

#### **TOXIC GAS LEAVES WORKERS UNCONSCIOUS 26 March 2014**

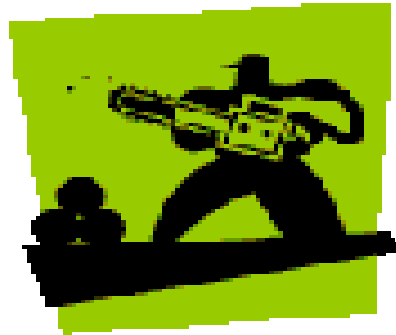
Whanganui company Tasman Tanning has today been fined \$73,000 and ordered to pay reparations totalling \$90,000 over a toxic gas incident that left four of its workers unconscious.

Workers at Tasman Tanning's Tod Street tannery were exposed to hydrogen sulphide gas in November 2012 after two chemicals used in the leather making process, sulphuric acid and hydrosulphide, were mixed. Exposure to hydrogen sulphide can cause nausea, headaches, memory loss, unconsciousness, convulsions and death.

The gas knocked out two workers, Joseph Ratana and Warren Burgess, on the mezzanine floor of the tannery. A third man, Taniela Balivou, fell unconscious when he attempted to go to their aid and another worker involved in rescue efforts also passed out briefly.

#### **FORESTRY FIRM FINED OVER DEATH OF NEW WORKER 14 Feb 2014**

Taranaki forestry company R&S Dreaver Shelter Trimmers Limited has been fined \$52,500 (reduced to \$25,000 based on the company's ability to pay) and ordered to pay \$55,000 reparation over the death of a worker who had only been on the job for six days. Adam Olsson died in April 2013, when a dead tree he was helping to bring down broke apart.



After making chainsaw cuts into the tree Mr Olsson initially went to a safety zone outside the area where the tree could fall so that his colleague could use an excavator to complete the felling of the tree.

However he subsequently moved back towards the tree, and was struck by falling debris which caused fatal head injuries.

R&S Dreaver Shelter Trimmers were convicted today in the New Plymouth District Court of one charge under the Health and Safety in Employment Act for failing to take all practicable steps to ensure Mr Olsson's safety.

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## News & views from Summit – May 2014



### **HEALTH & SAFETY – OBLIGATIONS OF THE PRINCIPAL**

**Firstly, it is important to understand performance.** This means that the more you do the less liable you are and the less you do the more liable you are. The HSE Act is a performance based Act. This facet will take on renewed importance in the near future. The Principal is often judged by the Court to have more liability than the subbie on the assumption that the Principal has more knowledge, experience and expertise. Under English law it is deemed that "Jack is as good as his Master". But it is also deemed that the Master must be partly responsible for the doings of Jack. This has been made clear in the range of instant fines which has been up to \$4,000 for a corporation but \$800 for a worker.

If the Master (Principal) wishes to make Jack equally responsible then s/he must ensure that a proper management system is in place to instruct Jack in the legal issues and requirements of the Master. Failure to provide a system automatically implies that the Master is trying to abdicate the obligations over to Jack.

**Secondly, you need to think about a formal contract.** In the case of DoL vs Eban Norman (Digger Contractor) it was deemed by the Judge that the Contractor was required to provide a site specific safety plan and full contract documentation to ensure that the work was carried out in a safe manner. The Judge did not accept that a well written two page machine hire document was sufficient for the contract. The Judge happened to overlook the fact that the Plumber was actually in charge of the project and was directing the driver of the digger at all times.

The Judge furthermore did not accept that the Plumber was responsible for his own death even though he elected to go down into the 5 – 6 M deep hole without any rescue gear or means in place to prevent a cave-in. This case caused a furore in the contracting community as it brought to light the potential for an earthmoving contractor to become fully liable for another party who in fact was in charge of the place of the work. The work in this case was to find an automated thrusting machine that had gone missing when the plumber set it running.

**Thirdly, you must take precautions for your own staff** and make sure that they are trained and are fully aware of their obligations and have signed off the necessary training documents or Safe Operating Procedures (SOP) or Job Task Analysis (JTA). It is not sufficient to rely on a Health and Safety plan and to forget about the SOP and JTA for individual important critical work or hazardous machinery.

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### **ROOF WORK: PAINTING, REPAIRS OR RENEWAL**

The Editor of a well known Safety Magazine in a recent editorial discussed with dismay the recent practice of a well known Roofing Contractor itemising scaffolding in the sum of \$1,000 for a contract that came to about \$20,000. The article debated the pros and cons of having the scaffolding itemised. It was surmised that the roofing rabbits with no qualifications would not show scaffold costs and that this therefore stating the cost had some merit. It was not however obvious from the article that the writer understood that there are several methods of roof guarding and that scaffold is one – even if it might be the most obvious.

What needs to be understood is that fall prevention is now much more important and that Worksafe NZ now considers 600 mm above the ground to be “a height”.

Clients who need help with the various methods of fall prevention should contact us. The suitable methods can for example include one or more of the following:

- a) ladders that are suitable and are secured;
- b) roof ladders that are secured at the top and can pivot;
- c) safety harnesses and/or safety belts;
- d) safety cushions that are common in Australia;
- e) edge rail protection as is often used in Australia;
- f) scaffolding of various types for the work;
- g) safety nets are now common on high rise construction;
- h) roof anchor wire that can be used to attach workers;
- i) platforms (adjustable) with edge rails;
- j) cherry picker or similar machine.

Each method has advantages and disadvantages and the editor of the magazine would be well advised to learn a bit more about fall prevention options.

### **WORKER VICTIMS ARE NOT TO TALK**

The current law provides that a worker (or manager) is not required to give any evidence (answers to questions in an inquiry or investigation) that has the potential to incriminate the worker or the employer.

This means that the workers are required to supply the following basic information:

- a) full name
- b) full address
- c) phone number
- d) date of birth
- e) job title
- f) name of employer

It is a good idea to answer prodding questions with “I don’t know” or “I did not see it” or “I am not sure” or “I did not hear anything”.



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### **BEFORE THE COURT 9 April 2014**

Piping contractor, Canadian Pacific Limited, has today been fined \$55,250 over a 2011 explosion in an Onehunga water pipe that killed one worker and left another a double amputee.

Philomen Gulland died on June 4 2011 and Ian Winson lost both his legs from above the knee in a gas explosion which left another five workers suffering injuries including fractures, head injuries, lacerations, puncture wounds and post-traumatic stress disorder.



Canadian Pacific was found guilty in the Auckland District Court last December, and was today sentenced on charges of failing to take all practicable steps to protect employees and failing to take all practicable steps to protect others. “Canadian Pacific had a duty to seek out and monitor hazards. It should have identified the potential hazard of explosive gas and planned to deal with it appropriately.

“The company should have known of the potential risk and carried out proper atmosphere testing before and during the work,” said Brett Murray. The Judge found that the charges were proven but there was insufficient proof to find that the failures by Canadian Pacific caused the explosion. Reparation was therefore not ordered.

Watercare Services, which contracted Canadian Pacific to conduct the work on the water main, was last year fined \$81,000 and ordered to pay reparations of \$315,000 over the same incident.

### **WAIKATO COMPANY FINED OVER WORKER'S DEATH 9 April 2014**

Waikato company Wealleans Groundspread Limited has been fined \$33,750 and ordered to pay reparation of \$70,000 over the death of a worker in June 2013.

Tyler Old was operating a specially adapted truck, which spread fertiliser from a hopper via a chain conveyor, on a dairy farm in Okauia, Matamata. Wealleans Groundspread pleaded guilty to a charge of failing to take all practicable steps to ensure Mr Old's safety, and was yesterday sentenced in the Morrinsville District Court.

The company's health and safety handbook stated that employees should never climb into the hopper when the chain is going, but there were no prominent signs on the truck warning of the dangers of doing so. WorkSafe's chief investigator, Keith Stewart, said in addition to putting warning signs on the vehicle Wealleans Groundspread could have taken a number of simple steps to protect its workers.

“The footholds and handholds on the side of the truck were inadequate to allow Mr Old to safely lean over the side wall of the hopper and push any fertiliser that was stuck down on to the chain conveyor. “The company could also have provided a tool with a reach long enough to reach any residual fertiliser instead of the standard spade that was made available,” said Keith Stewart of Worksafe NZ.