

**Defend the Rights of Workers! Defend the Rights of All!**  
**Oil Sands Monopoly Blocks Full Inquiry  
into the Deaths of Two Workers**



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**Defend the Rights of Workers! Defend the Rights of All!**

**Oil Sands Monopoly Blocks Full Inquiry  
into the Deaths of Two Workers**

Canadian Natural Resources Ltd. (CNRL) has succeeded in derailing a full public inquiry into the death of two workers in 2007 during the construction of the Horizon project. Two temporary foreign workers, Genbao Ge and Hongliang Lui, were killed and four other workers injured, when a tank collapsed during construction. The Fatality Inquiry will now be limited to the single question of whether air ambulance transportation to hospital would have saved the life of one of the workers.

The decision was announced following a teleconference involving Judge J. R. Jacques of the Alberta provincial court in Fort McMurray with lawyers for CNRL and Alberta Justice. CNRL owns the Horizon oil sands mine and upgrader, as well as extensive holdings in conventional oil and natural gas in Alberta, the North Sea and offshore in West Africa. The decision to limit the inquiry is all the more alarming given that 11 workers have died at CNRL in the past decade. [1]



**Horizon Oil Sands site as seen in 2012.**  
(The Interior)

A full Fatality Inquiry would have presented an opportunity to fully examine why the two workers died, including examining witnesses under oath. But the judge agreed with the CNRL lawyer that the causes of the accident had already been investigated and no further inquiry was needed. This decision ignores the fact that witnesses have never been questioned under oath. There are serious discrepancies between the initial report by Workplace Health and Safety and the "agreed upon statement of facts" submitted when the subcontractor entered a guilty plea, and many unanswered questions.

Alberta Justice has not commented on whether it recommended a full inquiry. Minister of Labour Christina Gray stated that the Ministry will not take any further action.



A total of 53 charges were laid in 2009 as a result of the tragic incident in which two workers died, including 29 charges against CNRL. But in 2012, five years after the accident, all the charges against CNRL were stayed, and the charges against contractor Sinopec Shanghai Engineering Ltd. were withdrawn. The remaining three charges were against SSEC Canada, a subsidiary of Sinopec established a year before the accident to bid for work in the oil sands. SSEC entered a guilty plea for failing to ensure the health and safety of a worker and paid fines totalling \$200,000, along with a contribution of \$1.3 million to the Alberta Law Foundation. The guilty plea meant

no trial took place, and no one has ever testified under oath. From start to finish, an aura of secrecy has been imposed, which could have no other aim than to protect CNRL, known to be a large and looming political presence at all times.

The report issued on Workplace Health and Safety Compliance was not made public for almost 9 years. The agreed statement of facts was only released after the media applied for a court order, even though it was a public document. Why two of the three companies involved were not prosecuted has never been explained. The content of the teleconference discussion has not been made public, after which the judge agreed to severely restrict the inquiry.

The working people and their allies in Alberta gave a resounding defeat to the PC-Wildrose anti-social agenda. This was an expression of a demand for a public authority that serves the public good not monopoly right. Our no is also the starting point of our yes to the

creation of a public authority consistent with the needs of the times. The people's organized resistance to monopoly right can give rise to a forward-looking perspective to uphold the public interest.

## Note

1. Alberta Venture, [The Imperial Aspirations of Murray Edwards](#)



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# The Tragic Crime at Horizon Oil Sands Mine

- **Peggy Morton** -

With the decision to limit the Fatality Inquiry into the deaths in 2007 of two workers at the Canadian Natural Resources (CNRL) oil sands plant, CNRL has evaded being required to answer questions under oath about its role in this crime. It has already evaded prosecution, as all charges were laid under the *Occupational Health and Safety Act* and not the criminal code.

CNRL was never charged under section 217 of the criminal code, which can establish criminal liability for employers, and which demands a legal duty for all persons "directing the work of others" to take reasonable steps to ensure the safety of workers and the public. In this case as in others, monopoly right has prevailed over the rights of workers and public right. This must change!



The working class and its allies have brought forward the truth that the causes of this crime are found in the union-busting, low-wage, anti-worker agenda of CNRL and its unbridled greed in pursuit of the big score. It is timely to review the struggle against this criminal agenda in the context of this tragic event, to assess how things stand now and to put forward a course of action.

All sorts of pressures are being exerted on workers that with oil prices in the tank and no relief in sight, the only option is to lay low and wait for better times. The Horizon example during a period of boom shows how the monopolies attack the workers' rights whether the economy is booming or going bust.

One form of the attack at Horizon was to use the temporary foreign workers' program to deprive the rights of a vulnerable section of workers in order to attack the rights of all. The facts that have come out show the utter disregard for the lives of the temporary foreign workers. This tragedy underscores the need to end the temporary foreign workers program on the basis of **status for all with full rights!**

Even the employer-centred health and safety legislation in place in 2007 could have prevented the deaths had it been enforced. Regulations are worthless if there is no enforcement and inadequate staff. Since that time, even more anti-worker legislation has been introduced to put the blame on workers for unsafe conditions.

The deaths at Horizon also bring forward the need for new labour legislation that defends the



rights of workers. This means legislation that not only legalizes a process of collective bargaining but the legal right to wages and working conditions commensurate with the work, training and qualifications of workers.



Horizon was the proving ground in the oil sands for union-busting of the building trades through the "voluntary recognition" of the Christian Labour Association of Canada (CLAC). The anti-worker labour legislation that allowed CNRL to declare Horizon a *special project* and appoint a company-organized union, in this case CLAC, as a sham union representing the workers must be repealed. CLAC was representing the workers on this site in phantom theory only, as a plot to block a union representing workers from gaining a foothold. In practice, the workers who were killed and their fellow workers from China were left with no protection whatsoever, and did not even receive the wages to which they were entitled under the Collective Agreement.

The *Fatalities Inquiries Act* must be amended to ensure that the Fatality Inquiry will investigate and publicly report on all questions relating to the cause of workplace fatalities.

Looking back, one can see that when oil was at \$100 a barrel, "labour shortages" were the pretext to create a section of vulnerable workers and drive down wages and working conditions. Anti-worker labour laws were used to make it virtually impossible for the buildings trades workers to exercise their right to wages and working conditions commensurate with their work, training and qualifications. Now when oil prices are in the tank, the rich say there is no choice but to attack the workers who despite being the actual producers are insulted as a "cost" to be trimmed and left twisting in the wind. Workers affected by this crisis deserve better. The rights of workers must be upheld under all conditions without exception. Workers should not be left to fend for themselves. That is not the kind of Canada the people want.



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## **What the "Official Reports" Reveal About the Criminal Negligence of the Energy Monopolies**

Workplace Health and Safety Compliance (WHSC) issued its report, "Workers Crushed by Collapse of Tank Roof Support Structure" on September 27, 2007, five months after the two workers were killed and four others injured. It took almost another 9 years before the report was finally released in February 2016.

The report noted that all the parties involved were in compliance with written orders, with the exception of Canadian Natural Resources Ltd. (CNRL) which failed to submit an incident investigation report as directed.

The report explains that WHSC contracted Anderson Associates Consulting Engineers Inc. to examine the circumstances leading to the collapse of the roof support structure in tank 72-TK-1B. It concluded that the support structures were not properly designed with the flexibility needed to resist the lateral forces of the wind. The design violated both the *Alberta Building Code* and the American Petroleum Association Guidelines. Neither CNRL nor SSEC Canada consulted with the company that fabricated the roof support structures regarding the assembly sequence. CNRL did not require SSEC Canada to provide written engineered assembly procedures. None were provided and the workers were given only verbal instructions. The designer was not a professional engineer and the design had not been approved by a professional engineer.

Required safety standards for working in a closed space were not complied with. No one was trained to implement closed space safety precautions and no one was provided with a phone or radio as required to call for help in an emergency.



WHSC found SSEC Canada, its subcontractor Tenth Construction Company of Sinopec (TCC) and Canadian Natural Resources Ltd. (CNRL) all at fault for violations of the *Occupational Health and Safety Act, Section 2(1) (a) (i) Obligations of employers*. Subsequently 53 charges were laid against the three parties. Anderson specifically found that CNRL had failed to ensure that one of its contractors had erection drawings and procedures for a skeleton structure certified by a professional engineer.

Sinopec waged a long court battle to avoid prosecution, and even though the company lost its case on appeal, all charges against Sinopec were nonetheless dropped. All charges against CNRL were stayed. This left SSEC Canada to take the fall. SSEC Canada was a subsidiary company formed to bid on oil sands projects. After the disaster at Horizon, it had no future in Canada and was effectively defunct. In typical mafia style, it could be used as the fall guy and accept the guilt on behalf of all. CNRL, not just a major player in the oil sands but a dominant political presence in Alberta would escape all scrutiny and never be held to account.

The agreed statement of facts presented when SSEC was sentenced in January 2013, stated that the entry of the 132 temporary foreign workers was delayed and the project fell behind schedule. SSEC then proposed to assemble the walls and roof support structure at the same time, rather than to assemble the roof after the walls, as originally planned. The proposal was not signed off by an engineer.

This is where the story becomes extremely sketchy. The agreed statement of facts states that CNRL agreed to the proposed change, but amended the contract to require the work to be supervised by its team to ensure quality and safety. The agreed statement says that SSEC began using the new assembly method before CNRL employees arrived to supervise. Three weeks later

on April 24, 2007, the tank roof collapsed killing two workers and injuring four others. This account places the blame squarely on SSEC. According to this "agreed statement of facts," even though the tank construction was behind schedule and even though CNRL agreed to changes provided it supervised the work, CNRL just did not notice that a huge tank farm was under construction. The tank that collapsed, one of 14 being built, was 56.5 meters in diameter and was already more than 5 meters high when it collapsed.

Let us take CNRL at its word. CNRL says its management was completely blind, could not see a tank farm being constructed, forgot that it had no drawings and forgot that an engineer had not approved the project. CNRL approved an arrangement where 132 workers came as temporary foreign workers from China but were paid only a pittance of the wages the company was required to pay in the oil sands. But CNRL says it could not be expected to know anything about the 132 workers arriving from China even though it had pioneered the use of temporary foreign workers in the oil sands.



This sordid tale raises a serious question. CNRL had a declared net worth of \$1 million in 1988. By 2014 this had grown to \$45 billion, enormous riches claimed from the wealth created by the working class. It is obvious why CNRL needs the working class. But why does the working class need monopolies like CNRL? The working class is capable of organizing production, as that is what it does every day, and organizing it in a manner that looks after

the well-being of the workers, protects the environment and serves nation-building, which is what is lacking under the control of the monopolies. The times are calling for the workers to put forward their vision for a new direction and build the organization needed to bring it about.



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## The Need for Proper Health and Safety Legislation

- Peggy Askin -

*The Protection and Compliance Statutes Amendment Act was enacted by the PC government in 2012, and included amendments to the Occupational Health and Safety Act. These amendments for the first time include "worker" as one of the categories of regulated persons under the Act. Together with the other main change -- the introduction of administrative penalties for health and safety violations -- the amendments set the stage to criminalize workers, blaming them for unsafe work sites and their consequences. Alberta Worker is reprinting excerpts from an article by Peggy Askin, titled "New Health and Safety Legislation Will Further Compromise Workers' Rights," published by TML Daily on November 30, 2012.*

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Workers have a right to a safe and healthy workplace. But instead of providing legislation to guarantee this right, the government has actually launched an attack on the workers which will make workplaces less safe.

The new Act permits regulations to be put in place whereby both employers and workers can be



ticketed for safety violations on the spot. Fines will be established through the regulations, which the government states will be "hundreds of dollars."

The Executive Director of the Alberta Construction Association told the *Calgary Herald* that the Association supports the plan because it will help discourage safety infractions on job sites, such as an employee who refuses to wear a helmet. This statement shows how the employers are trying to shift the blame for workplace accidents and deaths onto the workers. It is well known that safety violations are used as a pretext on construction sites to fire and discipline workers all the time. In many cases workers are faced with confusing and even contradictory rules and regulations. Young workers coming onto job sites do not get the training they need. Where the workers have no union to hold the contractors in check, the mandatory safety meetings consist mainly of getting the workers to sign the sheet that they attended a meeting. Workers know very well that unsafe and poorly maintained equipment can be found on construction sites throughout the province. Instead of addressing the refusal of employers to fulfill their responsibilities, the Act will criminalize workers.



During debate in the legislature, Matt Jeneroux, MLA for Edmonton South-West, stated: "Our administrative penalty framework achieves balance in that penalties can be levied against both employers and workers. This is important. Everyone has a responsibility when it comes to workplace safety. Employers, employees, and government have a shared responsibility to keep our workplaces and workers safe. Bill 6 provides the tools to hold people accountable when they put others at risk."

Such statements have nothing to do with the reality of the workplace. The Redford (PC) government speaks of "shared responsibility" while it uses the state machinery to permit employers to act with impunity. The *E. Coli* outbreak at XL Foods in Brooks, Alberta put the lie to this fairy tale about "shared responsibility." Relentless speed-up, insufficient training and a toxic environment where workers were pushed to process as much product as possible in the shortest possible time severely impacted not only the workers but those who became seriously ill as a result .

As much as workers fight for and want safe workplaces, they do not control the pace of production in workplaces or the planning and pace of construction at building sites. The owners control production and the government has the responsibility to hold them to account for safety. Instituting on-the-spot fines and targeting individual workers will not make workplaces safer. Safety will be made an issue of discipline and the punishment of individual workers, rather than addressing the actual safety violations. How will this give rise to safe work sites? Workers already have a lot of experience that criminalizing workers does not lead to safer workplaces .

With the use of on-the-spot fines to target workers for safety violations, the responsibility is being shifted onto the workers. Workers already have a lot of experience with how pressure is exerted on them not to report injuries on the job. This is done both with the carrot and the stick, using "reward" systems for no lost-time injuries on one hand and the humiliation and disciplining

of workers who suffer an injury on the other. In no way has this led to safer workplaces.

The necessity for safe and healthy conditions is denied and what is denied above all is the key role of the workers' collectives and defence organizations to bring the human factor into play to sort out how to make workplaces and industries safe.



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## Questions Remain About the Alberta Tank Collapse

**- Bob Barnettson -**

*Alberta Worker is reprinting an article by Bob Barnettson originally published in Labour & Employment in Alberta on February 10. Barnettson is Associate Professor, Labour Relations at Athabasca University, Alberta. His blog can be found at <http://albertalabour.blogspot.ca/>.*

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CBC revealed [on February 9] that CNRL [Canadian Natural Resources Ltd] has successfully limited the scope of a public fatality inquiry about the 2007 deaths of two temporary foreign workers caused by a tank collapse to whether the availability of an air ambulance would have saved one of the workers.

Circumscribing the scope of the fatality inquiry renders it largely useless; a fuller inquiry would perhaps reveal important information that might be used to prevent future deaths. CNRL limited the scope of the inquiry during a teleconference involving CNRL, Alberta Justice, and a provincial court judge.

There are many profoundly troubling aspects to this report. Here are five:

1. Why would CNRL oppose a full inquiry? There is no real cost to CNRL and the result may prevent future deaths. The only risk I can see is if there is the prospect of reputation harm (e.g., the inquiry might reveal dodgy corporate practices). Surely the public good favours transparency?

2. Why did OHS [Occupational Health and Safety -- Alberta] hide its investigation report for 8 years? Perhaps the report could legitimately be withheld during the prosecution of SSEC Canada, but that was completed two years ago. Who decided not to post the report and why? Again, surely the public good favours transparency and the state should proactively disclose fatality reports. EDIT: I just read that the government normally withholds reports until after the fatality inquiry was over. Again, why?

3. Why did the judge limit the scope of the inquiry? The workers affected here were profoundly vulnerable. The 132 temporary foreign workers on the project were entirely dependent upon their employer for their right to work in Canada and were physically and linguistically isolated. They were also dependent upon their employer for their safety (given the complexity of the undertaking). Not only did their employer fail to take responsible steps to protect their lives and health, but the resulting investigation also revealed widespread wage theft by the employer.

The inquiry could have delved into how these intersecting forms of vulnerability are exploited by employers to maximize profitability, in part through complex corporate and subcontracting arrangements. I wonder if these deaths would have happened and if the inquiry would have been



circumscribed if the workers had been Canadian, instead of Chinese?

4. Why does everyone blame the workers? The CBC report notes that:

"The OHS report found that the employee responsible for monitoring activity inside the tank 'was not competent.' The worker 'was not aware of the emergency response requirements' and 'did not have a telephone or radio to summon assistance.'"

This phrasing has the effect of blaming the "not competent" worker. It is important to note that it is the employer who was responsible for ensuring the work was safe and, by implication, that the staff they hired were suitably qualified for the tasks they were directed to perform.

5. Did CNRL actually just blame the [Alberta Federation of Labour] for the limited scope of the inquiry? CNRL's counsel, in the CBC article, blames the Alberta Federation of Labour for the outcome of the January hearing:

"[AFL President Gil] McGowan said he supports a full inquiry, but CNRL's lawyer blames the labour organization for failing to act when it had the opportunity. Two letters addressed to McGowan invited the AFL to participate in the January hearing. Lawyers for the Alberta government sent the first in September, and the second one day before the teleconference. They received no reply.

"[CNRL lawyer David] Myrol took the lack of response as tacit approval of quashing the inquiry. 'I would submit sir, that the party that really pre-empted this entire public inquiry is the federation themselves,' Myrol told Jacques, the judge. 'They've been notified of this public fatality inquiry and have chosen not to participate in it'."

Setting aside that Alberta Justice directed notices to McGowan (who was on leave from the AFL) rather than the organization, is it CNRL's position that public inquiries should only occur when organized labour demands it? CNRL attempting to blame the AFL for an outcome actively pursued by CNRL is shameful and specious reasoning.

Overall, the case is a fascinating study of how federal immigration and provincial health and safety laws interact in a petro-state.



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