

Submission #72

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THE MINING ASSOCIATION OF MANITOBA INC.

**PRESENTATION TO THE MANITOBA WORKER'S
COMPENSATION BOARD ACT REVIEW COMMITTEE**

MAY 20, 2004

The Mining Association of Manitoba represents all operating mines in Manitoba as well as many firms that are currently engaged in mineral exploration in our province. The mining industry in Manitoba, including contract mining and diamond drilling, provides direct employment for 3,800 Manitobans and is one of the major economic activities taking place in northern Manitoba.

Our association is pleased to offer our recommendations on potential changes to the Workers Compensation Board Act. As a result of our member firms collective action to ensure a strong workplace safety culture, our industry has achieved a substantial decline in the level of frequency of injury claims from 5.6% in 1994 to 2.2% in 2002 (based on figures provided by the Manitoba Workers Compensation Board). Our industry has been recognized for its leadership in minimizing workplace accidents, and the Board has been a key partner in assisting us to achieve these results.

Our association believes in a compensation process that:

- is fair and balanced and is not preferentially structured to create imbalances that disadvantage either workers or employers,
- is operated in a manner that is respectful of injured employees dignity and privacy while ensuring an expedited process of claim management that facilitates a return to the workplace as soon as medically possible,
- is operated in a fiscally prudent manner with a strict focus on providing compensatory services to its clients, and
- promotes a spirit of cooperation and collective action against workplace injuries between employers and employees.

With this philosophical basis in mind, our Association makes the following recommendations as to how the current WCB Act and policies can be strengthened to further promote a strong workplace safety and health culture while respecting the extraordinarily competitive business environment that firms in the mining industry confront on a daily basis.

1. The Mining Association of Manitoba supports amendments to the Act that would prevent directors of covered employers from being sued by injured workers for additional damages.

Our member firms believe that the promotion of a workplace safety and health culture is a collective responsibility between employees and employers. We strongly support the Meredith principles and the belief that injured employees are entitled to prompt access to defined benefits and employers are responsible for funding those benefits. The Act must continue to reflect the spirit of the Meredith principles and the principle of a no-fault compensation system that places a priority on the prompt treatment for injured workers rather than determining blame for a workplace accident.

2. The Mining Association of Manitoba recommends that the method for assessing permanent impairment awards remain consistent with the majority of Canadian provinces and not be changed as a result of this review.

Our Association believes that when a worker's injury has stabilized to allow for an assessment of the degree of impairment, any consideration of the impairment award must be reflective of the injured employee's ability to function as he/she would in his/her day-to-day life in society or the workplace, and that the employee be compensated accordingly.

3. The Mining Association of Manitoba supports the current definition of stress that compensates workers for acute reactions to traumatic events that arise out of the course of employment.

The current interpretation of stress under the Act provides a clear and reasonable delineation of what is a reasonable stress-related injury and what is not. We are concerned that amending this definition will result in new claims of workplace stress that are the result of management's prerogative to structure the workplace or impose discipline (terminations, reorganizations, transfers, demotions, etc.) and will introduce claims that are the result of non-compensable factors outside of work.

4. The Mining Association of Manitoba supports the "dominant cause" provision outlined in section 4(4) of the Act, and further supports the case-by-case evaluation of occupational disease claims.

The "dominant cause" provision prevents employers from being held financially liable for diseases that are unrelated to the work environment. Current practice involves a medical examination or empirical studies that clearly ascertain whether the dominant cause is workplace related or not. The current system provides the mechanism for a pragmatic, fact-based determination of what is a substantiated workplace-related occupational disease and what isn't, and we support its continuation.

5. The Mining Association of Manitoba supports allowing the WCB to contract, arrange or purchase expedited medical treatment or diagnostic testing for injured workers.

Our members demand a system that is efficiently managed at the front end where injured employees receive quick and effective treatment to facilitate their return to work as soon as possible. The WCB should investigate alternative methods other than reliance on the province's health care system to deliver required treatment as quickly as possible. Having a worker's disability period unnecessarily prolonged due to delays in accessing required diagnostic treatments is cruel, inefficient and reduces the chance that an injured worker may return to the workplace and reassume his/her previous duties.

6. The Mining Association of Manitoba supports the current regulatory policy of the WCB that uses the Consumer Price Index as a reference when considering the level of maximum annual earnings.

Our Association believes that the current policy provides suitable levels of compensation to injured workers while providing an incentive to ensure that workers return to work as quickly as possible.

Concluding comments:

The Mining Association of Manitoba is a member of the Manitoba Employers Council (MEC), and we are also supportive of the detailed points that have been raised in the MEC's presentation to the committee.

Our Association has noted a proposal by WCB Chairman and current WCB Act Review Commissioner Mr. Waldron Fox-Decent to consider an economic analysis of any changes proposed by the WCB Review Committee. We strongly endorse this proposal, and would encourage the Committee to clarify in its recommendations that this analysis is to be done prior to any enactments of changes to the legislation, not after the fact.

We thank the committee for its hard work, and for its consideration of the above points.