

WorkSafeBC

PUBLIC HEARING
OCCUPATIONAL HEALTH AND SAFETY REGULATION

Nelson, B.C.

June 21, 2007

TRANSCRIPT OF PROCEEDINGS

PANEL:

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Chair

Anne Burch

Vice-Chair

Ed Bates

Legal Counsel

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1 --- PROCEEDINGS COMMENCED AT 3:00 P.M.

2 THE CHAIR: So good afternoon, everyone,
3 and thank you very much for taking the time to be with us
4 this afternoon. As you know, we're here in Nelson
5 because there are public hearings on proposed amendments
6 to the *Occupational Health and Safety Regulation*.

7 And so my first order of business is to
8 introduce myself and our panel today. My name is Roberta
9 Ellis. I'm the Chair of the panel, and I'm Vice
10 President of the Policy & Research Division at
11 WorkSafeBC. On my left is Anne Burch. Anne is our Vice
12 Chair, and she's Director of the Prevention Policy and
13 Regulation Review Department at WorkSafeBC. On my right
14 is Mr. Ed Bates, who is our General Counsel and Secretary
15 to WorkSafeBC.

16 And I also want to introduce Rachel Greenaway.
17 She's the court reporter who is taking notes of the
18 public hearing, and this is the record that assists the
19 Board of Directors at WorkSafeBC in their decision-making
20 process, and the recorded notes are made public after the
21 Board of Directors makes a decision regarding the
22 proposed regulatory amendments.

23 I also let people know usually that media are
24 always very welcome to attend our public hearings, and
25 we've actually had quite a lot of media attend at other

1 locations, perhaps not today in Nelson here, but in other
2 locations. But I would just like to alert you to that so
3 you know that your comments as well as being on record
4 for the decision-making process and the Board of
5 Directors are also on the record for media who may choose
6 to attend.

7 The purpose of the public hearing is to provide
8 an opportunity for comment on proposed amendments to the
9 Occupational Health and Safety Regulations, and I'm going
10 to read into the record the parts that we are addressing:
11 Part 3, Rights and Responsibilities which relate to
12 occupational first-aid. Part 4, General Conditions, with
13 consequential amendments to Part 1, Definitions; Part 20,
14 Construction, Excavation and Demolition; and Part 22,
15 Underground Workings, and this relates to terrain
16 stability, avalanche assessments, fills and stockpiles.
17 Part 4, General Conditions, relating to working alone or
18 in isolation. Part 6, Substance Specific Requirements,
19 with consequential amendments to Part 5, Chemical and
20 Biological Substances, relating to biohazardous material.
21 Part 9, Confined Spaces, relating to isolation procedures
22 in confined spaces. Part 11, Fall Protection, and this
23 is a fairly specific amendment relating to fall
24 protection for stunt workers in the film and
25 entertainment business. Part 13, Ladders, Scaffolds, and

1 Temporary Work Platforms, relating to work platforms and
2 fall protection. Part 14, Cranes and Hoists, and we
3 looked at the entire part of Part 14, and there are some
4 consequential amendments to Part 16, Mobile Equipment.
5 Part 26, Forestry Operations, in its entirety, with
6 amendments to Part 1, Definitions, and Part 4, General
7 Conditions. And Part 30, again a fairly technical part
8 relating to Laboratories and fume hoods.

9 By way of background on the proposed amendments
10 to Part 4, which relate to working alone or in isolation,
11 last year the Minister of Labour and Citizens' Services
12 asked the Board of Directors under s. 229 of the *Workers*
13 *Compensation Act* to address the issue of prepayment for
14 gasoline services, for gasoline at service stations in
15 urban areas during the late night and early morning
16 hours.

17 So we drafted proposed amendments and we took
18 them out to public hearing last November 2006, and the
19 locations at that time were Vancouver, Prince George,
20 Kelowna, and Nanaimo. And the storms of last year
21 interrupted the hearing process, so we had to cancel some
22 sessions and then rehold them in January of 2007.

23 Once the Board of Directors received feedback
24 from the public hearings, they asked that we revise the
25 amendments and that they be applied province-wide, not

1 just in urban areas, and be in effect 24 hours per day.
2 So these revisions represent a material change to what
3 was originally proposed, and it's necessary then to bring
4 them back out for a second public hearing.

5 Stakeholders have been advised of all the
6 proposed amendments and associated explanatory notes, and
7 they've been placed on our website as well as sent to
8 over 1,600 stakeholders via E-news service. And you can
9 always get a copy at the front desk.

10 So we are here to listen to your remarks, and I
11 keep a little eye on the time, but obviously we don't
12 have a great many presenters here in Nelson this
13 afternoon, so it's important that you take the time to
14 tell us what you think. If you have written material
15 that you want to have included in this process, I just
16 want you to be aware that you can leave it with us today,
17 and you can leave it with Leley at the front desk, but if
18 you decide there's something you want to add or you're
19 leaving your material later, you're leaving the
20 presentation of your written material till later, we do
21 need to receive it by Friday 29th of June, by 4:30 p.m.,
22 in the afternoon.

23 So the public hearings represent the formal
24 consultation process, and once the process is complete,
25 the written and oral submissions are analyzed and the

1 Board of Directors, who are the decision-making body of
2 WorkSafeBC will have access to all of the submissions
3 prior to making any decisions on all of the proposals.

4 So, as I said, it's a beautiful day here in
5 Nelson. Thanks very much for taking the time to be here
6 this afternoon and give us your feedback on some of these
7 proposed amendments.

8 So I'm going to call on Mr. Gary Ryan,
9 Mr. Ryan, who is with the West Kootenay Labour Council.
10 And, Mr. Ryan, I think you were going to speak to Part 4,
11 working alone, but you should feel free to speak to any
12 of the proposed amendments that you wish.

13 MR. RYAN: I'm prepared for Part 4.

14 THE CHAIR: Thanks.

15 PRESENTATION BY MR. RYAN ON BEHALF OF THE WEST KOOTENAY

16 LABOUR COUNCIL:

17 MR. RYAN: My name is Gary Ryan. I've been
18 asked to speak on behalf of the West Kootenay Labour
19 Council. I was elected secretary for the year 2007.

20 I would first like to thank you for the
21 opportunity of letting me speak here today.

22 While I have agreed to represent the Labour
23 Council, I also speak from personal experience. My
24 concern is over working alone. For just over a year,
25 between April 2006 and May 2007, I worked as a clerk in a

1 rural corner store/liquor outlet. My shift was from 3:00
2 p.m. to 9:00 p.m., and I worked two shifts per week,
3 working alone. I applaud the proposed amendments to the
4 *Occupational Health and Safety Regulation*. While my
5 shifts would not be considered as late-night, I would
6 like to state that I was extremely nervous on several
7 occasions. Approximately 50 percent of sales were
8 liquor, and there were several instances where groups of
9 young people came to the store, and I was intimidated by
10 their behaviour. My son, a recent graduate of University
11 of Victoria, is working in a private liquor store, and he
12 has had some anxious moments as well.

13 I'm sure that the late-night workers of stores
14 and gas stations face these situations on a more regular
15 basis. Several of these incidents have made headlines
16 across our province. For gas stations, I agree with the
17 prepayment for gas and the locked enclosure for late-
18 night workers. The system would ensure the workers'
19 safety. For the other workers where this barricade
20 system would be inappropriate, I agree with the need to
21 have additional staff for that period.

22 In my instance, I was most nervous at closing.
23 While the owners lived above the store, I was still very
24 vulnerable at closing because I had to transport the
25 day's cash to them. It was a sizable amount, and

1 significantly so during the summer months.

2 Another aspect of the changes proposed that I
3 agree with is the requirement for a written procedure to
4 ensure worker safety. In our store we were given a 911
5 number, a quick dial to the apartment of the owners, and
6 a baseball bat was placed in full view near the liquor
7 cabinet. I'm uncertain of its effectiveness. I have
8 heard of a number of robberies at stores on the North
9 Shore but was unable to get actual statistics on short
10 notice. As far as I know, the store I work at did not
11 have a robbery in recent years.

12 In preparation for my presentation I was
13 impressed with some of the efforts WorkSafe has
14 undertaken to protect workers. I applaud the raise-your-
15 hand initiative and the increased enforcement and
16 inspections, both at gas stations, farm vehicles, and
17 this trend needs to continue.

18 This past year I organized our local Day of
19 Mourning ceremony in Nelson. While 2006 showed an
20 improvement in workplace fatalities, having a fatality
21 almost every other day is still unacceptable. The
22 overall statistics show only the most modest of
23 improvements in workplace accidents and claims. The
24 safety orders and penalties have increased as much as 66
25 percent over the past year. I hope that this increased

1 attention leads to further reduction in fatalities and
2 accident levels of workers in our province.

3 I'm a retired letter carrier, and Canada Post
4 and the postal workers have worked hard over the years to
5 improve their safety record, at least here in Nelson,
6 that I know of. It is up to all the employers and
7 employees to work hard to improve worker safety. It is
8 up to WorkSafeBC to guide them in their efforts.

9 I understand that these proposed changes carry
10 a financial impact for the businesses affected, but these
11 pale in comparison to dealing with a loved one who
12 doesn't return home from work, or those that have to deal
13 with physical or mental trauma of workplace violence. I
14 ask you to convey these thoughts to the legislature in
15 the hopes that the new regulations will be adopted.

16 I thank you very much for your time.

17 THE CHAIR: Thanks very much, sir. And again,
18 just if you want to leave your notes, we're very happy to
19 have them. Thanks, Mr. Ryan. You can leave them here
20 with us, and we'll make sure that they are in the record.

21 Thank you, Mr. Ryan, very much.

22 Mr. Al Graham, West Kootenay Labour Council.

23 Hi, Mr. Graham.

24

25

1 PRESENTATION BY AL GRAHAM ON BEHALF OF WEST KOOTENAY

2 LABOUR COUNCIL:

3 MR. GRAHAM: Hi. Good afternoon. My name is
4 Al Graham. I'm the president of the West Kootenay Labour
5 Council, and today I'm prepared to speak on the changes
6 in the working alone legislation -- or in isolation
7 regulation, pardon me. First of all I'd like to thank
8 you for giving us the opportunity to speak to you today
9 with regards to this regulation, and I'm speaking on
10 behalf of the Labour Council.

11 We're supporting the regulation that will
12 require 24-hour pay-before-you-pump. And it also
13 requires employers to lock their doors after 10:00 p.m.
14 until 6:00 a.m., or provide workers with a bullet-proof
15 physical barrier, or have two people on during the
16 late-night shift.

17 Last year when WC brought forward Grant's Law,
18 many concerns were raised about the situation of late-
19 night workers and the apprehensions that prepayment of
20 gas from 10:00 p.m. to 6:00 am did not address a number
21 of concerns. I'd like to thank the WCB for moving
22 forward and WorkSafe for moving forward with the feedback
23 from the stakeholders from what you heard in January, and
24 in November before the storms, because -- and introducing
25 this regulation to provide greater protection for workers

1 who work alone, especially the late-night workers.

2 I'd like to begin by speaking about the 24-hour
3 prepayment requirement for all gas stations in the region
4 of the province, and I'd just like to point out that
5 gas-and-dash, as they like to call it, can occur any
6 time, anywhere, at any point during the day.

7 I've spoken with a worker who had gas and dash
8 as early as 9:00 a.m. here, in what is considered a rural
9 area, and this worker, like others I've spoken to, often
10 felt as though they were responsible for not being able
11 to get the licence plate number or stop the person who
12 ran off without paying for gas. Which is, of course,
13 hazardous, you know, and stressful for them, for the
14 employee, and it affects their, you know, their lives,
15 deeply in some cases. Some have reported their stress
16 levels have gone right through the roof as a result of
17 worrying whether or not they'll have to pay for the
18 stolen gas. Which is illegal, but it happens. Or even
19 whether they'd lose their job over the theft.

20 And believe it or not, mom and pop operations
21 are not necessarily the easiest places to work, and they
22 are just as guilty as some of the others with regards to
23 doing the, you know, deducting from wages for the sake of
24 trying to recover the loss, or lost gas revenue.

25 Anyway, some employers may have the no-chase

1 policy, but their responses are sometimes hostile towards
2 the employee, anger, frustration, that sort of thing,
3 screaming. There's been verbal abuse, those sorts of
4 things. It's pretty hard to even think about a no-chase
5 policy and its effectiveness when you've got to deal with
6 the potential that sometimes temper's defeating rational
7 thought, in these cases, and you've got an owner or
8 supervisor or superintendent in a gas station that's
9 going to scream and yell at you and threaten you with the
10 loss of your job, cursing, swearing, those sorts of
11 things.

12 The proposed regulation that we have here is
13 designed to prevent gas-and-dashes from occurring, but
14 it's also the requiring of prepayment will take away any
15 illegal requirements that the employers may put on the
16 worker to chase after the customers. But it's also good
17 for the employers by removing the risk of the gas-and-
18 dash, which should reduce their losses and should take
19 some stress out of their lives as well.

20 I've been told of one location where a worker
21 was told he would have to pay for the gas that had been
22 stolen on his watch. He's been advised, or I've advised
23 him that that's a violation of Part 3 of the *Employment*
24 *Standards Act*, and I've offered to assist him, but I
25 doubt very much I'll be doing much for him, because his

1 skills are limited and he's not the type to rock the
2 boat. He's a little nervous about doing that sort of
3 thing. And sometimes it's the last thing you want, is an
4 Employment Standard case brought against your employer.
5 You don't tend to work too long after that in that
6 location. So, in other words, the employer's going to
7 get away with that until somebody does stand up to him or
8 something like this comes along.

9 I support the regulation that requires the
10 24-hour prepayment, and agree that it's an important
11 addition, and I'm pleased that these additions are being
12 made. But we have to also deal with the issue of the
13 threat of violence and whatnot in working-alone
14 situations, and in the publication that the WCB put out
15 about preventing violence, robbery and theft, it was
16 stated that in 1,200 workers surveyed by the Retail
17 Association, 21 percent had been subject to violence or
18 aggressive acts.

19 The B.C. Federation of Labour also conducted a
20 study, or surveys, pardon me, and they found the numbers
21 of workers who experience violence doubled when they
22 spoke to only workers who work late at night, because
23 it's a more likely situation for violence to take place.

24 The proposed regulation addresses the
25 significant challenges that late-night workers face and

1 gives a clear direction of how to ensure that these
2 workers have some protection when working alone. And
3 let's face it, working alone is dangerous in just about
4 any workplace. Now, the risk is greatly increased when
5 they're asked to work alone with the public.

6 Some employees, you know -- some employers rely
7 on a call-in procedure, you know, timed call in, which is
8 not adequate. It's basically you know when that employee
9 is injured or has been hurt or the robbery has taken
10 place. It all comes after the fact. You know if the
11 call-in doesn't come in, that's when they know
12 something's gone wrong. That's not protecting the
13 workers. In fact it doesn't really do much of anything
14 to minimize or remove any risk. It just basically lets
15 you know that now I guess it's time to call the police,
16 and hopefully they're still alive, you know, and order an
17 ambulance.

18 Now, the other thing the current regulation has
19 is that it requires employers to do risk assessments, and
20 that isn't adequate, unfortunately. It's nice to have
21 the requirement be put there, but from what I understand
22 by the looks of a study that was done recently, the
23 results from a WCB study that was done, I think it was
24 the same study that --

25 THE CHAIR: It was.

1 MR. GRAHAM: They weren't in place. Very few
2 if any had the required controls in place. And that's,
3 you know -- unless there's some kind of fine or something
4 attached to that, then they're not going to worry too
5 heavily about it. The assumption is a bit of a dangerous
6 one.

7 The other thing, just to make a point, is I've
8 heard the argument made by employers, and I've heard more
9 about this policy than anything else, and that's the one
10 where they say, well, you know, we have a policy where
11 there's only so much in the till at a time. The rest is
12 all secured away. That doesn't do anything to protect
13 the workers. In fact, really what it is is it's
14 protecting the money. And it doesn't do anything to
15 protect the workers. In fact if you've gotten to the
16 state where you're going to go in and rob a gas station,
17 you're not necessarily working on rational thought, so if
18 you look at the size or the amount that it says is going
19 to be in that till, that's not necessarily going to be a
20 deterrent. And sometimes in certain situations people
21 become more hostile when they find that they can't get
22 what they want. And like I say, it's not really a policy
23 that's protecting the employers, or the employees, it's
24 protecting the employer's money. And I think that it's
25 time that the employees be given at least the same

1 privilege and consideration as the money that the
2 employer is protecting.

3 Results of the -- okay, the measures that are
4 defined in the proposed regulation s. 4.2, 420.2, would
5 assist by stating clearly the employer *must* do the risk
6 assessment and *must* eliminate, and it has to be "must".
7 It can't be "shall", or, you know. And in order to deal
8 with the rising occurrence of theft and violence we need
9 prescriptive regulations, clearly, and the late-night
10 requirements need to be very clearly outlined for the
11 employers to -- and there can't be grey areas that they
12 can waffle on, because they will.

13 One of the things that locally that we're
14 finding around here is that many of the employers view
15 this so-called boom in the economy as, you know, it's
16 good opportunity, we have new people coming into the
17 area, and everything like that. There's nothing wrong
18 with that, but it does mean that it's not the same people
19 that you had down -- I like to call it Joe Blow down the
20 street, that stopped in for the last 25 years. It's not
21 the same people that are coming through your store. You
22 don't know who they are. You've got one person working
23 alone in your store overnight, and we have more flow-
24 through traffic than we've seen in the past. We're
25 becoming -- although we are rural, we're become more

1 urban than people like to realize.

2 Now, the employers, they appreciate, you know,
3 the benefit of that, but they don't necessarily want to
4 take under consideration the responsibility of the
5 increase in urbanization of rural areas, which includes
6 the increased risk of crime and the increased risk of
7 robberies, gas-and-dash, things like that, you know. And
8 that's just something that with these measures in place
9 it brings it to the front, something that -- because if
10 you just wait for them to clue in, it's going to result
11 in a death or an injury. And that's too high a price to
12 pay for someone to learn that they need to put these kind
13 of restrictions in place and these kind of -- or follow
14 these kind of policies.

15 So I support the idea that we need to have two
16 people -- ideally we'd like to see the ability to lock
17 the store and have two people, but we realize that that's
18 probably not going to be something that the employers
19 will be really excited about doing too. It is important
20 that we have, you know, one or the other, a protective
21 barrier or two people working at the same time. Because,
22 I mean, the protective barrier I would prefer -- I would
23 probably, if I were in that situation, I would prefer to
24 be with someone, because there's always an opportunity
25 that one of us could get away. If I'm inside a cubicle

1 and four or five people come in that want to do me harm,
2 I don't think the cubicle -- it's going to have to be a
3 pretty secure cubicle, because there's not many locks
4 that can't be broken somehow.

5 Anyways, I would like to thank you for giving
6 us the opportunity today, and I'd also like to thank you
7 for all the work that you've done so far, because I think
8 the investigations that have taken place has increased
9 awareness on this issue, and I think that as time goes on
10 people will see the importance of what you're doing here.

11 And just on a closing note, I'll state that I
12 know that that pay-before-you-pump may not be a popular
13 point, but I know I'll probably -- I was thinking to
14 myself this morning that I'm probably not going to be
15 happy with myself for saying it, but, you know, you learn
16 how to adapt. And for the price of someone's life, it's
17 worth it. So thank you very much.

18 THE CHAIR: Thanks. And just before you go,
19 Mr. Graham, thanks to the council, yourself and Mr. Ryan
20 for being here today. Just a couple of things I wanted
21 to let you know about, which is with regard to the gas-
22 and-dash, and sometimes dine-and-dash, and your comments
23 about stopping that out of a workers wages absolutely is
24 illegal. I just wanted to let you know that WorkSafeBC
25 is now -- we don't have any jurisdiction over that, as

1 you know, because it's an Employment Standards issue, but
2 when our officers come across any hint of that, we are
3 encouraging reporting, but we are also alerting the
4 Employment Standards Branch as well, that that might have
5 happened, in the hopes that that sort of discourages that
6 kind of behaviour.

7 And I was very appreciative of your comments
8 about minimal amounts of cash being in establishments.
9 The panel's heard from quite a few presenters that
10 product is almost, sometimes, as attractive a proposition
11 to steal as cash.

12 MR. GRAHAM: That's true, too.

13 THE CHAIR: And so I just was curious whether
14 or not that was something that you'd had any experience
15 of here, people are looking for cigarettes, and --

16 MR. GRAHAM: Yeah, cigarettes is the one that
17 I've heard the most of. And that's any time of the day
18 or night, but in the evenings especially, you know, when
19 the bars close, or something like that, and, you know,
20 people again are not really rationale thinking, but they
21 decide they want a package of cigarettes, and they'll go
22 in, they've only got say \$6 on them, and the package of
23 cigarettes comes to 9. Well, they'll try and grab them
24 away.

25 And you know, I mean, I can give you some other

1 examples of, like for instance dine-and-dash. Right now
2 in Trail the Subway there is open 24 hours, and they have
3 long, fairly quite long shifts for the evening hour, for
4 the evening hours, and when I -- actually it was a
5 sister, Patty Armston, asked about, "Well, why are you
6 here by yourself?" And the other woman said, "Oh, well,
7 she's 23." I guess apparently if you're 23 years old
8 you're mature enough to take on two drunks from the bar
9 or whoever wants to come in and try to make off with the
10 money, or do whatever else, God forbid, you know. But
11 that's kind of the rural thinking, you know, there.

12 THE CHAIR: I also appreciated your comments
13 about the engineering controls, the barriers as opposed
14 to additional workers. Just to let you know, that when
15 we looked at trying to -- it's sometimes kind of
16 difficult to construct regulatory language, because as
17 you probably know on the other end of it, it has to apply
18 to so many different situations. So it was constructed
19 in that hierarchy of controls that you tend to see
20 perhaps more in an industrial setting, where the first
21 and best approach is to try to engineer the hazard out,
22 and if you can't engineer it out, then look at
23 administrative controls, and that would be shifts or the
24 number of workers.

25 But I appreciated your comments on that,

1 because I think you're quite right, some people would
2 probably feel more secure in one situation as opposed to
3 another. The approach we took was to do that traditional
4 hierarchy of controls, and so first look at engineering.
5 Just to give you that feedback.

6 MR. GRAHAM: Thank you.

7 THE CHAIR: Thanks, sir. And I do appreciate
8 you taking the time to be with us this afternoon.

9 MR. GRAHAM: Okay. Well, thank you. I'll
10 organize these and then I'll drop them off here.

11 THE CHAIR: Thanks so much.

12 Mr. Mike Adams, Whitewater Ski Resort. Is
13 Mr. Adams here? Hi, Mr. Adams. Come join us today. And
14 Mr. Adams is with Whitewater Ski Resort. I believe
15 you're going to speak to the Avalanche assessments
16 part --

17 MR. ADAMS: Yes.

18 THE CHAIR: -- of the regulations, sir. Thanks
19 very much. We've heard some excellent presentations on
20 this topic.

21 MR. ADAMS: Oh good.

22 PRESENTATION BY MIKE ADAMS, ON BEHALF OF WHITEWATER SKI
23 RESORT:

24 MR. ADAMS: My name is Mike Adams. I'm from
25 the Whitewater Ski Resort. I'm the general manager and

1 owner at the resort. And I'd like to thank you today for
2 giving me the opportunity to come and speak to you with
3 regards to the avalanche assessment and the proposed
4 changes that WorkSafeBC has put forward.

5 It's hard to believe that we're talking about
6 snow when it's --

7 THE CHAIR: Just a little.

8 MR. ADAMS: Little. You'll be happy to know
9 there is some snow left at Whitewater.

10 THE CHAIR: Is that right? I'm glad to hear
11 that.

12 MR. ADAMS: To give you some background on the
13 ski resort, it's been in operation now for 32 years.
14 It's just outside of Nelson here, about 20 kilometres.
15 The land is tenured from the -- for the ski area, for the
16 commercial recreational area, is tenured from the
17 Ministry of Tourism. It's a 60-year tenure, so it gives
18 us a great deal of operating latitude.

19 Within the commercial recreational area is our
20 operating or boundary area. So our tenured land is one
21 thing, and then within that area there's our operating
22 boundary area. Within that area it's up to us to make
23 sure that the public is safe, as safe as possible, to try
24 to ensure their safety, and of course our workers, our
25 employees, as well.

1 We have 120 employees at the mountain, of which
2 12 are what we call pro-patrol, and then we also have
3 about approximately another 15 volunteer patrol. They're
4 a very professional staff. They are very familiar with
5 the avalanche terrain and avalanche assessment. And
6 they're monitoring the avalanche concerns on an hourly
7 basis, minute basis, depending on what's happening on the
8 mountain.

9 Whitewater is noted for the large amounts of
10 snow that it receives. It receives 40 to 50 feet of snow
11 every year, every operating year, and that with the type
12 of terrain that we have gives us fairly extensive
13 avalanche control concerns that we do monitor, as I was
14 saying, on a daily basis and hourly basis.

15 We also have what we call a Snow Safety Plan in
16 place, and the Snow Safety Plan is recognized by the
17 Ministry of Highways as well as the Ministry of Tourism
18 through the NDA agreement that we have with the Ministry
19 of Tourism, and the Snow Safety Plan identifies all the
20 avalanche terrain that we would have within our area
21 boundary as well as outside of our area boundary. So we
22 also monitor and assess areas of terrain that this
23 avalanche could possibly come into the area and affect
24 it. So it's not just within our area boundary, but it's
25 anything that could possibly affect the area boundary as

1 well.

2 The Snow Safety Plan is a fairly extensive
3 document. It's approximately 150 pages long. It goes by
4 slide path by slide path, and each slide path is
5 identified and mapped out, so it's mapped extensively as
6 well as identified within our operating agreements.

7 Within the Snow Safety Plan as well we also
8 have all the different procedures that we would do in
9 order to control the situation. One of the main ones can
10 be closing a certain area, so we have rope lines that we
11 can -- we can close an area and not allow the public in
12 until we feel that it's safe, not only for the public but
13 also safe for our employees. And then we also have hand
14 charges that we use, as well as Avalauncher control work
15 that we use, and ski cutting, again, all identified
16 within our Snow Safety Plan, and we're very, very proud
17 of the fact that over the last 32 years that we've never
18 had an avalanche injury or fatality within the area
19 boundary for the public, or for employees as well. And I
20 think that says a lot not only for the plan that's in
21 place, but also for the people that we do have employed
22 at the mountain.

23 I'd mentioned before that we have 12
24 pro-patrol, and of those this past year we had four
25 qualified Level 2 CAA certified professionals, and they

1 are the ones that are again monitoring the situation as
2 well as the other ten or eight other pro-patrol. It's
3 very much a team effort. And as I was saying, it's an
4 ongoing assessment.

5 The ski area, and I also believe most of the
6 other ski areas, I'm not speaking for the other ski
7 areas, applaud the WorkSafeBC for bringing forward these
8 proposals. The only difficulty that we do have with it
9 is with the doing the initial assessment, and that's with
10 the registered professional, which under your definition
11 is a geotech or an engineer or somebody that's in the
12 forestry business. I'm not totally sure of their
13 qualifications.

14 Our concern there is, number one, is that we're
15 not totally sure of those qualifications, whether they
16 are actually qualified to make the assessments that
17 you're asking for. We feel that an easy solution to this
18 would be to add a Level 2 ski patrol director as a
19 professional, or as one of your professionals under your
20 definitions. And then I think that would pretty much
21 take care of the situation that is troubling us.

22 It's almost what you're asking us to do is
23 almost -- it's in place as we speak, the Snow Safety Plan
24 is in place, we have the professionals in place, and I
25 believe our track record speaks for itself. So you're

1 actually asking us to almost go back and reinvent
2 the -- or put the cart before the horse or reinvent the
3 wheel, sort of thing.

4 So that's really the only comment I have, and
5 that's the main change that I would like to see coming
6 forward in the proposals, is to change the definition of
7 the professional.

8 THE CHAIR: I should say to you, Mr. Adams,
9 we've heard some excellent presentations from the
10 industry across the province so far. The consensus I
11 have to say has been the intention is correct, that
12 there's not an unwillingness on the part of the industry
13 to turn its mind to safety issues here, but to your point
14 we've certainly heard very ringing consensus, that this
15 is too narrow a definition of who the experts are. And
16 as well as missing an area of expertise, some comments
17 have also been we probably, in introducing these
18 standards, will be hard put to find these individuals, in
19 that there's not actually many of them who have that
20 experience.

21 So the panel has heard that loud and clear from
22 the industry, and wanted to comment on our appreciation
23 for the very thoughtful presentations that we've had from
24 the industry so far. And the consensus certainly seems
25 to have formed in the industry that more works needs to

1 be done collaboratively between WorkSafeBC and the
2 industry on this before we proceed, and that will be what
3 we will be reporting back.

4 MR. GRAHAM: Okay. Thanks very much.

5 THE CHAIR: Thank you very much for coming.
6 Thanks for taking the time to come all the way in.

7 MR. GRAHAM: No, thank you for coming all the
8 way to Nelson.

9 THE CHAIR: No, well, actually I will just say
10 this before we move on. We traditionally tend to go to
11 four locations, which are the Vancouver location, the
12 Island, Prince George, and Kelowna. And in discussion
13 with our Policy and Practice Consultative Committee,
14 which is a group we work with, we raised the issue of
15 we'd like to try to at least get out a little more. So
16 it's been a pleasure to be in the Kootenays. It's really
17 been lovely, actually. We've really enjoyed being able
18 to come up here and listen to people. So maybe we'll do
19 a little more of that and pick some other locations too
20 in the future.

21 Thanks very much, sir.

22 MR. GRAHAM: Thank you.

23 THE CHAIR: Thanks very much, Mr. Adams.

24 Could I just ask if anybody has attended this
25 afternoon who may not have pre-registered but who would

1 wish to make a presentation or give us a comment on any
2 of the proposed amendments?

3 Okay. So what I'm going to do is this. We set
4 aside time from 3:00 till 5:00, and we tend to be very
5 cautious about not wanting to adjourn too early, just in
6 case someone is coming by. So what I'm going to do is
7 I'm going to recess the hearing for 10 or 15 minutes so I
8 can check with Leley and we can see who else wants to
9 speak, and then I'll make a decision about whether or not
10 we are going to adjourn, and that we captured what we
11 need to capture.

12 So we're off the record. I'll recess for about
13 10 or 15 minutes, then call us back shortly. Thanks very
14 much.

15 --- PROCEEDINGS RECESSED AT 3:40 P.M.

16 --- PROCEEDINGS RESUMED AT 3:55 P.M.

17 THE CHAIR: So, ladies and gentlemen, just for
18 the record I have checked with our admin assistant, and
19 no one else has registered for the afternoon session.
20 What we will do is we have signage that let's anybody who
21 does come by know that we will be resuming hearings at
22 seven o'clock this evening for people who can't come
23 during the day. So if anybody wants to be heard, they
24 can be heard then.

25 And in the meantime, I will adjourn the

1 afternoon session of the public hearings, again with our
2 thanks for those who have taken the time to come here and
3 make presentations. So thank you. We're adjourned.
4 We'll resume at seven o'clock this evening.

5 --- PROCEEDINGS ADJOURNED AT 4:00 P.M.

6 --- PROCEEDINGS RESUMED AT 7:00 P.M.

7 THE CHAIR: Okay. So, thank you. Thanks for
8 being here this evening. And I have something I do need
9 to read into the record, so bear with me here. So
10 welcome to the public hearing on proposed amendments to
11 the *Occupational Health and Safety Regulation*.

12 My first duty is to introduce myself and the
13 panel members. My name is Roberta Ellis. I'm the Vice
14 President of Policy and Research at WorkSafeBC, and on my
15 left, Anne Burch, who is the Vice Chair of the hearing
16 panel, is Director of Provincial Policy and Regulation
17 Review, and on my right, Mr. Ed Bates is general counsel
18 and Secretary to WorkSafeBC. And Rachel Greenaway is our
19 court reporter, and she's taking verbatim notes of the
20 public hearing. This is the record that assists the
21 Board of Directors in their decision-making process, and
22 the recorded notes are made public after the Board of
23 Directors makes a decision regarding the proposed
24 regulatory amendments.

25 The purpose of the public hearing is to provide

1 you with an opportunity to comment on proposed amendments
2 to the *Occupational Health and Safety Regulation*, as
3 follows. I'm just going to read this into record. Part
4 3, Rights and Responsibilities, relating to occupational
5 first aid. Part 4, General Conditions, with
6 consequential amendments to Part 1, Definitions, Part 20,
7 Construction, Excavation and Demolition, and Part 22,
8 Underground Workings, and this relates to terrain
9 stability, avalanche assessments, fills, and stockpiles.
10 Part 4, General Conditions, relating to working alone or
11 in isolation. Part 6, Substance Specific Requirements,
12 with consequential amendments to Part 5, Chemical and
13 Biological Substances, relating to biohazardous
14 materials. Part 9, Confined Spaces, relating to
15 isolation procedures in confined spaces. Part 11, Fall
16 Protection, relating to fall protection for stunt
17 workers. Part 13, Ladders, Scaffolds, and Temporary Work
18 Platforms, and that relates to work platforms and fall
19 protection. Part 14, Cranes and Hoists, and this part's
20 being reviewed in its entirety, with consequential
21 amendments to Part 1, Definitions, and Part 4, General
22 Conditions. Part 26, Forestry Operations. Sorry, the
23 Cranes is Part 16, I beg your pardon, Mobile Equipment.
24 Part 26, Forestry Operations, and that's also in its
25 entirety, with consequential amendments to Part 1,

1 Definitions, and Part 4, General Conditions. And Part
2 30, Laboratories, relating to fume hoods.

3 And by the way of background and for the
4 record, with regard to the proposed amendments to Part 4,
5 which is working alone and in isolation, last year the
6 Ministry of Labour and Citizens' Services asked the Board
7 of Directors under s. 229 of the Workers Compensation Act
8 to address the issue of prepayment for gasoline at
9 service stations in urban areas during late night and
10 early morning hours, and these amendments were drafted
11 and taken to public hearings in November 26 and January
12 2007, with the snow storm in between. After considering
13 feedback received from the public hearings, the Board of
14 Directors requested that the proposed amendments be
15 revised to apply province-wide and 24 hours by 7. So
16 these are substantive changes to the Regulation, and so
17 they're brought back; they're a material change, they're
18 brought back for further consultation and for public
19 hearing, a second public hearing.

20 So stakeholders have been advised of all of the
21 proposed amendments and their associated explanatory
22 notes, as they have been placed on our WorkSafeBC
23 website, sent to over 1,600 stakeholders via E-News, and
24 there are copies of the actual amendments at the desk out
25 front.

1 So we are here to listen to your remarks. And
2 the other thing that's important to mention is if there
3 are written presentations that anybody wants to leave
4 with us, there is a deadline for that. You can leave
5 them now, and we're happy to have them included in the
6 record, but if there's something else that someone wants
7 to tell us, the deadline for receipt of written
8 submissions, written materials, is 4:30 p.m. on Friday
9 June the 29th, 2007.

10 The public hearings represent a formal
11 consultation process, and once the process is complete,
12 written and oral submissions are analyzed, and the Board
13 of Directors at WorkSafeBC, they're the decision-making
14 body, they will have access to all of this material prior
15 to making decisions, final decisions on each proposal.

16 So I'm very pleased this evening to have you
17 here to speak to us, and I believe that -- I'm not sure
18 which of you gentlemen is Mr. Robin Siggers.

19 Mr. Siggers, please join us, and we're very
20 happy to hear your proposal. I think, Mr. Siggers, you
21 are with the Resorts of the Canadian Rockies?

22 MR. SIGGERS: Yes.

23 THE CHAIR: And it's Part 4, Avalanche
24 Assessments?

25 MR. SIGGERS: That's correct.

1 THE CHAIR: And, sir, by all means, just join
2 your colleague. We don't have you on the record, so if
3 you just identify yourself, that's very helpful.

4 MR. COHEN: Sure. I'm Andy Cohen with the
5 Resorts of Canadian Rockies as well.

6 THE CHAIR: Thanks very much.

7 MR. SIGGERS: Andy Cohen is the General Manager
8 for the B.C. Division of the Resorts of the Canadian
9 Rockies.

10 THE CHAIR: Thanks. Welcome.

11 PRESENTATION BY ROBIN SIGGERS AND ANDY COHEN, ON BEHALF
12 OF RESORTS OF THE CANADIAN ROCKIES:

13 MR. SIGGERS: It seems a little ironical to be
14 talking about avalanches in 30-degree weather on the
15 longest day of the year.

16 THE CHAIR: Mr. Adams from Whittewater, he was
17 here this afternoon; he said the same thing, and we had
18 to heartily agree with him. It's beautiful out here.

19 MR. SIGGERS: It is.

20 THE CHAIR: Thanks for taking the time to be
21 with us today.

22 MR. SIGGERS: Thank you for giving us the
23 opportunity to speak.

24 This presentation is to the Policy Regulatory
25 Review Department, based on the OH&S proposed amendments

1 to Part 4, General Conditions, Part 4.1.2, Avalanche
2 Assessment. This letter is written on behalf of the
3 employer, Resorts of the Canadian Rockies Incorporated,
4 and is to confirm that our company strongly disagree with
5 the proposed changes to 4.1.2, as per the definitions of
6 our response, as stated on the website.

7 THE CHAIR: Right.

8 MR. SIGGERS: "Before work commences in a
9 workplace where there is or may be a risk to a person
10 working in the workplace from an avalanche, a qualified
11 registered professional must conduct an avalanche
12 assessment."

13 This is the proposed regulation change that we
14 strongly disagree with. This proposed regulation, in our
15 view, creates an unrealistic expectation that the new
16 regulation would improve worker safety.

17 The Fernie Alpine Resort Safety Team has been
18 in the business of avalanche terrain identification,
19 control, and mitigation for over 30 years. A little
20 history: Fernie Alpine Resort is located in the East
21 Kootenay region of British Columbia, in the southern
22 Rocky Mountains. The Fernie Alpine Resort operates on
23 2,800 acres of Crown lands, and has an average 300,000
24 skier days annually.

25 The Fernie Alpine Resort currently operates one

1 of the largest avalanche safety programs in North
2 America. As you can see from some of the photographs I
3 have brought, if you'd like to peruse those, it's fairly
4 obvious high risk from avalanche. The resort Avalanche
5 Safety Program is based upon the Rogers Pass Snow and
6 Avalanche Safety Program model. Our program was
7 developed in the mid 1970s and is currently continually
8 updated as new terrain is developed or techniques become
9 available.

10 The Fernie Alpine Resort's Avalanche Safety
11 Plan, which I have a copy with me, this document
12 identifies all in-bounds avalanche terrain, mitigation
13 measures, and safety protocols for all on-mountain staff.
14 This work is performed on a minute by minute basis during
15 the ski season.

16 For the past 30 years Fernie Alpine Resort has
17 been on the leading edge of avalanche safety program
18 development within Canada, working closely with the
19 Avalanche Association, the Canadian Avalanche
20 Association. Fernie Alpine Resort has acted as an
21 industry leader promoting avalanche safety for ski areas
22 in the alpine ski industry in general.

23 Fernie Alpine Resort was a founding member of
24 the InfoEx, an avalanche information exchange program
25 that after more than 20 years of operation is now

1 internationally recognized as the best information
2 avalanche sharing system in the world. InfoEx is now
3 recognized as the world's richest database for avalanche
4 research purpose. Fernie Alpine Resort has been a
5 contributing member of avalanche read data to the infoweb
6 since its inception.

7 Avalanche forecasters for the Fernie Alpine
8 Resort have worked for many years as instructors for the
9 Canadian Avalanche Association training schools, which is
10 widely recognized as the world's best avalanche training.
11 The Fernie Alpine Resort Snow Safety Analyst is a
12 professional member of the Canadian Avalanche
13 Association, as dictated by the Fernie Alpine Resort
14 Avalanche Safety Plan. It is written in here that the
15 Avalanche Safety Analyst will be a professional member.
16 To achieve Canadian Avalanche Association membership
17 requires approximately five years working full time in an
18 avalanche safety program, doing avalanche mitigation,
19 terrain assessments. In addition, the Canadian Avalanche
20 Association Continuing Professional Development Program,
21 or CPD, provides the members, professional members, the
22 opportunity to continue to develop expertise in avalanche
23 safety measures.

24 It is the view of Resorts of the Canadian
25 Rockies Incorporated that the professional members of the

1 Canadian Avalanche Association within our staff are
2 completely qualified to do the work described in the
3 regulation change 4.1.2. They have the experience and
4 the history to do this work, and they are the recognized
5 experts. Currently there are insufficient numbers of
6 qualified registered professionals as per the definition
7 in Part 1.1. We believe available qualified registered
8 professionals would not be qualified to make terrain
9 assessments for an avalanche safety program such as the
10 one at Fernie Alpine Resort.

11 The Fernie Alpine Resort staff that do the
12 avalanche control work here in the resort are the
13 undisputed experts in that field. If anyone wants to
14 inquire about avalanche safety mitigation control work or
15 avalanche terrain identification within our ski area,
16 they are going to seek out our staff to do that. Our
17 staff are the resident experts. The Fernie Alpine Resort
18 avalanche safety teams have spent countless hours in the
19 terrain, during storms, observing avalanches. Our snow
20 safety observers have been there to see what happens in
21 winter during the myriad of variations that occur of
22 avalanche conditions that can occur within the snowpack
23 over the terrain hour over hour. A day, a week, a month,
24 a ski season. We don't believe that the evaluations of a
25 qualified registered professional as per the definitions

1 regarding the avalanche terrain and pathways within our
2 resort can improve on this.

3 The Fernie Alpine Resort Safety Plan, I'll just
4 describe a bit of the plan for you and what's in there.
5 The Fernie Alpine Resort Avalanche Safety Plan is a
6 formalization of policy and procedures that have been
7 adopted or projected by Fernie Alpine Resort to
8 facilitate the safe management of avalanches which have
9 the potential to affect the ski area's terrain, staff,
10 users and related facilities. Within this plan is a
11 general outline of the actions of the avalanche safety
12 team, ski area management and other operating personnel
13 pertaining to avalanche safety for the entire ski area.
14 The plan has been designed and prepared to protect the
15 skiing public, the staff, and the physical installations
16 at Fernie Alpine Resort from the hazardous effects of
17 avalanches.

18 The plan uses a combination of closures and
19 active methods to control the risks of avalanches.
20 Strictly enforced procedures and closures are used to
21 control the movements of staff, public, and equipment
22 about the resort. The operational closure decisions are
23 made by the Avalanche Safety Analyst or duty analyst.
24 The Avalanche Safety Analyst or duty analyst will
25 maintain status as professional members of the Canadian

1 Avalanche Association. So that's written into the plan,
2 that they will maintain those, that they have to have
3 that qualification.

4 Having this comprehensive avalanche safety plan
5 is a requirement for the ski area's part of our master
6 plan development agreement with the Province of B.C. The
7 Commercial Alpine Ski Policy, which is today the leading
8 provincial document regarding the development and
9 operation of British Columbia ski resorts, governs this
10 agreement in which this is a requirement. Additionally,
11 we are audited on an annual basis by the B.C. Safety
12 Authority, that review our procedures for avalanche risk
13 assessments, mitigation measures with regards to
14 ski-lifts.

15 All avalanche sites and affected areas are
16 given a "closed" status at the end of each day's
17 operation. They remain closed until the avalanche safety
18 team has determined they are safe from avalanches. So
19 this is carried out on a daily basis. Closure decisions
20 are the responsibility of the Avalanche Safety Analyst,
21 or the appointed duty analyst. Operationally, our
22 Avalanche Safety Program records hundreds of avalanche
23 events each winter within our resort. We use an average
24 of \$150,000 worth of explosives annually, firing over a
25 thousand Avalauncher rounds, throwing a thousand hand

1 charges, flying dozens of helicopter missions. Using
2 automated weather stations, our snow safety teams, to
3 weather observations twice each day, more frequently
4 during snow storms, full snow profiles done weekly or
5 daily, if needed, to monitor layer development. We
6 record every avalanche occurrence larger than 1.5, both
7 naturally and artificially triggered, within our ski area
8 boundary according to the standards included in the
9 operational guidelines for snow and avalanche
10 observations by the Canadian Avalanche Association.
11 These avalanche observations, including photographic
12 records and detailed technical measurements are
13 catalogued and archived for future reference.

14 We believe the proposed regulatory change would
15 not be able to offer any greater results than we
16 currently achieve. Our forecasters and ski patrol staff
17 are out in the terrain every day from when the first snow
18 falls until the ski area closes for the end of the
19 season. Our avalanche safety team has an intimate
20 knowledge of our terrain, including every little side
21 gully, open patch in the woods where an avalanche may
22 occur, should the conditions allow. Our avalanche safety
23 observers understand through experience when an avalanche
24 path is ready to produce an avalanche that may outrun its
25 historical identified boundaries, because they've been

1 there to see it happen. Our avalanche safety team are
2 the experts that understand the subtle effects of
3 precipitation, temperature, wind, sun, and how these
4 factors combine with our terrain to create avalanche
5 conditions.

6 We believe that the qualified registered
7 professionals hired to fulfill the requirement of this
8 proposed regulation change would in fact have no choice
9 but to talk to our staff to understand our avalanche
10 hazards.

11 Worker and public safety are critical to the
12 survival of our industry. The avalanche safety team at
13 Fernie Alpine Resort are very aware of the risk and
14 dangers involved in avalanche control and hazards within
15 the resort. We're compelled to do everything possible to
16 keep workers safe from the risk of avalanches. We
17 believe we have the tools, the people, and the expertise
18 to continue to do that.

19 There's no question that ski areas with
20 avalanche terrain within their boundaries, such as Fernie
21 Alpine Resort, need written policies and procedures that
22 detail daily operating plans, blasting procedures for
23 coring standards, decision making and performance
24 measuring based on industry best practices. We have the
25 subjects -- we have these subjects thoroughly addressed

1 in our avalanche safety plan and operating manuals.
2 Those things are covered off in here. We strongly
3 believe that the qualified avalanche -- we strongly
4 believe that qualified avalanche professionals should be
5 responsible for worker safety with regards to risk of
6 avalanches, but we believe that the qualified avalanche
7 professionals are defined as the avalanche duty analyst
8 and snow safety teams I've described here.

9 In closing, we believe this proposed regulatory
10 change to be redundant, ineffective, and simply the wrong
11 approach to worker safety within ski areas in British
12 Columbia. Ski area operators of Resorts of the Canadian
13 Rockies Incorporated and the Fernie Alpine Resort
14 strongly disagree with the proposed changes.

15 THE CHAIR: Thank you, Mr. Siggers. And I'll
16 just say, we've heard excellent presentations from your
17 industry to this point, and clearly there's a great deal
18 of consensus that the CAA is a source to be included in
19 who's providing avalanche assessment expertise to the
20 industry. And so I do want to reassure you that we've
21 heard that concern, and we'll be taking that concern back
22 to the Board of Directors of WorkSafeBC.

23 MR. SIGGERS: Okay.

24 THE CHAIR: While I have you, I just wondered
25 if I could ask you a question, because we've learned a

1 great deal from the presentations that have been made,
2 and yours has also been excellent. I guess I'm asking
3 you as a professional in this business more for your
4 opinion, not necessarily -- I don't know that you would
5 know this for a fact, but clearly at Fernie the program
6 is very sophisticated and very rigorous and very robust.
7 In terms of the industry itself, would you say that the
8 program, the policy and the program that you use at
9 Fernie, is -- that all of the industry is operating at
10 that standard?

11 MR. SIGGERS: I think there is a lot of
12 pressure, peer pressure within the industry to make that
13 the case.

14 THE CHAIR: Good.

15 MR. SIGGERS: I think that things that have
16 occurred in the past, such as accidents that have
17 happened, have brought people into recognize that the
18 InfoEx is a requirement for an avalanche safety program,
19 and once you're into that group of people, then you're
20 required to operate at the same level as the other
21 contributors of that program. And I think that almost
22 every single operator now has the InfoEx in some way or
23 shape or form.

24 I think that the Canadian Avalanche Association
25 is recognized in the world as one of the best. We have

1 in Canada the most uniform reporting and data collection
2 system. Everyone uses the observation and the recording
3 guidelines as set out by the CAA. Many countries don't
4 have that. So at least we're all talking the same
5 language, and we all observe and record avalanches to the
6 same level. And all the people working in the industry
7 have come through the same training program, so everyone
8 is on the same level as far as, you know, where they're
9 going, what their level of training is, and what's
10 expected. We have a very strong uniformity throughout
11 the industry in Canada in that respect. Do you
12 understand what I mean?

13 THE CHAIR: Yes, I do. And my reason for
14 asking is that clearly with regard to this proposed
15 amendment there is still some work that needs to be done
16 with regard to who are the certified experts, or who are
17 the experts for this industry, how you would define
18 those. We've had some other interesting presentations
19 that have also said that there seems to be at the CAA
20 level, and with many of the operators, an interest in
21 having some ongoing consultation and work with WorkSafeBC
22 to make sure that people are -- if you like, it's a level
23 playing field and everybody is playing by the same
24 standards.

25 And I just wondered, so that was why my reason

1 for asking your views about what, if you like, the
2 consistency of standards generally is across the
3 industry. I was really just curious. Now I understand,
4 and I thank you for that.

5 Sir, are you going to make a few remarks also?

6 MR. COHEN: I moved forward, didn't I?

7 I think another part of the answer to your
8 question is that, I mean, obviously within British
9 Columbia there's different levels of activity within the
10 ski resorts, and the ones that -- I mean, need is the
11 mother of invention here, and from a standards standpoint
12 Robin would be much more of an expert to answer that
13 question, but from a business standpoint, the resorts
14 really don't make much money, and they could never afford
15 to not have the right procedures in place regarding this
16 issue, because their very --

17 THE CHAIR: It's too high stakes.

18 MR. COHEN: -- ability to stay in business is
19 directly related to those procedures. One claim -- and
20 we have other insurance companies besides, obviously,
21 WorkSafe, and one claim from a guest could be enough to
22 turn the tide in our business. So it's pretty rigorous.
23 Plus we have a moral responsibility.

24 THE CHAIR: Of course. I understand.

25 MR. COHEN: That doesn't necessarily answer

1 your questions about the standards, but --

2 THE CHAIR: No, and that's not something that I
3 guess I was asking you for a definitive answer on. It
4 was more that you're obviously seasoned operators in this
5 field, and as we go forward with this process, obviously,
6 the first thing I can say is, on behalf of the panel --
7 but we are not the ultimate decision-makers on the
8 regulations -- I think it would be fair to say we heard
9 you loud and clear.

10 There's no mistake that there's a concern here.
11 And certainly it's not our practice to barrel ahead when
12 there's a concern. It's up to us to represent that
13 clearly and address it. But many of the other presenters
14 have also spoken of the need to have perhaps some ongoing
15 work on the operationalizing of standards and so that
16 everybody is, as I said earlier, really, given that
17 there'll be differences in size or topography, and I'm
18 sure other differences, but that they have a kind of a
19 common, if you like, set of rules of the game to play by.
20 And I was just really curious about your reaction to
21 that.

22 MR. SIGGERS: And I think in this country
23 specifically we're miles ahead of many others in that
24 respect, and I think that's probably an achievable goal,
25 although it will require some work and some consensus.

1 THE CHAIR: That was what the other comment
2 was, that it would take some time. It needs some time
3 and some consultative work to occur and consensus to be
4 built.

5 And then my only last question was, I didn't
6 ask this of any of the other operators, the CAA as a
7 source of recognized industry experts who have the, if
8 you like, the professional training, but also the
9 pragmatic day-to-day experience to be able to do this
10 work, there's a reasonable supply of individuals who are
11 trained in this fashion and experienced in this fashion
12 for industry, certainly obviously more so than the
13 definition, but is that --

14 MR. SIGGERS: I would say yes. There are
15 approximately 280 professional members, and that's where,
16 you know, when you look at the qualified registered
17 professionals as per the definition, I only know about
18 four --

19 THE CHAIR: Right.

20 MR. SIGGERS: -- that have avalanche specific
21 training.

22 THE CHAIR: For that. Got it.

23 MR. SIGGERS: And I believe they operate under
24 a similar code of ethics, that they would not take on
25 work that they are not qualified to do, such as we do

1 within the Canadian Avalanche Association; we're bound by
2 the code of ethics. So members of the 280 professional
3 members would have various niches of expertise, whether
4 it be in the guiding industry, the ski industry, the
5 highways industry, or other types.

6 MR. COHEN: I think the other thing that has
7 not been touched on here that I think could be involved
8 in the discussion is how we train the rest of our staff
9 in how to act and how to behave in the resort. And we
10 train all of our people regularly on -- and I know Mike
11 Adams does as well, on just common sense practices. We
12 offer recreational avalanche courses to all of our staff.
13 We train them how to probe, we train them -- so it's not
14 only to people working in the avalanche field; it's also
15 the rest of the staff that we also have, you know, pretty
16 good policies in place for. And again, I don't know the
17 standards as Robin would know. Robin knows everyone. I
18 don't know anyone.

19 THE CHAIR: Well, gentlemen, that's been very
20 helpful, and I very much thank you for the time and
21 trouble you've taken to make the presentation. I can
22 assure you it's been well worth our while to have it.

23 And just to say, if you do want to leave some
24 material with us --

25 MR. SIGGERS: We have submitted our written

1 submission to the front.

2 THE CHAIR: Good. And so that's fine. As long
3 as we've got that on the record, that's great. And I
4 thank you very much. And it's quite a spectacular
5 photograph.

6 MR. COHEN: It's a spectacular place.

7 THE CHAIR: Mr. Adams was telling us this
8 morning that at the resort that he represents they can
9 sometimes have, he said, 400 to 500 feet of snow, and so
10 the threat of avalanche is very --

11 MR. COHEN: He brags regularly.

12 THE CHAIR: Thanks very much, gentlemen.
13 That's terrific.

14 MR. SIGGERS: Our annual snowfall average is
15 1,100 centimeters. Not quite as much.

16 THE CHAIR: Not quite so much. Thanks very
17 much, Mr. Siggers.

18 So just for the rest of the audience, ladies
19 and gentlemen, Mr. Siggers and his colleague were in fact
20 the only registered presenters that we had for our
21 evening session, and so I'm going to repeat the practice
22 that I usually have, I'm going to recess for 10 minutes
23 or so, just to check and to make sure that there are no
24 other individuals that Leley's been talking to. And
25 there being no others, I will in fact then adjourn the

1 hearing.

2 So we'll recess for 10 minutes. Thank you.

3 --- PROCEEDINGS RECESSED at 7:25 p.m.
4

5 --- PROCEEDINGS RESUMED AT 7:33 P.M.

6 THE CHAIR: So I have checked with the desk,
7 and there are no other speakers registered or indicating
8 that they want to present tonight, so I will formally
9 adjourn the public hearing.

10 And I will thank both of you for your services
11 this evening.

12 Thank you very much. We're adjourned.

13 --- PROCEEDINGS CONCLUDED AT 7:34 P.M.
14
15

16 I hereby certify the forgoing to
17 be a true and accurate transcript
18 of the proceedings transcribed to
19 the best of my skill and ability.
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Rachel Greenaway

Official Court Reporter