

01 STATEMENT UNDER OATH  
02 OF  
03 JAMES FRANKLIN SCOTT

04

05 Taken pursuant to Notice by Miranda  
06 D. Elkins, a Court Reporter and  
07 Notary Public in and for the State of  
08 West Virginia, at the U.S. Bankruptcy  
09 Court, 324 West Main Street,  
10 Clarksburg, West Virginia, on  
11 Wednesday, January 25, 2006, at 8:52  
12 a.m.

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01

I N D E X

02

03 INTRODUCTION 8 - 16

04 WITNESS: JAMES FRANKLIN SCOTT

05 QUESTIONS

06 By Mr. Swentosky 17 - 133

07 By Mr. Mills 134 - 140

08 By Mr. Swentosky 140 - 176

09 By Mr. Mills 177 - 185

10 By Mr. Swentosky 184 - 189

11 CERTIFICATE 190

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7

02			PAGE
03	NUMBER	DESCRIPTION	IDENTIFIED
04	One	Seal Plan and Related	
05		Documents	36
06	Two	Map of Seal Sites	41
07	Three	Map of One Left, Two	
08		Left and Seal Area	94
09	Four	Omega Block Seal	
10		Diagram	103
11	Five	Mr. Scott's Seal	
12		Notes	112

13  
14  
15  
16  
17  
18  
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01 P R O C E E D I N G S

02 -----

03 MR. SWENTOSKY:

04 My name is Dennis

05 Swentosky. I am a accident

06 investigator with the Mine

07 Safety and Health  
08 Administration, an agency of  
09 the United States Department  
10 of Labor. With me is Robert  
11 Wilson from the Solicitor's  
12 Office and Brian Mills with  
13 the West Virginia Office of  
14 Miners' Health, Safety and  
15 Training.

16 I have been assigned to  
17 conduct an investigation into  
18 the accident that occurred at  
19 the Sago Mine on January 2nd,  
20 2006 in which 12 miners died  
21 and one was injured. The  
22 investigation is being  
23 conducted by MSHA and the West  
24 Virginia Office of Miners'  
25 Health, Safety and Training to

9

01 gather information to  
02 determine the cause of the  
03 accident, and these interviews  
04 are an important part of the  
05 investigation. At this time,  
06 the accident investigation  
07 team intends to interview a  
08 number of people to discuss  
09 anything that may be relevant  
10 to the cause of the accident.

11 After the investigation

12 is completed, MSHA will issue  
13 a written report detailing the  
14 nature and the causes of the  
15 accident. MSHA accident  
16 reports are made available to  
17 the public in the hope that  
18 greater awareness about the  
19 causes of the accident can  
20 reduce their occurrence in the  
21 future. Information obtained  
22 through witness interviews is  
23 frequently included in these  
24 reports. Your statement may  
25 also be used in other

10

01 enforcement proceedings.  
02 I would like to thank  
03 you in advance for your  
04 appearance here. We  
05 appreciate your assistance in  
06 this investigation. The  
07 willingness of miners and mine  
08 operators to work with us is  
09 crucial to our goal of making  
10 the nation's mines safer. We  
11 understand the difficulty for  
12 you in discussing these events  
13 that took place and we greatly  
14 appreciate your efforts to  
15 help us understand what  
16 happened.

17 This interview with Mr.

18 James Scott is being conducted  
19 under Section 103(a) of the  
20 Federal Mine Safety and Health  
21 Act of 1977 as part of an  
22 investigation by the Mine  
23 Safety and Health  
24 Administration and the West  
25 Virginia Office of Miners'

11

01 Health, Safety and Training  
02 into the conditions, events  
03 and circumstances surrounding  
04 the fatalities that occurred  
05 at the Sago Mine owned by  
06 International Coal Group in  
07 Buckhannon, West Virginia on  
08 January 2nd, 2006.

09 This interview is being  
10 conducted at the U.S.  
11 Bankruptcy Court in  
12 Clarksburg, West Virginia on  
13 January 25th, 2006.  
14 Questioning will be conducted  
15 by representatives of MSHA and  
16 the Office of Miners' Safety,  
17 Health and Training (sic).  
18 This is not an adversarial  
19 proceeding, therefore, Cross  
20 Examination will not be  
21 permitted.

22 Mr. Scott, this

23 interview will be conducted by  
24 my asking you a series of  
25 questions. If you do not

12

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

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

20 MR. MILLS:

21 We'll provide you with  
22 a business card with that  
23 information before the end of  
24 the interview.

25 MR. SWENTOSKY:

13

01 Your statement is  
02 completely voluntary. You may  
Page 10

03 refuse to answer any question  
04 and you may terminate your  
05 interview at any time. If you  
06 need a break for any reason,  
07 just let me know.

08 The court reporter will  
09 record your interview and will  
10 later produce a written  
11 transcript of the interview.  
12 Please try and respond to all  
13 questions verbally since the  
14 court reporter cannot record  
15 non-verbal responses. Also  
16 please try to keep your voice  
17 up. Copies of the written  
18 transcripts will be made  
19 available at a later date and  
20 that would be at the end of  
21 the investigation.

22 If any part of your  
23 statement is based not on your  
24 own firsthand knowledge but on  
25 information that you learned

14

01 from someone else, please let  
02 us know. Please answer each  
03 question as fully as you can,  
04 including any information you  
05 have learned from someone  
06 else.

07 We may not ask the

08 right questions to learn the  
09 information you have, so do  
10 not feel limited by the  
11 precise questions that we ask.  
12 If you have information about  
13 the subject area of the  
14 question, please provide us  
15 with that information.

16 At this time, Mr.  
17 Mills, do you have anything  
18 that you would like to add on  
19 behalf of the Office of  
20 Miners' Safety, Health and  
21 Training?

22 MR. MILLS:

23 Mr. Scott, here's our  
24 card. The West Virginia  
25 Office of Miners' Health,

15

01 Safety and Training is  
02 conducting this interview  
03 session jointly with MSHA and  
04 are in agreement with the  
05 procedures outlined by Mr.  
06 Swentosky for these interviews  
07 that will be conducted here  
08 today. But the Director  
09 reserves the right if  
10 necessary to call or subpoena  
11 witnesses or require the  
12 production of any record,  
13 document, photograph or other

14 relevant materials necessary  
15 to conduct this investigation.

16 MR. SWENTOSKY:

17 Mr. Scott, you are  
18 permitted to have a  
19 representative with you during  
20 this interview and you may  
21 consult with your  
22 representative at any time.  
23 You may designate any person  
24 to be your representative. Do  
25 you have a representative with

16

01 you here today?

02 MR. SCOTT:

03 Yes, sir.

04 ATTORNEY RAJKOVICH:

05 Marco Rajkovich.

06 MR. SWENTOSKY:

07 Okay. Is this a  
08 representative of your choice?

09 MR. SCOTT:

10 Yes.

11 MR. SWENTOSKY:

12 Do you have any  
13 questions regarding the manner  
14 in which this interview will  
15 be conducted at this time? Do  
16 you have any questions on how  
17 we're going to conduct your  
18 interview?

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MR. SCOTT:

No.

MR. SWENTOSKY:

Would you please swear  
in the --- Mr. Scott?

-----  
JAMES FRANKLIN SCOTT, HAVING FIRST

17

BEEN DULY SWORN, TESTIFIED AS  
FOLLOWS:

-----  
BY MR. SWENTOSKY:

Q. For the record, could you  
please state your full name and  
please spell your last name?

A. James Franklin Scott,  
S-C-O-T-T. Nickname Ski p.

Q. Could you provide us with your  
address and phone number, please?

A. 26 Kenney's Trailer Court,  
Buckhannon, 473-0247.

Q. Phone Number?

A. That is the number.

Q. Did you ---?

A. That was the phone number,  
473-0247. I don't know the ZIP.

Q. Okay. Are you appearing here  
today voluntarily?

A. Yes.

Q. Did you speak with --- or did  
you talk to anyone about your  
interview statement here today?

25 A. Just last night with him.

18

01 ATTORNEY RAJKOVICH:

02 Him, let the record

03 reflect, is Counsel.

04 BY MR. SWENTOSKY:

05 Q. How many years of mining

06 experience do you have, Mr. Scott?

07 A. Approximately 25 years.

08 Q. Could you just give us a brief

09 description of your coal mining

10 history?

11 A. I'm a certified mine foreman

12 in three states. I started out with

13 Valley Camp Coal in '71.

14 Approximately 11 years there and I

15 worked one year at North American

16 Coal in Ohio. And I quit there, went

17 to Alabama and worked for Jim Walters

18 Resource, five years. And I worked

19 with Garrett Mining Service for five

20 years. That's about it.

21 Q. Okay. When you say three

22 states' certification. What states

23 are those?

24 A. West Virginia, Ohio and

25 Alabama.

19

01 Q. Do you --- where do you

02 presently work?

03 A. Right now?

04 Q. Yes.

05 A. Philippi. Well, I was with

06 Sago.

07 Q. Okay. How much time have you

08 spent at Sago?

09 A. Almost two years with GMS,

10 Garrett Mining Service, as a

11 contractor.

12 Q. As a contractor miner. Okay.

13 When did you start with Garrett?

14 A. In the last five years.

15 Q. Last five years. And you've

16 been at Sago Mine as a contractor for

17 the last two years?

18 A. Yes, sir.

19 Q. Okay. What is your present

20 position?

21 A. Two weeks ago I signed over

22 with ICG, as a hourly supervisor.

23 Q. With who again, please?

24 A. ICG.

25 Q. That is a contracting ---?

20

01 A. No, no. That's who owns Sago

02 Mine, the company.

03 Q. Okay. And how long have you

04 worked as a foreman, at the foreman

05 position at Sago?

06 A. At Sago?

07 Q. Yes.

08 A. For two years with GMS. I'm a

09 foreman for GMS.

10 Q. Okay.

11 A. For two years and the last two  
12 weeks with ICG.

13 Q. What position did you hold on  
14 the day of the accident?

15 A. Foreman for Garrett Mining  
16 Service.

17 Q. Did you work on January 2nd?  
18 Were you working at that time?

19 A. No. 7:30 I was at the mine.  
20 I was scheduled to work. At 7:30, I  
21 was dressed and ready to go to work  
22 at 7:00. I start at seven o'clock.  
23 The other guys goes in at 6:00 a.m.  
24 I go in at 7:00.

25 Q. Okay. And tell me a little

01 bit about that.

02 A. Well, it was me and I had two  
03 red hats, worked as foremen, we was  
04 dressed and ready to go to work. And  
05 lightning and thunder and all of a  
06 sudden something hit and it shook the  
07 whole building. It just sounded like  
08 lightning.

09 Q. Okay. What other positions  
10 have you held at the mine, other than  
11 the foreman position?

12 A. I was --- well, I started out  
13 with Valley Camp as general labor but  
14 ---

15 Q. No. I mean, at the Sago ---  
16 A. --- then I moved up ---.  
17 Q. Excuse me.  
18 A. At Sago?  
19 Q. Yeah. What other positions?  
20 A. I was always a ---.  
21 Q. Always a foreman, okay.  
22 A. Always a foreman at Sago.  
23 Q. And you mentioned certificates  
24 that you have, certification that you  
25 have in the three states. As a

22

01 foreman; is that correct,  
02 certifications as a foreman?  
03 A. Yes, sir.  
04 Q. What other --- do you have any  
05 other certifications that you might  
06 have?  
07 A. No, sir.  
08 Q. Who is your immediate  
09 supervisor? Who was your immediate  
10 supervisor at Sago?  
11 A. Sago? It'd be Jeff Toler and  
12 Carl Crumrine.  
13 Q. Okay. What time do you  
14 normally --- you said seven o'clock  
15 you usually ---  
16 A. 7:00 a.m.  
17 Q. --- start your shift?  
18 A. Yes.  
19 Q. And getting back to when you  
20 started at the mine --- or you came

21 to work, can you go ahead and tell me  
22 a little bit about what happened when  
23 you arrived there? You started into  
24 that. I kind of interrupted you,  
25 sir, but go ahead.

23

01 A. I'm always there and dressed  
02 an hour prior to going in at 7:00.

03 Q. Okay.

04 A. And I arrived there at ten  
05 minutes to 6:00 that morning before  
06 the other shift even went in.

07 Q. Okay.

08 A. The coal crew went in and we  
09 was just sitting around there in the  
10 bathhouse talking. And it was just  
11 thundering and lightning bad.

12 Q. Okay. Then when you --- what  
13 happened after you got dressed and  
14 you guys were sitting around talking?  
15 When was the first time that you knew  
16 that anything was wrong?

17 A. Immediately I knew something  
18 was wrong.

19 Q. Pardon me?

20 A. I knowed something's wrong  
21 immediately.

22 Q. Approximately, do you have any  
23 idea what time that was?

24 A. 7:31 --- or 6:31.

25 Q. 6:31, okay. And what happened

01 after that?

02 A. Well, I know that something  
03 was wrong. I ran over to the  
04 dispatcher's shanty, stood in there  
05 talking to John Boni, like he did  
06 like a --- I can't think of his name,  
07 but he was the dispatcher. I stood  
08 there for almost the rest of the day  
09 talking to him.

10 Q. As a certified foreman, have  
11 you ever made any examinations as a  
12 certified person at that --- at the  
13 Sago Mine?

14 A. Yes, sir, I've --- the places  
15 I worked, I fire boss them myself.

16 Q. Okay. Are you familiar with  
17 the old Two Left main seals?

18 A. Yes, sir. I built them.

19 Q. All right. Do you know when  
20 they were built?

21 A. I know when they was  
22 completed.

23 Q. Completed. Do you know when  
24 they were started?

25 A. Well, the first five I didn't

01 build. There's ten of them built.  
02 The last five I built. I'm the one  
03 that done the final air change and  
04 stuff on them.

05 Q. Okay. What was the first day

06 that --- or what date was it where  
07 they started? You say you don't know  
08 what day?  
09 A. I don't know exactly.  
10 Q. What day were they completed  
11 then?  
12 A. December the 12th.  
13 Q. How many people did you have  
14 on your crew that finished --- or  
15 built those seals?  
16 A. The last five, it was just  
17 three of us, me and two other guys.  
18 Q. Who were those people?  
19 A. Casey Short and George Brooks.  
20 Q. And those were the only two  
21 that were working on the seals when  
22 you were there?  
23 A. Yes. The last five seals,  
24 that's all. Some outby work was done  
25 prior to air change and stuff.

26

01 There's four foremen.  
02 Q. But you were --- those two  
03 people worked for you during that  
04 period of the installation of the  
05 seals that you put in?  
06 A. Yes, sir.  
07 Q. Okay. At any time, did anyone  
08 other than those persons help you  
09 with that seal?  
10 A. No. No.

11 Q. Like extra help is I guess  
12 what maybe I should say. Extra help?  
13 A. I don't believe them four  
14 foremen ever come up and helped me on  
15 that. But there was some other work  
16 that had to be done. These four  
17 foremen helped me on them.  
18 Q. Do you recall who those people  
19 were?  
20 A. I just know them by their  
21 first names. There's Marty. He may  
22 know them. And Harmon and a Jackson  
23 and Mike Triplett.  
24 Q. Okay. Those are the other  
25 individuals that might have come up  
27  
01 there and helped you, just pitched in  
02 with helping you during that period  
03 of time?  
04 A. Yes, sir.  
05 Q. And as far as the seals are  
06 concerned, what were your  
07 responsibilities with those seals?  
08 A. Making sure they was done  
09 right and by the specs.  
10 Q. Have you ever built Omega  
11 seals prior to this time?  
12 A. No, sir.  
13 Q. Have you ever seen them built  
14 before?  
15 A. Just off and on, the first  
16 five.

17 Q. Okay. But had you ---.  
18 A. But I never had nothing to do  
19 with them in any other mine, no, sir.  
20 Q. Whenever you took over --- you  
21 took over for who there?  
22 A. Jeff Snyder.  
23 Q. Jeff Snyder. Okay. Whenever  
24 you took over there, did anyone ever  
25 talk to you about how they should be

28

01 built or show you any kind of  
02 documentation of how they should be  
03 built?  
04 A. Well, when Jeff Snyder started  
05 them, they also give me the plan on  
06 how to build them and me and Jeff  
07 communicated back and forth every  
08 day. Me and him worked the same  
09 shifts and at that time, he had some  
10 of my men working for him on them,  
11 too. We just kept communication  
12 every day.  
13 Q. Okay. But during that period  
14 of time, it was just you and your  
15 crew that was building, but you kept  
16 communication with him ---  
17 A. Yes, sir.  
18 Q. --- as he was doing another  
19 job; ---  
20 A. Yes, sir.  
21 Q. --- is that correct? Okay.

22 And he gave you --- did he give you  
23 any documentation of how they should  
24 be built?

25 A. Him personally, never. Jeff

29

01 Toler. The day where they begin, me  
02 and Jeff both got a copy of how they  
03 were being built.

04 Q. The day that they --- the  
05 initial ---

06 A. Start.

07 Q. --- construction started?

08 A. Yes. Yes, sir.

09 Q. And Jeff Snyder was to be the  
10 foreman at that time?

11 A. Yeah.

12 Q. Okay. And so Mr. Toler spoke  
13 to you together?

14 A. Yes, sir.

15 Q. As a group?

16 A. Yeah.

17 Q. Okay. And you received a copy  
18 of that plan or not?

19 A. Yes, sir.

20 Q. Okay. Both of you did receive  
21 a copy?

22 A. And I still have my copy.

23 Q. Okay. And what did he tell  
24 you that --- you know, how --- kind  
25 of how did he go over that? Did he

30

01 go over it page by page or anything  
Page 24

02 or just discussion?

03 A. We went page for page and  
04 everything was wrote down. We went  
05 ---.

06 OFF RECORD DISCUSSION

07 BY MR. SWENTOSKY:

08 Q. I have a copy of the plan. I  
09 wonder if you could just identify it  
10 for me, please? And you can leaf  
11 through it there. Does that  
12 represent what he provided you with  
13 or reviewed with you?

14 A. I'll need that out. It's the  
15 same as mine.

16 ATTORNEY RAJKOVICH:

17 Do you want to look  
18 through the rest of it?

19 WITNESS REVIEWS DOCUMENT

20 A. Mine's not that thick.

21 ATTORNEY RAJKOVICH:

22 Can I interject, sir?

23 MR. SWENTOSKY:

24 Yes.

25 ATTORNEY RAJKOVICH:

31

01 Maybe the way to do  
02 this. Can you look through  
03 this and then identify to  
04 these gentlemen which pages  
05 you've actually seen before?  
06 Because you may not have had

07 all these. So maybe ---.  
08 A. I know that one's in there.  
09 ATTORNEY RAJKOVICH:  
10 Okay.  
11 A. And like that map, this one  
12 here was in it. I mean, like this  
13 garbage --- I mean, it wasn't there.

14 Mr. WILLS:  
15 Do you recall how many  
16 pages you were provided with?

17 MR. SWENTOSKY:  
18 I think we got --- may  
19 I see that?

20 ATTORNEY RAJKOVICH:  
21 Can I make a  
22 suggesti on?

23 MR. SWENTOSKY:  
24 Yes.

25 ATTORNEY RAJKOVICH:

32

01 Maybe the thing to do  
02 is if you go through that,  
03 maybe if you start going page  
04 by page and just tell them  
05 which ones you've seen and  
06 which ones you haven't seen.  
07 How's that? As to what you've  
08 done. Because some of that  
09 you probably have not seen.  
10 And I don't know if you want  
11 to make those individual  
12 exhibits or something.

13 A. This would have been the  
14 pages. Yeah, this would be that ---.  
15 Now, that's the thickness. That's  
16 it.

17 ATTORNEY RAJKOVICH:

18 Excuse me, as to this  
19 first page here, have you ---  
20 have you seen that page?

21 A. Yes, sir.

22 ATTORNEY RAJKOVICH:

23 And why don't you  
24 identify that somehow? He's  
25 looking at an October 24th

33

01 letter to Mr. Toler from Kevin  
02 Strickland. Have you seen  
03 that?

04 A. Yes, sir.

05 ATTORNEY RAJKOVICH:

06 Okay. Do you mind if I  
07 go through this or do you want  
08 ---? The next page is an  
09 October 12th letter to Mr.  
10 Strickland from Mr.  
11 Schoonover. Have you seen  
12 that?

13 A. That's in there.

14 ATTORNEY RAJKOVICH:

15 Okay. The next page  
16 appears to say guidelines for  
17 installation of Omega block

18 concrete seals. Have you seen  
19 that page?

20 A. Yes, sir.

21 ATTORNEY RAJKOVICH:

22 Okay. The next page  
23 looks like a diagram entitled  
24 Sago Mine, 40-inch Thick Omega  
25 Block Seal. Have you seen

34

01 that?

02 A. Yes, I have.

03 ATTORNEY RAJKOVICH:

04 Okay. The next page  
05 appears to be another diagram,  
06 Sago Mine 40-inch Thick Omega  
07 Block Seal and it shows more  
08 of the wall. At the top of  
09 the page is an eight. Have  
10 you seen that one?

11 A. Yes, sir. That's the one we  
12 built right there.

13 ATTORNEY RAJKOVICH:

14 Okay. The next page  
15 appears to be a letter dated  
16 October 24th from --- to Mr.  
17 Toler from Mr. Strickland and  
18 at the top, I think it says  
19 Approval of Two Left Seals.  
20 Have you seen that one?

21 A. Yes, sir.

22 ATTORNEY RAJKOVICH:

23 The next one is an

24 October 12th letter to Mr.  
25 Strickland from Mr. Schoonover

35

01 and I'll just ask you, have  
02 you seen that letter?

03 A. Yes, I have.

04 ATTORNEY RAJKOVICH:

05 Okay. And next appears  
06 to be a picture of a section.

07 It's entitled Sago Mine  
08 Proposed Temporary Seal Plans  
09 Scale One Inch Equals One  
10 Hundred. Have you seen that?

11 A. Yes, sir. That's the same one  
12 I got out in my car.

13 ATTORNEY RAJKOVICH:

14 Okay. Let's take a  
15 look at the next page. All  
16 right. The next page is  
17 another --- it looks like a  
18 shot of a mine. And it says  
19 Sago Mine Proposed Final  
20 Airflow Design for Seal Plan,  
21 Scale Equals One Inch Equals a  
22 Hundred. Have you seen that  
23 one before?

24 A. No.

25 ATTORNEY RAJKOVICH:

36

01 Okay. And I believe  
02 that's all that you've ---.

03

MR. SWENTOSKY:

04

That's all of those,

05

yes.

06

ATTORNEY RAJKOVICH:

07

Okay. Thank you.

08

MR. WILLS:

09

We'll go ahead and

10

remove that bottom page that

11

you did not see and then we

12

can mark the rest of this as

13

Exhibit Number One.

14

(Scott Exhibit Number

15

One marked for

16

identification.)

17

BY MR. SWENTOSKY:

18

Q. And that is the --- Exhibit

19

One, that is that page --- or the

20

information that Mr. Toler went over

21

with you and Mr. Snyder?

22

A. Yes, sir.

23

Q. Okay. And did you review that

24

with the --- your crew?

25

A. Yes, sir, I have.

37

01

Q. And when was that?

02

A. What day? Oh, boy.

03

Q. Let me put it this way. Did

04

you review it on the first day,

05

second day, third day that you

06

started on the seals?

07

A. The first day I started on the

08

seals, yes, we went over it.

09 Q. Okay. During your  
10 installation of those seals, was  
11 there anyone ever with you? Did  
12 anyone ever from management come up  
13 and speak with you about them or talk  
14 to you about the seals, how the  
15 construction was to be or was going  
16 or were they satisfied with the  
17 construction, observe any  
18 construction?

19 A. Yes, there was. Well, Jeff  
20 Toler made several trips up there to  
21 me. And probably three days before  
22 we sealed them up, a state inspector  
23 did.

24 Q. Okay. And do you recall what  
25 Mr. Toler's conversation with you

38

01 might have been at that time?

02 A. He was --- well, he looked  
03 over the work we was doing on them  
04 and said we was doing a fine job and  
05 we was doing it right.

06 Q. Do you happen to recall what  
07 stages you might have been in  
08 whenever he observed those?

09 A. Well, a couple of them we was  
10 just at the beginning. Some of them  
11 was in the middle, but some of them  
12 been built, and some of them were in  
13 the final stage of it.

14 Q. Are all ten of those seals the  
15 same?

16 A. No, sir. I mean, they're  
17 built of Omega block, but there's two  
18 of them that had a pipe in them for  
19 checking methane and one had a water  
20 trap in it.

21 Q. But they're all Omega seals?

22 A. Omega seals, yes, sir.

23 Q. Okay. Whenever you took your  
24 crew there, did you make a pre-shift  
25 examination prior to that or had it

39

01 already been examined?

02 A. I do a pre-shift before I take  
03 my crew there. I leave them on the  
04 mantrip just in by to that switch and  
05 I do the pre-shift there where we're  
06 working at.

07 Q. Okay. When you go to the mine  
08 in the morning, you go there  
09 specifically for that seal  
10 construction; is that correct? In  
11 other words, you're scheduled to go  
12 there? You're scheduled? Your crew  
13 is scheduled to work there whenever  
14 you go to the mine?

15 A. On that particular job, yes, I  
16 was until it was completed. Yeah.

17 Q. Okay. And Mr. Toler and Mr.  
18 Crumrine, they would have knowledge  
19 of that, that that was --- that you

20 were going to be doing that?

21 A. Mr. Toler and who?

22 Q. Mr. Toler and Mr. Crumrine?

23 A. Oh, yes, sir. Yes.

24 Q. Okay. Would you have any

25 conversations with them in the

40

01 morning, like when you would go there

02 or any type conversation before going

03 underground?

04 A. All the time I talked to them,

05 tell them what kind of supplies I

06 needed before and after work, too.

07 If I had any problem, I went over it

08 with them.

09 Q. Now, all those ten seals, they

10 were --- well, I guess the ones that

11 you worked on, they were all

12 constructed in the same manner?

13 A. Yes.

14 Q. What I'd like to do now, if

15 you would please, is we could step

16 over to the other table and I have a

17 map laying there of the area. Maybe

18 you can mark for me on it which seals

19 that you installed. Can you do that

20 for me? This here, does this look

21 like the area where the seals were

22 constructed?

23 A. Yes, it does. That's the

24 Four.

25

41

01 Can we go off the  
02 record?  
03 OFF RECORD DISCUSSION  
04 (Scott Exhibit Number  
05 Two marked for  
06 identification.)

07 MR. SWENTOSKY:

08 What is shown on the  
09 map, which we'll call Exhibit  
10 Two, Mr. Scott has identified  
11 the first seal that he  
12 installed as across the Number  
13 Three entry. The second seal  
14 he installed was across Number  
15 Two entry. The third seal was  
16 in the crosscut between Two  
17 and Three entry and the fourth  
18 seal was an angle seal in the  
19 Number One entry. And the  
20 fifth seal that he identified  
21 was in the Number Nine entry.

22 BY MR. SWENTOSKY:

23 Q. Okay. Let me ask you, the  
24 Number One seal, does that seem to be  
25 the location on the map? Is that a

42

01 representation of where it was built,  
02 this seal, Number One seal here? Was  
03 it built in the middle of the block  
04 or do you think it was out closer to

05 the crosscut?

06 A. It was supposed to have been  
07 built back in ten feet, at least ten  
08 feet. I mean, not less than ten  
09 feet.

10 Q. Did you measure that distance?

11 A. The ten feet, yes. It might  
12 have been 15 feet, it might have been  
13 20 feet. I couldn't come outby.

14 Q. Had anyone ever marked any  
15 markings --- placed any markings on  
16 the rib of where it should be built  
17 or do you recall seeing that at all?

18 A. No. I built them.

19 Q. You measured ---?

20 A. I measured my ten feet and I  
21 took up inby ten feet the best place  
22 to build them.

23 Q. Did you measure the width of  
24 those entries?

25 A. These entries approximately 18

43

01 to 20 feet.

02 Q. And how high?

03 A. The highest one was this one  
04 here and it was four inches, four  
05 inches above what it was supposed to  
06 have been built.

07 Q. And you identified the Number  
08 Four; is that correct?

09 A. Yes, sir.

10 Q. That fourth seal that you  
11 built?  
12 A. Yes, sir.  
13 Q. Getting back here for a  
14 moment, the Number One seal and Two,  
15 Three and Five seals, that you  
16 identified, those were all eight-foot  
17 high or less?  
18 A. Yes, sir.  
19 Q. And did you measure those?  
20 A. I tried to get them to the  
21 lowest point and the best place to  
22 build them.  
23 Q. Did you measure the height?  
24 A. Yes, sir.  
25 Q. And getting back for a moment,

44

01 the Number Four seal, the angle seal  
02 at Number One entry. And you say  
03 that one --- what did you measure  
04 that one to be?  
05 A. It's four inches higher than  
06 what the specs called for.  
07 Q. And would that have been ---  
08 and the height of that would have  
09 been ---?  
10 A. It was due to on the left side  
11 where the buggies ran, that is the  
12 high side. I mean, they broke the  
13 bottom up so bad. Just on the left  
14 side is shorter --- is higher on the  
15 left side than it was the right side.

16 Q. Would that have been eight  
17 foot four inches then?  
18 A. Yes.  
19 Q. And you say they broke the  
20 bottom up so bad. What was the  
21 bottom of that area?  
22 A. It was damp and kind of muddy.  
23 Q. Muddy. Had they --- how did  
24 they clean that up, the mud?  
25 A. Where the seals were supposed

01 to go?

02 Q. Yes.  
03 A. I used the scoop to clean them  
04 first and then I had to pick and  
05 shovel. Between them was solid.  
06 Q. Were you able to do that?  
07 A. Yes, sir.  
08 Q. Was there any cracks in the  
09 bottom that you recall?  
10 A. No.  
11 Q. And you said the --- getting  
12 back to this for a moment, this  
13 Number Four seal that you drew, the  
14 left side was four inches higher?  
15 A. Yes, the left side. Yes.  
16 Q. That's what I wanted to get  
17 squared away. It's the solid rib  
18 side?  
19 A. Yes, sir.  
20 Q. And how much of that was over

21 height? Were there eight foot of it  
22 in width that was over height, ten  
23 foot of it?  
24 A. I would say six to seven feet  
25 maybe.

46

01 Q. And the rest of it was 20 feet  
02 --- or excuse me, eight foot?

03 A. Yes.

04 Q. That'd be pretty high,  
05 wouldn't it? Okay. This solid rib  
06 at your Number Four seal, I notice  
07 how it's coming across at a point  
08 here. How was that seal located?  
09 Was it in by the corner here?

10 A. The corner wasn't a point, it  
11 was kind of rounded. It's more  
12 square. The seal come flat against  
13 the flat rib.

14 Q. Okay. How wide was that seal?

15 A. I don't know.

16 Q. Did you measure that?

17 A. I measured it, but I forget  
18 what I measured now. I know it was  
19 --- it wasn't much wider than these  
20 ones. And these are --- most of the  
21 widths are within three feet.

22 Q. Within three feet.

23 A. Two, three feet wider than  
24 these other ones, yeah, because of  
25 the angle. But the light come at One

47

01 and Five entry. We dug a hole so the  
02 state inspector, myself and Marty  
03 could go across them and we walked in  
04 behind them and checked, came out on  
05 this side and he had given the okay  
06 to seal them up.

07 Q. So you built the Number Four  
08 seal and the Number Five seal, which  
09 you have identified. Those were  
10 built ---?

11 A. Where a person can crawl  
12 across and go in behind the wall and  
13 check in behind.

14 Q. Okay. How high up did you  
15 build the seal before you went in  
16 behind and did that? Did you just  
17 leave a hole?

18 A. I just left like a hole, four  
19 by four.

20 Q. Four by four. Was that near  
21 the top of the seal?

22 A. Yes, sir, it was. It was  
23 probably that high off the bottom.  
24 We had to climb up in there, go  
25 across. But I had the rest of the

48

01 seal built. Four went from this rib  
02 out. It was this corner I left out  
03 and ---.

04 Q. This corner meaning the right  
05 --- the right corner of Number Four

06 seal?

07 A. Yes, sir. And the left corner  
08 of Number Five seal, I did the same  
09 way.

10 Q. And the left corner meaning  
11 the --- looking in by?

12 A. Yes.

13 Q. Okay. Okay. And then you  
14 went in and examined it. Now, once  
15 you were done doing that, how did you  
16 finish the seal? Did you ---?

17 A. I started --- I finished this  
18 one first and then we done this one.

19 I done Number Four, then I come back  
20 to Number Five and finished it.

21 Q. So you completed Number Four  
22 seal ---?

23 A. After I got the okay to  
24 proceed with it.

25 Q. Okay. You completed that one

49

01 and it was all faced off?

02 A. Yes, sir.

03 Q. And then you went over and  
04 completed the Number Five seal, if I  
05 have this correct?

06 A. Yes, sir.

07 Q. Approximately how much time  
08 did it take you to complete Number  
09 Four and then complete Number Five?

10 A. Probably five hours.

11 Q. Okay. It took you

12 approximately ---. Am I correct in  
13 saying that you're --- it took you  
14 five hours to do?  
15 A. That's on both of them.  
16 Q. Okay.  
17 A. On both of them.  
18 Q. How much time did it take you  
19 to complete the seal?  
20 A. Just to finish the hole?  
21 Q. Complete the hole, yes.  
22 A. I'll say two and a half hours.  
23 Q. Two and a half hours. And  
24 then you went over to Number Five?  
25 A. Approximately two and a half

50

01 hours, yeah.  
02 Q. Two and a half hours. Was  
03 that during the same shift?  
04 A. Yes, sir.  
05 Q. How far in by --- on the Number  
06 Four seal, how far in by on the right  
07 crib?  
08 A. It was ten foot.  
09 Q. Ten foot. Okay. Did you keep  
10 any notes during the construction  
11 process of how you constructed them  
12 or just any type of notes that you  
13 might have had?  
14 A. Yes, I did.  
15 Q. Okay. What type of items did  
16 you mark down on those notes?

17 A. Dates and where I --- I mean,  
18 which one I started first, which one  
19 I went to second. It was really a  
20 map. You got the map there and a  
21 plan. It was one of them maps, I  
22 wrote down all my stuff on.  
23 Q. Okay. And those are ---  
24 that's the extent of the notes that  
25 you kept ---

51

01 A. Yes, sir.

02 Q. --- on that map?

03 MR. SWENTOSKY:

04 Would we be able to get

05 a copy of that map?

06 ATTORNEY RAJKOVICH:

07 I don't see any reason

08 why not. At a break because I

09 think you might have it out

10 there in your truck?

11 A. I think I do. I think I have  
12 them in my car.

13 ATTORNEY RAJKOVICH:

14 Yes.

15 MR. SWENTOSKY:

16 Okay.

17 ATTORNEY RAJKOVICH:

18 We'll take a look at

19 it. We'll get them to you.

20 A. It's the same as the map there  
21 you have. I mean, all my scribbling.

22 MR. MILLS:

23 Any written notes that  
24 you have, if we can get copies  
25 of those, we'd appreciate it.

52

01

02 A. And my plan and those things,  
03 I kept everything together.

04 BY MR. SWENTOSKY:

05 Q. Okay. You indicated that you  
06 cleaned the bottom in that area.

07 Approximately how far on each side of  
08 the seal did you --- the seal  
09 location did you clean the bottom?

10 A. Well, like on the ribs, it's  
11 approximately five feet and the top  
12 is probably five feet. If there's  
13 any wire screen, we took the side  
14 cuts and cut them out so we can get a  
15 good seal. It was approximately five  
16 feet all the way around.

17 Q. All the way around. How did  
18 you cut that screen down?

19 A. With big cutters, wire  
20 cutters. Big wire cutters.

21 Q. Like bolt cutters or ---?

22 A. Yeah, bolt cutters. I mean,  
23 they wasn't real big ones but ---

24 Q. Yeah, I know what you mean.

25 A. --- two foot.

53

01 Q. Sure. Sure. And the location

02 of those seals, you actually measured  
03 back in ten feet, I think you  
04 indicated that?  
05 A. They had to be ten feet or  
06 more.  
07 Q. Or more?  
08 A. I mean, I couldn't cut them  
09 less than ten feet.  
10 Q. Yes. Okay. And when you  
11 removed this screen, you indicated  
12 that you went about five feet. Was  
13 there any kind of a situation any  
14 time where the wire may have --- you  
15 didn't get enough out or it may have  
16 actually gone over the top of the  
17 seal?  
18 A. There was no wire over the top  
19 of the seals, no.  
20 Q. Okay.  
21 A. Nowhere.  
22 Q. Removed that all. And how far  
23 on each side of the seal did you  
24 remove the loose material? Did you  
25 have to take --- like pick stuff off

54

01 of the rib or anything like that?  
02 A. No, the ribs was ---  
03 everything was in good shape. I  
04 mean, it was solid. We just cleaned  
05 the rock dust and it was mostly just  
06 rock, like rock dust. We swept it  
07 like.

08 Q. Okay. No loose material,  
09 chunks or anything like that?  
10 A. It was solid, in good shape.  
11 Q. And on the inby and outby side  
12 of the seal, how much area was clean?  
13 A. What are you talking about  
14 clean? I mean, there wasn't no  
15 garbage, you know what I mean? No  
16 trash or nothing like that.  
17 Q. No. Loose material, mud ---  
18 A. Oh.  
19 Q. --- and so on?  
20 A. How much?  
21 Q. How far on each side of the  
22 seal, inby and outby, distance wise?  
23 A. There's always mud and water.  
24 Q. How far on each side did you  
25 scoop of this seal location?

55

01 A. Well, approximately the whole  
02 ten feet outby and then I scooped  
03 with a scoop and probably 10, 15 feet  
04 inby.  
05 Q. Sure. Was there standing  
06 water in that area at all, like  
07 puddles of water around --- near the  
08 seals?  
09 A. No, not where I built them. I  
10 had to --- I mixed B-Bond, I had to  
11 go get water. If there was water  
12 there, I would have used it.

13 Q. Okay. With all that mud and  
14 water, was there any water coming out  
15 of the roof or out of the ribs and  
16 ---?  
17 A. No, sir.  
18 Q. No? There wasn't any water or  
19 anything coming out of the bottom or  
20 ribs? I was wondering how that  
21 water, all this water and mud got  
22 there if you didn't have any water?  
23 A. I guess during the mining  
24 process that was ---.  
25 Q. Okay.

56

01 A. It's just ---.  
02 Q. So you didn't have to remove  
03 any standing water or anything like  
04 that?  
05 A. No, sir, I didn't.  
06 Q. Was there any cracks in the  
07 floor in the areas that you were  
08 going to build the seal, cracks in  
09 the bottom?  
10 A. No, sir, it looked good to me.  
11 Q. Looked solid? Did you --- the  
12 roof supports, did you install any  
13 roof supports or anything before you  
14 built the seal, like on the inby  
15 side, outby side?  
16 A. That's the first thing I done  
17 was built cribs on the inby side and  
18 I built the seals and I built the

19 cribs on the outby side.

20 Q. Okay. How many cribs did you  
21 build on the ---?

22 A. It calls for two on the inby  
23 side and two on the outby, but some  
24 of them I put extra.

25 Q. Extra? How many extra did you

57

01 put?

02 A. Like in --- from the Number  
03 Ten seal, I think I had six cribs and  
04 one --- one in Number One entry, I  
05 think that's Number One, I had six  
06 built in it.

07 Q. Okay. When you say the Number  
08 Ten, would that have been Number ---  
09 maybe Number Nine entry and the fifth  
10 seal that you ---?

11 A. Yes. Number Nine entry, the  
12 fifth seal I built ---

13 Q. Okay.

14 A. --- is where I built extra  
15 ones.

16 Q. There was six cribs on it.  
17 And we're talking on the inby side?

18 A. On the inby side, sir.

19 Q. Why did you put additional  
20 cribs in there?

21 A. On the One and --- at Number  
22 Five, I built in Number Nine entry,  
23 it had a two-inch steel pipe, 40-feet

24 long and I used it to support the  
25 pipe that went through it.

58

01 Q. Okay. That wasn't because you  
02 needed additional support because of  
03 the roof?

04 A. No. No, it wasn't.

05 Q. Okay. The Number One entry  
06 then, ---?

07 A. I done it because it was on a  
08 diagonal wall and it was close to an  
09 intersection that was a little bit  
10 wider. I mean, it wasn't like on 60.

11 I mean, there was more space in  
12 behind it and I thought it should  
13 need more.

14 Q. Okay. Did anyone tell you to  
15 do that or did you just do that on  
16 your own?

17 A. I did it on my own.

18 Q. Did you have to dig any  
19 trenches or niches in the floor of  
20 the rib at all?

21 A. You mean notches?

22 Q. Notches, yeah.

23 A. No, sir.

24 Q. No. Okay. And you --- and am  
25 I correct that you indicated that the

59

01 --- all the seals were eight foot or  
02 less with exception of that Number  
03 One entry seal, the angle seal that

04 was a little bit higher ---  
05 A. It was four inches ---.  
06 Q. --- higher on the one side?  
07 Okay. Did you use all new blocks or  
08 did you use some used blocks?  
09 A. They was all new, delivered  
10 from outside.  
11 Q. How thick was that seal?  
12 A. Forty (40) --- approximately  
13 40 inches.  
14 Q. Okay. And when you laid those  
15 blocks down, how did you --- can you  
16 tell me a little bit about the  
17 construction?  
18 A. They were staggered, ---  
19 Q. Okay.  
20 A. --- the seams. The joints was  
21 never the same between the rows.  
22 They were staggered back and forth, a  
23 quarter inch seam of B-Bond between  
24 each block and ---.  
25 Q. That would have been two  
60  
01 blocks thick?  
02 A. Yes, sir.  
03 Q. Okay. And tell me a little  
04 bit about this --- you had called it  
05 B-Bond. Was there another name for  
06 that rather than B-Bond?  
07 A. Another name? It was a  
08 special B-Bond bought for this.

09 Q. Okay. 0125crawford-scott.txt What color bag does it  
10 come in?  
11 A. Blue.  
12 Q. Blue. Was that a blue striped  
13 bag?  
14 A. Stripe? No, it had a wide  
15 band around it. It was mostly blue.  
16 Q. All right. Did you put a  
17 pilaster in any of those seals?  
18 A. No, sir, I didn't.  
19 Q. Tell me a little bit about the  
20 first row on how you set down the  
21 first row after you had it cleaned  
22 up. Could you kind of explain that  
23 to me a little bit, please?  
24 A. I took B-Bond bags and dumped  
25 them out to try to get a good seal on  
61  
01 the bottom. We used mortar mix to  
02 try to get a good level start.  
03 Q. Okay. You just opened ---  
04 correct me if I'm wrong, you just  
05 opened the bag and then you just  
06 sprinkled it on the bottom or dumped  
07 it on the bottom?  
08 A. It was at least a half to  
09 three-quarters inch thick.  
10 Q. Okay. Did you mix any water  
11 with that, ---  
12 A. No.  
13 Q. on that first --- on the first  
14 row?

15 A. No. We actually didn't mix,  
16 we --- I mean, it was --- the floor  
17 and everything was kind of --- it was  
18 damp. It drew its own moisture.  
19 Q. So then you just opened up the  
20 bag and dumped it over the area where  
21 the seal was to be located; is that  
22 correct?  
23 A. Yes, sir.  
24 Q. Okay. And after you put that  
25 down, what did you do?

62

01 A. We laid the first row of Omega  
02 block across and --- with B-Bond in  
03 between the joints, then laid a layer  
04 of B-Bond on top of that layer and  
05 then staggered.  
06 Q. Okay. On that first layer  
07 with that dry material, did you put  
08 any additional wet material, wet  
09 mortar material on top of that dry  
10 stuff before you laid it down or ---?  
11 A. Actually water, no.  
12 Q. No. How did you mix the  
13 mortar?  
14 A. In a wheelbarrow with a hoe, a  
15 mortar hoe.  
16 Q. Okay. What was the ratio  
17 there that you used --- or how much  
18 water did you mix with the mortar?  
19 A. Usually a five-gallon bucket

20 full with approximately two and a  
21 half bags of B-Bond.  
22 Q. This B-Bond you're talking  
23 about, would that be like --- would  
24 that have been maybe BlocBond?  
25 A. I think you're right.

01 Q. Was there --- the material,  
02 was there any little styrofoam balls  
03 in it at all or anything?  
04 A. Well, you could see fiber,  
05 like a more fiber ---.  
06 Q. Fiber, okay. But not ---.  
07 A. But it wasn't chunky or coarse  
08 or nothing like that. It was ---.  
09 Q. There wasn't little styrofoam  
10 balls in it or anything?  
11 A. No, sir.  
12 Q. Okay. When you laid that  
13 first row down, the joints on that  
14 row, did you apply a mortar mix to  
15 the vertical joints at all as you  
16 laid them down and then ---?  
17 A. We tried to, yes.  
18 Q. What do you mean we tried to?  
19 A. I mean, if it --- it was like  
20 a quarter inch --- we had to try to  
21 get a quarter inch joint between  
22 them.  
23 Q. Okay.  
24 A. And if it didn't, we went over  
25 the top and took our trowels and

63

01 forced it in.

02 Q. Did you apply --- did you  
03 apply any to the vertical joints  
04 prior to laying that first row of  
05 block down? What I mean is, did you  
06 have the block and then when you laid  
07 the block down, did you apply any  
08 mortar material to the vertical joint  
09 prior to laying the next block down  
10 and butting it against ---?

11 A. Yes, sir. Yes, sir.

12 Q. And then you said that  
13 sometimes you didn't get --- am I  
14 correct in saying you didn't get  
15 enough so you ---?

16 A. We took our trowels and ---  
17 well, dang near every joint, we took  
18 our trowels and tried to get more  
19 mortar down in between them.

20 Q. Okay. So when you laid them  
21 down, you didn't actually butt them  
22 up against each other?

23 A. No. No. I mean, it was  
24 probably a separation like an eighth  
25 or a quarter of an inch.

01 Q. And did you lay that entire  
02 first row down first before starting  
03 another row? Is that how you did  
04 that?

05 A. Yes, that's the way we --- I  
06 mean, one whole row first, then ---  
07 Q. Okay.  
08 A. --- start the second, except  
09 for the one at Number One and Number  
10 Nine entry, we didn't do it that way.  
11 Q. When you say you didn't do  
12 them that way, explain that to me  
13 again, please?  
14 A. Because we had to try to leave  
15 that four-foot space so we could get  
16 in between them.  
17 Q. Okay. What type of protective  
18 equipment did you use when mixing the  
19 mortar, handling the mortar?  
20 A. We had long rubber gloves,  
21 safety glasses, knee pads.  
22 Q. Okay. How was the mortar  
23 applied to the joints and to the  
24 blocks?  
25 A. It was --- we mixed in the  
66  
01 wheelbarrow and poured it in a, I'd  
02 say, a three-gallon bucket and poured  
03 it on top and took our gloves and  
04 trowels and ---.  
05 Q. You used trowels, too?  
06 A. Yes, sir.  
07 Q. And you mentioned the  
08 thickness of that mortar was ---.  
09 A. Approximately a quarter of an  
10 inch.

11 Q. A quarter of an inch, okay.  
12 When you applied that mortar, what  
13 was the consistency? Was it runny?  
14 Was it real thick or ---?  
15 A. It wasn't runny. It was more  
16 in the middle. It's sticky.  
17 Q. Okay. Approximately how ---  
18 do you recall how many bags it might  
19 have taken to complete a seal, let's  
20 say, from the beginning to the end?  
21 A. Approximately two lifts.  
22 Q. Two lifts?  
23 A. I think there's 50, maybe 60,  
24 bags per lift.  
25 Q. And that was 60 bags, 50 or 60

67

01 bags per lift and it took two of  
02 those?  
03 A. 120.  
04 Q. 120 bags ---  
05 A. Yes, sir.  
06 Q. --- to complete a seal? Can  
07 you describe how the remaining the  
08 last blocks were installed? Just how  
09 did you complete the seal?  
10 A. Them four foot holes?  
11 Q. No. Let's take a normal seal,  
12 the first seal you built, how did you  
13 complete it?  
14 A. The last three rows I kept  
15 measuring because some Omega blocks

16 came in eight inches thick and some  
17 of them was six inches. And I was  
18 only allowed to use one layer of  
19 six-inch on top. I had to get close  
20 enough to the top so I can put them  
21 three boards on top and wedge them  
22 in. I tried to get it as close as I  
23 could.

24 Q. How much of a gap was left?

25 A. It wasn't much, an inch and a

68

01 half, two inches.

02 Q. Okay. And then what would you  
03 do? How would you complete the seal?

04 A. We laid the boards on top and  
05 wedged them tight as we could all the  
06 way across and sealed.

07 Q. Approximately how thick were  
08 those boards, do you recall?

09 A. They was rough cut lumber,  
10 20-foot long and about a half inch,  
11 I'd say, three-quarters of an inch.

12 Q. Okay. Were they, the boards,  
13 all in one piece or did you have to  
14 cut any or ---?

15 A. Except for the one in Number  
16 One entry, it was just a tad longer.

17 It wasn't --- I mean, it wasn't  
18 much, probably a foot, foot and a  
19 half.

20 Q. Foot and a half long. You had  
21 to cut a ---?

22 A. We had two --- instead of ---  
23 we had three short pieces and three  
24 long ones for the top layer.

25 Q. Okay. And when you say three

69

01 short pieces and one --- you had  
02 three rows of boards on the top;  
03 correct?

04 A. Correct.

05 Q. Okay. And the boards --- to  
06 complete one row of boards, was that  
07 all one board or was that two pieces?

08 A. One long one and a short one.

09 Q. One long one and a short one.

10 Did they --- did you put them up  
11 against the rib the entire length?

12 A. Yes, sir.

13 Q. Okay. So they butted against  
14 each rib and they were ---?

15 A. Rib to rib, yeah.

16 Q. Okay. Did you have to use any  
17 wedges or anything on the ribs as you  
18 were ---?

19 A. As we built we used wedges to  
20 keep it tight.

21 Q. Tight. Okay. Whenever you  
22 drove --- how did you put the wedge  
23 in?

24 A. Straight down in from the top  
25 with an axe.

70

01 Q. An axe? There was an axe.  
02 Okay. And after you did that, what  
03 did you do against the ribs?  
04 A. Sealed it the best we could  
05 with BlocBond.  
06 Q. Okay.  
07 OFF RECORD DISCUSSION  
08 BY MR. SWENTOSKY:  
09 Q. The short board you used on  
10 top, how long was that?  
11 A. Probably the longest one was  
12 18 inches.  
13 Q. Okay. To complete the ---?  
14 A. To complete the full.  
15 Q. Yeah. You cut that off  
16 another board?  
17 A. Yes, sir.  
18 Q. Did you ever use --- did you  
19 ever have to use plywood up there?  
20 Maybe you didn't have enough boards  
21 or anything, did you ever have to use  
22 plywood?  
23 A. No. We just used furring  
24 strips. That's what they called the  
25 boards was furring strips.

71

01 Q. Okay. The wedges you put in,  
02 how far apart were those wedges, do  
03 you recall?  
04 A. They was ---.  
05 Q. The wedges to tighten up the  
06 boards?

07 A. I mean, they was tight from  
08 one end to the other. They was  
09 touching each other all the way  
10 across.  
11 Q. The wedges to tighten up that  
12 board on top?  
13 A. Yeah.  
14 Q. The distance between the  
15 wedges across the top?  
16 A. They touched each other. I  
17 mean, you put like one up and you put  
18 another and wedged it in and you'd  
19 start another one and wedge it in  
20 tight. It was continuous all the way  
21 across.  
22 Q. You wedged from the back and  
23 you wedged from the front?  
24 A. Yes, sir. There's always one  
25 guy on the back side. We handed him

72

01 mud and wedges and whatever he needed  
02 across the wall to him.  
03 Q. Okay. When you put one ---  
04 the first wedge in to tighten the  
05 board up, the boards are already in  
06 and you put the first wedge in, okay,  
07 the distance --- when you put the  
08 second wedge in going across, how far  
09 were those apart?  
10 A. They was touchi ng.  
11 Q. Touchi ng each other?

12 A. They was touchi ng each other.

13 Q. So when you looked up, there  
14 was a continuous row of wedges across  
15 the top?

16 A. Yes.

17 Q. Okay. Was there any room in  
18 between them to put mortar?

19 A. There might have been like a  
20 --- there was small holes but ---.

21 Q. Is that --- did you look at  
22 the other seals at all, the ones you  
23 didn' t build?

24 A. Yes, si r.

25 Q. Were the wedges in the same

73

01 ---

02 A. Yes, si r.

03 Q. --- as you were putting in,  
04 continuous across the top?

05 A. Whenever Jeff was bui l di ng  
06 them other seals, I made trips up  
07 there. I seen how --- I observed hi m  
08 building them seals, because I done  
09 other work, too. I mean, I also  
10 worked outby. I wasn' t far from  
11 where Jeff was worki ng --- we was  
12 working together really. But he was  
13 in charge of the seals he bui l t.

14 Q. Okay. And the wedges on those  
15 seals were the same as yours?

16 A. It was the same as mi ne.

17 Q. Were both sides of the seal

18 faced with material at all?  
19 A. Yes, sir.  
20 Q. And what material did you use  
21 to do this?  
22 A. BlocBond.  
23 Q. BlocBond. Approximately how  
24 thick were you putting that material  
25 on?

74

01 A. We tried to get a quarter of  
02 an inch or better.  
03 Q. And how did you coat the inby  
04 side, your head side? I believe you  
05 did say that you had someone on the  
06 inby side as you were building that?  
07 A. There was a man standing, or  
08 two. I mean, at times it might have  
09 been two. At times it might have  
10 been one.  
11 Q. Yeah.  
12 A. There was always somebody on  
13 the inby side BlocBonding and  
14 building, going up.  
15 Q. And you just judged that, you  
16 didn't measure any thickness or  
17 anything of the ---?  
18 A. We judged.  
19 Q. Judged. Once the seal was  
20 completed, did you go around the  
21 perimeter of the roof, ribs, floor  
22 with material at all, kind of at all?

23 A. It was ---.  
24 Q. Did you apply additional  
25 mortar ---?

75

01 A. Yes, around the edge of the  
02 seal and roof and the bottom. We had  
03 extra material sealing them up.  
04 Q. Okay. Did your crew install  
05 the water trap?  
06 A. Yes, I did.  
07 Q. How many water traps are in  
08 that seal?  
09 A. There's one. One seal had one  
10 water trap.  
11 Q. Okay. How large was that seal  
12 --- or that water trap?  
13 A. I believe it was six inches.  
14 It's in the plan.  
15 Q. Okay. You put in there what  
16 was in the plan?  
17 A. Yeah.  
18 Q. Okay. What was that water  
19 trap made of?  
20 A. Plastic, it was plastic pipe.  
21 I don't know what you call it, PCV  
22 (sic). You glued it together.  
23 Q. Was it white?  
24 A. White, yes.  
25 Q. Okay. And you glued it

76

01 together you said?  
02 A. Yes. The angles to make the

03 trap, it was glued together with some  
04 kind of glue to glue that pipe.

05 Q. Okay. Did you install any  
06 screws in the joints also at all,  
07 metal screws?

08 A. No, sir.

09 Q. And it was one trap?

10 A. One water trap.

11 Q. Okay. Kind of describe to me  
12 a little bit about how that water  
13 trap was installed during the  
14 construction process. You know, you  
15 come up so far and it became --- it  
16 came time to install that water trap,  
17 how did you put that in?

18 A. By the plan, it was supposed  
19 to be a certain distance from the  
20 bottom.

21 Q. Okay.

22 A. And the long piece of pipe  
23 going through the wall --- the seal  
24 itself. I put it in and sealed it  
25 around it and let the trap off until

77

01 the seal was completed and then I put  
02 the trap on.

03 Q. Okay. To put that pipe in,  
04 did you notch blocks out?

05 A. Yes, sir, it was rounded like  
06 the pipe and BlocBonded.

07 Q. Yeah. How did you carve that

08 block out, did you have to cut any  
09 block to get that --- to put that in?  
10 Did you have to cut any block?  
11 A. Yes, had to make it rounded.  
12 Q. How did you do that?  
13 A. With a pick hammer or a block  
14 hammer and my axe or --- we used a  
15 block hammer or an axe.  
16 Q. You notched the blocks out  
17 with an axe?  
18 A. Yeah, kind of made it rounded  
19 so it would fit tightly in there.  
20 Q. Okay. The other blocks, how  
21 did you cut the other --- or when you  
22 had to have smaller blocks, what did  
23 you use there?  
24 A. Bow saw.  
25 Q. But you didn't have to use a  
78  
01 bow saw on this, where the water trap  
02 was?  
03 A. No. No. I didn't want it  
04 round to cut a round circle with our  
05 bow saw.  
06 Q. Okay. So you just chipped it  
07 out with an axe or a hammer?  
08 A. Yes, sir.  
09 Q. All right. And after you had  
10 that done, what did you do with it?  
11 A. We placed a pipe in and we  
12 took B-Bond and sealed around the  
13 best that we could.

14 Q. And then did you leave it set  
15 for any length or time or did you  
16 just go ahead and ---?

17 A. Just kept right on laying  
18 layers of ---.

19 Q. Of block?

20 A. Yes, sir.

21 Q. Okay. The gas sampling tube,  
22 can you kind of --- what was that  
23 made of?

24 A. It was a two-inch steel pipe,  
25 40-feet long placed in a seal 12

79

01 inches from the top, approximately  
02 three foot stuck outby and the rest  
03 of it was inby supported 12 inches  
04 from the top on cribs.

05 Q. Okay. Was there another pipe  
06 installed with that?

07 A. Yes, sir, we have a half-inch  
08 copper pipe inside.

09 Q. How was the --- and what did  
10 the copper pipe have on the end of  
11 it?

12 A. It had a shutoff valve on the  
13 outby side.

14 Q. Yes. And so that was --- the  
15 steep pipe acted as like a conduit;  
16 right?

17 A. A conduit? It was ---

18 Q. It was inside the ---.

19 A. It was to protect the copper  
20 pipe ---  
21 Q. Yes.  
22 A. --- the steel pipe.  
23 Q. How was the end of that sealed  
24 off? In other words, when the copper  
25 pipe came out of the steel pipe and

80

01 the copper pipe is smaller in  
02 diameter than the steel, yeah, okay,  
03 so how is that sealed around?

04 A. I forget the maintenance  
05 foreman's name, his first name's  
06 Vern, made a reducer to make it come  
07 down to a half inch. It was reduced  
08 down from two inches to half an inch.

09 Q. Okay. Did you install any  
10 supports on the outby of the seal, on  
11 the outby side?

12 A. Yes, sir, I did. I've set two  
13 cribs four foot from the seals,  
14 except for the one in Number Nine  
15 entry.

16 Q. That would have been the fifth  
17 seal that you identified?

18 A. That I built. Yeah, the fifth  
19 one I finished, yes, sir.

20 Q. And what did you put there?

21 A. Extra cribs.

22 Q. Do you happen to know how  
23 many?

24 A. I'm going to say seven.

25 Q. Okay. Why was that --- why

81

01 did that require extra ---?

02 A. Because it had a bad --- on  
03 the right side facing inby, it had a  
04 bad cutter.

05 Q. On the right side, that would  
06 be the solid rib side?

07 A. The solid rib side.

08 Q. And you had a bad cutter. Can  
09 you just describe that for me a  
10 little bit?

11 A. The roof looked --- I mean, it  
12 looked just --- just from the rib  
13 after the first row of bolts, it had  
14 --- it was falling out and it looked  
15 to me it needed extra support to  
16 protect the seal.

17 Q. Okay.

18 OFF RECORD DISCUSSION

19 BY MR. SWENTOSKY:

20 Q. Can we --- we'll just go back  
21 over to the map here and maybe you  
22 can show me on the map and we'll  
23 identify where that cutter was. Use  
24 that marker if you would, please and  
25 kind of show me --- or put a place on

82

01 the map where that cutter was  
02 located.

03 WITNESS COMPLIES

04 A. Right here.  
05 BY MR. SWENTOSKY:  
06 Q. Okay. You're indicating the  
07 cutter was on the solid rib side at  
08 Number Nine entry, outby the seal.  
09 Did that cutter extend inby the seal?  
10 A. No. No, sir. No. It might  
11 not be quite against this seal that  
12 far, the extra crib --- I mean, it  
13 was --- I mean, it was past this  
14 intersection is where that cutter is.  
15 I had built the cribs approximately  
16 down to here.  
17 Q. Just mark with an X where you  
18 think you made the cribs.  
19 A. I think I had seven. I can't  
20 remember.  
21 Q. So you marked with a red X,  
22 the location that you believe to be  
23 ---?  
24 A. But you could still get a  
25 scoop --- I still made a scoop

83

01 through here. That's a lot of room  
02 to run the scoops through here.  
03 Q. Scoop through the crosscut in  
04 Number Nine entry to Number Eight  
05 entry?  
06 A. Yeah, when we got down we  
07 cleaned them of rock dust, the whole  
08 area.  
09 Q. This cutter that you have

10 identified here, did this cutter  
11 start right at the seal?  
12 A. I don't believe it was. To my  
13 knowledge, I don't believe it was  
14 real tight against the rib, no. You  
15 had good rib on top.  
16 Q. Is that the only place these  
17 seals or the roof of these seals  
18 attached to any kind at top? Were  
19 there any others?  
20 A. No. The rest of them looked  
21 good. Just this one here I'd say  
22 extra room. There's extra room in  
23 this one.  
24 Q. Go ahead and mark on this map,  
25 if you would please, the Number Four

84

01 seal area where you put the  
02 additional seals --- or excuse me ---  
03 A. I believe it's Five, we built  
04 in here. Just because this was wider  
05 in this area.  
06 Q. Can you mark with a red X, the  
07 approximate location?  
08 A. The trap was in this side of  
09 this one. The trap was towards the  
10 middle of this one. And this ---.  
11 Q. And that's in the --- the trap  
12 was in the middle --- the water trap  
13 was in the middle of the Number One?  
14 A. It was toward the left side,

15 over on the left.

16 Q. And the sampling tube in the  
17 Number ---.

18 A. Was on the left side of this  
19 one.

20 MR. WILLS:

21 Left side looking inby?

22 A. But there was extra cribs  
23 built here for the 40-foot piece of  
24 pipe, 12 inches from the top.

25 MR. WILLS:

85

01 Mr. Scott, when you  
02 said left side, were you  
03 looking --- in the inby  
04 direction would be the left  
05 side?

06 A. Yes, sir.

07 MR. WILLS:

08 Okay. Can we just  
09 clarify here. I'm a little  
10 confused because we're using  
11 this red line indicating the  
12 cutter. It stops inby the  
13 crosscut, but I think you said  
14 it extended outby the  
15 crosscut.

16 A. It was more. I mean, it  
17 extended some even past these cribs.

18 BY MR. SWENTOSKY:

19 Q. Can you draw how far you think  
20 it would have extended outby?

21 A. I don't know exactly how far  
22 it extended outby.

23 Q. Just to the best --- to the  
24 best of your recollection?

25 A. I know it was past this, I

86

01 would say approximately --- it was  
02 here.

03 Q. Okay. So you're indicating  
04 that ---.

05 A. But this whole area was  
06 screened and bolted. It had screen  
07 and it was bolted in this entry

08 Q. What entry did you cut the  
09 screen out?

10 A. Number Nine entry and I'm not  
11 sure.

12 Q. Okay. But you personally cut  
13 the screen out of the seals that you  
14 ---?

15 ATTORNEY WILSON:

16 Do you want to look at  
17 this other map here?

18 A. I believe it was up in this  
19 area.

20 BY MR. SWENTOSKY:

21 Q. So you cut the screen out in  
22 Number Five also?

23 A. Yes, sir. No, I didn't cut it  
24 out of this one. I mean, it was cut  
25 out, but I didn't do --- I didn't

01 ----.

02 Q. Okay. What I'm asking is ----.

03 A. It was cut out. I seen it cut  
04 out myself.

05 Q. Okay. What about the other  
06 --- the ones that you put in, did you  
07 cut ---?

08 A. Just the one on Nine.

09 Q. The screen in the other  
10 entries was already cut out in the  
11 seals that you built?

12 A. It wasn't done yet. It was  
13 just --- they were bolted.

14 ATTORNEY WILSON:

15 Can you just write in  
16 here cutters so that that's  
17 indicated on the map?

18 WITNESS COMPLIES

19 BY MR. SWENTOSKY:

20 Q. We can go sit down. Did you  
21 ever detect any methane up in that  
22 area?

23 A. No, sir.

24 Q. No. The entire time up there,  
25 you never detected ---?

01 A. The entire time I built the  
02 seals, no methane was observed.

03 Q. Did you ever hear anyone else  
04 detecting or might have mentioned to  
05 you that we detected methane up there

06 or somewhere else.  
07 A. I never heard nobody say that  
08 they detected methane.  
09 Q. After you were completed, were  
10 there any additional supplies left up  
11 there, such as the boards or wedges,  
12 blocks?  
13 A. That was the cleanest area I  
14 seen. I cleaned it up right.  
15 Everything extra I carried out.  
16 Q. Okay. So there wasn't any  
17 boards or wedges or ---  
18 A. No, sir.  
19 Q. --- blocks left up in that  
20 area?  
21 A. No, sir.  
22 Q. Where did you take them to?  
23 A. Out to the track. Well, Two  
24 Left section that was my only way  
25 out. Up on the Two Left section,

89

01 loaded in their supply area.  
02 Q. So up to the Two Left section?  
03 A. Yes, sir.  
04 Q. You mentioned about rock  
05 dusting, how well was that rock  
06 dusted? Or what did you do to rock  
07 dust it?  
08 A. We put 20, approximately 20, I  
09 believe there was 2,000 pound bags of  
10 rock dust from the seals, four breaks

11 outby. From the seals to 60 wall ---  
12 at the 60 wall is the main intake  
13 going into Two Left.

14 Q. And whenever you were done,  
15 how was that --- was there a  
16 thickness to the rock dust? When you  
17 stepped in it, did it come up onto  
18 ---?

19 A. Yes, sir, it did. It was  
20 approximately half an inch to  
21 three-quarters of an inch thick on  
22 the foot wall.

23 Q. The area in front of the  
24 seals, was it large enough to --- in  
25 other words, if you would have had to

90

01 build another seal in front of it,  
02 the cleaned area, was that large  
03 enough to accommodate another seal if  
04 they would have to have put it in?

05 A. Yes, sir.

06 Q. There weren't any piers or  
07 footers laid down before you in any  
08 of those seals? Pier, like a  
09 concrete footer? You didn't use any  
10 of those?

11 A. No, sir.

12 Q. Okay. The seals, you used the  
13 same mortar for the entire time that  
14 --- all the seals, the same type of  
15 mortar?

16 A. Yes, sir.

17 Q. The bags of mortar, what ---  
18 do you know approximate weight of  
19 those bags?  
20 A. They was too heavy, 50 pounds.  
21 Q. Okay. Did mortar ever come in  
22 buckets or anything or did you just  
23 use all bags?  
24 A. On the seals, I used all bags.  
25 Q. And the mortar that was

91

01 applied to the face though, it was  
02 applied by the --- by your hands and  
03 did you use trowels on it also?  
04 A. It was mostly done with  
05 gloves.  
06 Q. Mostly with gloves, okay. And  
07 this was your first experience with  
08 Omega blocks?  
09 A. It was my first experience  
10 with Omega block seals, yes, sir.  
11 Q. We were speaking earlier about  
12 the wedges. How did you put the  
13 wedges in?  
14 A. With our axe and pick hammer.  
15 Q. Axe and pick hammers, okay.  
16 Got them up real tight?  
17 A. Tight as we can get them.  
18 Q. Okay. The wedges and the  
19 boards, were they wet or were they  
20 dry?  
21 A. I mean, they wasn't wet-wet.

22 They was probably, I'd say, damp.

23 Q. Okay. Just like a damp ---

24 dampness to it?

25 A. It could have been rained on

92

01 or snowed on outside.

02 Q. Whenever the material that you

03 put on --- the mortar that you put on

04 the outside to seal the face, did it

05 remain soft to the touch or did it

06 harden up over a period of time?

07 A. Goodness, it was hard. I

08 mean, it got hard fairly quick.

09 Q. Did you ever have a reason to

10 question whether those seals might

11 have been installed --- not installed

12 properly over the other ones? Was

13 there ever any question? Did anyone

14 ever question you about that?

15 A. Nobody's ever questioned me

16 personally, no.

17 Q. Okay. Do you happen to know

18 who the person who's responsible for

19 submitting the plans to MSHA?

20 A. Who submitted these plans to

21 MSHA?

22 Q. Yeah. Do you have any idea

23 who that might be?

24 A. Jeff Toler as far as I know.

25 Q. Did you ever --- after the

93

01 seals were completed, did you ever

02 have an opportunity to, you know,  
03 make an examination around those  
04 seals at all after they were  
05 installed and everything was  
06 completed?  
07 A. After they was installed ---  
08 Q. Yes.  
09 A. --- I mean, completed, the  
10 seals itself, ---  
11 Q. Yes.  
12 A. --- the next week that's when  
13 we done our cleanup outby and rock  
14 dusted. That's all.  
15 Q. Was that the last time then  
16 you were up there?  
17 A. After I rock dusted --- I  
18 mean, done the air change and rock  
19 dusted, I more or less just signed  
20 off the job that it was completed.  
21 Q. Okay.  
22 A. Never went back.  
23 Q. Okay. You were never assigned  
24 to examine the seals as part of a  
25 weekly examination or anything?

94

01 A. No, sir.  
02 Q. Okay. And you said you made  
03 the air change up there. Which way  
04 was the air --- how were the seals  
05 ventilated during the construction  
06 process? How did the intake come in

07 and how did the return go out?  
08 A. That's a good question. The  
09 return was Number Nine entry.  
10 Q. Okay.  
11 A. That was the return side. And  
12 the air come up the left side and  
13 swept across and went down Number  
14 Nine.  
15 Q. Okay. Maybe we could just go  
16 up to the map and we could --- that  
17 would be better to look at and you  
18 could kind of show me that. We'll  
19 use this ---.  
20 MR. SWENTOSKY:  
21 We'll call this Exhibit  
22 Number Three.  
23 (Scott Exhibit Number  
24 Three marked for  
25 identification.)

95

01 BY MR. SWENTOSKY:  
02 Q. And if you could just draw  
03 prior to how the air would be --- the  
04 seals were ventilated during the  
05 construction process?  
06 A. That was --- during the  
07 process?  
08 Q. Yes.  
09 A. These here cuts off.  
10 Q. Well, you're looking here at  
11 --- let's just try this. We're  
12 looking at the sloping line between

13 61 and 62 block on the North main,  
14 Two North mains. And that would be  
15 the block outby, the next block,  
16 outby the seal line; correct?  
17 A. Correct. The air was from  
18 these entries.  
19 Q. If you could draw on there.  
20 A. The entry?  
21 Q. Yes. Okay. Just draw the  
22 stoppings in there with a black  
23 marker.  
24 A. I mean, some of them had  
25 doors. These were all the solid.

96

01 ATTORNEY WILSON:  
02 Let's go off the record  
03 while he does that.  
04 BY MR. SWENTOSKY:  
05 Q. Okay. The Number Ni ne entry  
06 was return and you had block  
07 stoppi ngs between ---.  
08 ATTORNEY WILSON:  
09 Okay. Denny, do you  
10 want to go off the record  
11 while he does that and then  
12 you can expl ai n?  
13 MR. SWENTOSKY:  
14 Yeah, we can do that.  
15 ATTORNEY WILSON:  
16 Because she' s havi ng a  
17 hard ti me understandi ng

18 MR. SWENTOSKY:  
19 Okay.  
20 SHORT BREAK TAKEN  
21 MR. SWENTOSKY:  
22 Okay. There was a  
23 break taken to --- for Mr.  
24 Scott to provide us with some  
25 note material that he had  
  
01 taken during the construction  
02 of the seals. And okay. I  
03 just have some follow-up  
04 questions.  
05 ATTORNEY RAJKOVICH:  
06 Can I interject  
07 something? At some point, are  
08 you wanting to get on the  
09 record what he provided?  
10 ATTORNEY WILSON:  
11 Yes. Yeah, we'll put  
12 that in the record.  
13 ATTORNEY RAJKOVICH:  
14 We'll just hold off.  
15 BY MR. SWENTOSKY:  
16 Q. Okay. Talking about the rock  
17 dust, was there any rock dust applied  
18 on the inby side of the seals?  
19 A. Not by me, no, sir.  
20 Q. How did the --- was there any  
21 rock dust inby the seals at all that  
22 you noticed during the construction  
23 of the seals?

97

24 A. To me, it just looked like  
25 when they mined that area that's what

98

01 they used. I mean, I never applied  
02 none or nobody else has.

03 Q. Okay. Like a grey ---?

04 A. They pulled back out of that  
05 section cutting the other seam of  
06 coal, a break and a half, two breaks  
07 inby my seal where it finished up at.

08 I never went up --- I didn't go up  
09 in that area, no, sir.

10 Q. The mud material that you  
11 pushed, did you push it up and let it  
12 lay or did you remove it or ---?

13 A. It was inby.

14 Q. Inby. And you just ---

15 A. Inby the seals.

16 Q. --- pushed it up? Okay. When  
17 you were laying the different layers  
18 of block down, did you apply water to  
19 the blocks or just lay them up there  
20 dry or ---?

21 A. The blocks was dry with B-Bond  
22 or --- BlocBond added.

23 Q. Okay. But you didn't apply  
24 any water ---

25 A. No.

99

01 Q. --- to the individual blocks  
02 as you laid them down?

03 A. No, sir.

04 Q. Okay. Do you recall seeing

05 any pipes, cables, any metallic

06 material of any kind laying on the

07 bottom that may have been left there

08 during the construction of the seals

09 that protruded from the outby side

10 into the inby side?

11 A. Extra material just laying

12 around?

13 Q. Yeah, pipes?

14 A. No. No, there was no ---.

15 Q. The rails?

16 A. No rails. I pulled the rail

17 out of the track entry. They all

18 went outby.

19 Q. Okay. Was there any type of

20 messenger wire or anything hanging

21 that might have been left over there?

22 A. No, sir.

23 Q. Okay. If I can --- for a

24 minute, if I can go back to the

25 sampling pipe, the gas sampling pipe

100

01 that you put in Number ---

02 A. Nine entry.

03 Q. --- Nine entry.

04 A. In between the seal.

05 Q. Okay. We had discussed that

06 it was a galvanized steel pipe --- or

07 a steel pipe that a smaller, there

08 was --- like a two-inch as an

09 example, and a one-inch or so copper  
10 pipe ---  
11 A. Half inch.  
12 Q. --- half inch copper pipe was  
13 inside the steel pipe?  
14 A. Yes, sir.  
15 Q. Okay. The area where the  
16 copper pipe extended out through on  
17 the outby side of the seals, there  
18 would be an area around between the  
19 inside of the steel pipe and the  
20 outside of the copper pipe; okay?  
21 How was that area sealed up where  
22 that come out?  
23 A. I mentioned that Vern,  
24 electrician foreman, made me a  
25 reducer collar --- or to reduce down  
101  
01 from two inch. He give that to me in  
02 one piece and I put the copper pipe  
03 on the end and threaded it in.  
04 Q. Okay. Then the copper pipe,  
05 then did it --- was there like an  
06 adapter, is that what you're saying?  
07 Like an adapter?  
08 A. Yeah, there was several  
09 adapters from two inch down to a half  
10 inch. It was probably six inches  
11 long.  
12 Q. Okay. So there wasn't any  
13 sealant or anything you used to do

14 that?  
15 A. That was all pipe.  
16 Q. That was all done through the  
17 reducer?  
18 A. All done by reducers and pipe,  
19 yes.  
20 Q. Did the copper pipe actually  
21 screw into the --- into the reducer?  
22 A. It was on --- what do you call  
23 it, soldered on.  
24 Q. Oh, okay.  
25 A. You know what I'm trying to  
01 say ---?  
02 Q. Soldered?  
03 A. Yeah.  
04 Q. Like soldered on?  
05 A. You got it.  
06 Q. Okay. So that was soldered  
07 --- the copper pipe was soldered onto  
08 the reducer?  
09 A. Yes.  
10 Q. Okay. And the reducer  
11 threaded onto the steel?  
12 A. Yes, sir.  
13 Q. Okay. Then on the outby side  
14 of the collar, then the valve  
15 attached to that; is that correct?  
16 A. Yes, the valve was the very  
17 last piece on.  
18 Q. Okay. Just for clarification  
19 and maybe the best place for us to do

102

20 this is over on the table so that ---  
21 in case we have to make any markings.

22 MR. SWENTOSKY:

23 Could we go over there?

24 And this will be Exhibit Scott  
25 Number Four. And it is a

103

01 drawing of the seal, which is  
02 completed. It indicates  
03 showing the boards on top of  
04 the seal with wedges on top of  
05 the boards.

06 (Scott Exhibit Number  
07 Four marked for  
08 identification.)

09 ATTORNEY WILSON:

10 What was Number Three?

11 MR. SWENTOSKY:

12 The Exhibit Number  
13 Three was a one-inch scale map  
14 of the One Left, Two Left and  
15 the seal area and in by the  
16 seal area.

17 ATTORNEY RAJKOVICH:

18 Just for the record,  
19 this is a blowup and where did  
20 this come from then?

21 MR. SWENTOSKY:

22 This is a blowup of the  
23 plan that was submitted to  
24 MSHA, part of the plan that

25 was used to construct the

104

01 seals.

02 BY MR. SWENTOSKY:

03 Q. Does this represent that  
04 drawing?

05 A. Yes, it is a plan, part of the  
06 plan.

07 Q. Okay. And we earlier  
08 discussed how you laid the boards on  
09 top and the wedges that went on top.  
10 Is that a representation of how you  
11 installed those wedges as far as the  
12 distance between the wedges?

13 A. No, mine weren't installed  
14 that way.

15 Q. Okay.

16 A. My wedges was more or less  
17 turned the other way, butt to butt,  
18 all the way across. Solid wedges all  
19 the way across.

20 Q. We can sit down.

21 ATTORNEY WILSON:

22 Let me just see if I  
23 can clarify. The diagram here  
24 shows the wedges,  
25 perpendicular to the board,

105

01 but you're saying it was in  
02 the same direction of the  
03 board, the wedges?

04 A. My wedges, yes, sir.

05 BY MR. SWENTOSKY:

06 Q. Okay. Did you then lay them  
07 on top of the board and then drive  
08 the wedges at an angle over the top  
09 ---?

10 A. We started at an angle  
11 approximately like that and drove  
12 them in, then we took our hammers and  
13 shoved them around this way. It was  
14 butt to butt all the way across.

15 Q. So then you started the wedges  
16 from the outby side driving them into  
17 --- over the top of the board?

18 A. Yes, sir.

19 Q. Okay. Then once you got it  
20 driven into a point, then you  
21 actually hammered the outside of the  
22 wedge in ---?

23 A. Flush.

24 Q. So it was parallel with the  
25 board?

106

01 A. Yes, sir.

02 Q. Same direction as the board?

03 A. Yes, sir.

04 Q. During that process, did you  
05 turn all the wedges the same way or  
06 did you turn one the thick end, like,  
07 to the right --- or excuse me, to the  
08 left and then you drive them ---?

09 A. Some of them to the left or

10 top of them, turned them the other  
11 way and do them backwards.  
12 Q. Okay. So the thick end was to  
13 the --- on the left side and then you  
14 drove a second wedge over the top or  
15 underneath that wedge with the butt  
16 end that you were hammering would be  
17 to the right so that they slid over  
18 the top of each other?  
19 A. Yes, sir.  
20 Q. And at that point, then you  
21 drove the wedge, the butt end of the  
22 wedge, the thick end of the wedge  
23 back into over the top of the board  
24 to make it flush with the board?  
25 A. Yes, sir.

107

01 Q. And that's the process that  
02 you used for the --- all the seals?  
03 A. My seals, yes, sir.  
04 Q. Were all three boards  
05 installed that way?  
06 A. Yes, they was.  
07 Q. With the wedges on top; right?  
08 A. But the middle board only had  
09 the --- we couldn't get as big of  
10 wedge --- we couldn't --- in the  
11 middle, we couldn't actually get them  
12 butt to butt like these in here.  
13 Q. Okay.  
14 A. And this --- I mean, the head  
15 went clear to the ---.

16 Q. Yeah. But you drove the  
17 wedges over the top of the board in  
18 the middle board also, whatever you  
19 did?

20 A. What we could get in, but  
21 mostly the one was in by side, out by  
22 side butt to butt. And that's as  
23 tight as you could ---.

24 Q. Okay. Approximately how many  
25 --- or how far apart would the wedges

108

01 have been on the center board?

02 A. Probably a foot and a half,  
03 two foot. I mean, you couldn't them  
04 near as tight as you did the other  
05 side.

06 Q. And why was that?

07 A. You just didn't have the room  
08 to be able to get in there and drive  
09 them in there tight.

10 Q. You meaning your ---?

11 A. Well, that thing is 40-inches  
12 wide and the middle board was  
13 approximately, I'd say, 20 inches in,  
14 and you couldn't hardly reach back in  
15 there 20 inches to drive them.

16 Q. Okay. So then that center  
17 board was put in and all of the  
18 blocks were laid before you put any  
19 wedges in?

20 A. Yeah.

21 Q. Okay.  
22 A. Yeah, all the blocks are laid  
23 up to here and we laid the three  
24 boards on top. We did it that way on  
25 the inby side, wedges, the middle

109

01 board that goes here to the outside,  
02 where it --- the inby side, butt to  
03 butt, tight. I mean, it was  
04 excellent tight.

05 Q. So actually then that center  
06 board, if I describe this correctly,  
07 it was so close --- the blocks were  
08 so close to the roof and you had  
09 mentioned earlier, I believe, an inch  
10 and a half to two inches from the  
11 roof blocks, so there was not room  
12 enough to actually get a hammer back  
13 in to get the wedges back in there to  
14 tighten them up?

15 A. They was tight.

16 Q. As tight?

17 A. No, these back here, we  
18 couldn't get them tighter, them ones  
19 in the middle.

20 Q. And they were approximately  
21 --- how far did you say, ten feet?

22 A. I don't know.

23 Q. The ones on the outside were  
24 close?

25 A. Yes, sir. Probably the one on

01 the inby in the middle were 18, 20  
02 inches.

03 Q. Okay.

04 MR. SWENTOSKY:

05 Do you want to go  
06 through the rest of it?

07 ATTORNEY WILSON:

08 Sure.

09 A. Yes, sir.

10 ATTORNEY WILSON:

11 Yeah, why don't we go  
12 ahead and we'll identify for  
13 the record the notes that you  
14 brought in. Are these a copy  
15 of those notes that you gave  
16 to us?

17 WITNESS REVIEWS DOCUMENT

18 A. Yes, it is.

19 ATTORNEY WILSON:

20 Just for the record,  
21 let me just run through and  
22 just explain the page. So  
23 there are six pages, the first  
24 page is a map with some  
25 notations on it. The second

111

01 page, the top says Guidelines  
02 of Installation of Omega Block  
03 Concrete Seals. Third page is  
04 a diagram of the blocks, it  
05 says Sago Mine, 40-Inch Thick

06 Omega Block Seal Construction  
07 Plan. The fourth page is  
08 another diagram of the wall  
09 which says Sago Mine 40-inch  
10 Seal Omega Block Seal. The  
11 fifth page is a diagram page.  
12 It says Method for Sealing  
13 Abandoned or Worked Out Areas.

14 ATTORNEY RAJKOVICH:  
15 Can I stop you there  
16 one second?

17 ATTORNEY WILSON:  
18 Yes.

19 ATTORNEY RAJKOVICH:  
20 I think you said page  
21 three and four, both of them  
22 are diagrams of the blocks,  
23 but I don't know that we've  
24 got enough to distinguish  
25 between the two, to know which

112

01 one is which. I mean, it  
02 sounded like the title had  
03 about the same title on both  
04 of them.

05 MR. SWENTOSKY:  
06 Do you want to number  
07 these pages or circle them for  
08 ---.

09 ATTORNEY WILSON:  
10 Okay. That doesn't  
11 seem --- well, we'll put in  
Page 92

12 the upper right-hand corner  
13 numbers one through six.

14 ATTORNEY RAJKOVICH:

15 All right.

16 ATTORNEY WILSON:

17 And we'll go ahead and  
18 mark that as Exhibit Five.

19 MR. SWENTOSKY:

20 Mark this Exhibit Five.

21 (Scott Exhibit Number

22 Five marked for

23 identification.)

24 ATTORNEY RAJKOVICH:

25 Did you go through all

113

01 six? I don't know that you  
02 did. I think page five was  
03 ---.

04 ATTORNEY WILSON:

05 For the record, page  
06 five was a diagram of a wall.  
07 It says Method for Sealing  
08 Abandoned or Worked Out Areas.  
09 And then page six, diagram of  
10 another wall at the very top  
11 says, Division of Mines and  
12 Minerals Effective as of  
13 12/13/85.

14 ATTORNEY RAJKOVICH:

15 Thank you.

16 BY MR. SWENTOSKY:

17 Q. Okay. Could you just explain  
18 what these pages represent? Explain  
19 what this is here. What this is  
20 here, being page one of the Exhibit  
21 Five?

22 A. This here --- okay, these  
23 right here is the seals One through  
24 Ten. And these is ---they're  
25 stoppings to make a permanent intake

114

01 escapeway for Two Left section.

02 ATTORNEY WILSON:

03 Now, when you say  
04 these, for the record, can you  
05 identify what you're referring  
06 to? You're referring to the  
07 marks just below the entry  
08 numbers of One through Ten; is  
09 that right?

10 A. Yes. Before I done sealed  
11 these all up, these here had to be  
12 built. This stopping --- I mean, all  
13 these stoppings and these three over  
14 --- four overcast and the regulator  
15 on top of this overcast, all these  
16 had to be built before I done sealed  
17 these two up permanently.

18 BY MR. SWENTOSKY:

19 Q. So the seals are marked in by,  
20 the numbers that you have listed here  
21 for the seals?

22 A. Yeah.

23 Q. The seals are in by those  
24 Numbers One through Ten?

25 A. These numbers of the seal,

115

01 One, Two, Three, Four seal, Five ---  
02 I mean, they're the seal numbers,  
03 yes, sir.

04 Q. And out by those numbers that  
05 you have just described, there is a  
06 series of stoppings; is that correct?

07 A. Yes.

08 Q. Okay. And could ---?

09 MR. SWENTOSKY:

10 Could we just have him  
11 highlight those, the ones that  
12 ---.

13 BY MR. SWENTOSKY:

14 Q. If you could, please, Mr.  
15 Scott, use this orange marker to  
16 highlight the permanent controls that  
17 were installed. And this ventilation  
18 is after the seals were completed,  
19 that we're looking at; is that  
20 correct?

21 A. Well, this is what it took to  
22 make ventilation after the seals was  
23 completed, yes.

24 Q. Okay. Could you mark with the  
25 orange marker, the permanent controls

116

01 that were installed to accomplish

02 that?

03 A. To accomplish ---?

04 Q. The ventilation that you ---

05 to make that change in ventilation

06 that was ventilating the area prior

07 to completing the seals.

08 A. You don't want me to mark the

09 seals, do you? I mean, ---.

10 Q. No, you don't have to do that.

11 A. Okay.

12 WITNESS COMPLIES

13 ATTORNEY RAJKOVICH:

14 Would you want to make

15 those overcasts a different

16 color?

17 A. No, these aren't overcasts. I

18 had to build four overcasts.

19 BY MR. SWENTOSKY:

20 Q. Just circle those overcasts

21 with the orange marker.

22 WITNESS COMPLIES

23 BY MR. SWENTOSKY:

24 Q. And you have circled four

25 overcasts; is that correct ---

117

01 A. Yes, sir.

02 Q. --- with the marker? And

03 those are the overcasts that you had

04 to have installed prior to installing

05 --- completing the Number One and

06 Number Ten seals?

07 A. That's correct. Well, I mean,

08 these three had to be built, too.  
09 And there was one here but it was a  
10 temporary one. This here was a  
11 temporary one, it was made out of  
12 Kennedy --- Kennedy wall.

13 ATTORNEY WILSON:

14 So use a green marker  
15 for the Kennedy stopping.

16 BY MR. SWENTOSKY:

17 Q. And just put a K there, if you  
18 would, please.

19 WITNESS COMPLIES

20 A. That one ---.

21 BY MR. SWENTOSKY:

22 Q. Okay. We got it.

23 A. This one here is the other ---  
24 but I don't think I built it, but I  
25 mean, there's a wall here.

118

01 Q. And the Kennedy wall, is that  
02 --- did you take that one out?

03 A. Yes, during the air change.  
04 When I made the air change, yes,  
05 partially. It was --- I took six  
06 panels of the Kennedy wall off to  
07 make intake air come into Two Left  
08 section and that was there --- that  
09 makes them the six-foot escape --- a  
10 walkway and escapeway out of the  
11 section.

12 Q. Okay. So where you have

13 marked the Kennedy wall, then you

14 actually took that out or six panels

15 ---

16 A. Six ---

17 Q. --- panels of that?

18 A. Six panels.

19 Q. Of the Kennedy wall that had

20 been previously installed?

21 A. Yes, sir.

22 Q. And you took that six panels

23 out to assure ventilation into the

24 Two Left section?

25 A. Two Left section.

119

01 Q. Okay.

02 A. Before this here all happened,

03 their escapeway was this way.

04 Q. This way indicating around the

05 seal area?

06 A. Yeah. Their escapeway was ---

07 yeah.

08 Q. And that would have been the

09 entry --- or the crosscuts actually

10 just outby the seals?

11 A. Yes. Yes. That was all ---

12 yeah. Yes. That was their

13 escapeway. When I done the air

14 change, that made this here a return

15 and this here their isolated intake.

16 Q. Okay. That made Number Ni ne

17 entry intake across the front of the

18 seals and then it was ventilated out

19 over the top of the overcast that you  
20 just saw.  
21 A. The intake come in Number Ten  
22 ---  
23 Q. Yes.  
24 A. --- and out and across the  
25 overcast.

120

01 Q. And across the overcast, okay.  
02 A. And I had 41 --- or 4,100  
03 cubic feet of air at my regulator.  
04 Q. At the regulator ---?  
05 A. On top of this overcast.  
06 Q. On top of the most inby  
07 overcast?  
08 A. I built a regulator on top of  
09 it and I had 4,100 cubic feet of air.  
10 Q. Okay. What was that regulator  
11 constructed of?  
12 A. Omega block.  
13 Q. Omega block, okay. Okay.  
14 MR. MILLS:  
15 Where was that  
16 regulator again? I'm sorry.  
17 A. On the inby overcast --- well,  
18 it would be the first one outby the  
19 seals.  
20 ATTORNEY WILSON:  
21 Would you mark that?  
22 MR. SWENTOSKY:  
23 I think we have it.

24 ATTORNEY WILSON:

25 Do you? Okay.

121

01 MR. SWENTOSKY:

02 I think we have that in  
03 the record.

04 ATTORNEY WILSON:

05 All right.

06 MR. MILLS:

07 Why don't we mark with  
08 a red pen, R for regulator?

09 WITNESS COMPLIES

10 BY MR. SWENTOSKY:

11 Q. Okay. You've marked the  
12 regulator on top of the most inby  
13 overcast, which that regulator was on  
14 top of the overcast?

15 A. Yes, sir. But before this  
16 happened, too, there was a Kennedy  
17 wall here. But the air coming --- I  
18 built the overcast, but there was a  
19 Kennedy wall in here also and I took  
20 it out when I made the air change.

21 Q. Okay.

22 MR. MILLS:

23 Just for the record,  
24 the Kennedy wall you're  
25 talking about was just inby

122

01 the R, the regulator?

02 A. No. It's just inby the  
03 overcast I built. Well, it was in a

04 block of coal inby the regulator ---  
05 or the overcast.

06 BY MR. SWENTOSKY:

07 Q. I know we've been going over  
08 this but just for a clarification  
09 because I misunderstood that. The  
10 regulator was not on top of the  
11 overcast?

12 A. Yes, it was on top of the  
13 overcast. The Kennedy wall was in  
14 the block ---

15 Q. Okay.

16 A. --- inby. Yeah, inby. In the  
17 blocks of coal inby the overcast.

18 Q. Okay. Whenever the  
19 ventilation change was made and you  
20 would re-establish a need for putting  
21 the stoppings in and making it --- in  
22 the process of making the ventilation  
23 change, were you underground at that  
24 time, when the actual ventilation  
25 change was made?

123

01 A. Yes, sir, I'm the one who made  
02 it.

03 Q. Made it, okay. And was the  
04 Two Left section working at that time  
05 while you were doing that?

06 A. Two Left section? No. That  
07 was on a Sunday.

08 Q. That was on a Sunday.

09 A. No, there wasn't nobody in by  
10 me.  
11 Q. Was there anybody else in the  
12 mine while you were doing that?  
13 A. There may have fire bosses or  
14 something.  
15 Q. How many people were working  
16 with you when you did that?  
17 A. Two people  
18 Q. Two. Okay. Was the power off  
19 underground during that ventilation  
20 change?  
21 A. No. No. No. The fans was  
22 running and the power surge had power  
23 on it.  
24 Q. Okay.  
25 A. And I had a scoop, had power  
01 on it.  
02 Q. Okay. Where was that ---  
03 could you draw a --- using this  
04 purple marker, could you on Exhibit  
05 Five, show me where the scoop was  
06 located at that time, if you recall,  
07 during the change.  
08 A. You're funny. I was all over  
09 that area with it. I was in several  
10 places with it. I mean, I come up  
11 this way with it and go back in here  
12 in front of these seals. But I mean,  
13 that was as far as I can go, that was  
14 my furthest point.

124

15 Q. Okay. The furthest point  
16 meaning --- or being right near the  
17 regulator --- or where you have the  
18 overcast, at the regulator?

19 A. At the slant wall as probably  
20 the furthest I can come with the  
21 scoop. I mean, I was all over that  
22 area.

23 Q. Okay. And the power was on  
24 the power boxes in that area?

25 A. Power boxes in that area?

125

01 Q. Yeah. You had mentioned ---  
02 what power was on during that  
03 ventilation?

04 A. The two --- all the power  
05 outby me here. There's a power box  
06 in this crosscut.

07 Q. Okay. Show me where that is  
08 using ---.

09 A. I mean, it's a belt starter  
10 box. I meant the belt starter box.

11 Q. Okay.

12 A. It was in this area right  
13 here.

14 Q. Okay. And you've indicated  
15 ---.

16 A. And there was high voltage  
17 cable coming up into the section and  
18 the power center had power on it.

19 But there wasn't no power centers or

20 nothing in by this.  
21 Q. This meaning where you were  
22 installing the stopping?  
23 A. Yes, in by where I built the  
24 stopping, there was no power of no  
25 source, except for my scoop.

126

01 Q. Okay. So ---.  
02 A. I mean, this is marked power  
03 center but that's not running.  
04 There's nothing there. I mean, it's  
05 --- that's ---.  
06 Q. Okay. Put a green X over that  
07 if that wasn't there.  
08 A. I mean, that there would be a  
09 power center. That's what PC stands  
10 for.  
11 Q. Just mark an X on it.  
12 A. Oh, X. I'll put a ---.

13 MR. MILLS:  
14 And just for the  
15 record, you're in ---  
16 A. Number Six.  
17 MR. MILLS:  
18 --- a break out by the  
19 Seven seal?

20 A. Number Seven seal, yes, sir.  
21 MR. MILLS:  
22 Okay.  
23 A. This says scoop there, but I  
24 mean, I don't know ---.  
25 BY MR. SWENTOSKY:

01 Q. Would I be correct in saying  
02 that basically the normal power was  
03 on through the section and so on and  
04 in the intersection of Two Left and  
05 North mains --- Two North main? The  
06 normal power was on?  
07 A. The normal mining power was  
08 on, yes, from here outby up into Two  
09 Left.  
10 Q. Up into Two Left.  
11 A. But there wasn't no power of  
12 no source inby these up in here, no.  
13 Q. Inby these meaning the  
14 stoppings that you were constructing?  
15 A. That's right. No power except  
16 for my scoop, because I can take the  
17 scoop back to this section.  
18 Q. Approximately how long did it  
19 take you to make that ventilation  
20 change?  
21 A. The main ventilation, it  
22 varied over four days. But we done  
23 the final change on the 12th of  
24 December. The 12th of December is  
25 when I --- when I made the final

01 change, that's when I built this, the  
02 12th day of December. I built --  
03 finished this one and this and we  
04 done a ---.

05 Q. This meaning Number One and  
06 Number Ten seal?  
07 A. Number One and Number Ten  
08 seal, yes, sir.  
09 Q. Okay. And ---.  
10 A. But we worked 13 --- I believe  
11 it was 13 hours that day.  
12 Q. And you were the only people  
13 underground at that time?  
14 A. No, there was other people in  
15 there somewhere.  
16 Q. Was the Two Left section  
17 working?  
18 A. But that was the only people  
19 --- I'm not sure about that. But we  
20 was he only people in this area right  
21 here working together on the seals  
22 and this little air change. It  
23 wasn't a real major air change  
24 because we stretched it out just  
25 little by little every day. It

129

01 wasn't a drastic change over 2,000  
02 cubic feet a day or something.  
03 Q. So you just made a little bit  
04 at a time?  
05 A. Little bit at a time, yes,  
06 sir.  
07 Q. And during the final when  
08 everything was buttoned up --- and by  
09 buttoned up, I mean, sealed up,  
10 Number One and Number Ten seal, then

11 the Two Left section --- was that a  
12 Sunday also or ---?

13 A. It was on a Saturday and a  
14 Sunday. Sunday was a special job for  
15 me and my two red hats on a Saturday  
16 and Sunday to make sure all these  
17 stoppings was built outby the seals  
18 so we can do the final air change on  
19 a Sunday.

20 Q. Okay. And there was no one  
21 working in Two Left at that time or  
22 there was?

23 A. I'm not sure of that. I can't  
24 --- I mean, I don't know for sure.

25 Q. Do you happen to know when

130

01 mining was stopped inby the seals,  
02 the old Two Left section there? Do  
03 you happen to recall when that was?

04 A. I don't know exact date but I  
05 was there, but I mean, I don't know  
06 the date or nothing.

07 Q. You were working up in that  
08 Two Left --- old Two Left section  
09 whenever you guys shut down?

10 A. I always worked outby, but I  
11 believe at the time, I was working on  
12 a violation outby bolting in the  
13 intake, screening the intake.

14 Q. Screening the intake. And  
15 that was up near the face of the old

16 Two Left section?  
17 A. Yes, sir.  
18 Q. Do you know why mining was  
19 stopped up there? Do you have any  
20 idea?  
21 A. Why the mining was stopped in  
22 old Two Left?  
23 Q. Yes, sir.  
24 A. No. No.  
25 Q. No?

131

01 A. I didn't like the looks of it,  
02 that's --- I don't know.  
03 Q. Why didn't it look so well?  
04 A. I just didn't like it --- like  
05 it. I didn't like it. That's all I  
06 know.  
07 Q. What made you not like it?  
08 A. Water, more water and the  
09 conditions just got worse. The  
10 conditions, I believe that's what run  
11 them out. I mean, I didn't like it  
12 at all.  
13 Q. While you were up there, did  
14 you ever encounter any methane  
15 problems?  
16 A. I've never ---.  
17 Q. Had you dealt with any  
18 methane?  
19 A. I've never found over  
20 three-tenths percent gas in that  
21 mine.

22 Q. Okay. Did you find any ---  
23 did you find those three-tenths up in  
24 the old Two North section?

25 A. No. It was in One Left

132

01 section. I usually work weekends  
02 with --- well, it wasn't ICG then, it  
03 was Anker, bolting and I fire bossed  
04 it and stayed with the bolters  
05 Saturdays and Sundays.

06 Q. Did you ever make an  
07 examination up in the Two Left  
08 section?

09 A. Yes, I have.

10 Q. Like a pre-shift examination?

11 A. Yes, I have.

12 Q. The old Two Left we're  
13 speaking about?

14 A. The old Two Left. I fire  
15 bossed the whole mine.

16 Q. Okay. What type of methane  
17 would you find up there?

18 A. The most I've ever found  
19 anywhere in that mine is three-tenths  
20 of a percent.

21 Q. Okay. But up in the Two North  
22 area --- or excuse me, the Two Left  
23 area, what's the most you have found  
24 up there, in the face?

25 A. I can't actually say. I mean,

133

01 it might have been three-tenths in  
02 that section but that's just ---  
03 Q. You can't recall?  
04 A. I just --- I've never found  
05 over three-tenths anywhere in that  
06 mine.  
07 Q. Do you recall anyone or maybe  
08 you personally saw or hear anyone  
09 speaking about cutting through any  
10 uncharted boreholes or charted  
11 boreholes of any kind, where they had  
12 mined in and all of a sudden, there's  
13 a borehole?  
14 A. No. That's the first I've  
15 heard of it right there. I mean, I  
16 ain't never ---.  
17 Q. You've never heard of anyone  
18 doing that?  
19 A. No. And I'm sure if anybody  
20 had heard it, it would have been me.  
21 MR. SWENTOSKY:  
22 Mr. Mills, do you have  
23 anything?  
24 MR. MILLS:  
25 Yeah.

134

01 BY MR. MILLS:  
02 Q. Mr. Scott, just a couple  
03 questions to clarify. And you may  
04 have answered this one, a pre-shift,  
05 on-shift of the seals that you did,  
06 did you record those in a book

07 outside?

08 A. I always do, yes, sir.

09 Q. Is there a separate book for  
10 that?

11 A. Yes, there was. It was  
12 classified as a sealed construction  
13 area.

14 Q. And you did that every day?

15 A. I done it every day on my  
16 shift, yes, sir.

17 Q. Okay. Who looked at that book  
18 and who counter-signed it? Do you  
19 remember?

20 A. I mostly seen Carl Crumrine's  
21 name, the mine foreman's name on it.

22 Q. Was that area ever pre-shifted  
23 for you by another shift, or you did  
24 pre-shifts every day?

25 A. Sometimes it had been

135

01 pre-shifted by somebody else and  
02 called out, but mostly I done it  
03 myself. Pre-shifted it and called it  
04 out and they recorded it in the book  
05 and I come out and counter-signed it  
06 at the end of my shift.

07 Q. And you also did the on-shift  
08 exam?

09 A. I done the on-shift and the  
10 pre-shift.

11 Q. Okay. On the day of the air

12 change, December the 12th, that was  
13 the last day of the air change, who  
14 directed you in this whole process of  
15 the air change? You said Jeff Toler  
16 told you about the seal sealing, but  
17 the air change?

18 A. Who told me how to do it?

19 Q. Who supervised you on it?

20 A. Nobody actually super ---.

21 Q. Who from mine management gave  
22 you directions on what changes to  
23 make?

24 A. Jeff Toler was more my  
25 foreman, yes. But at the time,

136

01 underground was Lonnie Short.

02 Q. Lonnie Short.

03 MR. MILLS:

04 Did you say Lonnie or  
05 Ronnie?

06 A. Lonnie.

07 MR. MILLS:

08 Lonnie with an L?

09 A. Yeah.

10 BY MR. MILLS:

11 Q. You mentioned that the seal in  
12 Number One entry was above eight feet  
13 high in a couple --- in one area,  
14 eight foot, four inches I think you  
15 said.

16 A. On the left side.

17 Q. Did you mention this to

18 anybody?

19 A. Yes, sir, I had. Jeff Toler  
20 knowed it and John Collins, the state  
21 mine inspector and Carl Crumrine and  
22 myself.

23 Q. Okay. We talked a little bit  
24 about the board that you put on top  
25 of the seals.

137

01 A. Yes, sir.

02 Q. Can you think a little closer  
03 about the length, width and thickness  
04 of those boards? Could you tell me  
05 ---?

06 A. The full length of the board  
07 was, I'm going to say, 16 feet.

08 Q. Okay.

09 A. If you used a full board, it  
10 was 16 foot.

11 Q. Okay. That's what I'm ---  
12 full boards, 16 foot. I had wrote  
13 down 20 feet.

14 A. I mean that's just roughly.  
15 They call come in the same size.  
16 They come in on the supply car.

17 They're called fly board and we  
18 unload them and haul them up there.

19 Q. Okay. And I think you said  
20 they were about an inch thick?

21 A. Three-quarters to an inch  
22 rough cut lumber, yes, sir.

23 Q. And the width?  
24 A. I think they're six inches.  
25 Q. You talked about installing  
01 wedges above the boards. Was it  
02 always --- the wedges always between  
03 the board and the roof? Was it ever  
04 between the board and the ceiling?  
05 A. I believe most of them was  
06 between the board and the roof.  
07 Q. But not all of them?  
08 A. I can't say for sure.  
09 Q. Okay. Number One seal was the  
10 one with the water trap?  
11 A. Yes, sir.  
12 Q. There was only one trap?  
13 A. Yes. Yes.  
14 Q. And do you know the diameter  
15 of that trap?  
16 A. I believe it was six inches.  
17 Q. Did you fill that trap with  
18 any fluids?  
19 A. Me personally, no, but it was  
20 full of water.  
21 Q. The sample line that went in  
22 the Number Ten seal, it was two inch,  
23 black plastic --- I mean, black pipe?  
24 A. Black steel pipe.  
25 Q. Okay. And it extended ---?

138

01 A. It was 40-feet long total. It  
02 was two sections, 20 foot.

139

03 Q. How much of this black pipe  
04 extended out by this seal?  
05 A. I'm going to say three feet.  
06 Q. And out of the end of this  
07 black two inch pipe extended the  
08 copper line?  
09 A. On the end it had a collar and  
10 reducer approximately six-inches  
11 long.  
12 Q. So the overall length it was  
13 about ---?  
14 A. Forty (40) foot, six inches.  
15 Q. I mean, extending out by the  
16 seal, about three and a half feet?  
17 A. Yes.  
18 Q. Was that supported on a crib  
19 or how was it held up? I mean, did  
20 you tie wire it?  
21 A. No. It didn't have a crib  
22 supporting it up. It was in between  
23 the two cribs I set. You could walk  
24 straight into the middle of my cribs  
25 and the test tube for gas and sign

01 the book.

02 Q. Was it supported in any way to  
03 the roof with the tie wire or a hook?  
04 A. No, sir, it was just laying on  
05 top --- 12 inches down on the seals  
06 and extended in by, on the cribs in by.  
07 Q. So it was self-supporting

08 then?

09 A. Yeah.

10 Q. Okay. Do you remember what

11 the total length of the seal on

12 Number One entry was?

13 A. No, I don't.

14 MR. SWENTOSKY:

15 Okay.

16 BY MR. SWENTOSKY:

17 Q. Just a couple more clarifying

18 questions. The bags of mortar that

19 you spoke about, do you recall

20 whether they had instructions on them

21 at all?

22 A. I'm sure they did, but I

23 didn't read them. I didn't read

24 them.

25 Q. Okay.

141

01 A. I'm sure they did.

02 Q. And getting back for a moment,

03 the number one seal that was --- I

04 think you had referred to it as parts

05 of it being eight foot four inches in

06 that. Did you happen to build that

07 seal a little thicker maybe or did

08 you have a pilaster in that one at

09 all?

10 A. No, I didn't.

11 Q. And when the inspectors and

12 yourself crawled through and examined

13 those seals on the inby end, walking

14 --- you had mentioned they went  
15 through the seals, walked. Who all  
16 was with you during that examination?  
17 A. I wasn't with the inspectors.  
18 The inspectors --- John Collins rode  
19 in with me and my two guys and Marty.  
20 I don't know his last name. He's a  
21 certified foreman there. Him and  
22 John Collins inspected in behind the  
23 seals while I was doing my on-shift  
24 and pre-shift outby the seals for my  
25 men to come up here.

142

01 Q. Okay. So those are the only  
02 two people that were back there?  
03 A. Yep. Once they come out, John  
04 and Marty had a list of stuff that I  
05 had to correct in behind the seals  
06 before I sealed them up. And John  
07 Collins, he shook my hand, he said  
08 good job. After we corrected the  
09 stuff he had on that paper, we could  
10 go ahead and seal it up. It was a  
11 good job.  
12 Q. Do you recall what those  
13 corrections might have been?  
14 A. Yes, I do. There was one  
15 piece of curtain and tighten up one  
16 crib. Finish building and tighten up  
17 one crib behind the seal that I never  
18 done.

19 Q. Okay. And the curtain, you  
20 said fix it. What curtain?  
21 A. It was just left behind. It  
22 was just trash to me.  
23 Q. Oh, okay. And then you ---  
24 A. We drug it out ---  
25 Q. --- drug it out?

01 A. Yeah. We carried the extra  
02 crib back in there with them two red  
03 hats. And done what he had on his  
04 paper and he said it was all right to  
05 seal them.  
06 Q. Okay. So then the only --- if  
07 I understand you correctly, you took  
08 a piece of brattice material, brought  
09 it out from behind the seals and  
10 tightened the crib up back there?  
11 A. Yes, sir.  
12 Q. Okay. And that's the only  
13 thing that ---?  
14 A. That was the only thing that  
15 he said was wrong back there. He  
16 said it looked like a dang good job  
17 we done.  
18 Q. I was wondering if we can just  
19 --- it sounded like everybody liked  
20 them anyway?  
21 A. Liked who?  
22 Q. The seals. Okay. If we could  
23 just for a moment, kind of go back to  
24 whenever you arrived on the mine

25 property and the event occurred and

144

01 you were

02 --- you said you were to told to go

03 over and sit with the dispatcher?

04 A. No. I wasn't told. I just

05 felt --- I just felt better if I

06 would have went with him because I

07 was certified and he wasn't, but he

08 was a dispatcher. But I didn't

09 interfere with anyone. I want him to

10 know that we was there with him.

11 Q. Okay. Do you recall any

12 conversation? Could you tell me a

13 little bit about what went on there?

14 What you observed maybe or who you

15 heard calling or conversations?

16 Could you just kind of run through

17 that with me a little bit?

18 A. There were several people

19 nervous and running around.

20 Q. Yeah.

21 A. I heard --- the only person I

22 know I heard that --- there was

23 Vernon, he said he had a phone.

24 Q. Vernon who?

25 A. Wehofer (sic) or Vern Hofer or

145

01 something like that. He's a

02 maintenance foreman out there.

03 Q. Okay.

04 A. He went in the mine after this  
05 happened, him and Jeff Toler and Dick  
06 Wilfong. But I heard him on the  
07 phone. He said he was at One Left  
08 switch, that he got a phone  
09 established in the good air intake.  
10 That's it. That was the end I heard  
11 of him talking right there.

12 Q. Did you hear any CO monitors,  
13 CO sensors or the monitors going off  
14 or anything like that?

15 A. There was on the computer, in  
16 front of the dispatcher, four or five  
17 CO monitors going off on the belt  
18 line.

19 Q. Okay. You don't recall which  
20 ones those were?

21 A. It's the ones from  
22 approximately --- I know it was Two  
23 Left, two --- outby One Left, the CO  
24 monitors.

25 Q. How long did you stay there

146

01 with Mr. --- with the dispatcher?

02 What's the dispatcher's name?

03 A. He's a black guy. If you'd  
04 mention his name, I know him. There  
05 was another guy in there with me  
06 besides the dispatcher. There was  
07 John Boni. What do they call that  
08 black guy?

09 Q. That'd be Flea?

10 A. Flea.  
11 Q. You don't know his name?  
12 Okay.  
13 A. Chi sol m.  
14 Q. Chi sol m.  
15 A. I had his boy, he worked for  
16 me.  
17 Q. Do you have anything else that  
18 maybe you could share with us of what  
19 was said? Who ordered who and  
20 anything like that?  
21 A. I was just trying to get Flea  
22 to call 911.  
23 Q. Approximately how long were  
24 you there?  
25 A. I was there a whole day, eight  
01 hours.  
02 Q. Eight hours. And you didn't  
03 speak to anyone else during the day  
04 there or did anybody else tell you  
05 anything else?  
06 A. Well, the One Left crew, when  
07 they come out, they was in --- they  
08 looked real bad. I tried to help  
09 them with oxygen.  
10 Q. Can we take a ---.  
11 A. I'm all right. I'm all right.  
12 MR. SWENTOSKY:  
13 That's all right.  
14 Let's just take a break.

147

15 A. I got a sinus problem.  
16 MR. SWENTOSKY:  
17 Okay. Let's just take  
18 a short break. Maybe a couple  
19 ---.  
20 SHORT BREAK TAKEN  
21 BY MR. SWENTOSKY:  
22 Q. Okay. Before we go up to the  
23 map, I just wanted to ask you a  
24 couple more questions here. You  
25 mentioned that you recorded your

148

01 examinations of the seal area in the  
02 pre-shift and there was a seal book  
03 you mentioned, I believe. That there  
04 was a special book?  
05 A. No, it's not a seal book. It  
06 was construction for the seal area.  
07 Q. Okay. Now, construction for  
08 the seal area, okay. Was that just a  
09 separate book or was that just for  
10 that purpose?  
11 A. It was an on-shift and pre-  
12 shift book just to do construction in  
13 that area.  
14 Q. There was not any other  
15 examinations that were recorded in  
16 that book to your knowledge, ---  
17 A. Just the ---.  
18 Q. --- just the seal stuff?  
19 A. It's mostly --- mostly just  
20 me. I done most of it on dayshift.

21 Q. Okay.  
22 A. Afternoon turned in hardly ---  
23 I mean, I never seen --- just my  
24 name.  
25 Q. And that's a separate book.

149

01 And how is that identified?  
02 A. It had on it construction for  
03 seals areas.  
04 Q. Okay. And you had mentioned  
05 about the one state inspector and  
06 Marty going around the back end. Are  
07 you aware of any other inspectors,  
08 state or federal that were around  
09 that area?  
10 A. Yes. But I mean, I wasn't  
11 there. It was --- I believe it was  
12 Jeff Snyder. Jeff Snyder. A federal  
13 inspector came up there,  
14 investigator.  
15 Q. When you were there?  
16 A. No, not when I was there.  
17 Q. Okay.  
18 A. No.  
19 Q. These are only --- this was  
20 the only inspector you talked about?  
21 A. Just the state inspector is  
22 the only one that came up there  
23 whenever I was there, just that one  
24 particular day. No other time he  
25 showed whenever I was --- just one

01 day.

02 Q. Okay. And you were going to  
03 say something that you heard then, of  
04 other inspectors being up there?

05 A. Well, I know the one had been  
06 up there before, a federal inspector.

07 Q. Okay. And who was that?

08 A. I don't know his name. I know  
09 he was there on a quarterly  
10 inspection, but I don't know his  
11 name.

12 Q. And that was before the  
13 completion of the seals?

14 A. That was before I even built  
15 my five. I wasn't in charge of it.  
16 I was working outby, way outby.

17 Q. Okay. Let's go up to the ---.

18 ATTORNEY WILSON

19 Do you want to do that  
20 clarification now or later or  
21 ---?

22 MR. SWENTOSKY:

23 Okay. Go ahead.

24 ATTORNEY RAJKOVICH:

25 There's a couple of

01 things that he, I think,  
02 wanted to clarify is, when he  
03 got to the mine the day of the  
04 explosion and then some other  
05 things that he had done in

06 that area before he left. Go  
07 ahead.  
08 A. I usually arrived at the mine  
09 an hour before my starting time. My  
10 starting is 7:00 a.m. I got there  
11 that morning at ten minutes to 6:00.  
12 And me and Marty, who was a mine  
13 foreman --- or fire boss there, we  
14 took it on our own in the seal ---  
15 after we completed the seals and  
16 everything was done, we hung curtain  
17 from the outby rib, winged them in  
18 towards the seals to, you know, make  
19 a better ventilation, make air sweep  
20 the seal better. They was within  
21 five feet of the seal.  
22 BY MR. SWENTOSKY:  
23 Q. Okay. Can we go over to the  
24 map and just draw that configuration  
25 in where those curtains might ---

152

01 were at? And we're looking at  
02 Exhibit Scott Number Two. Using the  
03 black pen, can you draw those  
04 curtains and how the configuration  
05 was to ventilate those seals?  
06 A. It looks to be like ten feet  
07 there. I mean, they was within five  
08 feet.  
09 Q. Okay. And using the black  
10 pen, you had drawn a line in the

11 corner of an outby rib at each one of  
12 the seals and extended that line to  
13 within five feet.

14 A. It was within five feet, yes,  
15 sir.

16 Q. And that would be at all the  
17 seals; is that right?

18 A. All ten seals.

19 Q. All ten seals. And did  
20 someone tell you to do that or did  
21 you do that on your own?

22 A. No. Me and Marty, another  
23 foreman, was up there and he was  
24 walking around with me. And me and  
25 him just decided on ourselves. We

153

01 carried four rolls of curtain in and  
02 hung the curtains.

03 Q. Okay. The curtains that you  
04 did not use, did you remove that from  
05 the area?

06 A. We used every bit of curtain  
07 we could get. We took every bit of  
08 curtain we could get.

09 Q. How do you install that  
10 curtain?

11 A. With spads and nails and hung  
12 them from roof plates.

13 Q. You didn't use any posts or  
14 ---

15 A. No, sir.

16 Q. --- boards or anything like  
Page 126

17 that?

18 A. No.

19 Q. Okay. Let's move to Exhibit

20 Number --- Scott Number Three, and

21 that's a scale of 100 per foot inch

22 (sic) map. And earlier when we were

23 off the record, you had outlined the

24 ventilation of the seals prior to

25 completing Number One and Number Ten

154

01 seal. And you have indicated that

02 the intake air entered the seal area

03 between crosscuts 61 and 62 in the

04 Number One entry. There's stoppings

05 there and you have circled it. Which

06 would indicate that it was not there

07 at that time. And also you have

08 circled an angle stopping across the

09 Number Two entry at crosscut 62. And

10 you have indicated by the circle

11 indicating that it was not there at

12 the time. You also outby that

13 between crosscuts 62 and 61 have

14 indicated by the line with a K on it

15 indicating a Kennedy-type stopping.

16 And you have shown that the air

17 traveled up inby for the seals around

18 to crosscut Number 63, ventilated the

19 One and Two and Three seal area.

20 Traveled outby to Number 62 crosscut

21 and then it traveled across from

22 Number Three entry to Number Nine  
23 entry and turned out in the outby  
24 direction and ventilated from that  
25 point, air traveled to --- you had

155

01 mentioned Two Right, went across  
02 overcast and into the return on the  
03 left side of the Two North main.

04 MR. MILLS:

05 Ask him if that's  
06 correct?

07 BY MR. SWENTOSKY:

08 Q. Is that correct what I've just  
09 said?

10 A. I know there's a wall here,  
11 this air could come --- before this  
12 here was sealed and this was sealed,  
13 the air come up this way and come out  
14 and come this way toward Two Left and  
15 partially come in the seals at left  
16 and came back out. This wall was out  
17 here in the return. It had swept  
18 these seals and come back out that  
19 side. But this seal was all sealed  
20 in in Two Left.

21 Q. Okay. Between the seals and  
22 the stopping line across the entry  
23 between 62 and 61 crosscut ---.

24 A. There was this wall here in  
25 Number Seven.

156

01 Q. Okay. You have indicated that  
Page 128

02 ---.

03 A. This was out. This is air  
04 coming in. It swept this way. It  
05 went out to the back side and back  
06 out the return.

07 Q. Okay.

08 MR. MILLS:

09 Okay. We're going to  
10 have a hard time understanding  
11 when we read the transcript  
12 what it is that you're saying.

13 MR. SWENTOSKY:

14 Let's go off the  
15 record.

16 OFF RECORD DISCUSSION

17 BY MR. SWENTOSKY:

18 Q. Okay. During the break, Mr.  
19 Scott indicated some air direction  
20 that's on Exhibit Scott Three. Okay.  
21 And you have indicated that the black  
22 markings previously made were not  
23 correct.

24 A. That's correct.

25 Q. Okay. The stoppings that were

157

01 circled in the black, we'll disregard  
02 those at this time.

03 A. Correct.

04 Q. Okay. You have indicated that  
05 airflow at the stopping in Number  
06 Seven entry between 62 and 61

07 crosscut was out; is that correct?  
08 A. Was out, yeah.  
09 Q. Okay. The stopping in Number  
10 One entry between 61 and 62 crosscut  
11 was out?  
12 A. Yes.  
13 Q. Okay. So you have indicated  
14 by red arrow that airflow entered the  
15 seal --- entered the outby side of  
16 the seal area through Number Seven  
17 entry and the air split left and  
18 right at that point?  
19 A. That's right.  
20 Q. Okay. Air traveling to the  
21 right into Number Nine entry where a  
22 stopping was located, that air  
23 entered in Number Nine entry through  
24 a one or two block hole in that  
25 stopping.

158

01 A. Pushed in, pushed the flow.  
02 Q. Okay. Air also traveled left  
03 in Number 62 crosscut in front of the  
04 seal area and then the air at that  
05 point turned inby in Number Two entry  
06 and moved up to Number 63 crosscut?  
07 A. Yes.  
08 Q. And that's the Number Two  
09 entry. At that point, the air moved  
10 to the left through the crosscut in  
11 63 crosscut into the Number One  
12 entry?

13 A. Yes.

14 Q. Okay. At that point, the air  
15 split and some air traveled in by in  
16 through the old Two Left main area?

17 A. Right.

18 Q. Okay. And it traveled, as far  
19 as you know, into that area and the  
20 air exited the old Two Left main area  
21 through Number Ten entry?

22 A. It turned at Number Ten entry,  
23 yes.

24 Q. Then also some air in Number  
25 One entry turned left and traveled in

159

01 the outby direction and entered the  
02 Two Left working section?

03 A. Correct.

04 Q. Okay. You also indicated in  
05 black, a cave across Number Two entry  
06 between crosscut 62 and 61 and that  
07 was a Kennedy wall?

08 A. Correct.

09 Q. Okay. You also indicated that  
10 between Number Eight and Nine entry  
11 that a stopping line existed from ---  
12 as you have indicated on the map,  
13 between Number Eight and Nine entry,  
14 stopping line existed to --- you  
15 mentioned to the Two Right?

16 A. Two Right overcast on the  
17 return side.

18 Q. Okay. And at that point, the  
19 air crossed the overcast to the left  
20 side of Two North and into the  
21 return?

22 A. That's right.

23 Q. You've also indicated --- you  
24 have drawn some stoppings in between  
25 Eight and Nine with a black marker to

160

01 indicate that those stoppings were  
02 in?

03 A. Yes.

04 MR. MILLS:

05 Just to clarify, this  
06 is the way ventilation was  
07 before the Number One and Ten  
08 seals were completed; is that  
09 correct?

10 A. That's right.

11 MR. SWENTOSKY:

12 Thank you.

13 BY MR. SWENTOSKY:

14 Q. Okay. Thank you. I just have  
15 some training questions here for you,  
16 Mr. Scott. Do you recall when was  
17 the last time you had your annual  
18 retraining class that you had maybe  
19 participated in?

20 A. My eight-hour annual  
21 refresher?

22 Q. Yes.

23 A. It hadn't been very long ago.

24 It's in my folder. It's less than  
25 four months.

161

01 Q. Less than four months?

02 A. Yes, sir.

03 Q. Could you describe what was  
04 covered in that training session, if  
05 you could, please?

06 A. My self-rescuer, how to use my  
07 self-rescuer, assemble it and put it  
08 on and my escapeway out of the mine,  
09 the secondary and primary escapeways.  
10 And the first-aid movies.

11 Q. Do you recall who conducted  
12 that training?

13 A. I don't know his last name  
14 either, but it's Al. He's a mine  
15 safety man.

16 Q. Safety director?

17 A. Safety director, Al.

18 Q. You indicated you had a paper.  
19 Did he sign a form and you had to  
20 sign a form after that training?

21 A. Yes, sir, he did. We got  
22 eight hours refresher retraining,  
23 annual refresher training.

24 Q. Okay. Where was that training  
25 conducted, do you recall?

162

01 A. Where was it?

02 Q. Yes.

03 A. At the Sago Mine.  
04 Q. Actually in ---?  
05 A. In his office.  
06 Q. In his office at the Sago  
07 Mine, okay. Do you recall, was the  
08 mine emergency evacuation  
09 firefighting program instruction  
10 reviewed? The firefighting plan?  
11 A. I've never been in --- I know  
12 the firefighting plans, yes, but I've  
13 never participated in them at the  
14 mine.  
15 Q. Okay. But the emergency  
16 evacuation procedures, did he discuss  
17 that with you at all?  
18 A. Yes.  
19 Q. Okay. Do you happen to know  
20 who the responsible person at the  
21 mine is to direct the evacuation  
22 during an emergency such as  
23 explosion, fire?  
24 A. That's Mr. Flea.  
25 Q. Mr. Flea?  
  
01 A. The dispatcher.  
02 Q. Okay. Are you familiar with  
03 the location of the emergency  
04 materials like the location where you  
05 have like ---?  
06 A. I believe it's around 41 wall  
07 on Number Four belt.  
08 Q. Okay.

09 A. And on the working sections.  
10 Every working section's got them on a  
11 sled.  
12 Q. Do you recall like what those  
13 materials consisted of?  
14 A. Wedges, cap boards, posts,  
15 line curtain, some brattice boards,  
16 bolts, glue.  
17 Q. Okay.  
18 A. Some rock dust.  
19 Q. All right. Are you familiar  
20 with the evacuation procedures at the  
21 mine in case of explosion or fires?  
22 A. Yes, I am.  
23 Q. Can you tell me a little bit  
24 about that?  
25 A. If something would happen in  
  
01 that mine, I'd get to the intake and  
02 hightail out as fast as I can get it.  
03 Call dispatch and tell them where I'm  
04 at.  
05 Q. Okay. Did anyone explain to  
06 you the procedures that you would  
07 follow in case of an explosion?  
08 A. Al, bits and pieces during  
09 that eight-hour course.  
10 Q. Do you recall what he told  
11 you?  
12 A. No, sir.  
13 Q. Do you recall where those ---

164

14 what --- the procedure for  
15 barricading, were they discussed with  
16 you?  
17 A. That's be my last resort.  
18 Q. Okay.  
19 A. They never find me in there  
20 barricaded.  
21 Q. I can understand.  
22 A. That's my own choice.  
23 Q. I understand. Did they review  
24 those procedures though with you  
25 during the training?

165

01 A. I seen it happen a time or  
02 two. I've never done it, no.  
03 They've never mentioned it to me.  
04 Q. As part of that training, did  
05 he discuss that with you at all on  
06 how to barricade?  
07 A. I know how to barricade. But  
08 I couldn't recollect if he said.  
09 Q. Okay. Are you certified or  
10 qualified for methane and oxygen  
11 tests?  
12 A. Yes, sir, I am.  
13 Q. Did you --- during those  
14 sessions, did you have, like, a  
15 hands-on training with the detectors  
16 on how to use them and stuff?  
17 A. No. Johnny, his last name is  
18 Stemple and he went over my methane  
19 detector with me.

20 Q. Do you recall whether the  
21 hazards of carbon monoxide were ever  
22 discussed with you during the  
23 training?  
24 A. I can't remember.  
25 Q. I believe you did mention that

166

01 escapeways was a part of that  
02 training?  
03 A. Yes, sir.  
04 Q. Do you recall participating in  
05 any fire drills?  
06 A. I couldn't say that, no. At  
07 that mine, no.  
08 Q. At other mines you did?  
09 A. Yes, I had crews at the other  
10 mine. That was part of my annual  
11 retraining with them,  
12 Q. You have never conducted any  
13 fire drills with your men at all?  
14 A. I never had them that long.  
15 Ninety (90) days, that's the most and  
16 they was gone.  
17 Q. All right. Did you ever  
18 participate in any escapeway drills?  
19 A. Yes, I have. Well, mostly  
20 that's where we work is anywhere from  
21 the intake all the way in, main  
22 intake all the way in that mine.  
23 Q. Have you traveled the  
24 escapeways in the mine?

25 A. I certainly have.

167

01 Q. And did you ever take anybody  
02 with you whenever you traveled?

03 A. Most of my guys that ever  
04 worked for me have been with me in  
05 the isolated intake.

06 Q. Did you ever walk with them  
07 --- take someone and walk to the  
08 surface with them?

09 A. Not on a special --- not on a  
10 special route to enter in a book, no.

11 Q. Has anybody done that with  
12 you, take you to the surface?

13 A. No. But whenever I'm walking  
14 with my men in an escapeway intake, I  
15 tell them what the green reflectors  
16 are for, just follow them, they'll  
17 show you --- takes you clear outside.

18  
19 Q. What's the green one for?

20 A. The main isolated intake.

21 Q. Okay. What about the  
22 alternate, how is it marked?

23 A. I believe it's orange.  
24 Sometimes it's red, orange.

25 Q. Okay. The SCSR training that

168

01 you mentioned a few moments ago about  
02 SCSR training that you had had, can  
03 you tell me a little bit about that,  
04 how that was conducted?

05 A. Well, you got a sample one  
06 there, you lay it down in front of  
07 you, you rip the seal off of it, and  
08 you hang it around your neck and you  
09 just loosen the handle and ---.

10 Q. Did you --- was that a  
11 training model or was that a ---?

12 A. It was a training --- it's one  
13 he had already sealed, yeah. ---  
14 unsealed.

15 Q. Unsealed? Was it together  
16 whenever he provided you with the  
17 training model?

18 A. Yes, sir. Yeah, it was in the  
19 case, yeah.

20 Q. In the case, okay. And how  
21 did he tell you to --- did you go  
22 through a simulated opening of how to  
23 put nose clips on or tell me how you  
24 did that?

25 A. He mostly done one himself,

169

01 but I didn't do one with him.

02 Q. You said you didn't ---

03 A. I didn't actually ---.

04 Q. --- go through the steps? Did  
05 you go through the steps?

06 A. He went through the steps.

07 Q. He went through the steps.

08 Did you go through the steps, too?

09 A. I just watched him was all.

10 Q. Just watched him?  
11 A. Yes, sir.  
12 Q. Okay. Was first-aid covered  
13 during the training?  
14 A. Johnny Stemple went through  
15 that with us, another guy.  
16 Q. Okay. What type of first-aid  
17 training was it?  
18 A. It was movies. I mean, I  
19 believe it was a couple --- three  
20 different movies. One I didn't like,  
21 it had a guy --- there was him  
22 bleeding, blood popping out. I  
23 didn't like that. I don't like  
24 blood.  
25 Q. Okay. Speaking about the SCSR  
01 training for a moment again, did  
02 anyone ever tell you when you should  
03 don your SCSR, put your SCSR on or  
04 any discussion concerning that?  
05 A. The first sign of smoke or ---  
06 that's when you should put it on.  
07 Q. Yeah. Did anyone tell you  
08 that or is that just something ---?  
09 A. No. Well, it comes naturally.  
10 I've been in a mine 25 years.  
11 Twenty-five (25) years, you had to  
12 have that eight-hour course every  
13 year. I mean, you get tired of  
14 hearing that stuff but you've got to  
15 go through it.

170

16 Q. Sure. Sure. Who again did  
17 you say Mr. Stemple gave you the SCSR  
18 training?  
19 A. Him and Al both.  
20 Q. And Al both?  
21 A. Yeah, it was at the Buckhannon  
22 office.  
23 Q. Buckhannon office or the mine  
24 office?  
25 A. The Buckhannon office, in the

171

01 basement of the --- what is it the  
02 mansion or --- is that where we was  
03 at? That's the mansion I think. I  
04 call it the mansion.  
05 Q. Okay. So the SCSR training  
06 was given in a different --- was it  
07 the same place as the other training,  
08 meaning ---?  
09 A. First-aid training and  
10 everything was done right there in  
11 the basement.  
12 Q. In the Buckhannon office?  
13 A. Yes.  
14 Q. Okay. None of the training  
15 was given to you in the office at the  
16 mine?  
17 A. Like the hazard, on the  
18 escapeway routes.  
19 Q. Okay. The escapeway portion  
20 of it was done there, okay. Did they

21 review the roof control plan with

22 you?

23 A. It was in there but I ---.

24 Q. Okay. What about the roof

25 control plan, did they review that

172

01 with you?

02 A. The ventilation and roof

03 control plan, yes.

04 Q. Whenever changes were made in

05 the escapeways, did they review that

06 with you after the ---?

07 A. I done them.

08 Q. You did it?

09 A. Yes, sir, I does it.

10 Q. You made the change in the

11 escapeway or did you ---?

12 A. All the rerouting and all the

13 intake escapeway I done.

14 Q. Were the men at the mine made

15 aware of those changes?

16 A. The safety department was and

17 Jeff Toler knows it, Carl Crumrine,

18 mine management. I mean, they all

19 knew it, but I don't know if they

20 mentioned it to their guys or not. I

21 don't know. All my men knowed it.

22 Q. Okay. How about whenever

23 ventilation changes were made, did

24 they --- does anyone review the

25 ventilation change with the persons

173

01 at the mine, what ventilation change  
02 took place?

03 A. I don't --- I don't know. I  
04 don't know how to answer that. The  
05 only thing I know when I do the air  
06 change or if I --- if I done the air  
07 change, I put it in that book. And  
08 my name's in the book lots of times.

09 Q. Was the ventilation change  
10 discussed with anyone, any of the  
11 miners or anyone whenever you were  
12 going to make that ventilation  
13 change?

14 A. I mentioned it to the Two Left  
15 foremen where his main escapeway was.  
16 There was two different ones. I told  
17 him what his escapeway was and what I  
18 done to it. I mean, I took the green  
19 ones out of the return one and put  
20 them in the intake. I told him what  
21 I'd done.

22 Q. How do you feel about the  
23 training, do you think it was  
24 adequate?

25 A. I think it was excellent.

174

01 Q. Okay. Is there any training  
02 that you think might --- that's not  
03 part of the training session that you  
04 think should be part of the training  
05 session? Is there anything you would

06 add to the training session?

07 A. Let me just see. In the last

08 ---- just 25 years in the mine, it

09 seems like all of them are almost the

10 same. I mean, you ought to get

11 different movies or something. It

12 just ----.

13 Q. Okay. Have you ever been

14 searched for smoking articles?

15 A. At this mine?

16 Q. Yes.

17 A. No. But I search my guys.

18 Q. Okay. You have conducted

19 searches?

20 A. I have conducted searches.

21 Q. Of your guys meaning ---?

22 A. I've asked them to open the

23 buckets and looked in. I never moved

24 nothing and I patted them down.

25 Q. And how often do you do that?

175

01 A. I try to do it weekly.

02 Q. Weekly.

03 A. I mean, I don't get any

04 certain day. May pick a Monday one

05 day, Friday the next one. Not

06 certain days.

07 Q. Do you enter those in a record

08 book?

09 A. I don't, no. Not in theirs,

10 no. Just that's when I was a

11 contractor. I don't put --- I feel I

12 should put them in there, but I  
13 didn't.

14 Q. Okay. You have never been  
15 searched for smoking articles?

16 A. No, not me. Yeah, last week  
17 down at the Philippi Mine.

18 Q. The Philippi Mine, okay. But  
19 at Sago Mine?

20 A. At Sago Mine, no. But last  
21 week down there, I was searched.

22 Q. Have you ever observed anyone  
23 smoking in the underground portion of  
24 the mine?

25 A. Not at Sago, no.

176

01 Q. Any other mine?

02 A. Yes, sir.

03 Q. What mine was that?

04 A. Number Six Mine North America  
05 in Ohio.

06 Q. How long ago was that?

07 A. I worked there one year  
08 between '79 and '80.

09 Q. Okay.

10 A. I quit.

11 Q. Quit?

12 A. Yeah. Not smoking, now. I  
13 still smoke. I quit the mine.

14 Q. Quit the mine, okay. Okay.

15 A. I turned the pole and went  
16 back outside and quit.

0125crawford-scott.txt  
17 Q. Okay. Have you ever found any  
18 smoking articles underground,  
19 matches, cigarette butts or  
20 cigarettes?

21 A. Not at Sago Mine, no.

22 Q. No.

23 MR. SWENTOSKY:

24 Brian, do you have  
25 anything?

177

01 MR. MILLS:

02 Just a couple to  
03 clarify.

04 BY MR. MILLS:

05 Q. After the air change, did you  
06 take an air reading of the air  
07 ventilating the seals?

08 A. Yes, I did.

09 Q. At what ---?

10 A. At the regulator?

11 Q. Do you remember what the ---?

12 A. 4,100 cubic feet.

13 Q. Okay. This air change was  
14 December the 12th?

15 A. Yes.

16 Q. What was the day that you and  
17 Marty went back up and put the  
18 curtains up to the stoppings? Was  
19 the before the 12th or after?

20 A. It was after the 12th.

21 Q. Up to the seals?

22 A. Yeah, on the 12th. I believe

23 it was on a Sunday. On Saturday and  
24 Sunday we done the air change.  
25 Between the --- if that was on the

178

01 12th, between --- the next week, we  
02 done additional work in there, rock  
03 dusting and ventilating with the  
04 curtain and cleaned up all the  
05 garbage. I mean, it looked like a  
06 nice park.

07 Q. So following the week of the  
08 12th was when you did the curtain?

09 A. Yes, that's right.

10 Q. Did you work the weekend  
11 before the explosion?

12 A. The weekend before?

13 Q. Yeah, the Saturday and Sunday?

14 A. The 11th and 12th, when I done  
15 that air change ---

16 Q. No.

17 A. --- is the last weekend I ever  
18 worked, because I swore to myself,  
19 I'm tired this year. I've worked so  
20 much, I don't need it.

21 Q. So the weekend of the 11th and  
22 12th of December ---?

23 A. My last weekend I've ever  
24 worked.

25 Q. Do you have any experience as

179

01 a mine rescue team member?

02 A. No.

03 Q. Okay. On the day of the  
04 explosion, you were outside. Did you  
05 have a detector with you?

06 A. Did I have one? Yeah, but  
07 there was a lot of them there. A  
08 state inspector.

09 Q. No. I mean, did you have one?

10 A. No, I hadn't gotten mine off  
11 the shelf yet.

12 Q. Okay. Any time during that  
13 day, did you make any air quality  
14 readings?

15 A. Yes, I did.

16 Q. Where was that at?

17 A. At the main return coming out  
18 of the mine.

19 Q. And do you know what time of  
20 the day that was?

21 A. I don't remember. When they  
22 came there, they sent me and Jeff,  
23 the state inspector, real tall guy.

24 Q. If I mentioned Bennett, would  
25 that ring a bell?

180

01 A. Real tall. You might be  
02 right. I know he got Jeff on his  
03 hat. He liked me well, but me and  
04 him went down and checked the air  
05 chart at the fan and took the CO ---  
06 methane monitors over and took a ---  
07 I took an air reading coming out of

08 the return of the mine and a methane  
09 check and a CO check.  
10 Q. Do you remember any numbers?  
11 A. Zero percent methane, around  
12 93,000 cubic feet of air. The CO was  
13 high. I'm thinking 51 million. I  
14 think.  
15 Q. Fifty-one (51) parts per  
16 million?  
17 A. That's right. I think that's  
18 right.  
19 Q. The number on your display  
20 showed 51?  
21 A. Yes, it did. And I done that  
22 three different times.  
23 Q. And ---.  
24 A. But we tried to do it the  
25 fifth, sixth and seventh time, but we

181

01 couldn't do it.  
02 Q. Why was that?  
03 A. Too much CO coming out. We  
04 couldn't even get in the --- towards  
05 the mouth.  
06 Q. Okay. When you took you first  
07 readings, were you outside under the  
08 canopy or in the mine?  
09 A. I was back underground  
10 approximately the length of this  
11 room. That's where we always took  
12 the air reading in the return. It's

13 got it marked there area and  
14 everything. That big area was 93 ---  
15 like 93,000. I don't know. It's  
16 marked there where I took it. I got  
17 93,000 cubic feet of air.

18 Q. Approximately what time, do  
19 you ---?

20 A. I'd say the first one was 8:30  
21 and probably an hour afterwards. We  
22 kept doing it. And then after my  
23 alarm kept me out of it, I didn't go  
24 back.

25 Q. So about each hour after 8:30

182

01 you went back in and ---?

02 A. Me and Jeff. A state  
03 inspector always went with me.

04 Q. In the mines?

05 A. Just ---.

06 Q. In the return?

07 A. Yeah, the length of this room  
08 in the return. But the CO kept  
09 getting higher and higher.

10 Q. Do you remember the numbers on  
11 the CO?

12 A. That 51. I mean, that's the  
13 only one I remember. I mean, it was  
14 higher. The 51 I remember. The rest  
15 of them I don't remember.

16 Q. Was the alarm going off on  
17 your detector?

18 A. Yes.

19 Q. The first time?  
20 A. No, not the first time. The  
21 fourth time.  
22 Q. The fourth time?  
23 A. Yeah. It was going off before  
24 we even got to the pit mouth to go  
25 in.

183

01 Q. Do you know what the alarm is  
02 set on that detector? Do you know  
03 what kind it was?  
04 A. No. Mine and Jeff's both was  
05 going off and me and him just turned  
06 around, both walked back up and told  
07 --- I think his name was Barry, an  
08 inspector, too.  
09 Q. Okay. So to just recap this a  
10 little bit. Your first exam in the  
11 pit mouth of the return was somewhere  
12 around 8:30. You went in three other  
13 times?  
14 A. No. Well, ---.  
15 Q. Three more times?  
16 A. We went three total.  
17 Q. Three times.  
18 A. Counting that first one and  
19 two others, yes, sir.  
20 Q. Okay.  
21 A. Three times I took air  
22 readings and methane inside the pit  
23 mouth, three times.

24 Q. And the high CO reading that  
25 you can recall was the first time?

184

01 A. Well, I'm not saying that was  
02 the first time. I know it was 51 one  
03 time I was there. I mean, the other  
04 ---- I can't remember the other two  
05 times.

06 Q. But each trip in as time went  
07 on, the CO increased?

08 A. Yes, it did.

09 ATTORNEY WILSON:

10 Just for the record,  
11 you said the length of this  
12 room, what would that be,  
13 about 100, 120 feet or so?

14 A. No. About 60 feet. Fifty  
15 (50), 60 feet.

16 ATTORNEY WILSON:

17 Fifty (50), 60 feet,  
18 all right.

19 BY MR. MILLS:

20 Q. You didn't go in by the first  
21 crosscut, did you? Did you go in by  
22 the first crosscut?

23 A. I couldn't tell because it's  
24 got tunnel liner in there. I  
25 couldn't tell. It wasn't really that

185

01 far. I mean, I don't think it's  
02 really that far.

03 Q. Do you recall the methane  
Page 152

04 i ncreasi ng?

05 A. It never i ncreased. I mean,  
06 all three times the methane stayed  
07 zero.

08 MR. MILLS:  
09 That' s all .

10 BY MR. SWENTOSKY:

11 Q. Those times that you went down  
12 there, who told you to do down there  
13 and make those readings?

14 A. Who told us to go down there?

15 Q. Yeah.

16 A. A state mi ne i nspector. Hi s  
17 name is Barry. I don' t know hi s last  
18 name.

19 Q. Okay. He' s the one that told  
20 you guys to do down each time?

21 A. He asked me and hi m to go see  
22 what ki nd of readi ng we got, yes,  
23 si r.

24 Q. Has anyone offered you  
25 anything to make you any --- or make

186

01 any promi se to you i n exchange for  
02 your appeari ng here today?

03 A. A promi se? He ll , no, thi s i s  
04 my free wi ll .

05 Q. Okay. Do you have anythi ng  
06 that you woul d like to add or tell us  
07 about or --- on your own there or  
08 ---?

09 A. No, sir.  
10 MR. SWENTOSKY:  
11 On behalf of MSHA, I  
12 would like to thank you for  
13 appearing and answering the  
14 questions here today. Your  
15 cooperation is very important  
16 to the investigation as we  
17 work to determine the cause of  
18 the accident. We ask that you  
19 not discuss your testimony  
20 with any person who may have  
21 already been interviewed or  
22 who may be interviewed in the  
23 future. This will ensure that  
24 we obtain everyone's  
25 independent recollection of

187

01 the events surrounding the  
02 accident.  
03 After questioning other  
04 witnesses, we may call you if  
05 we have any follow-up  
06 questions that we feel that  
07 need to be --- that we need to  
08 ask you. If at any time, you  
09 have additional information  
10 regarding the accident that  
11 you would like to provide to  
12 us, please contact us at the  
13 information that was  
14 previously provided to you,

15 and we have that card there.  
16 Oh, you have it. Okay.  
17 The Mine Act provides  
18 certain protections to miners  
19 who provide information to  
20 MSHA and as a result you are  
21 treated adversely. If at any  
22 time, you believe that you  
23 have been treated unfairly  
24 because of your cooperation in  
25 this investigation, you should

188

01 contact --- you should  
02 immediately contact MSHA. If  
03 you wish, you may now go back  
04 over any answer you have given  
05 during this interview and you  
06 may also make a statement, any  
07 statement that you would like  
08 to make at this time.

09 A. The only thing is I feel in  
10 the last three months safety has been  
11 increased. That the best I've ever  
12 worked or I wouldn't have went back.

13 I signed to work with ICG. And I  
14 think it's a safe mine to work at.

15 MR. SWENTOSKY:

16 And you're talking  
17 about Sago?

18 A. Yes, I am. And I was a UMWA  
19 member for 14 years, no difference.

20 That's a good safe mine to work at.  
 21 It has improved a lot. And I think  
 22 an act of God done it. The way that  
 23 building shook and rattled that  
 24 morning, it was God and lightning.  
 25 MR. SWENTOSKY:

189

01 Again, I would like to  
 02 thank you for your cooperation  
 03 in this matter. Thanks, Mr.  
 04 Scott. I really appreciate  
 05 it. It took a long time but  
 06 we ---.  
 07 A. That's all right.

\* \* \* \* \*

09 SWORN STATEMENT

10 CONCLUDED AT 12:39 P. M.

11 \* \* \* \* \*

12  
 13  
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 16  
 17  
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 20  
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 22  
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 25

Addition of Omega Seal to  
Plan 8' high by 20' wide  
Only

4

U.S. Department of Labor

Mine Safety and Health Administration  
604 Cheat Road  
Morgantown, West Virginia 26508



OCT 24 2005

Mr. Jeffrey K. Toler  
Superintendent  
Anker WV Mining Company, Inc.  
Route 9, Box 507  
Buckhannon, West Virginia 26201

UNDERGROUND MINE FILE	
DATE	10-24-05
INITIALS	alw

SENT TO AND/OR DISCUSSED WITH FIELD OFFICE:

SURNAME	DATE
General/Terry	10/13/2005
REVIEWED BY:	
Parrish	10/19/2005
Brooks for TH	10/20/05
Smith	10-20-05
Mosley	10-20-05

Dear Mr. Toler:

The request filed October 12, 2005, and revision filed October 19, 2005, to add an alternative method of seal construction to the ventilation plan for the Sago Mine, I.D. No. 46-08791, has been reviewed. The alternative method seal made with nonhitched-style Omega blocks is approved and will be included in your currently approved mine ventilation plan.

You are reminded that all changes or revisions to the mine ventilation plan, as specified in 30 CFR 75.370(d), must be submitted to and approved in writing by this office before they are implemented.

If you have any questions, please feel free to contact this office.

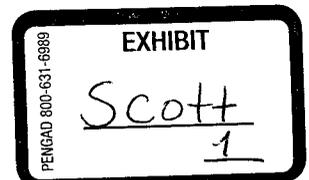
Sincerely,

**Kevin G. Stricklin**

Kevin G. Stricklin  
District Manager

EParrish:aew

bcc:  
Bridgeport F/O (2)  
W. Ponceroff  
E. Parrish  
Health Section  
Map File  
Main File



**Anker West Virginia  
Mining Company**

Rt. 9 Box 507  
Buckkannon, WV 26201

MSHA SAFETY AND  
HEALTH ADMINISTRATION  
MORGANTOWN, WV

*pi*  
*10-13-05*

October 12, 2005

2005 OCT 12 PM 3:18

Kevin Stricklin, District Manager  
Mine Health and Safety Administration  
604 Cheat Road  
Morgantown, WV 26508  
Attn: Tom Hlavsa

RECEIVED  
*cm*

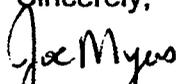
RE: Sago Mine's Ventilation Plan Changes

Mr. Stricklin:

Anker West Virginia Mining Company wishes to add an Omega Concrete Block Seal Method and Plan to our current Ventilation Plan for our Sago Mine, MSHA ID # 46-08791. It should be noted, that at this time, we only wish to add the non-hitched style to our plan. (See attached diagrams).

If you have any questions on this matter, please feel free to contact me at 304-471-3300.

Sincerely,



*For* Joe Schoonover  
Safety Director

## Guidelines for installation of Omega Block Concrete Seals

1. All loose material will be removed from the roof, ribs, and floor to accommodate seal construction and supplemental supports. The seals will be constructed at such a location so that a permanent block seal can be installed in front of the omega seal, if required in the future.
2. The seal will be constructed with Omega blocks using one of the following Methods:
  - A) Total thickness of 40"
  - B) No hitching required.
  - C) Joints must be staggered.
  - D) A bonding agent (Blockbond #122551), will be used to seal between each layer and joining edges of blocks at least ¼" thick and will be applied to the front and back of the seal.
  - E) The Omega blocks will be either be sawed or constructed so as to bring the top blocks to within 2" of the mine roof.
  - F) Three rows of wood planks running the entire length of the seal shall be installed across the top of the seal.
  - G) Wedges will be placed on 1 Foot centers or less, with an approved sealant used to fill the gaps.
  - H) An approved sealant shall be used as full face coating on both sides of the seal.
  - I) Seals shall be installed at least 10 feet from the corner of the pillar.
  - J) Sample pipes shall be installed as per 75.335.
  - K) Water traps will be installed within 12" of the bottom or floor.

RECEIVED

2005 OCT 19 PM 12: 49

OPERATION

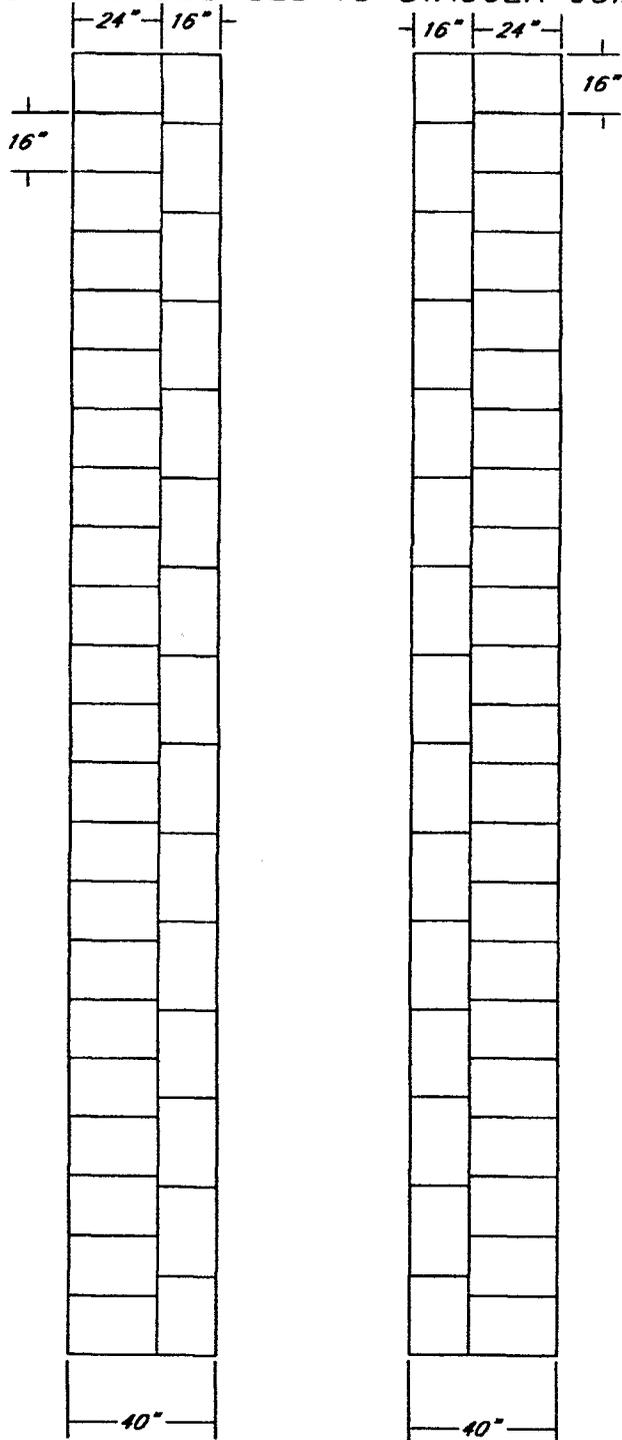
# SAGO MINE

40" THICK OMEGA BLOCK SEAL

CONSTRUCTION PLAN

FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE

## ALTERNATE COURSES TO STAGGER JOINTS

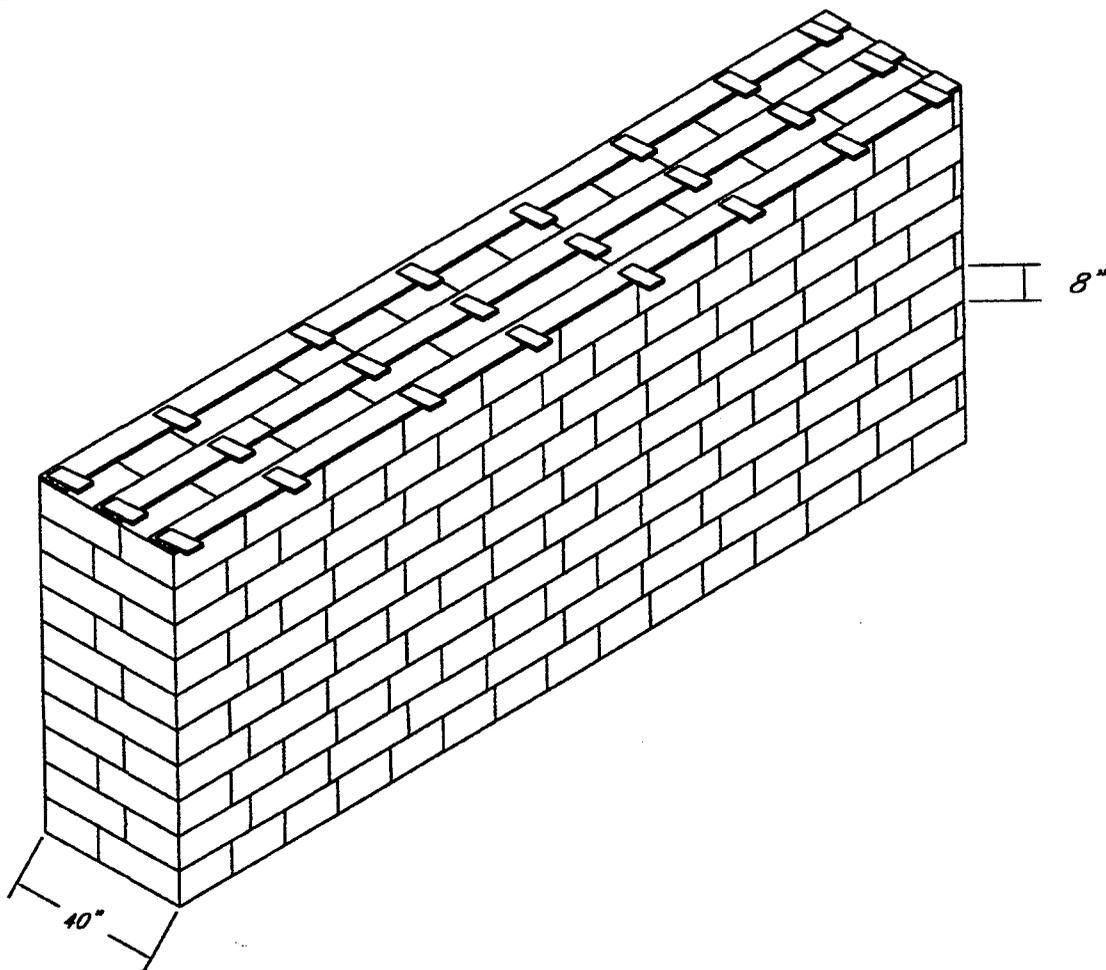


# SAGO MINE

40" THICK OMEGA BLOCK SEAL

FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE

1. Total thickness 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 motared using an approved mortar/sealant
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 an approved sealant used to fill the gaps
7. An approved sealant 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

Approval of 2 Left Seals

9

U.S. Department of Labor

Mine Safety and Health Administration  
604 Cheat Road  
Morgantown, West Virginia 26508



OCT 24 2005

Mr. Jeffrey K. Toler  
Superintendent  
Anker WV Mining Company, Inc.  
Route 9, Box 507  
Buckhannon, West Virginia 26201

UNDERGROUND MINE FILE
DATE FWD. 10-24-05
INITIALS aew

SENT TO AND/OR DISCUSSED WITH FIELD OFFICE:	
SURNAME	DATE
Parrish/Terry	10/13/2005
REVIEWED BY:	
Parrish	10/18/2005
Shannon	10/19/05
Smith	10-20-05
Mosley	10-20-05

Dear Mr. Toler:

The proposed location and sequence of seal construction across North East Mains and the intentional ventilation change filed October 12, 2005, at the Sago Mine, I.D. No. 46-08791, has been reviewed. The request is approved and will be included as a supplement to the mine ventilation map filed pursuant to 30 CFR 75.372.

You are reminded that this ventilation change must be conducted in accordance with 30 CFR 75.324.

If you have any questions, please feel free to contact this office.

Sincerely,

**Kevin G. Stricklin**

Kevin G. Stricklin  
District Manager

EParrish:aew

bcc:  
Bridgeport F/O (2)  
E. Parrish  
Map File  
Main File

**Anker West Virginia  
Mining Company**

Rt. 9 Box 507  
Buckkannon, WV 26201

MINING SAFETY AND  
HEALTH ADMINISTRATION  
MORGANTOWN, WV

2005 OCT 12 PM 3:18

*10-13-05*

October 12, 2005

Kevin Stricklin, District Manager  
Mine Health and Safety Administration  
604 Cheat Road  
Morgantown, WV 26508  
Attn: Tom Hlavsa

RECEIVED

*CM*

RE: Sago Mine's Ventilation Plan Changes

Mr. Stricklin:

Anker West Virginia Mining Company wishes to seek approval relative to installing nine mine seals across our North-East Mains in our Sago Mine, MSHA ID # 46-08791.

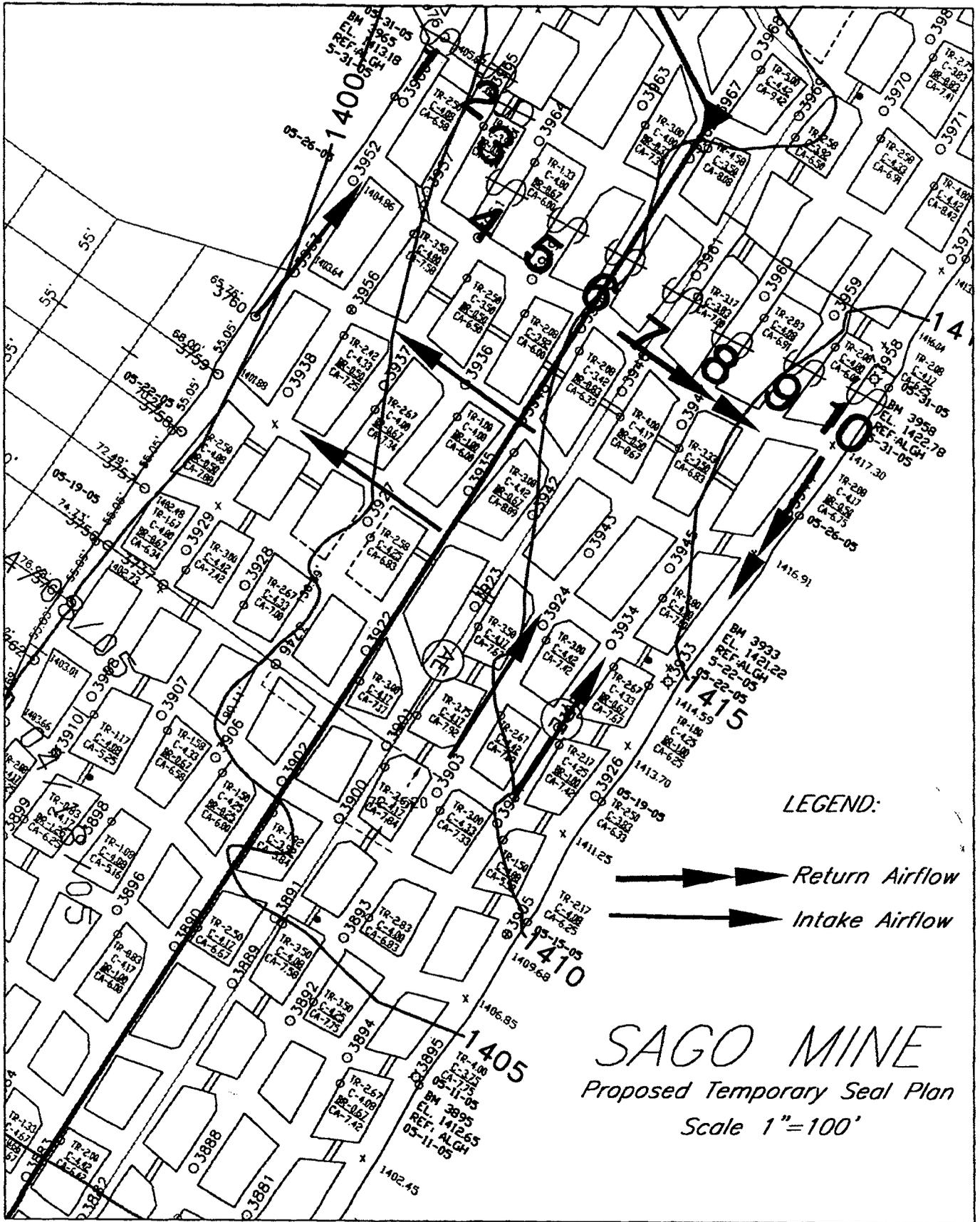
The mine seals being proposed will be constructed across our North East Mains, just inby the area that will be the future location of the 2<sup>nd</sup> Mains Unit. The proposed seals will be constructed across the North East Mains area in such a manner that the No. 2-9 seals will be constructed first, with seal numbers 1 and 10 be constructed simultaneously. It should be noted that for a temporary time frame, (not to exceed a four week period after the construction of said seals), that we will course air from a left-to-right direction, (from the number 1 entry towards the number 9 entry), in order to ventilate these seals; however, once we have constructed the necessary overcasts on the future 2<sup>nd</sup> Left Mains the air flow direction will be switched to a right-to-left direction, (From the number 9 entry towards the number 1 entry). See attached mapping to see air flow direction and ventilation control devices.

If you have any questions on this matter, please feel free to contact me at 304-471-3300.

Sincerely,

*Joe Myers*

For *Al* Schoonover  
Safety Director



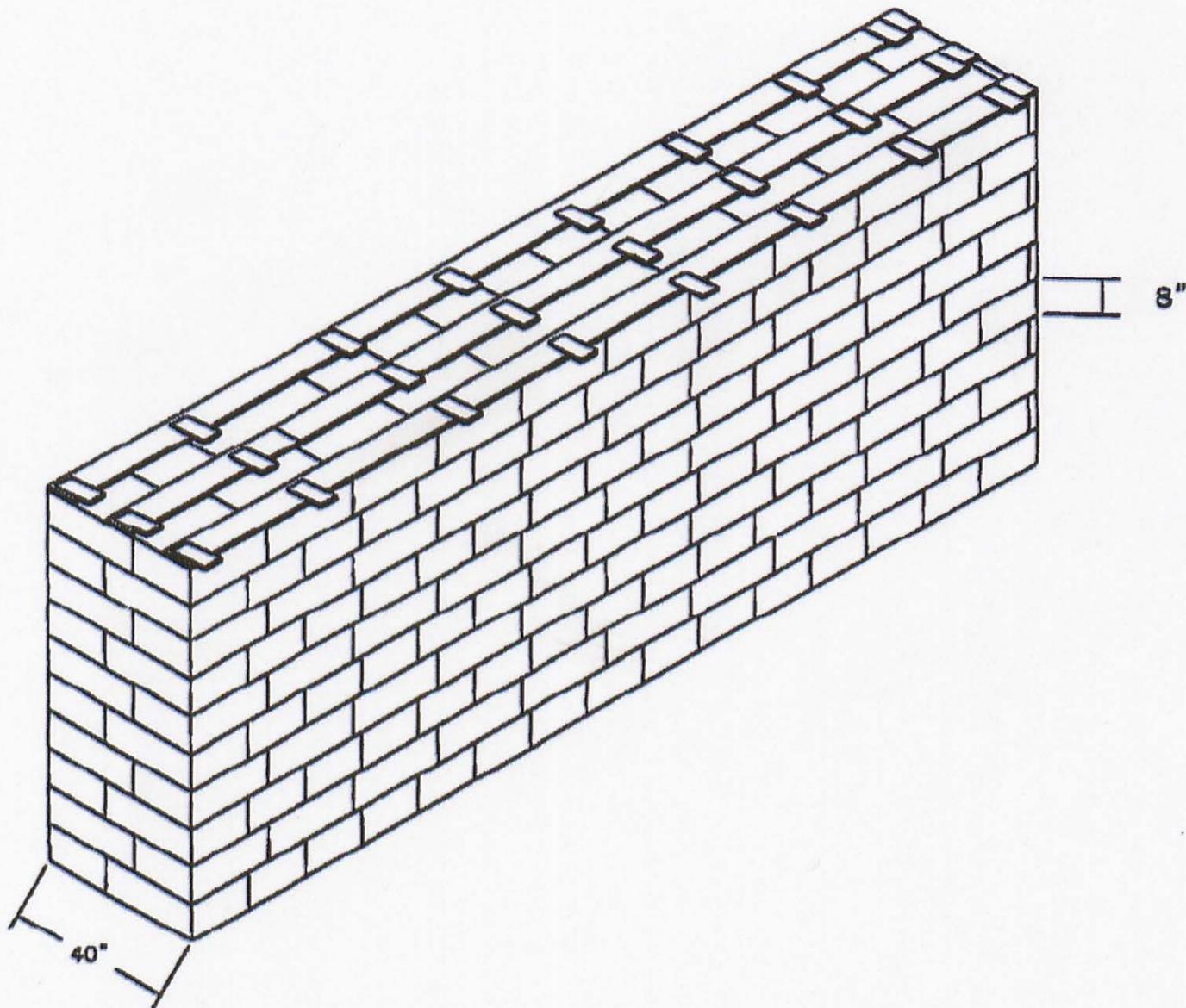
LEGEND:

-  Return Airflow
-  Intake Airflow

**SAGO MINE**  
 Proposed Temporary Seal Plan  
 Scale 1"=100'

*40" THICK OMEGA BLOCK SEAL  
FOR USF WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE  
NO HITCHING REQUIRED*

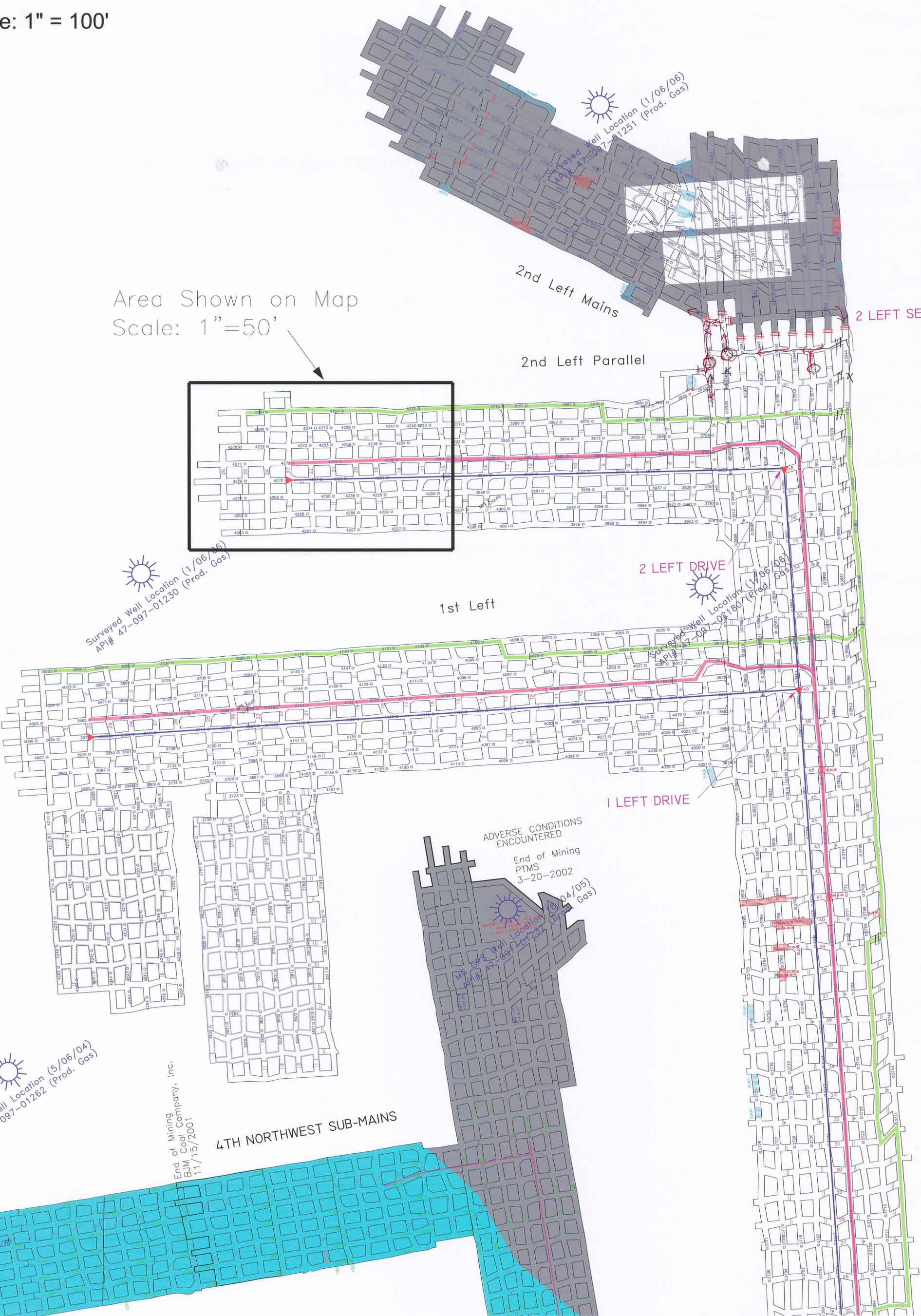
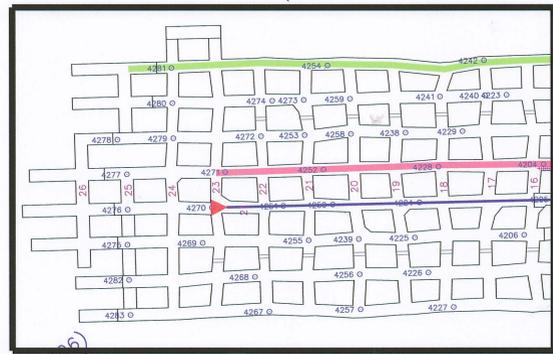
1. Total thickness of completed seal shall be 40 inches
2. No hitching required
3. Joints must be staggered
4. All joints shall be a minimum  $\frac{1}{4}$  inch thick and be mortared using "BlockBond"
5. Three rows of wood planks running the entire length of the seal shall be installed across the top 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

Scale: 1" = 100'

Area Shown on Map  
Scale: 1" = 50'



Surveyed Well Location (1/06/06)  
API# 47-097-01251 (Prod. Gas)

Surveyed Well Location (1/06/06)  
API# 47-097-01250 (Prod. Gas)

Surveyed Well Location (1/06/06)  
API# 47-097-01250 (Prod. Gas)

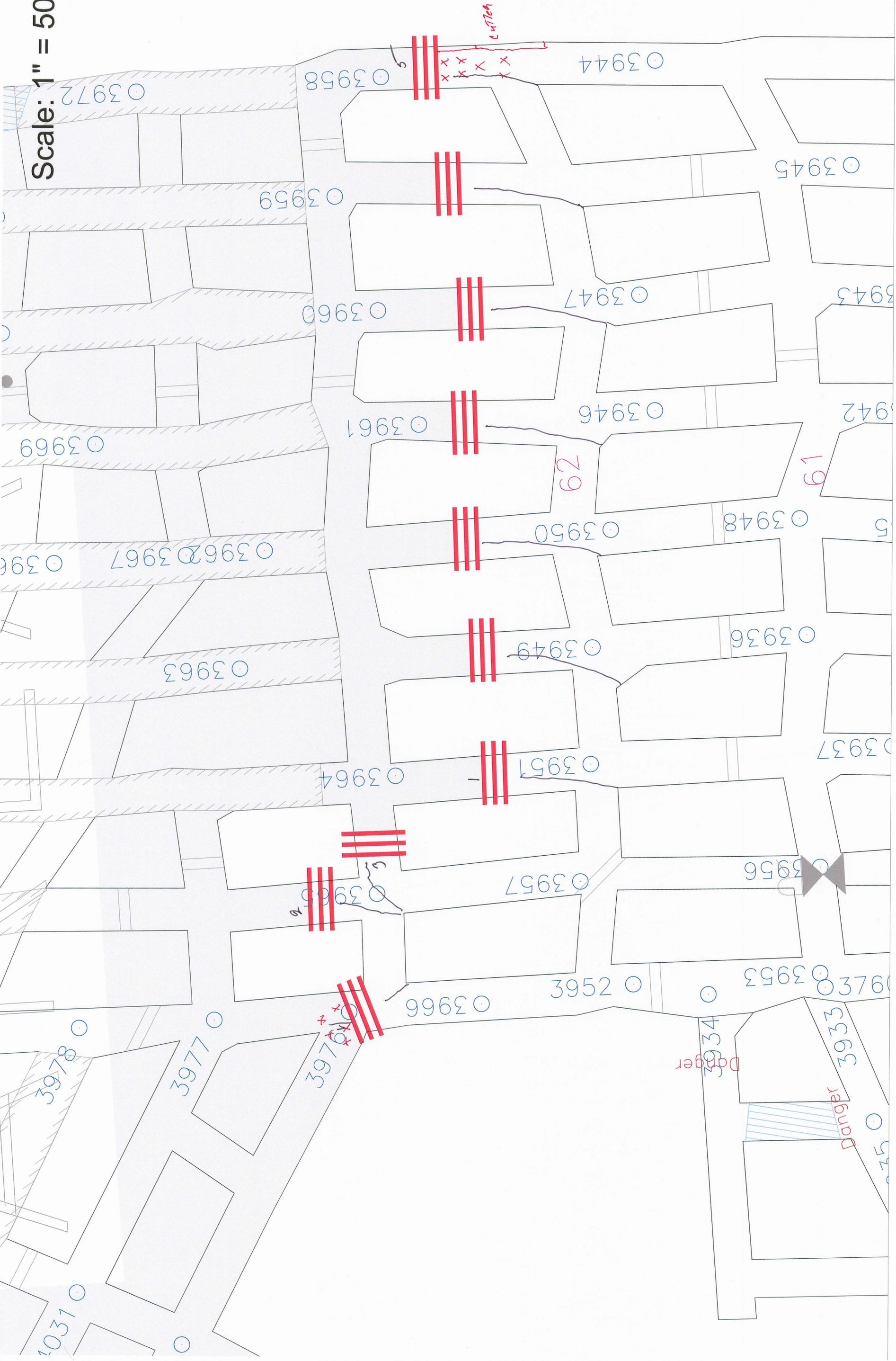
ADVERSE CONDITIONS ENCOUNTERED  
End of Mining  
PTMS  
3-20-2002  
API# 47-097-01251 (Prod. Gas)

MG GPS Well Location (5/06/04)  
API# 47-097-01262 (Prod. Gas)

End of Mining  
BJM Coal Company, Inc.  
11/15/2001

4TH NORTHWEST SUB-MAINS

Scale: 1" = 50'



SEALS

05-31-05  
BM 3965  
EL. 1413.18  
REF ALGH  
5-31-05

05-26-05  
1400

1415

BM 3958  
EL. 1422.78  
REF ALGH  
5-31-05

EXHIBIT  
Scott  
5

PENGAD 800-631-6989

BM 3933  
EL. 1421.22  
REF ALGH  
5-22-05

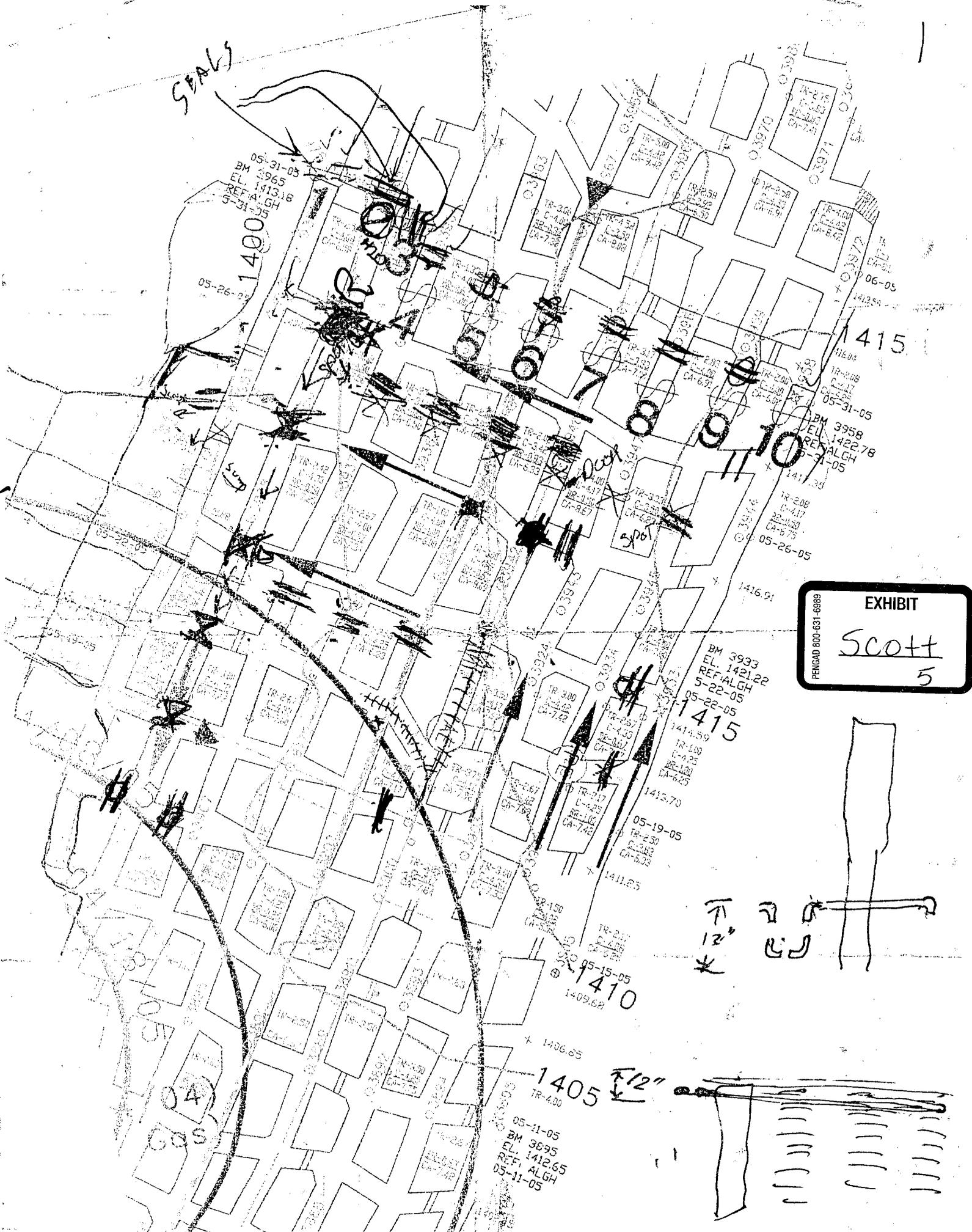
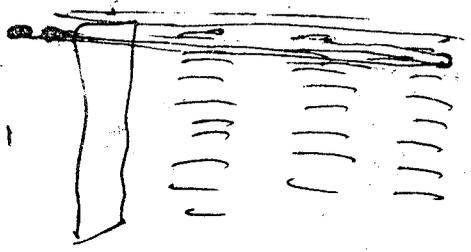
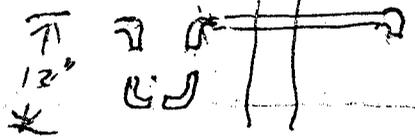
05-22-05  
1415

05-19-05

05-15-05  
1410

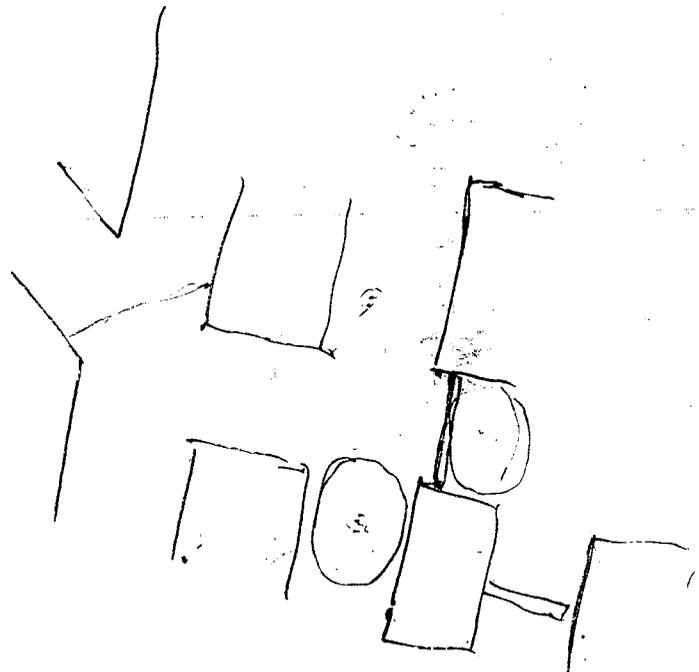
1405

05-11-05  
BM 3895  
EL. 1412.65  
REF ALGH  
05-11-05



### Guidelines for installation of Omega Block Concrete Seals

1. All loose material will be removed from the roof, ribs, and floor to accommodate seal construction and supplemental supports. The seals will be constructed at such a location so that a permanent block seal can be installed in front of the omega seal, if required in the future.
2. The seal will be constructed with Omega blocks using one of the following Methods:
  - A) Total thickness of 40"
  - B) No hitching required.
  - C) Joints must be staggered.
  - D) All joints shall be a minimum of ¼" thick and be mortared using an approved mortar/sealant.
  - E) Three rows of wood planks running the entire length of the seal shall be installed across the top of the seal.
  - F) Wedges will be placed on 1 Foot centers or less, with an approved sealant used to fill the gaps.
  - G) An approved sealant shall be used as full face coating on both sides of the seal.
  - H) Seals shall be installed at least 10 feet from the corner of the pillar.
  - I) Sample pipes shall be installed as per 75.335, or relative to the WVOMHS&T's §36-17-4, and as prescribed by the Director.



# SAGO MINE

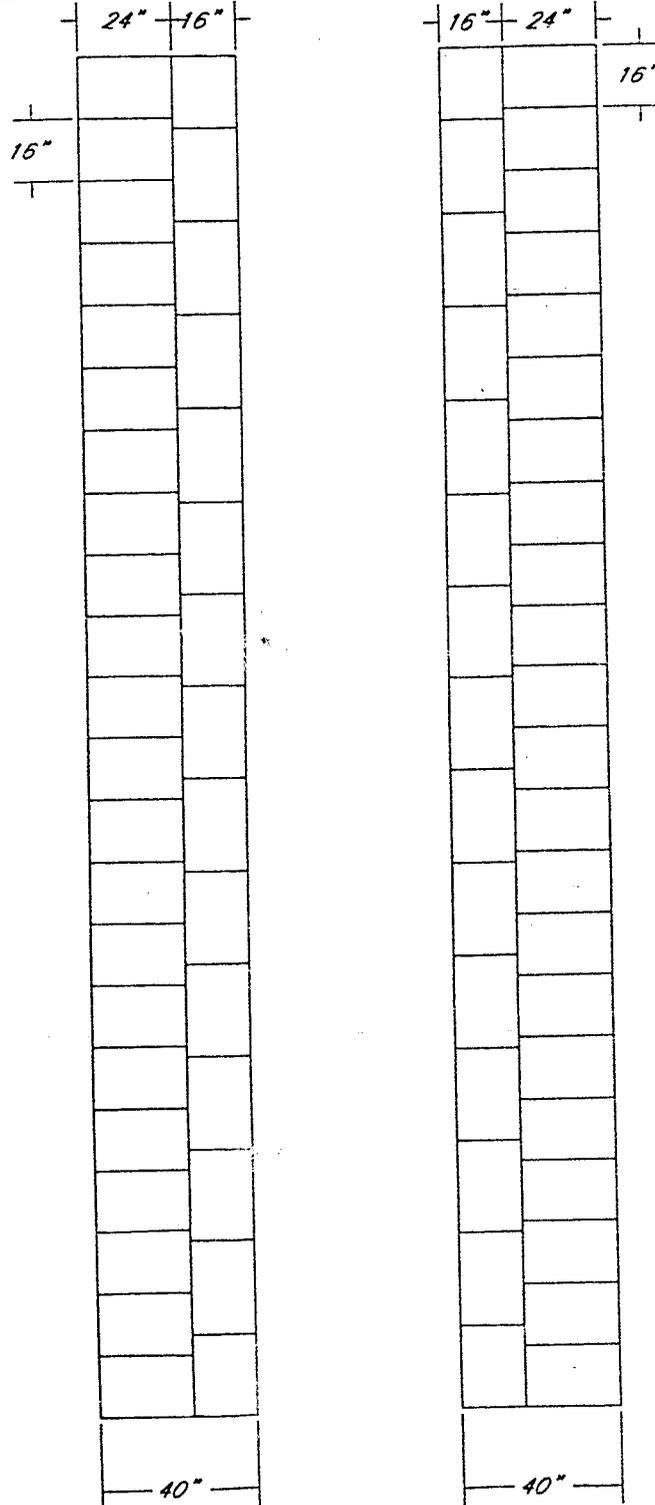
3

40" THICK OMEGA BLOCK SEAL

CONSTRUCTION PLAN

FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE

ALTERNATE COURSES TO STAGGER JOINTS



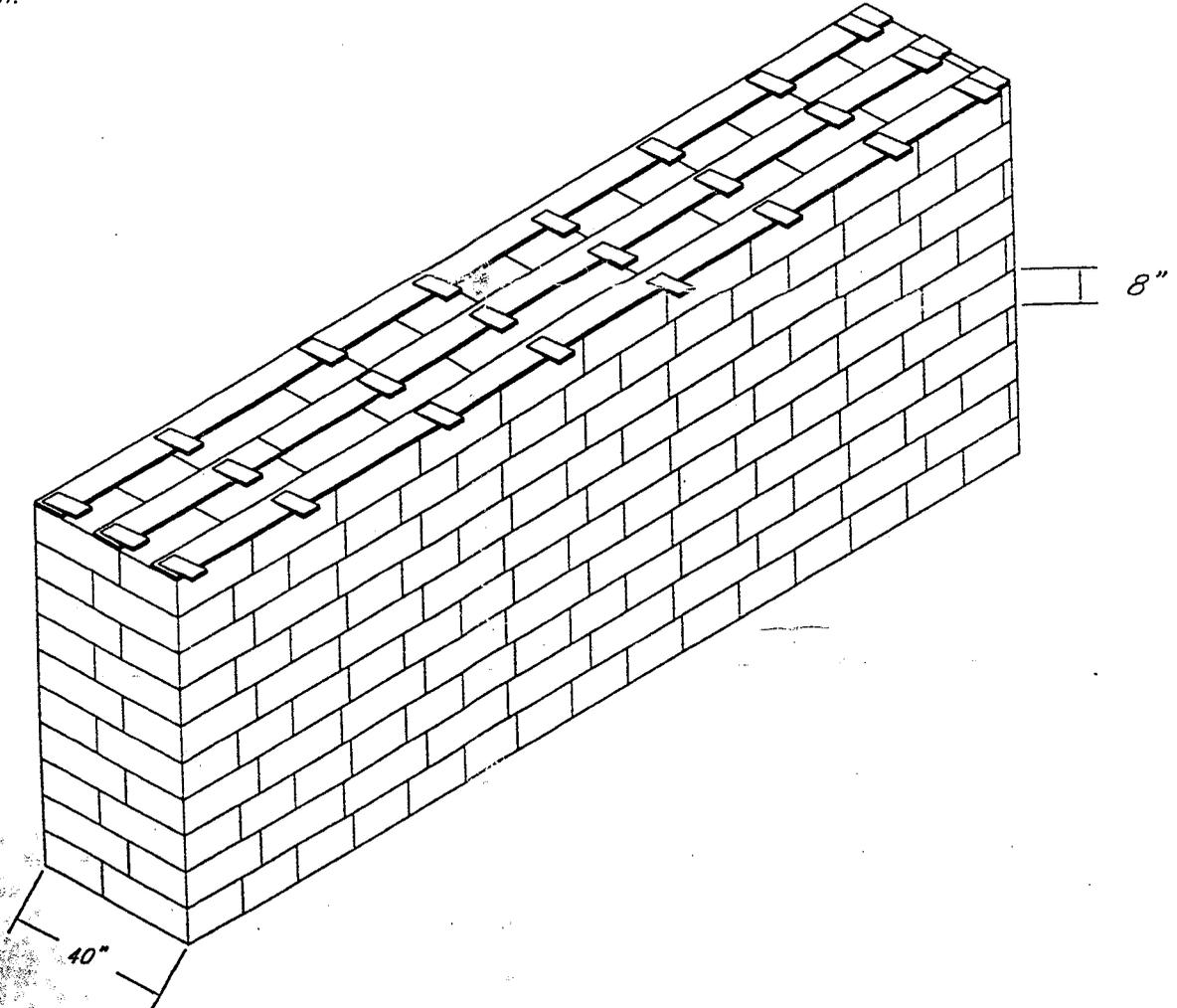
# SAGO MINE

## 40" THICK OMEGA BLOCK SEAL

FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE

4

1. Total thickness 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 motared using an approved motar/sealant
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 an approved sealant used to fill the gaps
7. An approved sealant shall be used as full face coating on both sides of the seal.



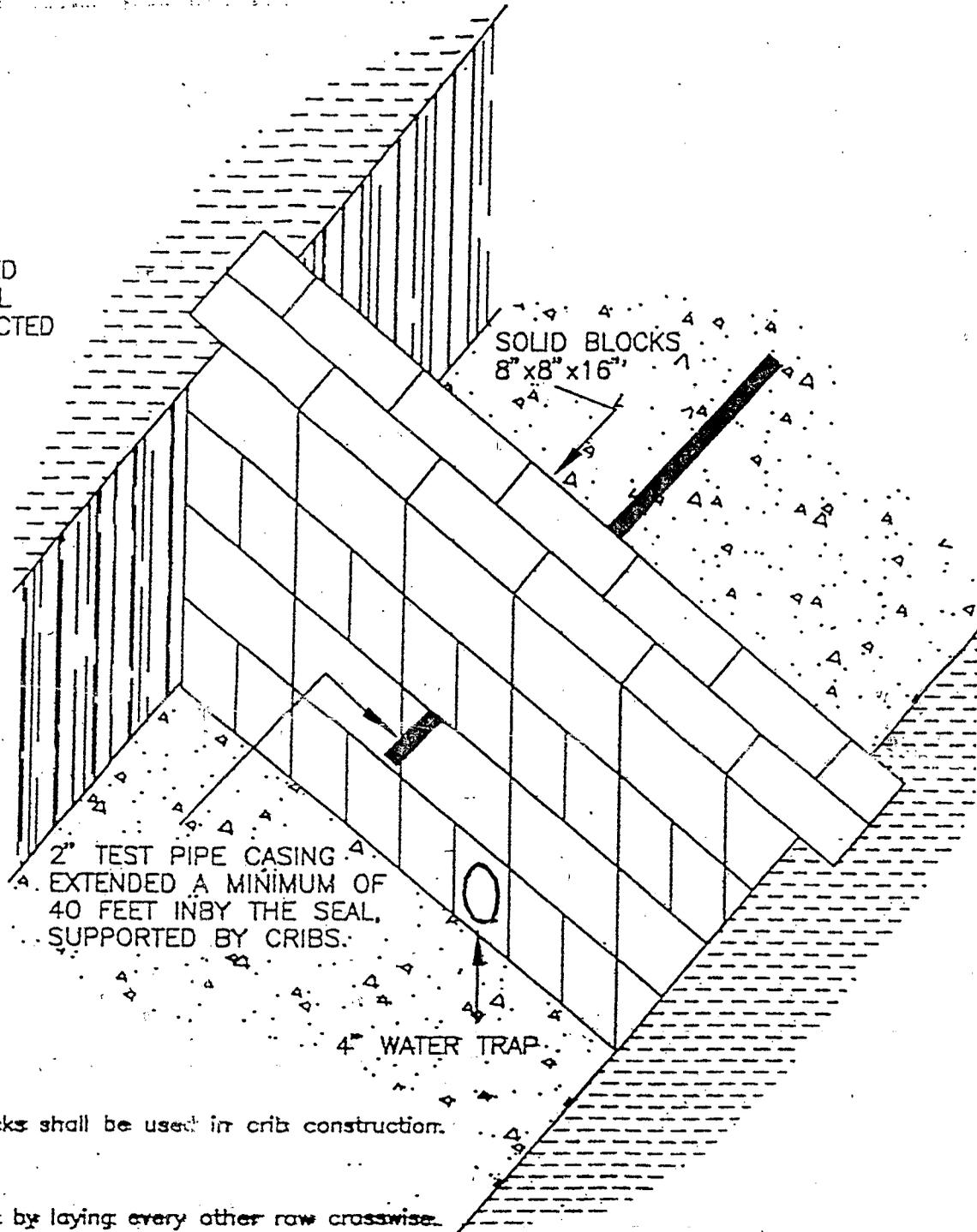
- Seals shall be at least 10 feet from the corner of the pillar
- Sampling pipes shall be installed as per 36-17-4, and as prescribed by the Director

# METHOD FOR SEALING ABANDONED OR WORKED OUT AREAS

5

BLOCKS TO BE ANCHORED ONE FOOT IN SOLID COAL AND SHALL BE CONSTRUCTED ON SOLID BOTTOM.

TWO ROWS OF BLOCKS WITH CONCRETE MOTAR LINES AND 1/2" PLASTER ON THE OUT-BY-SIDE AND WHERE POSSIBLE ON THE IN-BY-SIDE.



2" TEST PIPE CASING EXTENDED A MINIMUM OF 40 FEET INBY THE SEAL, SUPPORTED BY CRIBS.

4" WATER TRAP

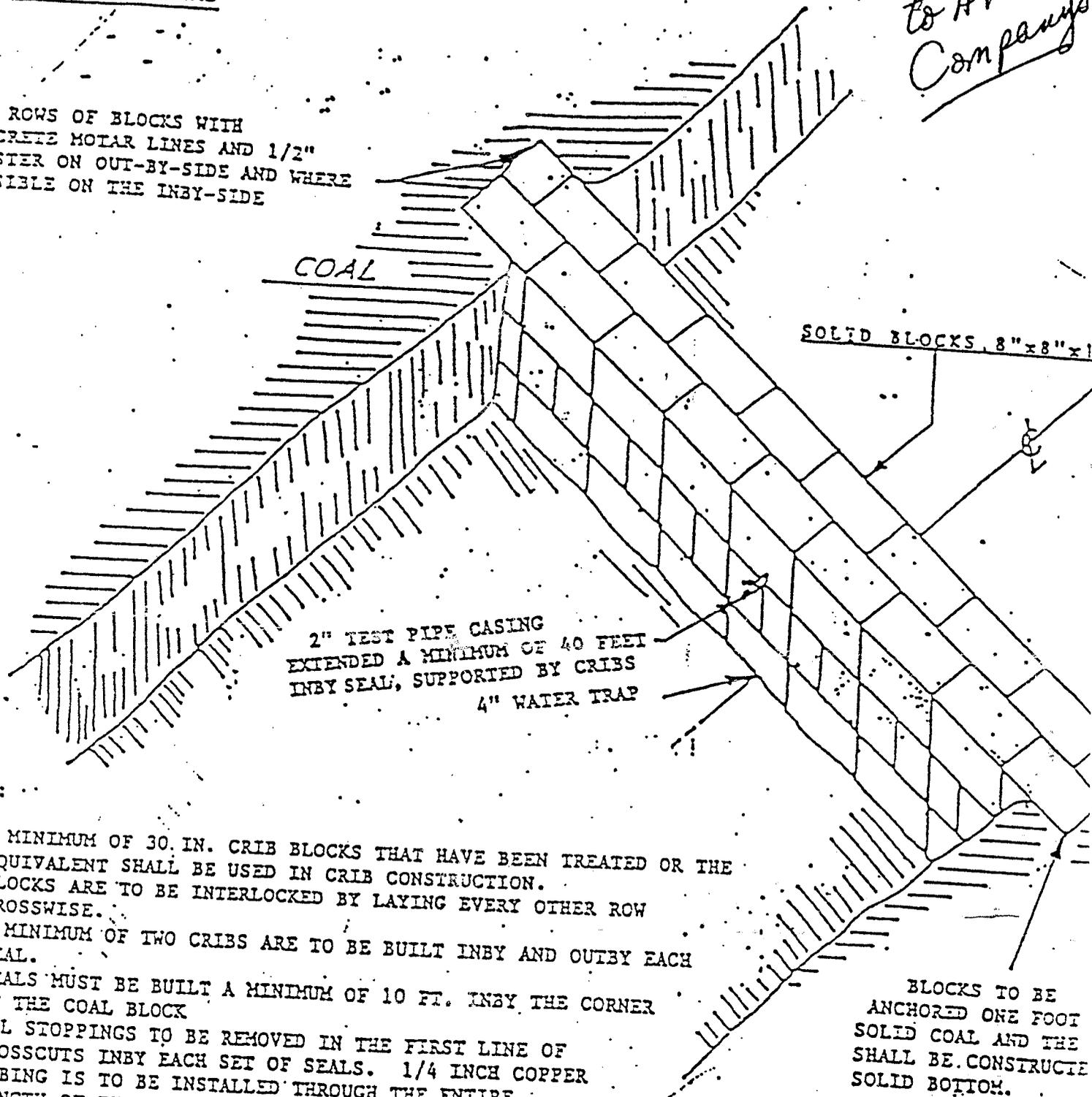
- A minimum of 30" crib blocks shall be used in crib construction.
- Blocks are to be interlocked by laying every other row crosswise.
- A minimum of two cribs are to be built inby and outby each seal.
- Seals must be built a minimum of 10 feet inby the corner of the coal block.
- All stoppings to be removed in the line of crosscuts inby each set of seals. 1/4" copper tubing is to be installed through the entire length of the 2" test pipe casing.

Each of the above pipes must be installed in each set of seals. The 2" test pipe casing must be in the seal of the highest elevation. The division office shall be notified before the seals are finished so that the district inspector can check to see if the seals have been constructed to specifications.

*Distribute to All Companies 6*

PLAN FOR SEALING  
ABANDONED OR  
WORKED OUT AREAS

10 ROWS OF BLOCKS WITH  
CONCRETE MORTAR LINES AND 1/2"  
PLASTER ON OUT-BY-SIDE AND WHERE  
POSSIBLE ON THE INBY-SIDE



2" TEST PIPE CASING  
EXTENDED A MINIMUM OF 40 FEET  
INBY SEAL, SUPPORTED BY CRIBS  
4" WATER TRAP

BLOCKS TO BE  
ANCHORED ONE FOOT  
SOLID COAL AND THE  
SHALL BE CONSTRUCTED  
SOLID BOTTOM.

NOTES:

- A MINIMUM OF 30. IN. CRIB BLOCKS THAT HAVE BEEN TREATED OR THE EQUIVALENT SHALL BE USED IN CRIB CONSTRUCTION. BLOCKS ARE TO BE INTERLOCKED BY LAYING EVERY OTHER ROW CROSSWISE.
- A MINIMUM OF TWO CRIBS ARE TO BE BUILT INBY AND OUTBY EACH SEAL.
- SEALS MUST BE BUILT A MINIMUM OF 10 FT. INBY THE CORNER OF THE COAL BLOCK
- ALL STOPPINGS TO BE REMOVED IN THE FIRST LINE OF CROSSCUTS INBY EACH SET OF SEALS. 1/4 INCH COPPER TUBING IS TO BE INSTALLED THROUGH THE ENTIRE LENGTH OF THE 2" TEST PIPE CASING.
- EACH OF THE ABOVE PIPES MUST BE INSTALLED IN EACH SET OF SEALS. THE 2" TEST PIPE CASING MUST BE IN THE SEAL OF THE HIGHEST ELEVATION AND THE WATER TRAP IN THE SEAL OF LOWEST ELEVATION.
- THE DIVISION OFFICE SHALL BE NOTIFIED BEFORE THE SEALS ARE FINISHED SO THAT THE DISTRICT INSPECTOR CAN CHECK TO SEE IF THE SEALS HAVE BEEN CONSTRUCTED TO SPECIFICATIONS.

COMPANY: \_\_\_\_\_

MINE: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF COMPANY OFFICIAL & T