

# **MEDIA BACKGROUNDER**

## **UNITED STEELWORKERS UNION PURSUES PRIVATE PROSECUTION UNDER WESTRAY PROVISIONS OF CRIMINAL CODE AGAINST WEYERHAEUSER FOR 2004 DEATH OF LYLE HEWER**

On March 25, 2010 the United Steelworkers (USW) launched a private prosecution before a Justice of the Peace in the New Westminster Provincial Courthouse, alleging that Weyerhaeuser Company Limited was criminally negligent in the death of sawmill worker Lyle Hewer on November 17, 2004.

Acting on behalf of the USW, prominent criminal lawyer Glen Orris, filed an Information before a Justice of the Peace under section 504 of the *Criminal Code*.

The USW alleges that Weyerhaeuser was criminally negligent in Hewer's death by omitting to do anything that it was their duty to do, and showed wanton, or reckless disregard for the lives, or safety of other persons. The USW alleges that Hewer, a 55-year old member of USW Local Union 1-3567, died as a result of the Company's inaction, while clearing out a hog under Weyerhaeuser's direction.

Hewer died a horrific death at Weyerhaeuser's New West Division sawmill, after being trapped and asphyxiated by debris in the hog – a machine that converts wood waste to chips. He was rushed to the Royal Columbian Hospital in New Westminster where he succumbed to his injuries.

An autopsy determined that Hewer's death was due to, or as a consequence of, "combined smothering and compression asphyxia" after a prolonged burial under the hog fuel.

Hewer died as a result of injuries incurred at Weyerhaeuser's New West Division sawmill, after following a supervisor's request to work under conditions the employer knew were hazardous. Despite the hazards the hog posed, a WorkSafeBC investigation noted that no level of mill management took the initiative to eliminate the hazard until after Hewer's death.

Crown Counsel rejected the recommendation of the New Westminster Police that a charge of criminal negligence causing death was warranted against Weyerhaeuser.

The Steelworkers were left with no alternative other than pursuing a private prosecution to see that justice is done, according to USW Western Canada Director Stephen Hunt.

In March of 2007, WorkSafe BC levied a \$297,000 penalty against Weyerhaeuser in respect of Hewer's death - the highest fine it has ever imposed against an employer - citing the high-risk nature of the Company's violations and the fact that violations were committed willfully or with reckless disregard.

It is the USW's view that this case must go to trial under the 2004 Westray amendments to the *Criminal Code* and that the evidence will show that the Company is criminally responsible for Lyle Hewer's death. Weyerhaeuser must be held accountable if convicted.

The 2004 Westray amendments to the Criminal Code ("Bill C-45") were inspired by the deaths of 26 Nova Scotia coal miners in 1992. The Westray amendments gained all-party support in the federal Parliament after a nearly 10-year lobbying campaign led by the United Steelworkers. The amendments were designed to impose criminal penalties on corporations which fail to protect the health and safety of their employees and the public, and marked a significant shift in the liabilities of organizations for employee health and safety.

Glen Orris expects that a Court date will shortly be set for a "Process Hearing" before a Provincial Court Judge who has the authority to issue a Summons against Weyerhaeuser.

Hewer's surviving family members support the USW's initiative in seeking justice for their loved one's death. They request that the media respect their privacy and direct all inquiries to the USW.

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