



Submission #66

**Presentation
to the
Workers Compensation Act
Review Committee 2004**

By

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Presenter

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Tantalum Mining Corporation of Canada Limited (Tanco) is a wholly owned subsidiary of Cabot Corporation; an international chemical company bases in Boston, Massachusetts. Tanco mines and processes three different ores from the world renowned Bernic Lake pegmatite ore body and produces a variety of products for use in many industries; electronics, glassmaking, off-shore oil drilling and pharmaceuticals to name but a few. We have been a strong presence in our local communities since 1969.

Tanco is a member of The Mining Association of Manitoba and is proud to be recognized as an industry having worked very hard to reduce both the frequency and severity of workplace accidents and injuries. The WCB has provided information, which shows the injury rate in the mining sector has dropped by more than 50% since 1994 to a rate of 2.2% in 2002. In Tanco's case, the frequency for lost workday and modified work cases combined for the years 2002 and 2003 is 1.5.

Tanco strongly believes that the existing Act has performed very well with respect to its service to injured workers and employers. We have certainly appreciated the opportunity to work closely with the board in recent years in conjunction with the Mining Association of Manitoba to help resolve issues of concern, and we look forward to being able to carry on this positive working relationship.

We very much look forward to participating in the continuing improvement of the Workers Compensation Act for the benefit of all parties. Thank you for the opportunity to present our thoughts this evening.

- **Tanco supports allowing the WCB to purchase, contract or arrange expedited medical treatment or diagnostic testing for injured workers.**

The sooner diagnosis and treatment are available, the sooner injured workers are able to return to work. We value the contributions our employees make to our operation and we believe early intervention, whether the injury/illness is work related or not, is the key to their return. Many, if not most, employers have disability management programs, and early mobilization enhances the recovery process following injury or illness.

- **Tanco does not support the introduction of further return-to-work legislation to accommodate injured workers.**

We simply do not think it is necessary. Existing legislation already covers this. Again, alternate or modified work strategies exist within disability management programs to encourage return-to work. It has been this employer's experience that, in spite of the fact the WCB actively promotes these programs, in at least one case, an injured employee was prevented from returning to work by the WCB when we felt accommodation could be made.

- **Tanco supports the current definition of stress.**

This definition refers to "an acute reaction to a traumatic event" arising out of and in the course of employment. If a change is made, our concern is that non-work related factors will play a role in determining whether a claim is accepted. I think it can be fairly said we all live in a stressful time and it would be unfair to employers to increase the likelihood of increased numbers of claims related to stress because of language change.

- **Tanco supports the present method of assessing permanent impairment awards.**

There are other provisions in the Act that cover additional expenses of injured workers, and these should be reflected in award determination. Also, wage loss benefits remain unaffected by these awards.

- **Tanco supports the “dominant cause” provision of the Act.**

A case by case evaluation of occupational disease claims as currently performed is the best way to evaluate whether they are workplace related or not. Medical examination, science and studies are presently effectively used in this determination.

- **Tanco supports amendments to the Act that would prevent litigation against company directors.**

We believe it is important that the Act embrace the Meredith Principles and a no fault compensation system. The WCB should dedicate its resources to prompt, effective management of workplace injury claims rather than attempting to ascertain workplace blame.

- **Tanco supports the current WCB policy of using the Consumer Price Index as a reference when considering the level of maximum annual earnings.**
- **Tanco recommends that payment of any benefits only be made when the employer, employee and medical provider indicate that a workplace accident has occurred.**

This can occur in a timely fashion and, when properly administered, will not result in any delay of payment to injured workers. It has been our

experience that payments have been wrongly made which are unable to be recovered.

- **Tanco recommends that employers continue to have access to appropriate medical information for the appeal process of a claim.**

In closing, we realize you have undoubtedly heard some of these recommendations before; we commend your patience. You will have also noticed that we think for the most part, as far as the Act is concerned, there is not much wrong with the status quo. The Meredith Principles, respecting the needs of employees and employers, work just fine.

We believe the biggest challenges are in the fair administration of the Act and Regulations. We realize the difficulties posed for adjudicators with the phrase “injuries arising out of and in the course of employment”. If we have a comment for claims administration, it is that if either one of these criteria are met and not both, a claim results. It is this thinking that “it must have happened at work” that sometimes, not often, frustrates.

We are confident that by working with the WCB as we have in the past; prompt, efficient and cost effective compensation for injured or ill workers will continue to be provided. We believe that, over time, the system has improved to the benefit of all stakeholders and look forward to more of the same.

We thank the Chair and panel for listening to our presentation tonight.