

WHY 99% OF WORKSAFE PROSECUTIONS SUCCEED

Nearly all of the attempted prosecutions by WorkSafe happen to succeed or otherwise be imposed as severe restrictive penalties for failure to observe the full intent of the law.

It is our opinion that the reason why such an extremely high percentage succeed is due to the fact that nearly all sites fail to carry out the clearly stated and demanded conformances that are required to prove beyond all reasonable doubt that both Owners and Management complied with their strict obligations and duties.

WHAT THE LAW DEMANDS

Section 17 states that the Owners and Directors and senior Managers of all sites of work in NZ must become responsible as PCBU or persons in charge of business undertakings.

Section 18 then makes it clear that the PCBU become known as Officers and have strict duties that must be performed. It also means that the PCBU people must become qualified.

90% of sites don't get the above requirements. They then fall into another 4 traps.

Section 28 states that the PCBU must not contract out, so what is the first thing that they do? – it is to contract out. Strike one.

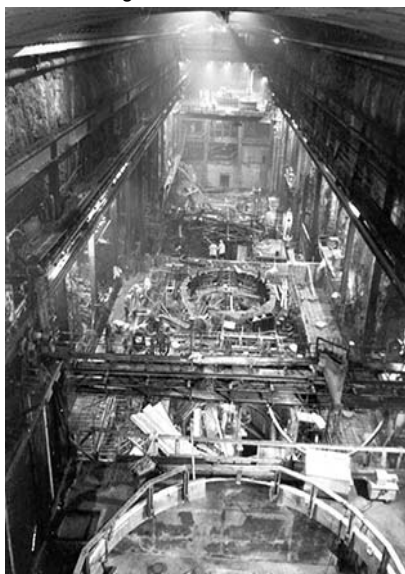
Section 29 states that the PCBU must not insure out, so what is the first thing that they do? – it is to contract out. Strike two.

Section 30 states that they must manage risks as an imperative. What do they do?, they don't bother to manage risks. Strike three.

Section 31 states that they must not transfer their strict duties so what do they do?, they transfer as many of their duties as they can.

WHAT IS THE RESULT

They have clearly demonstrated that they cannot be bothered with their duties and obligations. Therefore they have no legal defence whatsoever.



News, Views, Solutions
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[6] Jesus saith unto him, I am the way, the truth, and the life: no man cometh unto the Father, but by me. [7] If ye had known me, ye should have known my Father also: and from henceforth ye know him, and have seen him. John 14/6-7 KJV

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WORK EXPERIENCE IS BEING A WORKER ON TRIAL

We recently had an inquiry from a valued client about the engagement and liability associated with work experience lads from the local high school.

We did some research and chasing and true to form we found the answer in one of our large Summit Systems of ten years ago.

We advised the client that they would need to make the proposed person for the trial to be a volunteer like they do for Gloriavale if they wish to escape liability as if the person were to be engaged other than volunteer the company would have full normal liability.

I would however be further of the opinion that a worker on trial would have twice the liability in the case of machinery but if no machinery were to be involved there would be half of the normal liability in my opinion.

I also made a clear recommendation that every new employee should be given a copy of the 10 Steps for Workers and be invited to complete the document as soon as practicable. The same would apply with the Safety Observer course chapters 1-7.

All on trial people should be seconded to a senior and experienced worker under a buddy system so that the new person is under constant or almost constant surveillance.

This does imply that they would need to be watched every minute of the day but it would mean that they had a local expert person available to talk to in the event they were not sure which way to go for a certain job or function.

In my opinion there is a lot to commend the use of on trial people. If you go about the process in a careful and diligent manner you will do the training as recommended and give the person extensive tests using our tests and this will let you know beyond any doubt that the person has a high degree of natural awareness of risks and hazards or that the person is likely to be accident prone and a continual risk to your company and the other workers.

You need to remember that the other workers have a stake in the matter and they may not be too keen on the idea of having risky new people on trial.

2.

THREE WATERS SCHEME MAY BECOME VERY TRICKY

I am indeed very sorry to say that I happen to be of the belief that the present Govt is about to set up an alternative local gov't by taking the three waters which is maybe 50% of local body work and turning it over to a favoured community group.

It happens to be my opinion that the waters were created by God and not by man. They are a God given right and will in the millenium be well known as the divine control of human behaviour. Any nation that does not send a delegate to Jerusalem in the millenium will be deprived of rain for a whole year. Defy IAM at your peril.

It would be beneficial if NZ Gov't could arrange for Southland people and business interests to be able to get the waters of Te Anau and Manapouri to the world markets and especially the Arab nations where water will become more valuable than oil.

This could be an extremely simple thing to do as the outlets of the Lakes Te Anau and Manapouri gush into Doubtful Sound in Fiordland Southland. A large ship could be parked there (in the sound) and filled with water and then transported to Arab Nations for sale. The same principle applies for the great lakes of the United States.

You could even have a pumping station set up in the sound that would be able to fill big pillows with water and they could be towed to their destinations by large barges. It might even be possible to back load oil that could be supplied to the NZ refinery at Marsden Point. It would be necessary for the ships to have two linings one for oil and one for water. But alternatively you could have split compartments. I also doubt that some minor contamination of the water by oil would create a serious health risk.



3.

MANAPOURI POWER SCHEMES A LESSON IN SAFETY

It is our belief that for the first Manapouri tunnel there were 16 lives lost and maybe hundreds of serious accidents. It was no small feat and they created a huge power station in the middle of the mountain about 200 metres below the lake which was above them.

The second tunnel was a much different story. It did not require the construction of another power house but that is our opinion and we are not sure. We do however believe that there were zero deaths for the second tunnel construction.

This simply goes to prove that it is possible to have serious construction work completed with no deaths if you make this a serious target and make it an agreed goal or series of goals for all to achieve.

Historic it was and so it remains. While the construction of the power station was indeed an engineering feat of significant proportions, but it was also significant for other reasons. It was, in many ways, the inception of New Zealand's unique environmental consciousness on a national level and the first environmental movement to have a political influence.

We've already established that Fiordland is a large and wild place. But did we mention that it's breathtakingly beautiful? Not that we need to – us Kiwis are pretty on top of how stunning this country is. So, it's understandable that when it was suggested that the environment be compromised in the name of electricity generation, things got a bit heated.

When the original plans for the hydro station were proposed, the intention was to raise the level of Lake Manapōuri by almost 30 metres. This would see it join with lake Te Anau, creating a super-lake with enormous hydro-electric potential. But this would also have resulted in Lake Manapōuri's wooded islands and the shoreline beech forests disappearing into a watery grave. And the locals and many other Kiwis, well, they weren't having it.

As the potential environmental impact started coming to light, grassroots opposition started to grow. Spearheaded by local sheep farmers and the Forest and Bird Society, protests, letters of support, committees and public talks formed what became known as the 'Save Manapōuri' movement. In 1970, more than a quarter of a million people (10% of the population at the time) signed the 'Save Manapōuri' petition and amazingly, the government heard them. In 1972 elections, Labour took government and confirmed that the lake levels would not be raised.

The Government created the Guardians of the Lakes Manapōuri, Monowai and Te Anau to oversee the management of lake levels. "Our brief as guardians was a mile wide. We were to recommend operational limits that would preserve the health of the lakes and the rivers that flow into and out of them. What a role! And it came totally out of the blue." – Sir Alan Mark, Chairman of the Guardians for the first 26 years.

