

Membertou OHS

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Membertou Health & Safety Advisor

Introduction

- My name is Peter Stevens
- I am From Eskasoni First Nation
- Health & Safety Advisor for the past 7 years
- Previous work experience includes working in Alberta in the oil & gas industry in the Mining industry
- Currently work at Membertou as Health & Safety Advisor since 2015
- Writing my Canadian Registered Safety Professional Designation In February 2020

House Keeping

- If the fire alarm sounds we will exit the building through the way we came in
- If for some reason that way is blocked we will exit through an alternative route
- We will muster outside the building at a minimum of 50 ft from the building.
- Depending on the emergency we will determine next steps

Occupational Health & Safety

- Westray & Bill C-45
- Employers Duties
- Worker Duties
- IRS and Due Diligence
- Human Costs of an incident
- Corporate Costs Financial & Legal
- Direct & Indirect Causes of an Incident
- Unfortunate Circumstances
- Metron Case
- OHS Management Systems “Programs”
- Auditing & Accreditation
- Benefits of a Healthy & Safe Workplace: Organization/Employee
- Recipe for Success


Westray Mine




Westray

- The **Westray Mine** was a coal mine in Plymouth, Nova Scotia, Canada. Westray was owned and operated by Curragh Resources Incorporated (Curragh Inc.), which obtained both provincial and federal government money to open the mine, and supply the local electric power utility with coal.
- The mine opened in September 1991, but closed eight months later when it was the site of an underground methane explosion on May 9, 1992, killing all 26 miners working underground at the time. The week-long attempts to rescue the miners were widely followed by national media until it was obvious there would be no survivors.

- About a week later, the Nova Scotia government ordered a public inquiry to look into what caused one of Canada's deadliest mining disasters, and published its findings in late 1997.
- The report stated that the mine was mismanaged, miners' safety was ignored, and poor oversight by government regulators led to the disaster. A criminal case against two mine managers went to trial in the mid-1990s, but ultimately was dropped by the crown in 1998, as it seemed unlikely that a conviction could be attained. Curragh Resources went bankrupt in 1993, partially due to the disaster.

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- 117 miners became unemployed almost immediately after the explosion; they were paid 12 weeks' severance six years after the mine's closure, but only when the provincial government was pressured to intervene. The mine was dismantled and permanently sealed in November 1998.

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- Important to note:
 - No one was held accountable and liable for the disaster that occurred on May 9th, 1992 resulting in the deaths of 26 miners

Westray Bill C-45

- The Westray bill or Bill C-45 was federal legislation that amended the Canadian *Criminal Code* and became law on March 31, 2004. The Bill (introduced in 2003) established new legal duties for workplace health and safety, and imposed serious penalties for violations that result in injuries or death. The Bill provided new rules for attributing criminal liability to organizations, including corporations, their representatives and those who direct the work of others.

Penalties, Fines & Imprisonment

- Amendments were made to the Nova Scotia OHS Act & Regulations
- No one was held accountable or liable during Westray Disaster
- As a result Bill C-45 holds employers accountable and if they are found to be negligent they can be charged under the Criminal Code of Canada.

Employer Duties

- Take reasonable precautions
- Train, supervise, and provide information
- Provide and maintain safe equipment, machines, and materials
- Consult and cooperate with the health and safety committee (20 or more employees for a JOHSC) or representative
- Establish a policy (what) and a program (how)

Worker Duties

- Direct responsibility for yourself and others
- Follow rules, use procedures, cooperate
- Correct hazards within their control and ability
- Report hazards that are not within their control to mitigate (ex: MK building in Membertou – metal roof & boom lift)
- Consult with health and safety committee and/or representative

IRS and OHS Dr. Peter Strahlendorf

“The internal responsibility system, or IRS, is a system in which every individual is responsible for health and safety. It can be thought of as an organizational chart, with a clear set of statements about responsibility and authority for health and safety for each person within an organization -- no exceptions” .



**Authority and responsibility for H&S is delegated downwards.
Accountability for H&S flows upwards.**

Due Diligence

- Due Diligence - Reasonable precautions taken by workplace parties to prevent workplace illness and injury
- Due Diligence has two levels: **Regulatory Compliance** and the **General Duty**
- **Due Diligence** is not just a legal defense, it is a legal duty

Costs: Human

On average:

- Over **336,000** people go to work
- In Nova Scotia A worker is injured every **16-17 minutes**, and dies every **17 days**
- **24%** of the workers that were hurt were unable to return to work the next day (loss time injury)

Source-WCB NS 2017 Annual Report

Costs: Human

On average:

- Over 500 people go to work in Membertou.
- In Membertou a worker is injured every **8.3 days** There have been no major injuries.
- **16 %** of the workers that were hurt were unable to return to work the next day (loss time injury)
- **Accordance with Membertou OHS Statistics 2018**

Corporate Costs: Legal

- prosecution: fines / imprisonment
- legal fees
- missed contract deadlines
- liabilities



Direct Costs

The image shows an iceberg floating in the ocean. The tip of the iceberg, which is above the water line, is labeled 'Direct Costs'. The much larger, submerged part of the iceberg is labeled 'Indirect Costs'. A horizontal dashed line separates the two sections. The background is a blue sky and dark blue water.

Medical (doctor visits, physical therapy, medicine, etc.)

Indirect Costs

- Reduced productivity
- Accident investigation
- Administrative costs
- Lost time by supervisor
- Costs of training replacement worker
- Overtime
- Legal fees
- Equipment repair
- Negative publicity
- Damage to customer relations

Direct Costs VS Indirect Costs

- Direct Costs such as Workers Compensation Claims account for what you pay each year on insurance.
- The more accidents and injuries the higher your premium.
- The lower your accident and injury rate, the better your premiums and more money saved.
- Typically your Indirect costs are about 4.5 times more costly than your direct costs

Unfortunate Consequences

- OHS offences are “Strict Liability” offences
- **Guilty until proven innocent**
- Due diligence is a defense in strict liability cases
- you must prove you took all reasonable care – There was nothing reasonable you could have done to prevent the violation
- What’s reasonable? Specific to time, place, authority, responsibility, accountability, knowledge.... – Foresee ability, Preventability, Control and Degree of Harm
- **Due Diligence = Documentation!**

Metron Case



August 2009


- In August 2009, Metron was retained to repair concrete balconies on two high-rise apartments. As was its normal practice, Metron hired a project manager and a site supervisor to oversee the project. Mr. Kazenelson was retained by Metron as its project manager. Mr. Kazenelson owned and operated his own construction company and according to reports, came highly recommended as an experienced and qualified project manager.

Christmas Eve 2009

- On December 24, 2009, Metron workers were working on the 14th floor of one of the high-rise apartment buildings. At approximately 4:30 pm, six workers—including the site supervisor—climbed onto a swing stage (a suspended work platform) to travel to the ground. The swing stage collapsed. Four workers fell to their death, a fifth worker survived the fall but was seriously injured, and the sixth worker did not fall because he was stopped by a properly secured lifeline.

June 2012

On June 15, 2012, Metron pleaded guilty to one count of criminal negligence causing death and became the first company convicted under the Criminal Code as amended by Bill C-45. Metron received a fine of \$200,000, which was later increased by the Ontario Court of Appeal to \$750,000.

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- The scaffold rental company Swing N Scaff Inc. also pled guilty to failing to ensure a suspended platform or component was in good condition and paid a \$350,000 fine, while a company director was fined \$50,000.
 - In 2016 Mr. Kazenelson was sentenced to 3.5 years in prison for being held criminally negligent under Bill C-45 the Canadian Criminal Code

OHS Management Systems “Programs”

- Can only improve from:
 - 1. Continual improvement
 - 2. System Activities
 - 3. Stake Holder involvement
 - 4. Auditing/Verification

Auditing & Accreditation

- OHS Management Systems Certification is beneficial to an organization for the purpose of:
 - 1. Corporate Prestige
 - 2. Contractual bidding requirements
 - 3. Legal protection and due diligence

Hiring Contractors

- Ensure contractors have a COR (Certificate of Recognition) from WCB.
- Ensure they submit a project hazard assessment as part of the bidding requirements
- 1. Safety Policy
- 2. Reporting policy
- 3. PPE Policy
- 4. Inspection Policy
- 5. List of First Aiders on site
- 6. A completed Hazard Assessment (Site Specific)
- 7. WHMIS Product Inventory with current SDS sheets on hand
- 8. Emergency Plan, communication information with regular contact numbers as well as emergency contact numbers

Benefits of a Healthy & Safe Workplace

- **To the Organization**
- a well-managed health and safety program
- a positive and caring image
- improved staff morale
- reduced staff turnover
- reduced absenteeism
- increased productivity
- reduced health care/insurance costs
- reduced risk of fines and litigation

Benefits of a Healthy & Safe Workplace

- **To the Employee**
- a safe and healthy work environment
- Enhanced self-esteem
- Reduced stress
- Improved morale
- Increased job satisfaction
- Increased skills for health protection
- Improved health
- Improved sense of well-being

Recipe For Success

- Willingness of management and employees
- Appropriate level of knowledge among workplace parties – sharing information
- Appropriate levels of enforcement – workplace inspections, disciplinary measures
- Expectation that it will work – commitment and trust in the process
- OHS should be integrated into the work; it's not a separate function
- Everyone should personally take every measure reasonable to work safely and continuously improve safety

Questions or Comments

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