

STATEMENT UNDER OATH
OF
HAROLD BAISDEN

Taken pursuant to Notice by Miranda
D. Elkins, a Court Reporter and
Notary Public in and for the State of
West Virginia, at the U.S. Bankruptcy
Court, 324 West Main Street,
Clarksburg, West Virginia, on
Friday, February 17, 2006, at 1:25
p.m.

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A P P E A R A N C E S

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

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P R O C E E D I N G S

MR. O'DONNELL:

My name is Joe O'Donnell, I'm an accident investigator with the Mine Safety & Health Administration, an agency of the United States Department of Labor. With me is James Crawford from the Solicitor's Office, John Collins with the West Virginia Office of Miners' Safety, Health and Training. I've been assigned to conduct an investigation into the accident that occurred at the Sago Mine on January the 2nd, 2006, in which 12 miners died and one was injured.

The investigation is being conducted by MSHA and the West Virginia Office of Miners' Health, Safety &

1 Training to gather information
2 to determine the cause of the
3 accident. These interviews
4 are an important part of the
5 investigation.

6 At this time, the
7 accident investigation team
8 intends to interview a number
9 of people to discuss anything
10 that may be relevant to the
11 cause of the accident. After
12 the investigation is
13 completed, MSHA will issue a
14 written report detailing the
15 nature and causes of the
16 accident. MSHA accident
17 reports are made available to
18 the public in the hope that
19 greater awareness about the
20 causes of accidents can reduce
21 their occurrence in the
22 future.

23 Information obtained
24 through witness interviews is
25 frequently included in these

1 reports. Your statement may
2 also be used in other
3 enforcement proceedings. I'd
4 like to thank you in advance
5 for your appearance here
6 today. We appreciate your
7 assistance in this
8 investigation. The
9 willingness of miners and mine
10 operators to work with us is
11 critical in our goal of making
12 the nation's mines safer.

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

20 This interview with Mr.
21 Harold Baisden is being
22 conducted under section 103(a)
23 of the Federal Mine Safety &
24 Health Act of 1977, as part of
25 an investigation by the Mine

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

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

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

25 Mr. Baisden, the

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

9 After we have finished
10 asking questions, you also
11 have an opportunity to make a
12 statement and provide us with
13 any other information that you
14 believe may be important. If
15 at any time after the
16 interview you recall any
17 additional information that
18 you believe may be useful in
19 the investigation, please
20 contact Mr. Richard Gates at
21 the phone number and e-mail
22 address provided to you.

23 Your statement is
24 completely voluntary. You may
25 refuse to answer any question,

1 and you may end your interview
2 at any time. If you need a
3 break for any reason, please
4 let us know.

5 A court reporter will
6 record your interview and will
7 later produce a written
8 transcript of the interview.
9 Please try and respond to all
10 the questions verbally, since
11 the court reporter can't
12 record non-verbal responses.
13 Also, please try to keep your
14 voice up. Copies of the
15 written transcript will be
16 available at a later time.

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

1 We may not ask the
2 right question to learn the
3 information that you have, so
4 don't feel limited by the
5 precise question. If you have
6 any information --- if you
7 have information about a
8 subject area of a question,
9 please give it to us.

10 At this time, Mr.
11 Collins, would you like --- do
12 you have anything that you'd
13 like to add on behalf of the
14 State of West Virginia?

15 MR. COLLINS:

16 Yes. Mr. Baisden, the
17 West Virginia Office of
18 Miners' Health, Safety &
19 Training is conducting this
20 interview session jointly with
21 MSHA, and are in agreement
22 with the procedures outlined
23 by Mr. O'Donnell for these
24 interviews today.

25 The Director does

1 reserve the right, if
2 necessary, to call or subpoena
3 witnesses or require the
4 production of any records,
5 documents, photographs, or
6 other relevant material
7 necessary to conduct this
8 investigation.

9 After the interview
10 today, if there's --- if you
11 have any questions or you'd
12 like to provide additional
13 information, here's a
14 telephone number that you can
15 do that with. Thank you.

16 MR. O'DONNELL:

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

22 MR. BAISDEN:

23 Yes.

24 MR. O'DONNELL:

25 Do you have a

1 representative present with
2 you here today?

3 MR. BAISDEN:

4 Yes, I do.

5 MR. O'DONNELL:

6 And can you identify
7 him?

8 MR. BAISDEN:

9 Joe Yuhas.

10 MR. O'DONNELL:

11 Has anyone suggested
12 that you use this
13 representative?

14 MR. BAISDEN:

15 No.

16 MR. O'DONNELL:

17 Are you aware that your
18 representative may have a
19 conflict of interest in
20 representing you while being
21 provided by someone else such
22 as the company?

23 MR. BAISDEN:

24 Yes, sir.

25 MR. O'DONNELL:

1 And have you been
2 pressured in any way to accept
3 this person as your
4 representative?

5 MR. BAISDEN:

6 No, I haven't.

7 MR. O'DONNELL:

8 With this
9 understanding, do you still
10 choose this person as your
11 representative?

12 MR. BAISDEN:

13 Yes, I do.

14 MR. O'DONNELL:

15 Do you have any
16 questions regarding the way
17 we're going to have the
18 interview?

19 MR. BAISDEN:

20 No, I don't.

21 MR. O'DONNELL:

22 Please swear Mr.

23 Baisden in.

24 -----

25 HAROLD BAISDEN, HAVING FIRST BEEN

1 DULY SWORN, TESTIFIED AS FOLLOWS:

2 -----

3 BY MR. O'DONNELL:

4 Q. Would you please state your
5 full name and spell your last name?

6 A. Harold Baisden, Jr.,
7 B-A-I-S-D-E-N.

8 Q. And your address and phone
9 number, please?

10 A. Box 245, Route One, Elkins,
11 West Virginia.

12 Q. Are you ---?

13 A. I'm sorry. 637-3401.

14 Q. Are you appearing here today
15 voluntarily?

16 A. Yes, I am.

17 Q. And how many years of mining
18 experience do you have?

19 A. Thirty (30).

20 Q. And would you give me just a
21 short description of your employment
22 history?

23 A. The mines I've worked at?
24 Just Sugarcreek Coal, Page Creek
25 Processing, Aero Energy, and Beckley

1 Mining. And Advantage Mining, Sago
2 Mine.

3 Q. How much --- when did you
4 start at Sago Mine?

5 A. January the 7th of last year,
6 2005.

7 Q. And what is your current
8 position?

9 A. Motor man.

10 Q. How long have you been a motor
11 man?

12 A. Twenty (20) years.

13 Q. At Sago?

14 A. Oh, eight months.

15 Q. And what did you do before
16 that?

17 A. Underground mine examiner.

18 Q. You were a mine examiner. And
19 what kind of mining certificates do
20 you hold?

21 A. I hold a West Virginia
22 shotfirer. I have a West Virginia
23 mine foreman card, and miner's
24 certificate.

25 Q. Any other state certifications

1 from other states?

2 A. Kentucky. Kentucky horse
3 card, Kentucky shotfirer.

4 Q. Were you working on January
5 the 2nd?

6 A. Yes, I was. No, not January
7 2nd.

8 Q. The day of the explosion?

9 A. No, sir.

10 Q. You weren't scheduled to work?
11 When was the last day that you
12 worked?

13 A. January 1st.

14 Q. Okay. If you would --- well,
15 who's your immediate supervisor?

16 A. Lonnie Short.

17 Q. And what's your normal job
18 duties at Sago?

19 A. Motor man.

20 Q. I mean, what do you do as a
21 motor man?

22 A. House supplies.

23 Q. That's what you are, primarily
24 a supply ---?

25 A. Primary supply man.

1 Q. Okay. And you say you worked
2 on January the 1st?

3 A. January 1st.

4 Q. And did you work the day
5 before that also?

6 A. Yes, sir.

7 Q. What shift did you work on
8 January the 1st?

9 A. Dayshift.

10 Q. And could you tell me a little
11 bit about what you did that day?

12 A. That morning, when I started?

13 Q. Yeah.

14 A. Well, when I got to the mines
15 or when I started to work?

16 Q. Yeah, what time did you start
17 that day?

18 A. I start at seven o'clock.

19 Q. Okay.

20 A. I went in, I pre-shift the
21 track --- make a pre-shift on the
22 track, came outside, got the motor
23 started ballasting, hauling ballast.

24 Q. Okay. You said --- was there
25 anybody in the mine before you?

1 A. No, sir.

2 Q. So was the mine idle the day
3 before?

4 A. No, sir.

5 Q. I mean, the shift before you?

6 A. The shift --- we work 12-hour
7 shifts.

8 Q. Okay.

9 A. And when we left that evening
10 --- as far as I know, when we left
11 that evening, we was the ones that
12 came back the next day.

13 Q. Okay. You followed yourself?

14 A. That's why I pre-shift the
15 track.

16 Q. So how much of the track did
17 you pre-shift?

18 A. All of it.

19 Q. From the pit mouth ---?

20 A. From the pit mouth to One
21 Left, Two Left.

22 Q. From One Left to Two Left.
23 Did you go into the section at all,
24 or just the end of the rail?

25 A. No, sir. No, sir, just the

1 end of the rail.

2 Q. Okay. What were your
3 observations?

4 A. Everything was clear, no CO or
5 nothing or methane.

6 Q. Okay. And you entered that
7 examination in the book?

8 A. Yes, I did.

9 Q. Okay. About how long did it
10 take you to run the rail?

11 A. An hour and 15 minutes or 20
12 minutes.

13 Q. Okay. So when you were
14 finished --- who was your buddy that
15 day?

16 A. Chester Runyon.

17 Q. And besides yourself, was
18 anyone else underground?

19 A. That day?

20 Q. Yes.

21 A. Lonnie Short and Mr. Webb,
22 Mike Webb, I think. They came in
23 after we do.

24 Q. Okay. During the course of
25 your shift, though --- was there any

1 equipment at the end of the track in
2 Second Left or First Left?

3 A. There was nothing on the track
4 on First Left. Second Left had three
5 supply cars on it.

6 Q. Second Left had three supply
7 cars?

8 A. Three supply cars.

9 Q. Do you remember what was in
10 them?

11 A. Block and B Bond on one car,
12 one car was empty, the other car was
13 over the rail.

14 Q. What about One Left?

15 A. There was nothing on the end
16 of the track.

17 Q. Did you work a full shift that
18 day?

19 A. We left the mines about four
20 o'clock.

21 Q. So you started at 7:00 and
22 worked until 4:00?

23 A. Left about 4:00.

24 Q. And about --- so did you have
25 any other interaction with anyone

1 during the course of your shift?

2 A. Yes, sir.

3 Q. Tell me about it.

4 A. We hauled ballast, Chester and
5 I was hauling ballast. I don't know
6 what time we was hauling ballast. I
7 think on my first load in to One
8 Left, Nathan and I --- I think ---
9 Nathan hollered at me, he asked me to
10 go check the CO monitor at One Left
11 tailpiece. I went and checked the CO
12 monitor and it was reading 26 part
13 per million. I took my spotter, I
14 checked it, it was clear. I went
15 back to One Left power center and
16 called outside, and I told them
17 everything was clear. But I did go
18 check the CO monitor.

19 Q. Okay. Did the CO monitor ever
20 clear?

21 A. I had to reset, I couldn't
22 read it clear.

23 Q. Okay. So what would that tell
24 you, that it was a what?

25 A. It was a malfunction.

1 Q. Malfunction. Okay. And then
2 you went back to your regular?

3 A. Went back to ---.

4 Q. How much stone --- where was
5 the location that you plowed ballast
6 that day?

7 A. I ballasted about three breaks
8 outby the end of the track.

9 Q. The end of the track of ---?

10 A. One Left. About three breaks
11 outby we ballasted up to the end of
12 the rail.

13 Q. And that's all you did that
14 shift?

15 A. No. No, that's not all I did.
16 When I was on the phone, we hauled
17 four or five loads of ballast. We
18 was coming back out the One Left, I
19 hollered outside at Nathan --- I
20 hollered outside to him. And when I
21 hollered outside, Lonnie heard me on
22 the phone, and Lonnie asked me to
23 come to Two Left, to help him. He
24 had a waterline stopped up. Lonnie
25 was up --- we went up to --- we all

1 went up to Two Left. We went up to
2 the one break above the power center,
3 I think it is, or above the
4 tailpiece. There's a three-inch pump
5 sitting there. We unstopped the
6 waterline on it, we left.

7 Q. Anything else that shift?

8 A. That's all we done.

9 Q. Did your --- now, your primary
10 communication while you're on the
11 track is ---

12 A. Radio.

13 Q. --- trolley phone?

14 A. Trolley phone.

15 Q. And did that work that whole
16 day?

17 A. It wasn't working when we went
18 in.

19 Q. Okay.

20 A. On the way out --- it wasn't
21 working on our way in. Lonnie and
22 Mike Webb came in, and they fixed the
23 trolley phones, because we hollered
24 outside on them. And we --- after we
25 left Two Left, coming to the outside,

1 Lonnie stopped at Nine break on Four
2 belt and showed us how to put the
3 power back on the trolley phones.
4 The breaker had knocked on the
5 trolley phone.

6 Q. Okay. And did it function
7 normally after that?

8 A. Yes, it did.

9 Q. Was there anything about the
10 condition of the mine that you found
11 to be different or out of the
12 ordinary?

13 A. No.

14 Q. As far as direction of
15 airflow?

16 A. Just like every day.

17 Q. You say you were a mine
18 examiner prior to ---?

19 A. Prior to it, I fire bossed
20 belts.

21 Q. Is that all you pre-shifted,
22 was belts?

23 A. Yes. While I was mine
24 examiner for them, yes. I have
25 worked as a section foreman at Sago.

1 Q. No, just at Sago. That's what
2 we want to find out. Now, did you
3 ever pre-shift the area --- you know,
4 where the old seals are?

5 A. I've never been up to the
6 seals.

7 Q. Okay. You know their
8 location; is that correct?

9 A. Since the seals have been
10 built, I have never been by the
11 seals.

12 Q. Okay. What about the area
13 behind that, were you involved with
14 any mining or examinations in that
15 area?

16 A. I delivered supplies in that
17 area.

18 Q. Okay. Is there --- well, you
19 did examinations of the belts also
20 there, too?

21 A. I'm thinking. I could have, I
22 don't recall.

23 Q. Okay. Well, even during your
24 examinations, anywhere at Sago Mine,
25 have you found methane to be an issue

1 or a problem?

2 A. I've never found methane.

3 Q. What's the most you found?

4 A. I had never found no methane
5 in Sago until after this explosion.

6 Q. Okay.

7 A. Since the explosion, I've
8 found four or five-tenths in the
9 faces due to the ventilation problem.

10 Q. Yeah. Did you notice any,
11 well, roof conditions up in that
12 area?

13 A. All the same.

14 Q. Same all over the mine?

15 A. Basically the same.

16 Q. Have you ever roof bolted in
17 the mine?

18 A. Not there.

19 Q. Were you ever involved in
20 withdrawing any equipment from the
21 area?

22 A. From the mines?

23 Q. From that old section when
24 they pulled out.

25 A. I pulled the supplies and

1 stuff like that back out of there.

2 Q. Do you know if they left any
3 equipment in there?

4 A. There was nothing left in
5 there.

6 MR. O'DONNELL:

7 Okay. John?

8 MR. COLLINS:

9 I don't have anything.

10 Thank you.

11 BY MR. O'DONNELL:

12 Q. Did you return to the mine at
13 all after the explosion?

14 A. Yes, sir.

15 Q. When? When did you return?

16 A. I think the 3rd.

17 Q. So the 3rd, the day after?

18 A. The day after.

19 Q. And what were your
20 responsibilities then?

21 A. I was just out there to do
22 what I could help get done.

23 Q. Okay. So you primarily worked
24 outside?

25 A. Yes, sir.

1 Q. Okay. Let's take a
2 five-minute break.

3 SHORT BREAK TAKEN

4 BY MR. O'DONNELL:

5 Q. Harold, we just want to go
6 over if you had any idea of where the
7 equipment was or curtains in the
8 Second Left section. You know, when
9 you went up there to do the pump. If
10 you can recall --- if you can, then
11 we'll get a map here and we'll get
12 you to mark it down.

13 A. I actually can't recall.

14 Q. That's fine. That's fine. If
15 you could remember, that's good,
16 but ---.

17 A. I actually can't recall. I
18 think --- on the end of the dump
19 feeder, I think they were buggies
20 setting there. I walked by it.

21 Q. Okay.

22 A. Because I pumped water right
23 out just to break it from it.

24 Q. How long were you in this
25 section?

1 A. An hour.

2 Q. An hour. And you stayed in
3 that area, just ---?

4 A. Yes, sir. We was no farther
5 than a break above it, but we wasn't
6 in the faces.

7 Q. Okay. The three cars, did you
8 deliver them to the section?

9 A. Yeah, I had.

10 Q. And when would you have done
11 that?

12 A. It's been a couple ---.
13 That's been a month and a half ago,
14 I'd say.

15 Q. But like, two shifts or three
16 shifts before the day you were there?
17 If you can't remember, that's ---.

18 A. I can't recall. I couldn't
19 put a date on it.

20 Q. Okay. When you went back into
21 that section to work on the pump, did
22 someone --- because it had not been
23 pre-shifted; right?

24 A. Lonnie was up there. I
25 don't --- Lonnie's the ---.

1 Q. Okay. Do you know if he ---?

2 A. I didn't pre-shift it.

3 Q. Okay.

4 A. That's all --- I don't know.

5 Q. But you didn't --- let me say
6 this. Was work planned or scheduled
7 in there, to work on the pump?

8 A. I don't think so.

9 Q. Okay. All right, that's fine.

10 A. The only thing we done on that
11 section was unstopped that three-inch
12 waterline, which the pump's there
13 today.

14 Q. Uh-huh (yes).

15 A. And that was it.

16 Q. Okay. Did you ever work on
17 the --- you said you never were at
18 the seals once they were ---?

19 A. After the seals had been ---
20 I've never been to them. I hauled
21 block to them maybe, you know.

22 Q. But did you ---?

23 A. Yeah, I hauled it.

24 Q. Were you there when they built
25 them?

1 A. No, sir. I just took supplies
2 to them.

3 Q. At the end of the track?

4 A. At the end of the track.

5 Q. You didn't get a scoop and
6 deliver them?

7 A. No.

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

10 A. Yes, sir.

11 Q. And have you ever observed
12 anyone at Sago Mine smoking
13 underground?

14 A. No, sir.

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

17 A. No, sir.

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

21 A. No, sir.

22 Q. Do you have anything that
23 you'd like to add that may be
24 relevant to the investigation?

25 A. No, sir.

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MR. O'DONNELL:

On behalf of MSHA, I want to thank you for appearing and answering questions today. Your cooperation is very important to the investigation as we work to determine the cause of the accident. We ask that you not discuss your testimony with any person who may have already been interviewed, or who may be interviewed in the future. This will ensure that we obtain everyone's independent recollection of the events surrounding the accident.

After questioning other witnesses, we may call you if we have any follow-up questions that we feel we may need to ask you. If at any time you have additional information regarding the

1 accident that you'd like to
2 provide us, please contact us
3 at the contact information
4 that was given to you earlier.

5 The Mine Act provides
6 certain protections to miners
7 who provide information to
8 MSHA, and as a result, are
9 treated adversely. If at any
10 time you believe that you've
11 been treated unfairly because
12 of your cooperation in this
13 investigation, you should
14 notify MSHA immediately.

15 If you wish to go back
16 now, over any answer you have
17 given during this interview,
18 and you may also make a
19 statement that you'd like to
20 at this time.

21 A. No, sir, I don't.

22 MR. O'DONNELL:

23 Harold, thanks for
24 coming, I appreciate it.

25 A. You're welcome.

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* * * * *
SWORN STATEMENT
CONCLUDED AT 1:51 P.M.
* * * * *