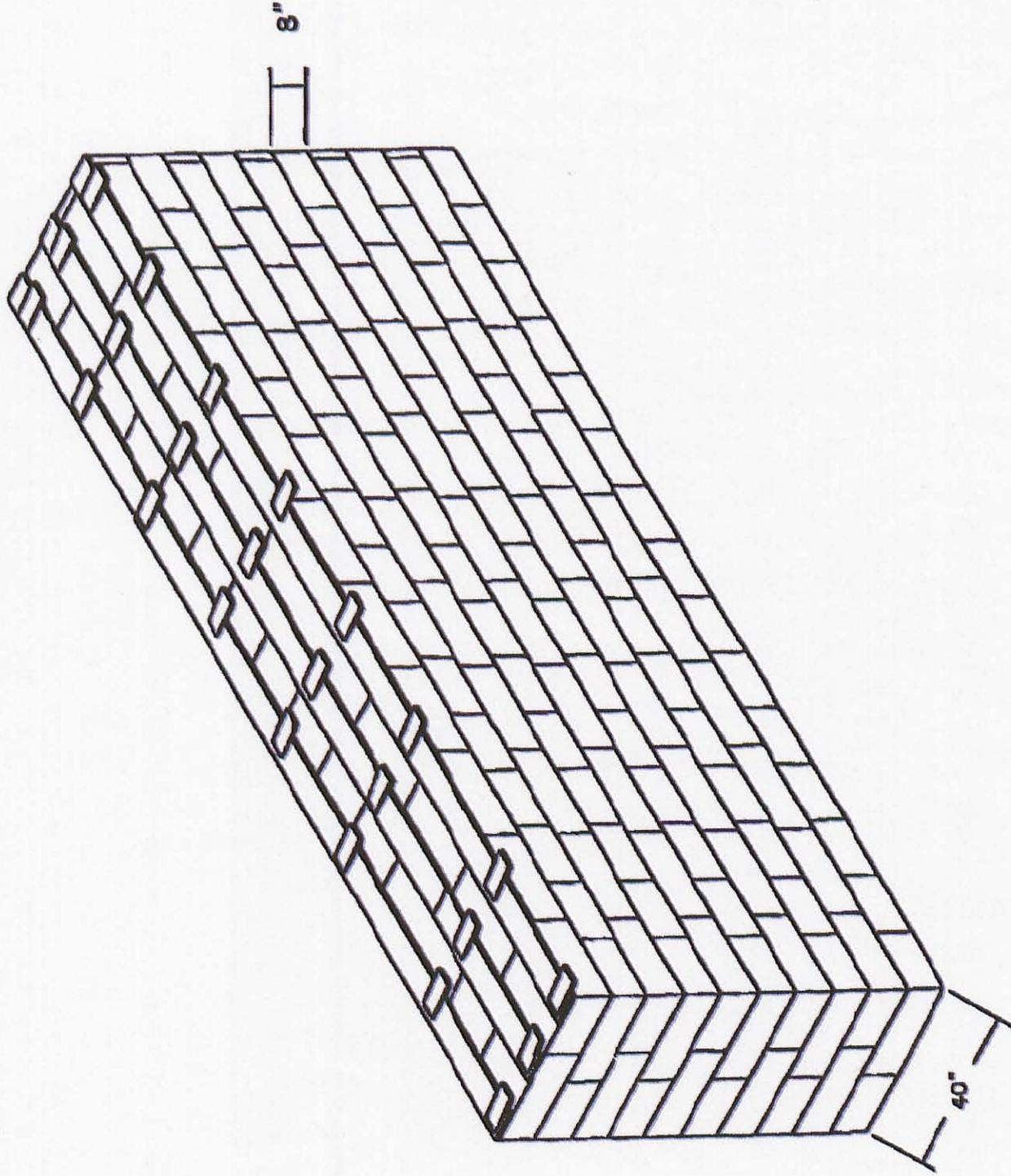
End of Mining Company, Inc.  
BUM Coal Field  
11/15/2001

4TH NORTHWEST SUB-MAINS



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

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



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