

IN THE PROVINCIAL COURT OF ALBERTA CRIMINAL DIVISION

Between:

HER MAJESTY THE QUEEN

and

WEST FRASER MILLS LTD.

AGREED STATEMENT OF FACTS

Background

1. On Information 161100672PI, West Fraser Mills Ltd. ("West Fraser") stands charged that:

On or about the 20th day of September 2014, at or near Hinton, in the Province of Alberta, did release or permit the release into the environment of a substance in an amount, concentration or level or at a rate of release that causes or may cause a significant adverse effect contrary to section 109(2) of the *Environmental Protection and Enhancement Act* and did thereby commit an offence contrary to s.227(j) of the *Environmental Protection and Enhancement Act*.

2. West Fraser is a wood products company with corporate offices in Vancouver, British Columbia. It operates lumber, MDF and pulp and paper mills in British Columbia, Alberta and the United States. This includes Hinton Pulp, a kraft pulp mill located within the town of Hinton, Alberta (the "Mill"), a populated area.
3. The Hinton Mill uses a number of chemicals in the pulping process. The chemicals are delivered to the Mill by rail and by truck, and are stored in large tanks on the Mill grounds. The tanks are labelled with the chemical names and UN numbers for each

type of chemical stored within them (specifically assigned unique numbers and signs that correspond to different regulated chemicals).

4. Hydrogen Sulfide gas ("H₂S") is hazardous and combustible. Short term exposures to low amounts of H₂S may cause respiratory and eye irritation. Longer exposures or exposures to more concentrated H₂S may cause more serious injuries. The Mill has monitors on the grounds which have alarms to warn of high levels of H₂S.
5. In accordance with its approval from Alberta Environment, West Fraser operates an ambient monitor in the town of Hinton, which tracks, among other things, levels of total reduced sulphur ("TRS"). The TRS monitoring provides information on ambient levels of H₂S. At the time of the incident, Alberta Environment was also operating a temporary ambient monitor near the Hinton Mill. The hourly Alberta Ambient Air Quality Objective ("AAAQO") for H₂S is 10ppm.

Description of the September 20, 2014 Incident

6. Hinton Pulp has a Standard Operating Procedure for accepting and unloading chemicals (the "Deliveries SOP") which arrive by truck. The Deliveries SOP requires the personnel at the entrance gate to the Mill to record information regarding the name and UN Number of chemicals on an internal form. The information comes from a Bill of Lading which the front gate personnel are required to ensure is received from the delivery driver. In addition, the truck delivering the chemicals must have placards indicating the UN Number of the chemical. The internal form is then provided to a Mill operator who is required to ensure the chemical is unloaded into the correct on-site tank.
7. West Fraser contracted the work at the front gate to a third party security contractor, which was required to ensure its employees are trained in and followed company procedures. Copies of the SOP were stored in the gate house. However, West Fraser did not conduct regular reviews of the contractor's employees to ensure compliance with its procedures.
8. Two of the contractor's employees were working at the front gate on September 20, 2014. One of them was experienced and familiar with the required procedures. She had also been trained in the regulations under the *Transportation of Dangerous Goods Act*. The other was a trainee.
9. On September 20, 2014, a truck arrived at the Mill carrying sodium hydrosulphide (commonly referred to as "NaSH"). The truck was clearly marked with UN placard No. 2922, the UN Number for NaSH however the truck driver verbally informed the gate personnel that he was carrying sulphuric acid. The truck driver did not provide the gate personnel with the Bill of Lading, and the gate personnel did not ask him to retrieve it. The gate personnel wrote "NaSH" and "UN 1830", i.e. the number for sulphuric acid, on the Mill's internal form, and then informed the Mill operator that there was a delivery of sulphuric acid to be unloaded. The Mill operator then directed the driver of the truck to the sulphuric acid tanks and instructed him on unloading safety precautions.
10. Neither the driver, the gate personnel, nor the Mill operator checked the UN placard on the truck or compared it to the UN placard on the storage tank, or noticed the inconsistency on the internal reporting form.

11. At approximately 4:55 p.m., the truck driver began unloading NaSH into the sulphuric acid tank. The mixing of the two chemicals caused H₂S to form, which was then vented from the top of the tank. At approximately 5:00 p.m., the Mill's Maintenance Manager noticed a cloud forming above the tank. He notified the Mill's Production Manager, attended the tanks and told the driver to stop the unloading immediately, which the driver complied with.
12. None of the Mill's H₂S alarms were automatically triggered by the release, however as a precaution the alarms were manually activated and the area of the Mill near the tanks was evacuated. The ambient monitors in the community recorded a nominal elevation in TRS values however there were no exceedances of the hourly AAAQO for H₂S.
13. Within a short time of the release occurring, the Mill received a number of complaints from the local population of a strong sulphur odour.
14. There is no evidence that anyone at the Mill or in the community suffered any adverse health effects, nor is there any evidence of adverse impacts on the environment.
15. The Crown produced an expert report which, using modelling, predicted that concentrations of H₂S in excess of 100 ppm could have occurred within 1.5 kms of the Mill. The model also predicted the concentrations could have lasted between 1 and 7 minutes.
16. An internal investigation by West Fraser concluded that the cause of the incident was the failure to properly implement the Deliveries SOP. West Fraser also reviewed the SOP and concluded that it was too general.
17. After the incident, West Fraser revised the Deliveries SOP and retrained all gate and appropriate operations personnel on its implementation.
18. West Fraser cooperated with Alberta Environment's investigation.

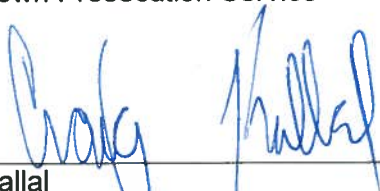
Agreements

19. The parties agree:
 - a. West Fraser will plead guilty to Count 1 on Information 161100672PI described in paragraph 1 of this Agreed Statement of Facts.
 - b. The facts contained within the Agreed Statement of Facts are fully admitted and acknowledged by West Fraser and will solely form the facts to be considered by the Judge pronouncing sentence upon West Fraser. The parties will be at liberty to make further submissions about those facts to the Court.
 - c. The parties will jointly submit that West Fraser should receive a penalty of \$250,000 for Count 1 on information 161100672PI.

- d. This Agreed Statement of Facts may be filed and relied upon even if signed in counterpart or by facsimile copies of the signatures of any person or both.

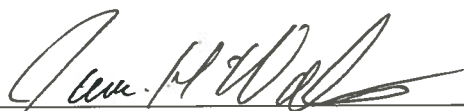
CONSENTED TO WITH RESPECT TO FORM AND SUBSTANCE this 23 day of November, 2017.

Alberta Crown Prosecution Service
Per:



Craig A. Kallal
Solicitor for the Alberta Crown
Prosecution Service,
Specialized Prosecutions Branch

Blake, Cassels & Graydon LLP
Per:



Janice H. Walton
Solicitor for West Fraser Mills Ltd.