

STOP THE KILLING



THE “CULTURE OF DESPERATION” IN THE FOREST SECTOR





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STOP THE KILLING!:
**THE “CULTURE OF DESPERATION” IN BC’S FOREST
SECTOR**

**UNITED STEELWORKERS’ BACKGROUND PAPER ON BC’S FOREST
FATALITIES**

December, 2005

A CRISIS OF ACCIDENTS – NOT AN ACCIDENTAL CRISIS

In the BC forest sector today, we are witnessing what some have called an epidemic of occupational accidents. Up to the end of October, the BC Forest Safety Council counted some 37 fatalities and 71 serious injuries. Since then by our count the total has reached 40 deaths, in addition to 98 serious injuries. Other agencies suggest an even higher number of serious incidents. Every one of those deaths was “accidental” in the sense that they were unintended and unplanned, of course.

Steelworkers believe that we need to dig deeper, however. We propose that the crisis is not accidental. We can only understand the flood of accidents when we consider that they in fact flow from systemic or societal factors and forces. We believe that we will not see an end to the killing in our industry until we deal with their societal causes. We also suggest that many of the recent accidents were *avoidable*, even if immediately unintended or unplanned. And since we find the current situation absolutely intolerable, we believe we owe it to all our fallen and injured brothers and sisters not to rest

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until we reduce the odds that such preventable accidents will occur in the future.

The first step, then, is to outline in this background paper the causes that lie behind the current troubles plaguing the BC forest sector. We shall then introduce the set of demands Steelworkers have put forward to licensees, contractors, government agencies and the public in hopes of reversing the current, sad situation.

AN ACCIDENT-PRONE INDUSTRY: CULTURAL OR SOCIETAL CAUSES?

As the number of fatalities and serious injuries climbs upward, Steelworkers have noted a tendency to blame workers themselves for their own deaths and injuries. Some people, for example, suggest that forest workers exhibit a “culture of risk-taking.” Others propose that drugs and alcohol are responsible for many or most accidents. Still others claim that the current torrent of fatalities and injuries is due to “distractions,” including even the distraction that comes from publicizing accidents. These people suggest that USW and others would do workers a favour if we just stopped publicizing them.

We find all these suggestions more or less baseless. We think they serve to cloud rather than clarify the forces that repeatedly put workers into the danger zone. Instead of a “culture of risk-taking,” drug-taking, drinking or distractions, indeed, we submit that there is greater reason to believe that deaths and injuries in our industry are “societal” or “systemic” -- that there is even a growing “culture of desperation” in the forest sector.

On the alleged culture of risk-taking, for instance, IWA Canada surveyed its coastal logging members in 2002. The union found that 98 per cent personally supported health and safety activities; 70 per





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cent said they always wear all their protective gear, while 23 per cent said they wear it most of the time and 75 per cent said they “never” take shortcuts in doing their jobs. In addition, 82 per cent reported that a joint occupational health and safety committee is active in their workplaces, while 90 per cent reported there is a worker health and safety representative; 83 per cent said they think their committees can effectively improve safety, while 88 per cent agreed their union actively supports safety activities.

In addition, these workers operate in unionized environments where the safety-conscious majority has the means to moderate those who pay less attention. On the whole, they do not seem to us to be living out a culture of risk-taking: their behaviour could as easily be interpreted as that of a group of workers *obsessed* with safety. Similarly, the Western Fallers Association’s report, with its highly-obsessive attention to planning, preparation and prevention and its attention to the everyday details of trying to work safely in dangerous places, seems far from the work of those who exhibit a culture of risk-taking.

With respect to substance abuse, there is no obvious evidence that it is a major cause of the recent spike in serious accidents -- even though it is a possibility that has some employers proposing drastic measures like frequent drug testing. If workers’ dangers are the result of rampant drug-taking and drinking on the job, it is also not reflected in the toxicology reports that follow each fatality in the workplace.

Evidence on forest industry substance-taking is in fact actually very scant. While the January 2004 Forest Safety Task Force Report cites drugs and alcohol among possible “drivers” of industrial accidents, for instance, its authors also concede that “a review of deaths in the last two years... found no relation between the use of medications,





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drugs or alcohol and incidents” leading to accidental death. Substance abuse, the report adds, “requires further research.” And again, most researchers believe that not only has there *always* been some amount of substance abuse in forest- sector work places but that its incidence is actually less now than in the past. So it cannot readily account for the *recent* wave of accidental deaths and injuries.

Indeed, it seems to us that *fatigue* is currently a more serious problem than substance abuse. The Forest Safety Task Force, for example, reports several studies which indicate that fatigue “reduces alertness, which in turn results in deteriorating job performance.” It notes that, especially in physically-demanding jobs, “many rest periods may reduce – possibly even prevent – fatigue.”

Unfortunately, we seem to be moving in the opposite direction. Workers are being asked to work longer shifts, often with either or both of fewer breaks during shifts and less time off between shifts. Interior log-haulers, for example, are required to work up to 18 hour days as companies hustle to bring in beetle-damaged timber. Loggers are also being asked to work longer days, often in combination with increasingly-long walks into the woods carrying heavy gear, chainsaws, gas cans, packs and even snowshoes. “The last thing a faller feels like doing after an hour-and-a-half walk to get to his tools in the morning is producing...,” note the Western Fallers.

Without prompting, 16.6 per cent of respondents to IWA Canada’s 2002 BC Coastal Logging Occupational Health and Safety Task Force survey mentioned fatigue as a source of impairment in their workplaces. In 2003 IWA surveyed over 650 Western Canadian members, mostly sawmill workers, of whom fully 22 per cent said that “most of the time” people in their workplaces’ performance is impaired by fatigue; 60 per cent said that is “sometimes” true. Perhaps, in other words, we have a “culture of fatigue.”





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Still, many companies and contractors are demanding – and receiving – exertions from workers that are likely to *guarantee* fatigue. In response to industry claims that their costs are too high, the contract mediator-arbitrator Don Munroe imposed on IWA Canada in 2004 gave them “the flexibility required for the most efficient deployment of facilities, equipment and personnel,” in the form of longer shifts. Munroe gave industry the wide-open right to implement alternate shifting. Although in fact he left the door open to the fullest possible range of hours of work or shift configurations within the framework of a 40-hour week, his menu of *suggested* shift arrangements included schedules of 10 hours, 4 days a week; 7 days on, 7 days off and even 15 days on, 6 days off or 20 days on, 8 days off. He even gave employers the additional authority to implement 12-hour days. The Western Fallers, on the contrary, suggest that a seven-hour day is the longest fallers can work and still remain alert and healthy through the whole day.

In providing employers with an effective *carte blanche* to set hours of work or design shift schedules, we should note that Munroe made absolutely no reference to the large, readily-available literature on the potential effects of worker fatigue on safety. We note, as well, that this is the new regime in *unionized* workplaces: for non-union employees or contractors, hours of work and shifts were *already* even longer and more difficult.

Finally, there is the question of distractions. Certainly there is no question that in a dangerous industry such as the forest industry, a worker’s mind needs to be focused on his or her work. But that has always been the case and likely always will be, although the nature of the distractions obviously changes over time. But given that there are *always* distractions but there are not always 40 deaths in under a year, again, distractions cannot explain the current situation. Indeed,





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this argument is at best hardly a worthy attempt to explain the recent sharp surge in deaths or injuries and at worst, amounts to an attempt to wish it away.

Instead, we submit that the recent rash of serious accidents is best explained by societal or systemic factors. We believe that these violent deaths and injuries are best explained by increases in contracting out of work; an increase in the number of people working closer to the economic margin to survive; extension of the working day; speed-up for increased output and other systemic and economic changes. It seems reasonable, for instance, to conclude that we can best make sense of what the Forest Safety Task Force Report calls “accident drivers” when we treat them as themselves resulting from societal factors.

CONTRACTING OUT AND EMPLOYER RESPONSIBILITY

The Forest Act changes of 2002, the creation of BC Timber Sales in 2003 and the collective agreement imposed on IWA Canada (now Steelworkers-IWA Council) in 2004, have combined to create a sudden, widespread increase in the number of contractors and sub-contractors working in the BC forest sector. Today, of some 7000 firms in the forest industry, about 6500 are small operators or independent contractors.

Many contract operations are extremely small – indeed, many are former company employees who have essentially purchased their own jobs, becoming contractors in lieu of becoming unemployed. These people now have the severe headaches that go with being small business operators – payments to banks or on their equipment; relations with licensees, direct contractors, sub-contractors and





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employees; the effort required to simply receive payment; the demands of regulatory agencies, taxation officials and other bureaucrats; dealings with suppliers – on top of the extreme rigours and dangers of their professions. Talk about distractions!

In addition, with the creation of a highly-competitive market for logging services, many of these operators face an extremely challenging economic situation. In negotiations with IWA Canada during 2004, for instance, companies frequently reiterated their need to “take out \$10 per cubic metre” from their costs. Companies apparently couldn’t get that cost reduction to their satisfaction from unionized workers -- although we offered several potential ways they might do so. They turned instead to contracting out. The Western Fallers Association knows this, for example: “One of the main reasons for industry creating us was to save money on WCB costs...” Consequently, today we have numerous “small dogs” struggling to survive in a world where “the big dog gets the log.”

Walter J. Mead, a researcher at the University of California at Santa Barbara, long ago meticulously demonstrated how competitive timber-sales markets work. In such an environment, observed Mead, the small operators typically either paid more for timber than large operators or else were recruited to act as covert buying agents for large firms. Among Mead’s many findings was his estimate that in timber auctions involving US federal lands, big companies paid an average premium of 28 per cent over appraised price, small firms an average of 51 per cent. Indeed, he noted that a company without its own timber and thus dependent on auction sales as their sole source of income “may frequently have to decide whether to purchase a given timber stand regardless of cost or to cease operations.”

As a result, Dr. Mead suggested that the small logging firms he studied in California, Oregon and Washington were extremely hard-





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pressed, forced as they were to work close to the economic margins of survival. There is no evidence to suggest the situation is appreciatively different in BC today, certainly no good reason to believe they are better. Small logging contractors and sub-contractors generally enjoy very tenuous access to timber, facing extremely difficult economic circumstances. “The fallers working under the situation created by absolute low-ball bidding,” reason the Western Fallers, “will be forced to push it to the limit,” both ergonomically and in terms of safety.

Is it really surprising, then, that we have seen an increase in the number of fatalities and serious injuries in our industry? What we have today is not so much a “culture of risk-taking” as a “culture of desperation.” This is a big part of what we mean when we say the problems are societal or systemic, not cultural. Simply put, many folks are working longer hours, trying to work harder and faster simply to keep up and make ends meet. This is precisely a recipe for the “exquisite timing” that leads to serious and fatal accidents.

In a recent presentation to Steelworkers in Hamilton, Ontario, Dr. Michael Quinlan of the University of New South Wales reported that 21 of 22 available studies of outsourcing or subcontracting of jobs indicate a resulting deterioration of occupational health and safety performance. Dr. Quinlan adds that even in highly-unionized countries such as Sweden, existing labour standards and unionized workers’ collective agreements were insufficient to offset these effects.

Consider for instance the right to refuse unsafe or hazardous work. This is a right that *all* workers enjoy by law under the Workers Compensation Act. But what secures that right is generally workers’ collective agreements and union protection. Do contractors really enjoy the right to refuse? If they *do* refuse, will they be rehired by





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the licensee? Will they be able to get work from other licensees? What stops companies from firing and blacklisting those who refuse to work or who make a stink about safety standards and practices? We believe the answer is: “very little.” Recently, for instance, a long-time WCB inspector in Interior BC told Steelworkers that he has *never* handled a logging “right-to-refuse” case. Indeed, we think there should be an independent inquiry to determine the extent to which this is happening in BC today.

We should note, in this regard, that even in unionized workplaces, an amazing 37 per cent of employees surveyed in 2002 by the IWA Task Force reported that not all workplace injuries or illnesses are reported. This was largely because “they are concerned that discipline will be imposed against them if they report injuries” or “it can prevent them from getting work in the future.” How much *worse* is it in a world of small, independent contractors who are not only competing ferociously among themselves but who must deal face-to-face with today’s increasingly-large forest companies?

A 2003 study, by David Walters of Cardiff University in the UK and Felicity Lamm of the University of Auckland, New Zealand, notes that many small businesses “operate in a dependent relationship with larger businesses” which requires them “to maintain a competitive edge through rigorous exploitation of labour.” This extends to a perception that “the cost of compliance” with OHS and other regulations “is detrimental to their business,” a perception which leads many of them “to find ways of opting out of their legal obligations.” One way of opting out of these responsibilities is to *subcontract* to another contractor who might be persuaded to shoulder them in place of the contractor.

Indeed, much of the current problem in BC occurs in exactly this sort of small operation. Of the 40 fatalities counted by the BC





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Forest Safety Council this year, six involved union workers on union jobs at the time of their deaths. The rest took the lives of non-union workers doing non-union jobs for non-union employers. Many were former Steelworkers, pushed into non-union work. And we submit first, that there is every reason to believe that workers in those non-union workplaces lack any real means of protecting themselves from or effectively protesting against unsafe working conditions and second, that their employers are more likely themselves to be small, competitive operators who are forced by economic circumstances to push hard to make a dollar.

ENFORCEMENT, REPORTING AND REGULATION

If employees are running away from their responsibility in BC today, it seems fair to say that to a considerable degree, regulators and legislators have let them do it.

In recent years we have seen a significant reduction in Workers Compensation Board staff, services and inspections. Although it is hard to state categorically that this is a cause of the recent poor record of the BC forest industry, we submit that it is *impossible* to argue that it has *helped* the situation.

Between 2001 and 2004, for instance, the overall number of WCB workplace inspections fell by 45 per cent, from about 28,000 to just over 15,000. Over the same period the number of written orders fell by 49 per cent, from about 41,000 to just over 20,000. The number of penalties to employers was down 36 per cent, from 182 to 119. Similarly, the incidence of education and consultation -- the WCB's substitute for stricter enforcement methods -- dropped 54 per cent and 21 per cent respectively from 2001 to 2003.





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In addition, in 2002 the WCB suffered a sudden, sharp budget cut. By taking 12 per cent out of the Board's funding, the government ensured, among other things, the closure of offices in Williams Lake, Vernon and Campbell River; the elimination of compensation and assessment services in Cranbrook; contracting out of first-aid certification and training; closure of the Prince George call centre and perhaps most critically, a 30 percent reduction in the number of Prevention Officers inspecting workplaces - bringing the total number to its lowest level in a decade.

Again, it is impossible to say that in themselves these cuts have *necessarily* led directly to fatal accidents and serious injuries in the forest sector. But we argue that in particular the reduction in inspectors and inspections almost certainly creates an environment in which employers who wish to cut corners feel they might do so with impunity. And it removes one more of workers' protections against death and injury.

Certainly no one working in the industry demanded *fewer* inspections of logging sites or other workplaces. On the contrary both the IWA Task Force and Western Fallers' Association reports, for example, urged that *more* inspections and *more* resources should be dedicated to forest-sector workplaces. The Fallers' Association lists a number of WCB regulations that in their estimation "are without a doubt being broken on a regular basis throughout BC." Retention falling, for example, is just one of the techniques employed relatively recently for a combination of economic, environmental and visual-quality reasons. In retention falling, only a portion of the timber on a setting is removed. That means workers have to work at close quarters around standing timber while taking down the trees selected for harvest. To do it successfully, the Fallers allege, "we have to break numerous WBC regulations on a daily





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basis...” Are they right when they suggest that the Board’s response is “not to visit these sites...” unless an accident occurs? Again, we believe this should be investigated immediately.

As long ago as 1985 a coroner investigating an accident in Gibsons urged “that the WCB employ sufficient inspectors to ensure that adequate oversight of logging operations be maintained. At present,” the coroner added, “WCB inspectors must cover extremely large territories, allowing only infrequent inspections and lack of opportunity to speak with workers regarding dangerous work practices.” Today we are a long way down the road from even the inadequate level of oversight deplored by that coroner 20 years ago.

Not only is there an insufficient number of inspections. Investigations into fatalities are currently extremely slow. In July this year, for instance, Connie Dorndorf, whose husband Steve McEachnie was killed in a sawmill accident in April, wrote that it had at that time been three months since her spouse was killed “and now I’m told that the WCB officer who conducted the investigation is on holidays.” The report was finally completed in November -- but since WCB insists that Steelworkers must obtain it through Freedom of Information channels, we have still not seen it!

LEGAL RESPONSIBILITY

The problems with the WCB Act and Regulations extend to the legislative and regulatory realm, as well. Recently Woodward and Company conducted a review for the Forest Safety Council of the relationship between the Act, its regulations and current forest industry practices. They returned with the alarming conclusion that “the existing provisions of the Act and the Regulation with regard to the roles and responsibilities of ‘owners’, ‘workers,’ ‘prime





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contractors,' independent operators and 'forestry management' are, quite frankly, a mess."

Ambiguities and inconsistencies within the legislation, said Woodward's legal reviewers, "create difficulties in determining safety responsibility and accountability," so that the law "does not 'fit' the current realities in the forest industry." It neither responds to recent industry consolidation, they suggest, nor does it address the growing number of small companies. And they add that "the responsibilities of 'employers' in the legislation and regulations appears to assume a level of capacity and expertise that would clearly not be available in a small or very small firm."

We submit that, in fact, there is currently *no* ambiguity in the law and there should be none in the minds of company shareholders, senior managers, supervisors or their contractors and employees. While we believe the law ought to make this crystal clear, we also suggest the buck *already* stops with the licensee. On private lands, *they* own the land. On Crown land, *they* hold the licence; in either case, the work is done on *their* behalf. On public lands under BC Timber Sales' jurisdiction, BC Timber Sales is in the same position. Contracting and sub-contracting does *not* offer them a convenient hiding place from their obligations under the Act.

Certainly, in this instance, the Board has no illusions: while "key players have effectively outsourced their accountability for safety," the WCB notes, this "*cannot legally be done under the Workers' Compensation Act*" (our emphasis). In the Board's view, then, should they try to shift responsibility to their contractors, licensees are acting illegally. Unfortunately, some licensees understand this but many do not.





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Again, this fundamental truth was noted long ago by a coroner. Investigating a logging death near McKenzie in 1984, the coroner pointed out the complex webs of contracting and subcontracting that can “render penalties meaningless.” The deceased in this case, the coroner wrote, “was operating under the firm name of G&W Logging. G&W Logging subcontracted to K&F Logging, who subcontracted to the prime contractor W. Krause Logging Ltd. for BC Forest Products.” Since in such a situation “supervision by the prime contractors or owners are far removed,” the coroner drew the reasonable conclusion, recommending: “That the Timber Licensee be the sole responsible party for the enforcement of safety practices at logging operations and that avoidance of responsibility by subcontracting authority to subcontractor be prohibited.” Recent legislative and regulatory changes unfortunately *increase* the apparent confusion within which those who would evade their responsibility can more successfully do so.

The potential consequences of evasion of legal responsibility was clearly documented by Justice K. Peter Richard in his 1997 final report of the Westray Mines Public Inquiry. In that case, Justice Richard notes: “The fundamental and basic responsibility for the safe operation of an underground coal mine and indeed *of any industrial undertaking*, rests clearly with management. Westray management, *starting with the chief executive officer*, was required by law, by good business practice and by good conscience to design and operate the Westray mine safely” (our emphases). He adds that in the case of Westray, the failure to live up to these responsibilities led to 26 miners needlessly losing their lives. And he observes that management’s obligations “cannot be mitigated or diluted simply because others were derelict in their responsibility.”

We believe that at bottom, the current problem in BC can be traced to a disconnect in attitude similar to that which led Westray’s





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managers, owners and regulators to neglect their duties. Earlier this year, for instance, a Forest Service district manager reported to the Forest Minister's Practices Advisory Council (PAC) on the planning process under the new Forest and Range Practices Act (FRPA). He suggested that he was in no position to determine whether plans complied with safety standards since that is the responsibility of WCB, not the Forest Service. But there's a Catch-22: the WCB never sees those plans and is not included in the planning loop. Indeed, under the FRPA the site specific plans, where forest practices are actually specified, need no longer be submitted for approval. Still, BC's chief forester agreed: the WCB, not the Forest Service, is solely responsible for safety.

The PAC wisely attempted, as long ago as December 2003, to rectify this situation by suggesting that a "safety objective" be included among FRPA's management objectives – not least because the drafters of the new Act deleted most of the safety-related provisions of the old Forest Practices Code. PAC also urged the minister to "provide opportunity for the WCB, unions and joint health and safety committees to view operational plans." Then-minister Michael de Jong declined, however, replying that "a new objective set by government that addresses safety *would represent a new obligation* if introduced in FRPA" (our emphasis). The new Act, he assured the PAC, "will in no way undermine (health and safety) requirements that are appropriately regulated under the *Workers Compensation Act*." We suggest that it is time the current minister revisited his predecessor's judgement on this matter and that FRPA be reviewed with an eye to determining whether it does, in fact, negatively affect safety.

CONCLUSIONS: THE STATUS QUO IS DEADLY





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The BC forest industry is undergoing rapid change. Many of the current changes effectively undermine the historical protections that employees who work in a dangerous industry have built around themselves.

Coastal firms, for instance, have resorted to widespread contracting out of timber harvesting work. In the Interior, companies are going flat out in response to the US-imposed lumber tariffs and duties and the mountain pine beetle infestation. Competitive bidding for timber has increased the competitiveness of the industry, as has increased global competition generally. Workers, contractors and companies are more than ever under the gun as low-wage and cheap-timber competitors emerge globally.

Government has responded by easing the regulatory burden, reducing oversight and regulation and fostering a more competitive environment. This includes changes to the Forest Act that encourage contracting out and undermine unionization. It also includes the substitution of the results-based Forest and Range Practices Act (FRPA) for the more prescriptive Forest Practices Code. It also includes the creation of BC Timber Sales as a device for management of a large share of BC's timber harvesting opportunities. With the resulting pressures to produce and compete, companies have sought means of pushing down costs and increasing output, including longer working days, more demanding shift schedules and increased contracting out.

As we have indicated, all these developments increase the likelihood of severe workplace accidents. It is really unsurprising, therefore, that this in fact what has happened. Steelworkers urge government, companies and regulators, therefore, to reconsider and





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review the recent changes and initiatives that seem to us to be the primary sources of the killing in our industry.





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STEELWORKERS' PROGRAM FOR CHANGE

The point, of course, is for us to make changes. Steelworkers believe that no single change will stop the killing in our forest industry overnight. However, we also believe that there's some immediate steps we can take that would make things better.

Foremost, we believe that industry stakeholders should review and reconsider the series of recent changes that appear to be undermining safety in the woods, on the logging roads and in the mills. These include regulatory changes that have reduced OHS oversight and monitoring; the recent changes to the Forest Act; the implementation of the Forest and Range Practices Act and the effects of competitive bidding under BC Timber Sales. All these have increased competitive pressures and added to the number of contractors and subcontractors in the industry. We also believe we must reconsider the widespread turn to contracting out and subcontracting of work.

As well, we propose the following measures to strengthen workers' regulatory and legal protections under the law:

1 More timely investigations of serious accidents and fatalities and immediate mandatory coroners' inquest into fatalities in the forest sector.

Coroners are one of the few agents who have legal authority to conduct investigations of industrial accidents and make authoritative recommendations for change. In Australia, the UK and Ontario's construction and mining industries there are already laws requiring a coroner's inquest into any industrial accident. In the UK, for example, this is backed up with a rigorous protocol which includes





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coroners', the police and Crown prosecutors. The British protocol outlines the steps that must be taken in the investigation of accidents, potentially leading to mitigating measures by companies or prosecutions of negligent employers, firms, their owners and even their directors.

2. An industry implementation committee with the authority to order immediate workplace changes in response to fatality investigations and inquests.

Coroner's investigations are not enough, however: we have cited two cases where reasonable and sensible recommendations from coroners were ignored or not followed up. We therefore suggest creation of a legislated tribunal that would have the requisite authority to follow up coroners' recommendations, order their implementation and ensure that they are in fact satisfactorily implemented. This body should be combined with worker-management implementation committees in affected workplaces, complemented by representatives of WCB and other agencies as needed. Implementation would not be deemed complete and the licensee discharged of its legal obligation until changes have been approved by *both* the tribunal and the workplace committee.

3 Increase Workers Compensation Board monitoring and enforcement activities.

There are not enough inspections, as we have indicated. And lack of proper inspection and monitoring can create an environment in which employers who want to or feel they need to cut corners will believe they can do it with impunity. We need an integrated strategy to increase the number of WCB officers in the field; increase the number of workplace visits and inspections and speed up the





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completion of investigations and reports. To accomplish this, it is clear that the Board needs additional resources and staff.

4 Ensure that the WCB Act is clarified or amended so that licensees carry the sole responsibility for enforcement of healthy and safe work practices.

Section 26.2 of the WCB Regulations states that: “The management of forestry operations must plan and conduct such operations in a manner consistent with the Regulation and with recognized safe work practices.” In other words, as we have noted, the law is already clear: the buck stops with those in charge, the management. In the BC forest sector, as we have shown, this means the management of the licensees, including, where appropriate, BC Timber Sales management. Under current law, contractors, subcontractors and company employees already ultimately work for the licensee, on the licensee’s behalf and toward the licensee’s objectives. But we agree the law should be changed to make this absolutely clear because right now, some licensees appear not to understand this.

In the UK, laws on *industrial manslaughter* also apply to senior managers and directors of companies responsible for industrial accidents. We believe BC should consider similar laws. Owners and managers of firms *benefit* from the work that contractors and subcontractors do on their behalf. It is unreasonable, then, for them to hide behind their contractors or subcontractors to skirt *responsibility* when something goes wrong.





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5 **Aggressively pursue the full enforcement of Bill C-45 (The Westray Act);**

Steelworkers put forward this law following the Westray disaster. Passed by Parliament in 2003, it puts the legal onus of responsibility on company owners and managers to ensure that they practice due diligence with respect to the safety of their workplaces and operations. The Act also makes available criminal sanctions for companies or company managers who fail to take appropriate steps to protect their employees' health and safety.

We should also give careful thought to how we conduct investigations and prosecutions of alleged offences under Bill C-45. We suggest either the appointment of a special prosecutor or as is the case in the UK, a protocol that includes the police, WCB, Crown prosecutors and other relevant agencies and which outlines both the responsibilities of each agency and the ways in which they should cooperate.

6 **Declare a 'Day of Mourning' every time there is a fatality in the forest/wood products sector.**

Our members are increasingly convinced that they must take drastic action. The IWA Task Force report, for instance, suggested a study break following any forest-sector fatality. Workers would use the downtime to mourn the victim but also to consider ways to ensure similar accidents do not occur again. Steelworkers' Local 1-2171 passed a resolution this year calling for a "day of mourning" in the event of a fatal accident.





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Some Steelworkers even advocate a “death strike” in the event of a fatal accident. They know such a step would mean serious disruption and loss of income or revenue for the industry, our own members and British Columbians who depend on the revenue our industry generates. They also know the Steelworkers would be liable to legal sanctions should we take such a step before it was declared legal. But they also feel increasingly helpless, vulnerable and angry as the succession of deaths and injuries continues. We would prefer that companies agree to such a measure or that the Legislature make it legal.

Other USW activists contend that we should make April 28, the National Day of Mourning for Fallen Workers, into a mandatory study day. It would be a day when all operations shut down so local unions might conduct seminars or memorials relating to accidents and accident prevention.

KP/mn

