

Workers need a robust OSHA for their survival

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USW International President

The following article first appeared in the Huffington Post two days ago and with the assistance of Barbara Stack of the HuffPost, is reprinted here for “Frontlines” readers.

April 30, 2008, two days after Workers Memorial Day last spring, a mammoth steel girder crushed to death a 61-year-old crane repairman who worked at ArcelorMittal in Burns Harbor, Ind. A 33-year-veteran of the mill, the member of United Steelworkers (USW) Local 6787 left behind a wife and two sons.

He became one of the 21 to die that day at work, the 21 who die each day at work. To reduce that daily toll, to make Workers Memorial Day less memorable, the U.S. Labor Department and the Occupational Safety and Health Administration must be properly funded and empowered.

The 5,680 workplace deaths each year are called “accidents” in hushed tones in funeral homes when widows or widowers speak of what befell the loved ones they’d kissed as they left for work, never suspecting they’d never return. But they’re not accidents if the employer failed to supply safety equipment, sufficient workers to safely perform the task, or, generally, a safe working environment.

Employers must provide safe workplaces. For those who don’t understand that moral requirement, Congress established a legal mandate with the Occupational Safety and Health Act of 1970. Under OSHA, the Department of Labor created regulations and enforcement mechanisms “to promote the safety and health of America’s working men and women.”

August 15, 2008, a 41-year-old electrical apprentice from Superior, Ariz. was fatally electrocuted while replacing the ballast in a 480-volt flood light on the edge of the Asarco LLC Ray Mine copper pit in Kearny, Ariz. He’d trained for a year and 20 weeks as an electrician, but for 13 years before that had worked at the mine as a member of the USW, and his former Steelworkers local union president, Celestino Flores, said of him, “He was such a hard worker. . . Such a good guy.” The U.S. Department of Labor cited Asarco, saying, “The accident occurred because management policies and controls were inade-

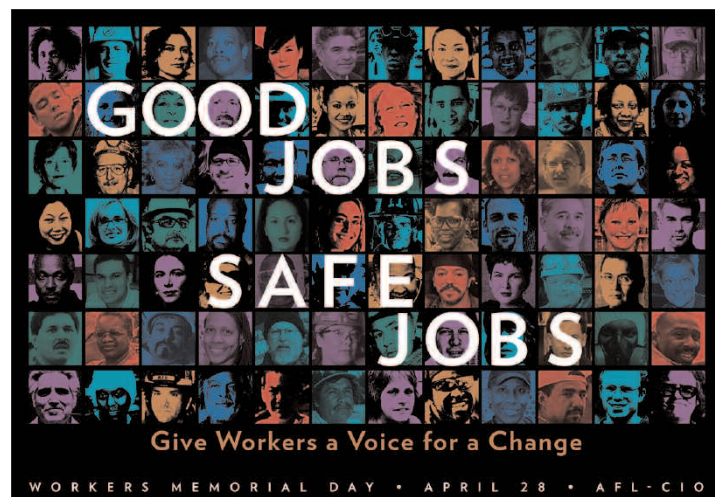
quate and failed to ensure that the electrical circuit was deenergized, locked-out, tagged, and tested before work was performed.” But the Labor Department never imposed fines, and after all the mine’s electricians received training, it rescinded the citation.

Something is wrong. Over the past eight years, the Bush Administration managed to emasculate many regulatory agencies, including the Labor Department and OSHA. The federal OSHA program has 570 fewer inspectors today than it did in 1980, for example, and its budget of \$486 million for 2008 amounted to only \$3.89 per worker.

An Office of Inspector General audit report describes one terrible result of this government-shriveling process – additional deaths at workplaces with histories of deaths. The March 31, 2009 report carries an intimidating but also chilling title: “Employers with Reported Fatalities were not Always Properly Identified and Inspected under OSHA’s Enhanced Enforcement Program.”

That special enforcement program (EEP) is for “employers indifferent to their obligations” under the OSHA act. In the audit, the Inspector General found that under the Bush Administration, OSHA was not properly identifying employers for enhanced enforcement. And

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even when it did, OSHA failed to take proper action. For example, in 29 cases, it “did not take any of the appropriate enhanced enforcement actions. Sixteen of the 29 employers subsequently had 20 fatalities.” In 14 of those, the violations were similar to the initial ones. But the employer suffered no OSHA penalty the first time. The violation recurred. And another worker died.

“While we cannot conclude that enhanced enforcement would prevent subsequent fatalities, full and proper application of EEP procedures may have deterred and abated workplace hazards at the worksites of 45 employers where 58 fatalities occurred,” the auditors wrote.

January 4, 2009, a 46-year-old municipal worker died of drowning and blunt force trauma when he apparently was caught in a conveyor system and dragged into a pit at the Galveston, Texas waste water treatment plant. A member of USW Local 13-1, he worked for the City of Galveston for a decade. The co-founder of the Galveston Hurricanes and the team’s coach for 14 years, he left behind a widow and three sons.

Send your comments on this column to this link:

http://www.huffingtonpost.com/leo-w-gerard/workers-need-a-robust-osh_b_191385.html

USW Local 105 Forces Company to End Blame-the-Worker Safety Incentive Program

For two years USW Local Union 105 in Bettendorf, Iowa raised concerns with their employer, Alcoa-Davenport Works, about management’s discriminatory safety prize programs that disqualified workers from participating in prize drawings if they had an OSHA-recordable injury or illness (including work-induced hearing loss).

“We tried to convince Alcoa that they could not discriminate against our members for getting hurt on the job or reporting their injuries or illnesses,” said Jeff Hartford, USW Local 105’s Recording Secretary. But Alcoa continued the practice.

“Many employers that we work with have various programs, policies or procedures in place that discourage our members from reporting injuries,” said Jim Frederick, assistant director of the USW Health, Safety and Environment Department. “In this way employers keep their injury rates appearing to be low, hiding true injury and illness experience in a workplace. When injuries aren’t reported, workers may not get the medical care they need, and underlying hazards go unaddressed.”

In June, 2008 Hartford attended a training program at USW District 11’s summer school titled Union Approach to Health and Safety. There Jeff learned that prize programs, such as the one crafted by Alcoa, that discriminate

Tuesday, April 28, is this year’s Workers Memorial Day. The date marks passage of OSHA, which clearly needs to be enforced so fewer bells are tolled on this day to commemorate dead workers and so fewer workers die ignominiously in waste water treatment plants. Two weeks ago, on the deadline for filing federal income taxes, tea bag protestors cavorted across the country at the behest of conservative talk show hosts. Still conservatives are trying to shrink government, end regulation, strangle enforcement. For American workers, who depend on OSHA for their lives, smaller is perilous. For their very survival, workers need robust regulation immediately.

February 2, 2009, a tracked timber-loading crane ran over and crushed a 65-year-old crane operator at International Paper in Augusta, Ga. A 43-year veteran of the plant, he’d been scheduled to be off that day but went in anyway when called and worked a job not normally his. He left behind a wife, two children and five grandchildren, all of whom had hoped to see him retire next year. A member of USW Local 983, he was, ironically, EMS trained, functioned as a first responder for International Paper and taught CPR.

against injured workers are actually illegal – they violate the Occupational Safety and Health Act.

OSHA’s Recordkeeping Standard has a section (29 CFR 1904.36) that reminds employers that it is an OSHA violation to discriminate against workers for exercising their rights under the OSH Act, and that reporting an injury is the right of every worker under the Act.

Upon returning from District 11’s summer school, Hartford used union rights under the National Labor Relations Act to request information from Alcoa about their prize program, including the list of injured workers whose names had been removed from drawings. In July, USW Local Union 105 contacted Iowa OSHA with their concerns about the program and evidence that Alcoa had discriminated against members for suffering and reporting work-related injuries and illnesses.

On July 31st, Iowa OSHA sent Alcoa management in Bettendorf, Iowa a letter stating,

“...[No] person shall discharge or in any manner discriminate against an employee for exercising their rights under or related to the [Occupational Safety and Health] Act. ...One of these rights is related to reporting injuries and illnesses. ...Employees who

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USW Local 105 Safety Incentive Program

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have had injuries/illnesses occurring in the work environment can not be retaliated against. If their names are being removed [from a safety prize drawing] they are being discriminated against. This type of action has a dampening affect on all employees and suggests that they are not to report injuries/illnesses which also leads to not reporting possible unsafe conditions that need to be looked at.”

Alcoa in Bettendorf, Iowa responded to the Iowa OSHA letter, stating that they now have no plans to continue this program.

“USW locals across the country are confronted with management’s “blame-the-worker” safety programs that deny rewards or threaten discipline for workers who report injuries,” said Nancy Lessin from the United Steelworkers’ Tony Mazzocchi Center, who was an instructor in the class Jeff Hartford took at the District 11 summer school.

“Kudos to USW 105 – they have joined a growing list of USW Local Unions who are challenging these illegal and discriminatory employer practices –and winning!”

“We encourage all local unions to attend district education schools and participate in courses such as the Union Approach to Health and Safety course,” said Emil Ramirez, USW District 11 Assistant to the Director. “The information and tools relayed to our members are vital in their efforts to provide safe workplaces for our members and build strong local unions.”

“It’s a small victory we had over Alcoa,” commented Jeff Hartford, “but the importance is the fact that, without labor schools and furthering our members’ education, it would not have been possible. I hope this information helps other union members and leaders, and helps other local unions take on these illegal employer policies and programs that discourage our members from reporting workplace injuries.”

**For a copy of the AFL-CIO Death on the Job report, go to:
<http://www.aflcio.org/issues/safety/memorial/>**

Can OSHA Be Fixed?

OSHA hasn’t been working and most workers know it! However, the Department of Labor (where OSHA resides) and OSHA have already taken giant steps forward in the appointment of Hilda Solis as Labor Secretary and Jordan Barab as Acting Assistant Secretary of Labor and Deputy Assistant Secretary of Labor for Occupational Safety and Health.

As a California Congresswoman, Solis was known for her dedication to labor causes and environmental justice. Earlier in his career, Barab led the health and safety program for the American Federation of State, County, and Municipal Employees (AFSCME) and moved on to serve as Special Assistant to the Assistant Secretary of Labor for OSHA during the Clinton Administration, then the AFL CIO Health & Safety Department, then the Chemical Safety and Hazards Investigation Board, and finally the House Labor Education and Labor Committee as Senior Labor Advisor. He wrote a blog titled “Confined Spaces” that is referred to today as the pinnacle of blogging for health & safety activists.

Recently, the New York Coalition on Occupational

Safety and Health (NYCOSH) focused a special issue of its newsletter “Safety Rep” on the question of whether, after eight years of Bush, can OSHA be fixed? The newsletter invited nearly three dozen safety and health experts to comment.

The following is a summary of the most important suggestions in the view of “Frontlines”.

- **Passage of the Employee Free Choice Act Protecting American Workers Act.**
- **Reform Workplace Injury and Illness Record Keeping (OSHA 300 Logs)**
- **Issue Workplace Prevention Program Rule and Funding for Training**
- **PEL Standard**
- **Ergonomics**

Irate Crowd Fills Public Meeting for Chemical Safety Board Report of August, 2008 Explosion at Bayer CropScience That Killed Two Workers

Hundreds of people attended a heated Chemical Safety and Hazard Investigations Board Public Meeting in Institute, WV on April 23, to hear what went wrong in August, 2008 when a tank at the Bayer CropScience plant exploded and fatally injured two employees, members of the Machinists union (IAM).

The audience consisted mostly of workers and community residents, according to Kim Nibarger, USW health and safety specialist. "They were angry at the company's lack of information at the time of the explosion, and wanted answers," Nibarger said.

Nibarger, Don Faulkner, USW and Mark Griffon, CPS Environmental, all attended the public meeting on behalf of USW.

In their preliminary report, the Chemical Safety and Hazard Investigation Board concluded that the explosion was an easily avoidable accident caused by management decisions and human error. The Board also concluded that Bayer had orchestrated a long effort to stifle any release of information about the accident. Bayer, a subsidiary of Bayer AG, had argued that, under antiterrorist legislation, elements of the board's report should not be disclosed.

Safety lapses led to the runaway chemical reaction that caused the fatal blast at the Bayer plant. The explosion occurred as workers were attempting to restart a unit that had been closed for extended maintenance. The unit contained methomyl which is used to produce the pesticide Larvin.

"There were significant lapses in the plant's process safety management, including inadequate training on new equipment and overriding of critical safety systems necessitated by the fact the unit had a heater that could not produce the required temperature for safe operation," John Bresland, CSB Chair said.

"Worker fatigue, brought on by 12- and 18- hour shifts over a three month period, also could have contributed to the blast, Bresland said.

"Blame is not the issue," said John Vorderbrueggen, the board's lead investigator into the explosion. "This is a management system failure."

"This accident is no different than Texas City, than Bhopal, than any of the major chemical and refinery explosions that have happened in the past 25 years," Nibarger commented. "You wouldn't know there is a Process Safety Management Standard out there.

The explosion came close to compromising a tank holding methyl isocyanate, or MIC, the chemical that killed thousands of people in Bhopal, India, when it leaked from

a former Union Carbide plant in 1984. Union Carbide formerly operated the Bayer Chemical plant. The MIC tank holds about 13,000 lbs., more than that of any other facility in the U.S., according to Bresland. Bayer has a tank farm on site that contains 200,000 more lbs. of MIC.

The Board noted that other chemical companies had adjusted manufacturing processes to eliminate the need to store the toxic chemical on site.

Based on the Board's report, W. Ken Carper, president of the Kanawha County, W. Va. Commission, said he had asked the U. S. Attorney's Office to investigate Bayer for criminal conduct.

Following the Board's 3-hour presentation, the community members had a chance to ask the Board their questions. The most pressing one was: can it, will it happen again?

Maya Nye, spokesperson for the community group People Concerned About MIC, spoke to the Board panel and recalled a 1993 plant explosion. She pointed out that mere chance had prevented a projectile from hitting an MIC tank and if it had "the consequences would have been worse than Bhopal."

Bayer CropScience is located next door to a former all-Black university, West Virginia State University, now diversified. Many USW represented chemical plants and oil refineries are located in minority communities; environmental justice remains a significant part of the USW's mission.

"Lifting the Shroud of Chemical Secrecy"

Excerpts from a report by Bill Hoyle on the April 21 Congressional Hearing On the August 2008 fatal explosion at the Bayer Chemical Plant, Institute, W

A standing room only crowd attended an Oversight and Investigations subcommittee hearing of the House Energy and Commerce Committee on April 21 on the Bayer Chemical Plant explosion discussed in the story above. Only luck prevented the catastrophic release of seven tons of methyl isocyanate, which was stored only 80 feet from ground zero of the explosion.

Key themes discussed in the more than three-hour hearing included:

- the urgent need to use inherent safer technology, IST, to eliminate stockpiles of deadly methyl isocyanate, MIC, which killed thousands in Bhopal;
- the importance of protecting society's right-to-know about chemical hazards against attacks from the improper use of secrecy claims by chemical companies
- the major failure of emergency response planning, management and communication in the incident

Public Meeting for Chemical Safety Board Report of August, 2008 Explosion at Bayer CropScience That Killed Two Workers

Outrage of the US House of Representatives Committee members came from both sides of the political aisle. Leading the sharp-edged questioning were Chairman Bart Stupak, (D, MI) and Greg Walden (R-OR) ranking Republican member of the subcommittee. Congressman Waxman, chair of the Energy and Commerce Committee, made opening remarks noting that he held a hearing that examined safety at the very same facility in 1984; a few weeks after Bhopal.

Top officials of Bayer admitted that they had used maritime security secrecy rules administered by the Coast Guard to steer the CSB investigation away from considering MIC hazards and inherent safer technology options (because Bayer has a dock on the river, it argued that the entire facility was governed by maritime security rules). The Coast Guard Rear Admiral revealed that chemical com-

panies make the sole determination if safety information should be kept secret. The Coast Guard does not normally review company assertions of secrecy.

Kent Carper, President of the County Commission summed up the failed emergency response this way, "we get far more information about a car wreck than what was provided by Bayer" during the fire. He explained that Bayer never informed responders of the chemical hazards involved in the incident. In fact, local officials stated that they had to come to Washington DC today, nearly eight months after the explosion, to learn what deadly chemicals were involved.

Chair Stupak concluded by urging the CSB to issue recommendations for inherently safer technology at Bayer to eliminate MIC stockpiling.



What You Should Know About Swine Flu

As you may know, on Sunday, April 26, 2009, the U.S. government declared a public health emergency due to the current outbreak of swine flu in the U.S., Mexico and Canada (and possibly other countries). This outbreak may have the potential to spark what is called a pandemic flu epidemic. A pandemic is a rapid, worldwide spread of a disease. A pandemic flu would occur when:

- there is a new influenza virus that causes serious illness and death
- people have little natural immunity to it, and
- the virus is capable of spreading easily from person to person

Local departments of public health have recommendations for what everyone can do now to slow the

spread of disease, whether or not it becomes a pandemic. The recommendations include:

- Cover your cough/sneeze with your arm or sleeve (not your hand), or with a tissue that is then thrown away.
- Wash your hands very frequently-preferably with soap and hot water
- Only go to the hospital if it is truly an emergency
- And most importantly, **STAY HOME IF YOU ARE SICK**-this includes keeping sick children home from child care, school, or public places like libraries or malls

The United Steelworkers and the AFL-CIO also have very important recommendations for what employers should be doing now to protect workers, including what employers in hospitals/health care facilities should be doing to protect hospital and health care workers so that they don't get sick, and are able to take care of those who do get sick.

To submit a story idea, a letter to the editor, other materials or to be added to the USWTMC Frontlines listserv, please e-mail safety@usw.org

This project is supported by grant number 5 U45 ES009761 from the National Institute of Environmental Health Sciences (NIEHS), NIH. It's contents are solely the responsibility of the authors and do not necessarily represent the official views of the NIEHS, NIH.