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OceanaGold to pay \$728k for worker death

Bernie Napp - Wed, 09 May 2018

The District Court in Tauranga has imposed a \$378,000 fine and an order to pay reparations of \$350,000 on OceanaGold in relation to the death of a mine worker in July 2016.

On July 28, 2016, Tipiwai Stainton, 27, died when the boggler he was driving in an [underground drive at Waihi](#) fell 15 metres into a stope, while laying a rock bund to prevent that happening.

"The case is relatively unusual in that Mr Stainton's death arose from his efforts to mitigate or eliminate the identified risk," Judge Thomas Ingram said in his decision released yesterday.

OceanaGold had pleaded guilty to a single charge under the Health and Safety at Work Act of "failing to ensure, so far as was reasonably practicable, the health and safety of" the victim.

It had already paid \$200,000 in voluntary reparations to Stainton's family, as well as the costs of the tangi / funeral, and was also ordered to pay court costs of \$3,672.

Following the accident, OceanaGold developed a new solution to the hazard, to pre-drill steel bollards before stopes are blasted to prevent bidders later falling into them.

OceanaGold Waihi general manager Bernie O'Leary said today the company deeply regretted the loss of one of its staff and accepted that it was responsible for his death.

"Tip was our colleague, friend and a member of our Mines Rescue Team. He died at our mine, on our watch. We accept responsibility for what happened and have been working alongside his family to make sure that as a company, as workmates, and as friends we continue to do everything possible to support them and prevent this from ever happening again."

WorkSafe's acting-general manager High Hazards and Energy Safety Craig Marriott said today a WorkSafe investigation found that OceanaGold had failed to develop and implement a safe system of work for the creation of 1.5 metre-high bunds above vertical slopes.

"Health and safety law requires every business to manage risks to workers. It's a non-negotiable requirement and this case has highlighted that the requirement extends to the risks inherent in the actions taken to mitigate known risks."

WorkSafe's bid to have OceanaGold determined as highly culpable for the accident was countered by Judge Ingram who observed that WorkSafe had failed to identify the hazard during repeated inspections over many years.

The decision

Judge Ingram said in his decision the wall and the floor of the drive had been marked with paint to delineate safe operating areas.

Stainton was not wearing a seat belt at the time of the accident, indicating that he had got out of the vehicle to unlock chain barriers to entry to the drive.

OceanaGold had taken over operation of the mine from a contractor, Thiess, four weeks before Stainton's death, and had acquired the Waihi operations from Newmont Waihi Gold in October 2015.

Stainton had been employed at the mine since 2007.

"He was a fully-qualified equipment operator, and the material before me leaves me satisfied that he was a careful man who took his safety responsibilities seriously, both at work and in his private life," Judge Ingram said.

WorkSafe had been conducting regular inspections of the mine every three months, and no issue had ever been raised in relation to working around stopes.

The practice of building bunds to prevent people and machinery falling into stopes was adopted from standard Australian health and safety practice.

"This is not a case where there was a breach of an existing standard or guideline."

While OceanaGold had carried out a "broad and sufficient risk assessment and remedial action plan", it had paid inadequate attention "to the risks inherent in implementing that plan".

The company accepted that the painted safe-operating markings could have been clearer.



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Following the accident, OceanaGold closed the mine for a week, for cultural reasons, and to “fully explore the chain of events leading to Mr Stainton’s unfortunate death”.

It then developed a “unique and innovative” method to prevent this type of accident re-occurring. This is to pre-drill steel bollards into the floor of the drive to prevent a bogger driving over them. During blasting of stopes, the bollards would remain in place.

Judge Ingram disagreed with WorkSafe that the offence was at the high end of culpability, and ruled that it was “moderate culpability towards the middle or lower end of that range”.

“The admitted inability of the mine inspectorate to identify the fatal flaw in the risk amelioration assessment, over a long period of years in supervising this specific mine, adds considerable weight to the defence contention that an assessment of high culpability is simply not appropriate.”

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