

Oaths Act 1867**STATUTORY DECLARATION****Queensland**

I, Michael Dempster Downs of c/- Allens Lawyers, Level 26, 480 Queen Street, Brisbane in the state of Queensland do solemnly and sincerely declare as follows.

Position and Relevant Experience

- 1 I have been employed by Oaky Creek Coal Pty Ltd as a contract services provider on an ad-hoc basis since 2017.
- 2 I am currently engaged as a contract Corporate Governance Specialist at the Oaky North mine. The responsibilities of this role include restructuring, reviewing and updating the Safety & Health Management System, including critical aspects such as explosives and ventilation arrangements in the mine.
- 3 As at 6 December 2019, I held the position of Underground Mine Manager. The responsibilities of this role included statutory responsibility for the control and management of activities at the mine, pursuant to the *Coal Mining Safety and Health Act 1999 (Qld) (CMSHA)*.
- 4 I have been involved in the coal mining industry since late 1970. My previous roles within the coal mining industry were initially in the UK, and continued in New South Wales and Queensland.
- 5 I commenced full-time employment with the North Durham Area of the National Coal Board as an Engineering Trainee, and over the course of 2 years gained experience in many types and examples of longwall mining in numerous mines in various areas of the National Coal Board, various mining functions that support coal winning activities, and gained a First Class Certificate of Competency for all mines extracting coal, shale and ironstone. I held appointments as a Mine Deputy for a wide variety of mining activities, progressing through various appointments in the role of Overman and Fore Overman, before being deployed as an acting undermanager undertaking targeted roles and relief management of the mine on back-shifts. I accepted employment in New South Wales in 1977, and was initially engaged as a Mine Deputy at the Wallerawang No 3 Mine in November 1977.
- 6 My experience of working in the coal mining industry in Australia is as follows:
 - (a) Coalex Pty Ltd – Wallerawang Collieries Pty Ltd (Western District, NSW, 1977 – 1979)
 - (i) Mine Deputy responsible for all Bord & Pillar mining activities, including panel preparation, primary and secondary mining extraction.
 - (ii) Appointed as Undermanager and acting Undermanager in Charge during this time with responsibilities for mining activities on shift and latterly across all shifts at the mine.
 - (b) Newcom Collieries Pty. Ltd - Angus Place Colliery (Western District, NSW. 1979 - 1981)
Undermanager In Charge - Mine conversion from bord and pillar working to a longwall based system.
 - (c) Austen & Butta Pty Ltd - East Lithgow Mine Project (Chatswood, Sydney, 1981 - 1983)
Deputy Project Manager - Involved with the overall engineering and detail refinement and computerised financial evaluation for a major new mine project and various expansions of current operations, gaining abilities in rapid evaluation techniques and sensitivity analysis.
 - (d) Austen and Butta Pty Ltd - The Invincible Colliery Limited (Western District NSW, 1983 – 1987)

- Colliery Manager / Deputy Manager - Responsible to Director level for all aspects of operations of an underground mine, coal processing plant and a rail loading facility, including; Establishing longwall outputs to high comparative levels, Establishing changes in working methods for on-going longwall operations. Introducing continuous miner mounted roof bolting and geotechnical systems for roof support design.
Changing some conditions of work at the mine as part of a work practices review.
- (e) Thyssen Mining GB Ltd. - Operations Manager (South) (UK, 1988 to 1989)
- Overall control of contract execution primarily for National Coal Board mines.
(Maintained earnings levels under falling market conditions, brought further acceptance of roof bolting support techniques into some mines, and continued market penetration into India for underground pump-packing equipment.
- (f) Oaky Creek Coal (Mount Isa Mines Pty Ltd) – Colliery Manager / Colliery Development Manager (Central Queensland, 1989 – 1995)
- (i) Colliery Manager - Responsible for the introduction of underground longwalling systems to an established open-cut mine site;
- Successfully completed compatibility trials on the longwall equipment.
 - Achieved the fastest (to date) longwall system introduction into a mine.
 - Brought the overall system on line to satisfy commercial requirements.
 - Achieved virtually all Australian production records including; 12,000 tonnes in one shift, the 1992 highest mine productivity of 13,645 tonnes per employee year for an overall output of 2.54 million tonnes.
 - Introduced Employee Involvement initiatives with some excellent results.
- (ii) Colliery Development Manager - Engaged in pre-feasibility study and refinement of conceptual detail, whilst assisting with various No. 1 Colliery line management functions;
- Achieved a significant improvement in mine layout design, with impact on gross operating profit and mining risk.
 - Successfully introduced a change of roster system and work arrangements, and demonstrated high output levels under the new regime.
- (g) BHP Coal, Business Development Department - Principal Development Engineer - Underground Mining / Underground Mine Planning Manager, (Brisbane, Queensland, 1995 – 1997)
- Responsible for various stages of project evaluation from initial concept to full feasibility studies;
- Produced a full (bankable) feasibility study to support the development of a major underground mine.
 - Participated in acquisition evaluations for operations / properties
 - Evaluated project alternatives, including “pilot” mine and Research and Development exploration initiatives.
 - Completed initial pre-feasibility studies on a major multi-seam mining proposal.
- (h) Barclay Mowlem Construction Limited - Operations Manager – Mine Services (Brisbane, Queensland, 1998 to 2001)

Responsible for the commercialisation and introduction of mine ventilation devices into underground coal and metalliferous mines, together with the initiation of an underground mine contracting business leveraging on in-house expertise in conveying, rails and civil engineering structures;

- Revised the Business Plan based on a detailed market assessment.
- Arranged design specification, drawings and cost estimates for the product range.
- Managed the market penetration and product commercialisation.
- Achieved significant work volumes in conveyor and civil contracts.

- (i) Department of Natural Resources & Mines - Manager, Safety & Health Inspectorate – Central Region, Regional Inspector of Mines – Central Region (Rockhampton, Queensland, 2001 to 2007)

Responsible for the service delivery functions of the Mines, Explosives and Petroleum & Gas Inspectorates;

- Reorganised the operating methodologies to improve branch integration
- Restructured the regional organisation to reflect personnel emplacement and resource availability
- Revised the 5-year business plan for the Bajool Explosives Reserve and commenced rapid site development to meet current security and market demands.

- (j) Anglo Coal Australia- Capricorn Coal Management Pty Ltd – SSE / Mine Manager, Aquila Colliery & Mine Manager – Bundoora Colliery (Central Queensland, 2007 – 2012)

Responsible for statutory, operational, commercial and contractual management functions of a bord and pillar (place changing) operation. The overall time includes responsibility for Bundoora mining the last 2 longwall blocks, at the mine;

- Introduced partial pillar extraction techniques to improve resource recovery and mine economics
- Continued with significant improved safety performance
- Initiated Mines Rescue participation and competition capability
- Maintained relatively high longwall outputs following 'partial rehanding'.
- Successfully coached numerous deputy and other statutory certificate candidates

- (k) Vale Australia – Carborough Downs Coal Mine - Underground Mine Manager – Carborough Downs (Central Queensland, 2012 to 2014)

Responsible for statutory and operational functions utilising longwall mining and support development techniques in difficult mining conditions;

- Recovered the mine and the longwall panel (seat of the oxidation), successfully dealing with a major "oxidation" event, achieving record output levels during 2013.
- Dealt with significant organisational change and mine restructuring issues.
- Reinvigorated active Mines Rescue participation, including hosting competition.
- Achieved major improvements to the risk profile of the mine access arrangements
- Successfully coached numerous (deputy) statutory certificate candidates

- (l) PHD - Mine Management Services / Mine Auditing and Evaluation / Mining Engineering – Director & Principal Mining Consultant (Brisbane, 2014 to present) Activities in the areas of
- Corporate Governance
 - Safety & Health Management Systems
 - Mine Closure
 - Technical / Engineering analysis of mining systems
 - Ad Hoc Mining Statutory Appointments

7 Other relevant experience I have obtained includes:

- (a) membership on the Board of Examiners (Queensland Mining Certificates and Competency) from approx. 2001 until 2018;
- (b) ongoing membership on the Oral Examination Panels for various Certificates of Competency (Queensland Mining Certificates and Competency) from approx. 2001;
- (c) membership on the Coal Mining Safety and Health Advisory Council constituted under Part 6 of the CMSHA from approx. 2001 to 2007;
- (d) membership on the Technical Advisory Committee for the Queensland Mines Rescue Service from approx. 2001 to 2007;
- (e) chairman of Queensland Underground Research and Development, a subcommittee of the Australian Coal Association from approx. 1996 to 1997;
- (f) member of the Aided Rescue sub-group of Task Group 4 in the Moura Warden's Recommendations from approx. 1995 to 1996;
- (g) chairman of the Queensland Industry Taskforce for Environmental Issues in Underground Coal Mines from 1993 to 1994;
- (h) member of Task Group 5 concerning seals and inertisation in the Moura Warden's Recommendations from approx. 1995 to 1996;
- (i) I have been an Industry Monitor for numerous ACARP projects, including developments in:
- (i) diesel engines and vehicles;
 - (ii) mine inertisation techniques;
 - (iii) gateroad development rate improvements;
 - (iv) spontaneous combustion;
 - (v) hydrogen sulphide impact on underground operations;
 - (vi) gateroad development systems; and
 - (vii) explosion suppression barriers.
- (j) I have been a coal monitor for BHP, undertaking:
- (i) a program of work at lake Lynn in Pennsylvania, USA concerning explosion resistant seals and stoppings; and
 - (ii) a project concerning ground control issues in geological and geotechnical conditions in the northern Bowen Basin, Queensland, involving micro-seismic techniques and extensive modelling in 'soft' ground conditions.
- (k) I have presented various papers at industry seminars on topics including:

- (i) noise suppression on underground coal mining equipment
- (ii) longwall installation and operation
- (iii) Bowen Basin exploration and mine developments
- (iv) development systems
- (v) explosion testing
- (vi) recovery of Operations - Spontaneous Combustion Event

8 As at 6 December 2019, I held the following qualifications, which I continue to hold at the date of this statement:

- (a) Bachelor of Science (Mining Engineering) obtained in 1974 from London University;
- (b) Master of Business Administration obtained in 1988 from Cranfield University;
- (c) Associate at the Royal School of Mines Imperial College, London University, in 1974;
- (d) First Class Certificate of Competency for coal, shale and ironstone mines obtained in 1976 from the United Kingdom Department of Energy;
- (e) First Class Certificate of Competency for all coal mines obtained in 1977 from the New South Wales Department of Mineral Resources;
- (f) First Class Certificate of Competency for underground coal mines obtained in 1990 from the Queensland Department of Mineral Resources;
- (g) Site Senior Executive Certificate obtained in 2010;
- (h) First Class Certificate of Competency for all coal mines and statutory positions therein, obtained from the New South Wales Department of Mineral Resources in 2017.

9 I am a member of:

- (a) the Institute of Materials, Metallurgy and Mining, as a corporate member;
- (b) the Engineering Council of the United Kingdom, as a chartered engineer; and
- (c) the Mine Manager' Association of Australia.

Statement regarding the Incident

- 10 On the evening of 6 December 2019, I was not onsite at the Oaky North mine. I was not on duty, and recall that I was travelling from Emerald to Tieri.
- 11 I received a call from Brad Watson at approximately 6.20pm to confirm that I had been notified of the incident concerning a gas exceedance of some 2.8 % methane at the Tailgate AFC driveframe. I had not been notified at that time and we briefly discussed the incident, and concluded with my undertaking to go to the mine to assess the situation and controls adopted to deal with the incident.
- 12 I received a call at approximately 6.30pm from Robert Cady, the supervisor on shift at the mine site that evening (**Cady**), informing me that there had been a 2.8% methane reading that had tripped the power to the longwall face.
- 13 After the phone conversation with Cady, I returned to the mine site and arrived at approximately 8.10pm.
- 14 Upon arriving at the mine site, I went to the Shift Managers' office and met with Cady, the oncoming ERZ Controller Rod Murray, and his oncoming nightshift crew. I briefed the crew on the incident and instructed that a Sherwood Curtain was to be erected to better control the ventilation at the TG driveframe whilst we were mining into the blockside stub. I used a whiteboard to draw a diagram of my requirements for installation of the Sherwood Curtain.

- 15 The nightshift crew then proceeded underground to continue production activities and install the Sherwood Curtain.
- 16 I was informed of a second incident at around this time, with a gas exceedance of some 2.1% methane, again at the TG AFC driveframe.
- 17 I telephoned Brad Watson at approximately 8.30pm to inform him of the second incident, instructions given to the crew going on shift and ongoing requirements in notification of the initial incident and accompanying reports.
- 18 I remained on site making the notifications and emailed the confirmation report to various parties, leaving site at approx. 9.40pm.
- 19 I generally recall that on the day of the incident, the team members on site were concerned with other issues in the area of the Tailgate intersection with the longwall face:
- (a) Poor roof conditions, causing occasional falls of roof involving the immediate 400mm to 500mm of roof material;
 - (b) An off-line bore hole for goaf drainage was located at a horizon of some 500mm above the roof-line in the tailgate, causing concern that water pressure surcharge could prompt localised roof failure in the area.

Improvements following the Incident

- 20 The 'Permit to Mine' process was improved to include greater attention in dealing with ventilation issues associated with mining into stubs;
- 21 The mine plan was reviewed to ascertain the presence of future block-side stubs;
- 22 A plan to fill any block-side stubs was put in place.
- 23 A direction was given, not to mine block-side stubs in future.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act of 1867*.

Signed and declared by the abovenamed
 declarant at Brisbane in the State of Queensland
 this 7th day of August 2020

Before me

Solicitor - CLAIRE LOUISE WATSON