

Butler, Lisa M JTT:EX

From: Fournier, Kim LBR:IN
Sent: June 13, 2012 1:45 PM
To: Blakely, John H LBR:EX; XT:Boyte, William LBR:IN
Subject: RE: WCAT Procedure

Hi, John.

Nice to hear from you.

Here are my responses to your questions:

Because WCAT proceedings are partly inquiry based, the tribunal is not limited by the evidence in the Board's file or the evidence provided by the parties (WCAT Manual of Rules of Practice and Procedure (MRPP), item 9.1). It has the authority to inquiry into the matter under appeal and consider all information obtained (s. 246(2)(c)).

WCAT may receive and accept evidence it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law (MRPP, item 11.3; s. 246.1). However, admissibility of the evidence is subject to the rules of privilege and to the provisions of any other statute that expressly limits the extent to which or purpose for which any evidence may be admitted or used, including the ATA, the B.C. *Evidence Act*, the *Canada Evidence Act*, and the *Apology Act*. (MRPP, item 11.4, s. 246.1(4)).

It is important for the MLA who is providing the information to be aware that, while not frequently used, WCAT does have the authority under s. 247(1) to subpoena a person to attend an oral or electronic hearing to give evidence and to be subject to cross-examination. This order may be issued on WCAT's own initiative, or at the request of a party. MRPP item 11.7 sets out the practice directive pertaining to this procedure.

The process undertaken by WCAT upon receipt of additional evidence is set out in item 14.7 of the MRPP, which is reproduced below for your convenience.

Here is a link to WCAT's MRPP: <http://www.wcat.bc.ca/research/MRPP/mrpp.pdf#pagemode=bookmarks&11>

Hope this helps. If you require any clarification or further information, please don't hesitate to give me a call.

Cheers,

Kim

Kim Fournier, Law and Policy Adviser
Employers' Advisers Office
Ministry of Labour, Citizens' Services and Open Government
102 - 1726 Dolphin Avenue
Kelowna, BC V1Y 9R9
Phone: 250-717-2053

14.7 New Evidence Obtained by the Panel

Practice Directive

Where the panel obtains further evidence or views relevant new evidence or information on the Board file that was placed there after the date of last disclosure or updated disclosure to the parties, the panel will disclose that evidence to the parties for comment.

The panel will decide the procedure and due dates to be set for obtaining comments on the new evidence or information. Normally the evidence will first be disclosed to the appellant and their representative. The new evidence together with the appellant's response will then be disclosed to the respondent and their representative. The respondent's submission will then be forwarded to the appellant for final response.

Alternatively, the panel may disclose the new evidence to both parties and invite responses from both parties at the same time, and then give each party an opportunity to respond to the other.

Where a submission is sent to WCAT by fax, it is not necessary to send the original document. Where the party also sends the original document, WCAT will note the fax received date on the original document and destroy the fax. [Emphasis added.]

From: Blakely, John H LBR:EX [mailto:John.Blakely@gov.bc.ca]
Sent: Wednesday, June 13, 2012 12:00 PM
To: Fournier, Kim; Boyte, William (Bill)
Subject: WCAT Procedure

Bill/Kim,

I hope you are doing well. And, I'm wondering if I could ask you a couple of questions that pertain to review and appeal procedures. My specific questions are:

- 1) In the scenario of a matter having been decided by the Review Division and that is pending before WCAT and where new information has come to light, is WCAT permitted to consider that new information in making a decision? And, if the answer to this question is "yes", my next question is:
- 2) Who would be permitted to bring this new information forward for WCAT's consideration? Does it have to be a party to the original issue, or can it be someone else?

What is motivating these questions is a case (a fatality) that resulted in a large penalty against an employer. I gather the matter has been through the Review Division, but is pending before WCAT. I also gather that a third party (an MLA) has "new information" that is relevant to the case. I don't know whether this "new information" will assist the employer's case or will be detrimental to it. In either case, I think what we are trying to do is formulate a response to the MLA that addresses the two questions above.

I hope you don't mind looking at these questions given that I was a bit reluctant to go directly to WorkSafeBC or to WCAT in the first instance. However, if you believe it is better that I go there, I will.

Also, if it would help for you to have details on the specific case, I can provide that to you as well.

Thanks and all the best,
John Blakely

| | |
|---|---|
| <p style="text-align: center;">CONFIDENTIAL ISSUES NOTE</p> <p>MINISTRY OF LABOUR, CITIZEN SERVICES AND OPEN GOVERNMENT</p> <p>DATE: JULY 4, 2011/JUNE 12, 2012</p> <p>MINISTER RESPONSIBLE: HON. MARGARET MACDIARMID</p> <p>CREATED BY: DONNA FREEMAN</p> | <div style="background-color: black; color: white; padding: 5px; text-align: center;"> WORK SAFE BC </div> <p style="text-align: center;">WORKING TO MAKE A DIFFERENCE</p> <p style="text-align: center;">KIEWIT PENALTY</p> |
|---|---|

Key Facts Regarding the Issue:

In 2011, WorkSafeBC imposed a penalty against Peter Kiewit Sons Co. in the amount of \$250,000. This is one of the highest penalties ever imposed by WSBC (the largest was \$297,000 imposed against Weyerhaeuser in 2007). The penalty is related to violations of health and safety regulations and the Workers Compensation Act that resulted in a fatality. The incident took place on February 22, 2009; a large rock rolled downhill on a run-of-the-river project construction site located near Toba Inlet striking a scaler as he hand-drilled a boulder to prepare it for blasting. The scaler, a young worker, immediately sustained fatal injuries.

Advice and Recommended Responses:

- This is a significant penalty and reflects the seriousness of the compliance issues that resulted in a fatality.
- This penalty was imposed because the employer failed to:
 - take sufficient precautions for the prevention of work-related injuries or illnesses;
 - maintain a safe workplace or safe working conditions;
 - exercise due diligence to prevent these circumstances.
- The penalty amount reflects the fact that the employer committed high-risk violations knowingly or in reckless disregard of its legal health and safety obligations.
- The employer has review and appeal rights. They requested a review after the penalty was imposed and the Review Division of WorkSafeBC upheld the penalty.
- Kiewit has now appealed the Review Division decision to the Workers' Compensation Appeal Tribunal (WCAT) – the final level of appeal in the workers' compensation system.

Background

- The penalty is the result of a WSBC investigation of a workplace accident that occurred on February 22nd, 2009. The investigation determined there were violations of the Occupational Health and Safety Regulation (OHS Reg) and Workers Compensation Act.

ADVICE TO THE MINISTER

- This employer had two rock fall incidents that occurred on consecutive days – February 21st and 22nd. On Feb 21st a large rock rolled down a slope into a work area where several workers were working. It struck a hoe drill and caused serious mobile equipment damage.
- The next day a young worker died when struck by a large rock as it rolled down a slope into his work area (4 other workers also in area).
- This workplace owner – Plutonic Power Corporation - was developing the run-of-river hydroelectric generation project; Peter Kiewit Sons Co. was contracted by the owner as the prime contractor to construct the East Toba and Montrose projects including a 144km transmission line for connection to the power grid. Kiewit is a very large construction contractor with many years experience in constructing highways, bridges, mass transit systems, mine sites, hydroelectric powerhouses, dams and industrial facilities – and also specializes in grading, paving, excavation and structures.
- All of the personnel directly involved in the February incidents were Kiewit employees and many, but not all of the workers, were members of the Christian Labourer Assn. of Canada Union.

Background on Penalties:

Administrative penalties are fines for health and safety violations. Their main purpose is to motivate the employer receiving the penalty — and other employers — to comply with the *Workers Compensation Act* and the *Occupational Health and Safety Regulation*. WorkSafeBC consider an administrative penalty when an employer:

- Commits a violation resulting in high risk of serious injury, serious illness, or death
- Violates of the same section of the Act or the Regulation on more than one occasion
- Violates different sections of the Act or the Regulation on more than one occasion, where the number of violations indicates a general lack of commitment to compliance
- Fails to comply with a previous order within a reasonable time
- Knowingly or with reckless disregard* violates one or more sections of the Act or the Regulation

Additional factors and relevant circumstances are weighed when WorkSafeBC decides whether to propose or levy a penalty. They include:

- The potential seriousness and likelihood of an injury or illness
- The number of people who might have been at risk
- The employer's record of compliance and if the employer has of otherwise exercised due diligence to prevent the conditions to which the penalty relates
- If the employer has an effective, overall program for compliance
- If the non-compliance resulted from the independent action of workers who had been properly instructed, trained and supervised

| | | |
|-------------------------|--|--------------|
| Communications Contact: | Donna Freeman, Director Media and Government Relations | 604-276-3141 |
| Program Area Contact: | Jeff Dolan, Director Investigations | |

GOVERNMENT ACTION ON WORKPLACE SAFETY

G. Gentner: Earlier this month the *Province* newspaper published a heart-wrenching review of the death of 24-year-old Sam Fitzpatrick, who was killed on the job February 22, 2009. Now, one of the issues that haunt Sam's family even today is the fact that a WorkSafe inspector was at the site only three days before this happened, but the work continued nevertheless.

Kiewit, the contractor, was fined a quarter million dollars for safety violations in this case. Kiewit continues to deny their responsibility and to appeal the fine. However, WorkSafe upheld the fine and confirmed that the violations created a "high risk of death or injury." There are so many questions that are unanswered in this.

To the minister: what steps is her government taking to make sure that there will not be more families like that of Sammy's?

[1420]

Hon. M. MacDiarmid: Thank you to the member for this question. This was certainly an extremely tragic happening, and nothing that anyone can do can bring back this family member to the people who are bereaved. I certainly want to start out by saying how much we all feel that in the House — on both sides of the House, I'm quite sure.

In this case this was one of the highest penalties that had ever been imposed by WorkSafe B.C. It was taken very seriously. The penalty itself reflects how serious the compliance issues were that led to this happening.

What I can say is that I think members on both sides of the House are committed to this. Workers around the province are committed to this. WorkSafe is. Unions and employers all are partners in our efforts to continue to address worker safety, to prevent fatalities and to reduce injury rates.

While this was a terrible event, I am happy to say that in the last ten years injury rates and fatalities have continually been reduced in this province.

Mr. Speaker: The member has a supplemental.

G. Gentner: Yes, it was a terrible tragedy. No doubt. We don't want to see this fine as being part of the price of doing business in the province. The numbers do tell a story, and we are going in the wrong place in this province.

The ministry recently tabled the 2011 WorkSafe annual report. It shows that the provincial injury rate actually increased and that "the number of fatalities in B.C. remains almost unchanged." That is unacceptable.

What, specifically, is this minister requiring of WorkSafe B.C. to ensure that injury rates go down, not up, in 2012?

Hon. M. MacDiarmid: Again, thanks to the member for the question. The member, however, is just completely incorrect with his information. WorkSafe has made changes over the last number of years with a particular focus on prevention, with a particular focus on education, with more inspections than ever before in the history of the organization.

What has happened? Well, since 2001 our injury rate has been reduced by 40 percent. Motor vehicle incident fatal claims are down by over 20 percent since 2002 on the jobsite. Traumatic fatal claims are down over 30 percent since 2002. All of these trends are very much improved.

There is one area where things are going in the wrong direction, and that is occupational disease. Workers who were exposed to asbestos 30 and 40 years ago.... I do acknowledge that those numbers are rising, but those are from occupational exposures that happened decades ago.

Ref: 97519 Bullets

- WorkSafeBC and the Workers' Compensation Appeal Tribunal are independent statutory agencies and government ministries are not legally permitted to become involved in individual WorkSafeBC compliance and enforcement issues.
- Government's priority is protecting workers from hazards in the workplace. Everyone deserves to come home safe after a day at work. There are strict regulations in place to protect workers on the job – that includes protections for workers who refuse unsafe work.
- In the case of the tragic 2008 Toba Inlet death of Sam Fitzpatrick the employer was found to have committed high risk violations. That's why WorkSafeBC levied a significant penalty against the employer. These penalties send a powerful message about the importance of protecting workers and the financial consequences of employer violations.

Butler, Lisa M JTT:EX

From: Hughes, Trevor LBR:EX
Sent: April 19, 2013 9:32 AM
To: Olsen, Melody LBR:EX
Subject: RE: For Approval 97519s.22 Draft Deputy's Response safety Kiewit

APPROVED. Will we get to see draft letter MOTI writes to see how they incorporate our bullets?

From: Olsen, Melody LBR:EX
Sent: Friday, April 19, 2013 9:09 AM
To: Hughes, Trevor LBR:EX
Subject: For Approval 97519s.22 Draft Deputy's Response safety Kiewit

Good morning,

Please see attached for bullets that were created to be used by MoTI for their response to the incoming.

Thank you.

From: Blakely, John H LBR:EX
Sent: Thursday, April 18, 2013 3:35 PM
To: Olsen, Melody LBR:EX
Cc: Rogers, Peter LBR:EX
Subject: FW: 97519s.22 : Draft Deputy's Response safety Kiewit - New Assignment

Melody, here is some messaging on the WorkSafeBC aspect of this letter for forwarding to MOTI. This is approved. Thanks

From: Rogers, Peter LBR:EX
Sent: Thursday, April 18, 2013 11:35 AM
To: Blakely, John H LBR:EX
Subject: FW: 97519 s.22 Draft Deputy's Response safety Kiewit - New Assignment

Here again are the bullets for your approval to Melody.

From: Olsen, Melody LBR:EX
Sent: Thursday, April 18, 2013 11:24 AM
To: Blakely, John H LBR:EX
Cc: Rogers, Peter LBR:EX
Subject: RE: 97519 s.22 Draft Deputy's Response safety Kiewit - New Assignment

Hi there,

MoTI has agreed to take the lead on this and they were wanting our bullets. Can you please attach for me?

Thanks

Melody

From: Blakely, John H LBR:EX
Sent: Tuesday, April 16, 2013 2:58 PM
To: Olsen, Melody LBR:EX
Cc: Rogers, Peter LBR:EX
Subject: FW: 97519 s.22 Draft Deputy's Response safety Kiewit - New Assignment

Melody,

I understand Peter has discussed with you our (and GCPE's) view that a different ministry - probably the ministry that is responsible for administering contracts with Kiewit, which I think is the Ministry of Transportation and Infrastructure (MOTI) – should take the lead in preparing a response to this letter. May I ask you to follow up with MOTI to see if they will take the lead in preparing a response? We have prepared some bullets on the worker safety aspects of the letter which we can provide to them if they want and need them. But I think it's best if you provide them with the incoming letter and see if they agree to prepare the response before we send anything over to them.

Let me know if you have questions or would like to discuss this.

Thanks

From: Rogers, Peter LBR:EX
Sent: Tuesday, April 16, 2013 9:48 AM
To: Blakely, John H LBR:EX
Subject: FW: 97519 s.22 Draft Deputy's Response safety Kiewit - New Assignment

I spoke to Melody. Upon receiving your approval of the attached bullets, she will forward this material on the our ministry correspondence unit who will then be responsible for determining the appropriate ministry to respond and then forwarding this material to them for their consideration and inclusion.

From: LBR, Labour Division LBR:EX
Sent: Friday, April 12, 2013 9:06 AM
To: Rogers, Peter LBR:EX
Subject: 97519 s.22 Draft Deputy's Response safety Kiewit - New Assignment

Good morning,

Please see attached for new incoming which is due back by April 17, 2013.

Thank you.

From: JTSTL.Correspondence@gov.bc.ca [mailto:JTSTL.Correspondence@gov.bc.ca]
Sent: Thursday, April 11, 2013 2:17 PM
To: LBR, Labour Division LBR:EX
Subject: CLIFF Referral 97519 - Draft Deputy's Response

| Jobs, Tourism and Innovation CLIFF Log 97519 | | | | | |
|--|------|----------|------------|--------|--------------------|
| First Name | s.22 | Written | | Log ID | 97519 |
| Last Name | s.22 | Received | 2013/04/11 | Type | Email |
| Title | | Due | 2013/05/01 | Action | Deputy's Signature |

| | | | | | | | |
|--|---|--------|------------|---|-----------------------------------|---------------|---------------------------------|
| Ministry | | | | Interim | | Office | CB- Correspondence Branch |
| Company | | | | Signed | | Sign By | |
| Address | | | | Closed | | Entered By | NWatt |
| | | | | File No. | | | |
| City | Vancouver | Postal | V5Y 1R6 | Batch | | | |
| Province | BC | Phone | | Confidential:No Frequent Writer:No Elected Official:No | | | |
| Country | | Fax | | Email | s.22 | | |
| Subject | safety accountability and Kiewit & Sons company | | | | | | |
| Other info | Deputy sign OBO Premier | | | | | | |
| Copied to | | | | | | | |
| Addressed to | PREMIER | | | Responsible Div | Labour | | |
| Issue | | | | MLA | MacDiarmid, Margaret (BC Liberal) | | |
| X-Ref | | | | Electoral Dist | Vancouver-Fairview | | |
| Attachments for Log 97519 | | | | | | | |
| MSG: 97519 incoming.msg | | | | | | | |
| Referrals for Log 97519 | | | | | | | |
| Sent By | CB-Correspondence Branch | | | Sent | 2013/04/11 | Received | Status Sent |
| Sent To | LABOUR-ADM | | | Due | 2013/04/22 | Active for | State Active |
| Action | Draft Deputy's Response | | | Completed | | File No. | |
| Comments From Sending Office 2013/04/11T14:17 Email notification for LABOUR-ADM to LCS.Labour@gov.bc.ca | | | | | | | |

Butler, Lisa M JTT:EX

From: Blakely, John H LBR:EX
Sent: April 16, 2013 2:58 PM
To: Olsen, Melody LBR:EX
Cc: Rogers, Peter LBR:EX
Subject: FW: 97519 s.22 Draft Deputy's Response safety Kiewit - New Assignment
Attachments: 97519_97519 incoming.msg

Melody,

I understand Peter has discussed with you our (and GCPE's) view that a different ministry - probably the ministry that is responsible for administering contracts with Kiewit, which I think is the Ministry of Transportation and Infrastructure (MOTI) – should take the lead in preparing a response to this letter. May I ask you to follow up with MOTI to see if they will take the lead in preparing a response? We have prepared some bullets on the worker safety aspects of the letter which we can provide to them if they want and need them. But I think it's best if you provide them with the incoming letter and see if they agree to prepare the response before we send anything over to them.

Let me know if you have questions or would like to discuss this.

Thanks

From: Rogers, Peter LBR:EX
Sent: Tuesday, April 16, 2013 9:48 AM
To: Blakely, John H LBR:EX
Subject: FW: 97519 s.22 Draft Deputy's Response safety Kiewit - New Assignment

I spoke to Melody. Upon receiving your approval of the attached bullets, she will forward this material on the our ministry correspondence unit who will then be responsible for determining the appropriate ministry to respond and then forwarding this material to them for their consideration and inclusion.

From: LBR, Labour Division LBR:EX
Sent: Friday, April 12, 2013 9:06 AM
To: Rogers, Peter LBR:EX
Subject: 97519 s.22 Draft Deputy's Response safety Kiewit - New Assignment

Good morning,

Please see attached for new incoming which is due back by April 17, 2013.

Thank you.

From: JTSTL.Correspondence@gov.bc.ca [mailto:JTSTL.Correspondence@gov.bc.ca]
Sent: Thursday, April 11, 2013 2:17 PM
To: LBR, Labour Division LBR:EX
Subject: CLIFF Referral 97519 - Draft Deputy's Response

Jobs, Tourism and Innovation CLIFF Log 97519

| | | | | | |
|------------|------|----------|------------|--------|-------|
| First Name | s.22 | Written | | Log ID | 97519 |
| Last Name | s.22 | Received | 2013/04/11 | Type | Email |

| | | | | | | | |
|--|---|--------|------------|---|-----------------------------------|---------------|---------------------------------|
| Title | | | | Due | 2013/05/01 | Action | Deputy's Signature |
| Ministry | | | | Interim | | Office | CB- Correspondence Branch |
| Company | | | | Signed | | Sign By | |
| Address | | | | Closed | | Entered By | NWatt |
| | | | | File No. | | | |
| City | Vancouver | Postal | V5Y 1R6 | Batch | | | |
| Province | BC | Phone | | Confidential:No Frequent Writer:No Elected Official:No | | | |
| Country | | Fax | | Email | s.22 | | |
| Subject | safety accountability and Kiewit & Sons company | | | | | | |
| Other info | Deputy sign OBO Premier | | | | | | |
| Copied to | | | | | | | |
| Addressed to | PREMIER | | | Responsible Div | Labour | | |
| Issue | | | | MLA | MacDiarmid, Margaret (BC Liberal) | | |
| X-Ref | | | | Electoral Dist | Vancouver-Fairview | | |
| Attachments for Log 97519 | | | | | | | |
| MSG: 97519 incoming.msg | | | | | | | |
| Referrals for Log 97519 | | | | | | | |
| Sent By | CB-Correspondence Branch | | | Sent | 2013/04/11 | Received | Status Sent |
| Sent To | LABOUR-ADM | | | Due | 2013/04/22 | Active for | State Active |
| Action | Draft Deputy's Response | | | Completed | | File No. | |
| Comments From Sending Office 2013/04/11T14:17 Email notification for LABOUR-ADM to LCS.Labour@gov.bc.ca | | | | | | | |

Butler, Lisa M JTT:EX

From: Cooper, Darla G JTST:EX
Sent: April 11, 2013 1:48 PM
To: Watt, Norma JTST:EX
Cc: Olsen, Melody LBR:EX
Subject: 97519: Pieter Kiewit Sons Inc.'s safety record, and their contributions to the BC Liberal Party

Norma – pls log and refer to Labour for DMs response obo Premier.

Melody – see below, GCPE will be providing input.

From: May, Michelle GCPE:EX
Sent: Thursday, April 11, 2013 1:28 PM
To: Cooper, Darla G JTST:EX
Cc: McAndrews, Caroline GCPE:EX; Jensen, Allison H GCPE:EX; Currie, David GCPE:EX
Subject: RE: ADVISE: Pieter Kiewit Sons Inc.'s safety record, and their contributions to the BC Liberal Party

Hi Darla, GCPE will provide you with some messaging to include in the response.

Michelle May
Communications Coordinator
Ministry of Jobs, Tourism & Skills Training and Responsible for Labour
Government Communications and Public Engagement
8th Floor 1810 Blanshard St.
Victoria, BC V8T 4J1
p: 250-387-9289 e: Michelle.May@gov.bc.ca

☐ Please consider the environment before printing this e-mail.

From: Cooper, Darla G JTST:EX
Sent: Thursday, April 11, 2013 12:02 PM
To: May, Michelle GCPE:EX
Subject: ADVISE: Pieter Kiewit Sons Inc.'s safety record, and their contributions to the BC Liberal Party

Michelle – since media is involved should GCPE take this one? Please confirm.

From: Bains, Jasmine PREM:EX
Sent: Thursday, April 11, 2013 11:56 AM
To: Cooper, Darla G JTST:EX
Cc: Correspondence Services JTST:EX
Subject: FW: concern: Pieter Kiewit Sons Inc.'s safety record, and their contributions to the BC Liberal Party

Hi Darla,

Would JTST be able to provide a response to the following email? It looks like the media was cc'd on it. Please advise.

Thanks,

Jasmine

From: s.22

Sent: Tuesday, April 9, 2013 11:28 AM

To: OfficeofthePremier, Office PREM:EX; MacDiarmid.MLA, Margaret LASS:EX; George Heyman; MP for Vancouver CentreHedy Fry

Cc: Dix.MLA, Adrian LASS:EX; office@greenparty.bc.ca; office@bcconservative.ca; BC Fed 2012; CCPA; David Beers/The Tyee; Globe + Mail/BC

Subject: concern: Pieter Kiewit Sons Inc.'s safety record, and their contributions to the BC Liberal Party

Dear Premier Clark,
Ms. MacDiarmid (MLA, Vancouver-Fairview),
George Heyman (candidate, Vancouver-Fairview),
and Hon. Hedy Fry (MP, Vancouver-Centre)

RE: Contractor Kiewit & Sons

reference: article published in *The Tyee* on 8 April 2013, "**Big Liberal Donor's Rocky Safety Record**"

Although I had heard rumours of Kiewit and Sons' poor safety record before, I was greatly saddened today to read of their complicity in the 2009 death of Sam Fitzpatrick:

Copyright

Questions:

1. What kind of direct, sustained accountability does the BC government require from companies such as Kiewit, who are doing construction work paid for by BC taxpayers ?
2. Are there any binding review processes which are done when a company demonstrates a "wanton" disregard for safety, especially when working on public projects ?

I am further disturbed to discover that Kiewit remains employed by the taxpayers of BC on government construction sites:

Copyright

This especially when the Workers Compensation Appeals tribunal found:

Copyright

Further questions:

3. Given this finding, how can the BC government defend its continued use of this contractor at BC taxpayer expense, and on public projects ?

To me, continuing to contract with Kiewit would be seem extremely irresponsible, ignorant and arrogant. But perhaps it is the monetary donations this company has provided to the Liberal Party over a 6 year period which makes Kiewit above reproach, review and termination:

Between 2005 and 2011 Kiewit also donated \$96,575 to the BC Liberals according to Elections BC.

As far as I'm aware, refusing unsafe work in BC is not grounds for getting fired. If so, then why is Kiewit accused of this:

Copyright

Premier Clark and Dr. MacDiarmid: how can you, your party, and this Liberal government justify any of the allegations and facts brought forward in this article ?

Worker safety is and MUST be paramount on any worksite. Your connection to this company, especially in light of the lengthy record of problems they've demonstrated merits a very full, public discussion, accountability and remediation. This is a tragic and appalling situation.

I look forward to your written response to my concerns, including a full accounting of Kiewit's relationship to the Liberal Party, and remedial actions being taken immediately to address that company's safety problems AND their continued work at the BC public's expense.

Thank you for your time and consideration,
s.22

copies to: Adrian Dix, MLA/Leader of the NDP; Jane Sterk, Leader of the BC Green Party; John Cummins, Leader of the BC Conservatives; BC Federation of Labour; The Tyee; Globe & Mail; concerned citizens

><(((0> .~ ., ><(((0> ..~ ., ><(((0> .~ .. ><(((0> .~

"We do not inherit the earth from our ancestors,
we borrow it from our children."

~ Navajo Proverb

Butler, Lisa M JTT:EX

From: McAndrews, Caroline GCPE:EX
Sent: April 12, 2013 9:33 AM
To: Cooper, Darla G JTST:EX
Cc: May, Michelle GCPE:EX; Jensen, Allison H GCPE:EX
Subject: FW: ADVISE: Pieter Kiewit Sons Inc.'s safety record, and their contributions to the BC Liberal Party

Hi Darla: please see below.

From: Jensen, Allison H GCPE:EX
Sent: Thursday, April 11, 2013 3:58 PM
To: McAndrews, Caroline GCPE:EX; Currie, David GCPE:EX
Cc: May, Michelle GCPE:EX
Subject: RE: ADVISE: Pieter Kiewit Sons Inc.'s safety record, and their contributions to the BC Liberal Party

Caroline,

As discussed, it appears the writer is questioning the company's general involvement in public projects and has specific questions about terms and conditions in the contracts – topics our ministry is unlikely to be able to directly address.

As such, perhaps a better approach would be to provide the messaging below (which has been approved by labour exec) to correspondence with a recommendation that the response should come from either EMNG or TRAN (or both) with perhaps even consultation from the procurement folks at CITZ.

Thoughts?

Allison Jensen
Government Communications and Public Engagement
Ministry of Jobs, Tourism and Skills Training and Responsible for Labour
250 356-8177 (office) 250 208-4189 (mobile)

Workplace safety:

- **Our government's priority is protecting workers from hazards in the workplace. Everyone deserves to come home safe after a day at work.**
- **There are strict regulations in place to protect workers on the job – that includes protections for workers who refuse unsafe work.**
- **Employers who violate regulations and fail to protect the health and safety of workers are subject to penalties.**
- **WorkSafeBC can also seek jail time if the violation is extraordinary. However, jail time is rare because of the high standard for laying charges – there must be a substantial likelihood of conviction and prosecution must be in the public interest.**

Re: 2008 Toba Inlet death of Sam Fitzpatrick

- **My sympathies go to the Fitzpatrick family for their loss.**

- This was a devastating case, and the employer was found to have committed high risk violations.
- That's why WorkSafeBC levied a significant penalty against the employer.
- Penalties send a powerful message about the importance of protecting workers and the financial consequences of employer violations.
- However, I know that no legislation, findings or penalties can ever compensate for the loss of a loved one.

Re: WorkSafeBC investigation and penalty:

- The WorkSafeBC investigation found the employer failed to:
 - Take sufficient precautions to prevent work-related injuries or illnesses;
 - Maintain a safe workplace or safe working conditions; and
 - Exercise due diligence to prevent these circumstances.
- The \$250,000 WorkSafeBC penalty reflected the seriousness of the compliance issues that resulted in a worker fatality.
- The recent decision by the Workers' Compensation Appeal Tribunal upheld the findings of high risk violations but upon review of the penalty, determined that a lower penalty was appropriate. That penalty is now \$97,500.
- Despite the revision, this is still a significant penalty.

Sent: Thursday, April 11, 2013 1:22 PM

To: McAndrews, Caroline GCPE:EX

Subject: FW: ADVISE: Pieter Kiewit Sons Inc.'s safety record, and their contributions to the BC Liberal Party

Hi Caroline,

The email below was addressed to the Premier primarily but touches on workplace safety. Media were cc'd on the email but it looks as though that's the extent of their involvement. Can you let me know who you think should provide response? (JTST or GCPE)

Thanks!

From: Cooper, Darla G JTST:EX

Sent: Thursday, April 11, 2013 12:02 PM

To: May, Michelle GCPE:EX

Subject: ADVISE: Pieter Kiewit Sons Inc.'s safety record, and their contributions to the BC Liberal Party

Michelle – since media is involved should GCPE take this one? Please confirm.

From: Bains, Jasmine PREM:EX

Sent: Thursday, April 11, 2013 11:56 AM

To: Cooper, Darla G JTST:EX

Cc: Correspondence Services JTST:EX

Subject: FW: concern: Pieter Kiewit Sons Inc.'s safety record, and their contributions to the BC Liberal Party

Hi Darla,

Would JTST be able to provide a response to the following email? It looks like the media was cc'd on it. Please advise.

Thanks,

Jasmine

From: s.22

Sent: Tuesday, April 9, 2013 11:28 AM

To: OfficeofthePremier, Office PREM:EX; MacDiarmid.MLA, Margaret LASS:EX; George Heyman; MP for Vancouver CentreHedy Fry

Cc: Dix.MLA, Adrian LASS:EX; office@greenparty.bc.ca; office@bcconservative.ca; BC Fed 2012; CCPA; David Beers/The Tyee; Globe + Mail/BC

Subject: concern: Pieter Kiewit Sons Inc.'s safety record, and their contributions to the BC Liberal Party

Dear Premier Clark,
Ms. MacDiarmid (MLA, Vancouver-Fairview),
George Heyman (candidate, Vancouver-Fairview),
and Hon. Hedy Fry (MP, Vancouver-Centre)

RE: Contractor Kiewit & Sons

reference: article published in *The Tyee* on 8 April 2013, "Big Liberal Donor's Rocky Safety Record"

Although I had heard rumours of Kiewit and Sons' poor safety record before, I was greatly saddened today to read of their complicity in the 2009 death of Sam Fitzpatrick:

Copyright

Questions:

1. What kind of direct, sustained accountability does the BC government require from companies such as Kiewit, who are doing construction work paid for by BC taxpayers ?
2. Are there any binding review processes which are done when a company demonstrates a "wanton" disregard for safety, especially when working on public projects ?

I am further disturbed to discover that Kiewit remains employed by the taxpayers of BC on government construction sites:

Copyright

This especially when the Workers Compensation Appeals tribunal found:

Copyright

Further questions:

3. Given this finding, how can the BC government defend its continued use of this contractor at BC taxpayer expense, and on public projects ?

To me, continuing to contract with Kiewit would be seem extremely irresponsible, ignorant and arrogant. But perhaps it is the monetary donations this company has provided to the Liberal Party over a 6 year period which makes Kiewit above reproach, review and termination:

Between 2005 and 2011 Kiewit also donated \$96,575 to the BC Liberals according to Elections BC.

As far as I'm aware, refusing unsafe work in BC is not grounds for getting fired. If so, then why is Kiewit accused of this:

Copyright

Premier Clark and Dr. MacDiarmid: how can you, your party, and this Liberal government justify any of the allegations and facts brought forward in this article ?

Worker safety is and MUST be paramount on any worksite. Your connection to this company, especially in light of the lengthy record of problems they've demonstrated merits a very full, public discussion, accountability and remediation. This is a tragic and appalling situation.

I look forward to your written response to my concerns, including a full accounting of Kiewit's relationship to the Liberal Party, and remedial actions being taken immediately to address that company's safety problems AND their continued work at the BC public's expense.

Thank you for your time and consideration,

s.22

copies to: Adrian Dix, MLA/Leader of the NDP; Jane Sterk, Leader of the BC Green Party; John Cummins, Leader of the BC Conservatives; BC Federation of Labour; The Tyee; Globe & Mail; concerned citizens

><(((°> .° ., ><(((°> ..° ., ><(((°> .° .. ><(((°> .°

"We do not inherit the earth from our ancestors,
we borrow it from our children."

~ Navajo Proverb