

Exh. WJ-1T
Docket U-180680
Witness: Walter Jones

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DOCKET NO. U-180680

TESTIMONY OF

WALTER JONES

LABORERS' HEALTH AND SAFETY FUND OF NORTH AMERICA

February 8, 2019

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Witness’s Exhibit List

- Exh. WJ-2 “The Role of Labor Unions in Creating Working Conditions That Promote Public Health,” June 2016 by the American Journal of Public Health.
- Exh. WJ-3 “Protecting Construction Worker Health and Safety in Ontario, Canada: Identifying a Union Safety Effect,” March 2015 by the Journal of Occupational & Environmental Medicine.
- Exh. WJ-4 “Does ‘right to work’ imperil the right to health? The effect of labor unions on workplace fatalities,” June 2018 by Occupational and Environmental Medicine Journal.
- Exh. WJ-5 “The Union Effect on Safety Management and Safety Culture in the Construction Industry,” 2017 Construction Safety Management Survey (CSMS) conducted by Dodge & Data Analytics.
- Exh. WJ-6 “The Economic and Social Benefits of OSHA-10 Training in the Building and Construction Trades,” May 2013 by of the Center for Construction Research and Training.

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I. INTRODUCTION AND SUMMARY

Q: State your name, affiliation, and address.

A: Walter Jones, Laborers’ Health and Safety Fund of North America (“LHSFNA”),
905 16th Street NW, Washington DC, 20006.

Q: Please summarize your professional and educational background.

A: I am the Director of the Occupational Safety and Health Division for the Laborers’ Health and Safety Fund of North America, in Washington, D.C. I have a Master’s Degree in Environmental and Occupational Health Science from Hunter College in New York. I am a Certified Industrial Hygienist (CIH) with 25 years of experience in occupational safety and health, with the last 16 years focused in construction. My primary responsibilities include assisting signatory contractors with compliance with mandated health and safety standards that protect members and helping contractors win projects through exemplary safety and health programs and practices.

I am also the Chairperson of the North America's Building Trades Unions Safety and Health Committee, which provides essential coordination and support to the work of organized labor in construction to achieve safe and healthful worksites and maintain a strong voice in government, in bargaining and in the community. I am a member of the American National Standards Institute A10 Construction and Demolition Standards Committee and a Governing Councilor of the American Public Health Association. I consider myself to be a passionate advocate for worker safety. I currently sit on the Pipeline and Hazardous Materials Safety Administration’s Voluntary Information-Sharing System (VIS) Working Group. The VIS Working Group provides the Secretary of Transportation with independent advice and recommendations on the development of a voluntary information-sharing system

1 that encourages collaborative efforts to improve inspection information feedback and
2 information sharing for the purpose of improving gas transmission and hazardous liquid
3 pipeline facility integrity risk analysis.

4 **Q: Please summarize your testimony.**

5 **A:** I will first address the Fund's work with contractors and owners like Puget Sound
6 Energy (PSE) to improve safety practices. I will then discuss my professional opinion as to
7 why unionized workplaces tend to have better safety track records than non-union
8 companies. Finally, I will discuss the ways in which temp agencies, in particular, present
9 unique safety concerns within the construction industry.

10 **II. LABORERS' HEALTH AND SAFETY FUND OF NORTH AMERICA**
11 **EXPERIENCE WITH IMPROVING CONTRACTOR SAFETY**

12 **Q: Please describe the work of the Laborers' Health and Safety Fund of North**
13 **America.**

14 **A:** The LHSFNA is a joint labor-management organization built around the common
15 interests of LIUNA members and their signatory employers. Through its three Divisions,
16 the Fund works to improve the safety and health of LIUNA members, make signatory
17 contractors more competitive, support member wellness, provide healthcare and benefit
18 guidance and take on a variety of other issues.

19 **Q: How does the Fund work with natural gas pipeline companies like Puget**
20 **Sound Energy?**

21 **A:** The LHSFNA has supported many of our contractors working on natural gas
22 pipelines in various capacities, including performing safety audits for major owners and
23 contractors.

1 **Q: Please describe some of your particular experiences working with owners**
2 **and contractors and the sorts of recommendations you have made when conducting**
3 **safety audits.**

4 **A:** We worked with Chesapeake Energy Corporation on their Midstream Natural Gas
5 Project near Tonawanda, PA, to address heat stress issues associated with flame-retardant
6 outfits. We toured and inspected the project and worked with the contractor, Otis Eastern
7 Pipeline Services, to reduce flame retardant use on live lines and platforms. The program
8 reduced worker exposure to heat stress and increased productivity while not increasing
9 worker risk to flash fires.

10 Working with LIUNA's Corporate Affairs Department, we worked with Hess
11 Bakken Environmental Health and Safety (EHS) managers to discuss the implementation of
12 occupational health and safety practices that go beyond the minimum requirements of
13 federal and state regulators. Hess is an industry leader in transparent, quality disclosures on
14 environmental sustainability performance and programs. Hess shared our concern that
15 worker sustainability was an important part of being a good corporate citizen. To that end,
16 Hess decided not to hide behind their own exemplary worker injury and illness reporting and
17 included their subcontractors' OSHA recordables as part of their workforce injury and
18 illness data. That decision compelled Hess to rigorously evaluate subcontractors and ensure
19 their use of OHS best practices to prevent injuries. Unfortunately, many large companies
20 outsource risk by subcontracting hazardous operations to smaller contractors, who are often
21 ill-equipped to handle them. Working with contractors who choose to take accountability
22 for every subcontractor on the job site is part of what we refer to as the union advantage.

1 We inspected a project for Navajo Pipelines Inc., which was performing pipeline
2 utility work in residential areas of Sacramento to update old water lines. We also reviewed
3 their Injury and Illness Prevention Program (IIPP), Heat Illness Prevention Program, Silica
4 Exposure Plan and discussed Cal/OSHA's requirements under the new silica regulation.
5 Navajo was concerned about silica dust exposures during this operation and relied on the
6 LHSFNA to help them implement measures and controls that were in compliance with the
7 new rule.

8 We are currently involved with TransCanada, who is building the Mountaineer
9 XPress Pipeline, a \$2 billion, 165-mile stretch of 36-inch pipe that will allow 2.7 billion
10 cubic feet per day of natural gas to flow from existing and future points of receipt along or
11 near the Columbia pipeline system – most of it located in West Virginia. There are many
12 safety challenges on these pipeline jobs, including many work organization issues. It's a
13 fast paced, often chaotic and constantly changing work environment with long hours in
14 remote locations. Contractors and workers are often faced with tough environmental
15 conditions: there are heavy lifts, extreme slopes, rugged terrain, bad weather conditions and
16 a crowded right of way. However, these projects can be completed safely through good
17 work organization, planning, training, worker involvement, and open communication. As a
18 partner in this endeavor, we are working to achieve that result.

19 **Q: Please elaborate on any involvement the Fund has had relating to safety**
20 **issues pertaining to flagging specifically.**

21 **A:** The LHSFNA has been an instrumental member of the Roadway Safety
22 Consortium. The Roadway Safety Consortium is a group of employer associations, state
23 and federal regulators, labor unions, academia and community groups committed to

1 reducing occupational injuries and fatalities during roadway construction. This group
2 created many of the roadway safety measures we take for granted today, for example,
3 requiring retro-reflective material on traffic control devices and as part of workers' gear,
4 positive protection measures, internal traffic control plans, traffic control measures and
5 flagger training.

6 In response to concerns from our union affiliates about one state's Department of
7 Transportation (DOT) replacing flaggers with spotters, we were asked to intervene. We
8 engaged with the state DOT and informed them of the difference between flaggers and
9 spotters. Flaggers on construction sites control traffic and provide temporary traffic control
10 in particular. Spotters, on the other hand, are trained to direct construction equipment, not
11 traffic. While spotters may also be trained in flagging, the two are not interchangeable and
12 one does not replace the other. We recommended using both flaggers and spotters, not one
13 in lieu of the other. Our affiliates were able to use this information to negotiate safer
14 working conditions and a more productive job site for workers.

15 **Q: Please describe any direct involvement you have had in performing safety**
16 **audits for major Washington corporations.**

17 **A:** The Safety Director of GLY Construction asked us to perform a safety
18 consultation on a Seattle project. The goal was to identify and mitigate potential safety
19 hazards present and provide recommendations for improvement. Paul Allen's Vulcan Real
20 Estate is developing Google's South Lake Union Campus. Google will occupy six stories in
21 four office buildings. Our review of the project resulted in many positive findings, such as
22 implementation of ergonomic techniques for lifting and the innovative use of fall protection
23 systems throughout the site. There were very few hazards observed. GLY sought a

1 different approach on this project as well as on the concurrent development of their Amazon
2 HQ and Expedia HQ construction projects and decided to use the Foundations for Safety
3 Leadership (FSL) course. The course was developed by the Center for Construction
4 Research and Training (CPWR), which is funded by the Centers for Disease Control and
5 Prevention (CDC). FSL training provides construction foremen and other lead workers with
6 the skills and information they need to become effective safety leaders who are able to
7 create a strong jobsite safety climate. This training is a perfect complement to the safety
8 trained workforce that LIUNA already provides signatory contractors.

9 The President of Olympic Peninsula Construction, Inc. invited us to perform a safety
10 consultation on an adjacent Seattle project. The goal was to identify and mitigate potential
11 safety hazards present and provide recommendations for improvement. The project was a
12 14-story structure that will include six stories of office space for Google totaling 145,600
13 square feet and 69 apartments on the upper floors. Our audit of the project resulted in
14 numerous positive findings, such as workers implementing ergonomic techniques for lifting,
15 areas being kept free of slip, trip and fall hazards, and ladders being maintained in good
16 repair and used for the purpose they were designed. No issues were identified with trenches,
17 protection of the public, ramps, runways or inclined walkways.

18 **Q: Why do contractors bring you in to perform safety audits?**

19 **A:** When it comes to a safe jobsite, there is always room for improvement. Even the
20 most stand-up contractors recognized in the industry for their safety programs find mistakes
21 on routine job walks and face accidents on occasion. Perfection doesn't exist on a jobsite.
22 After all, we're only human. What we can do is strive to be better, which is precisely why
23 contractors ask us to perform safety and health audits.

1 **Q: What is the added value that comes from your work performing safety**
2 **audits?**

3 **A:** Although OSHA does not typically require safety audits, most contractors require
4 some form of job site inspection. Safety audits help contractors determine the effectiveness
5 of their safety programs. Although performing these safety audits can be time-consuming,
6 the benefits are real.

7 The added value of inviting someone from the outside to review the worksite, in
8 addition to identifying and addressing hazards in the workplace, comes with the lower costs
9 associated with safe worksites. A good worksite safety and health program makes safe work
10 routine. It reduces injuries, helps maintain productivity, strengthens morale and protects a
11 company's (and an owner's) reputation.

12 **Q: What are the types of risks contractors and owners like PSE face if they fail**
13 **to perform safety audits?**

14 **A:** Safety audits are an integral part of most safety management systems. Without
15 performing an annual audit, there is no way to verify if the safety program is actually
16 working to reduce incidents. Conducting audits creates accountability throughout the
17 organization. Workplace safety controls may weaken over time and regular audits allow
18 contractors to identify areas where this is occurring so they can be corrected. Regular audits
19 provide feedback that can be used to improve safety management systems over time to
20 reduce potential losses and improve performance. Safety audits identify areas where
21 additional training may be needed to help the workforce implement the safety program.
22 Conducting regular safety audits and taking action to correct any deficiencies demonstrates a
23 commitment to safety to employees, potential customers and government regulators.

1 and community well-being. The study created an abstraction tool to identify health-related
2 elements in 16 union contracts from industries in the Pacific Northwest. After enumerating
3 the contract-protected benefits and working conditions, researchers interviewed union
4 organizers and members to learn how these promoted health. The study found that labor
5 union contracts tended to create higher wage and benefit standards, impose working hours
6 limits, and ensure workplace hazard protections, as well as other factors. A copy of the
7 American Journal of Public Health study, “The Role of Labor Unions in Creating Working
8 Conditions That Promote Public Health,” is attached as **Exhibit WJ-2**.

9 In one of the only studies of its kind, the Ontario Construction Secretariat, which
10 represents 25 building trades unions and their contractors in the industrial, commercial and
11 institutional sector, found a union advantage when it comes to workplace injuries. In one of
12 the most comprehensive studies in North America, researchers examined injury claims
13 between 2006 and 2012, covering firms employing more than 1.5 million full-time Ontario
14 workers. The report analyzed Canadian Workplace Safety and Insurance Board claims data
15 from more than 40,000 construction firms across Ontario and found that workers with
16 unionized firms reported 23 percent fewer injuries that required time off than those at non-
17 union shops. A copy of the Journal of Occupational & Environmental Medicine article,
18 “Protecting Construction Worker Health and Safety in Ontario, Canada: Identifying a Union
19 Safety Effect,” is attached as **Exhibit WJ-3**.

20 A study analyzing the effect of states becoming “Right to Work” (RTW) on
21 workplace fatalities illustrated and quantified the protective effect unions have on worker
22 safety. Though worker fatalities have declined in the last two decades in the U.S., this
23 decline has been steeper in states with higher levels of unionization. Moreover, this study

1 showed that RTW legislation, which is under consideration in many state legislatures
2 nationwide, may lead to greater workplace mortality through decreasing the percentage of
3 unionized workers. In a reversal from previous years, worker fatalities have climbed since
4 2008, especially in several states that adopted RTW legislation. In light of these findings,
5 project owners might consider the impact that using non-union workers will have on worker
6 safety. A copy of the Occupational and Environmental Medicine journal article “Does ‘right
7 to work’ imperil the right to health? The effect of labor unions on workplace fatalities”
8 article is attached as **Exhibit WJ-4**.

9 Another analysis found that union and non-union construction firms tended to differ
10 in employee size, type of business and projects. Unionized construction firms reported
11 better performance of safety management and safety culture than non-union firms.
12 Compared to non-union firms, union firms were more likely to be aware of and practice
13 Prevention through Design than non-union firms. Union firms also adopted most of the
14 organizational safety practices, safety policies and safety culture indicators included in this
15 report. Moreover, union firms were more likely to offer and require general safety and
16 health training, including OSHA 10-hour and 30-hour training, to their employees, and
17 offered that training more frequently. The findings were based on analysis of the 2017
18 Construction Safety Management Survey (CSMS) conducted by Dodge & Data Analytics.
19 The report “The Union Effect on Safety Management and Safety Culture in the Construction
20 Industry” is attached as **Exhibit WJ-5**.

21 **Q: In addition to the general benefits you’ve outlined that make union**
22 **workforces safer than non-union workforces generally, are there other ways in which**
23 **contractors that are signatory with LIUNA are safer than non-union contractors?**

1 workers are properly trained, which is the biggest problem with using temporary workers, in
2 my opinion, from a safety standpoint.

3 By statute, the employer has the responsibility to provide a safe and healthful
4 worksite. Temp agencies have argued that providing a safe worksite is not their
5 responsibility since they do not control the worksite and are unaware of the hazards
6 temporary workers face. These agencies have also argued that protecting workers from job
7 site hazards is the responsibility of the contractor rather than the temp agency. This often
8 leaves the temporary worker in a precarious situation. The worker cannot speak up about
9 their training or hazards perceived on the worksite for fear of losing his or her job. OSHA
10 recordables and workers' compensation are the responsibility of the temporary worker's
11 contracting company (not the temp agency), yet the temp agency has no control over the
12 hazards workers face. This situation often unfortunately is to the detriment of worker safety
13 and helps to explain why we see that temporary staffing agencies tend to have noticeably
14 worse safety records than other firms.

15 **Q: Does that conclude your testimony?**

16 **A: Yes.**