



2152 N 112 St #112
Seattle, WA 98133
206 947-7012
SafeWorkWashington@gmail.com

District Attorney Stephen M. Wagstaffe
400 County Center 3rd Floor
Redwood City, CA 94063

Dear District Attorney Wagstaffe

On Friday, July 27th, 2018, while working on a job site in Daly City, California, Abel Saucedo Quinonez died in an entirely preventable trench collapse. Preventable because there are clear, effective regulations for this type of work. We, the undersigned, believe these regulations were not followed and request that your office investigate this death and, if possible under the law, pursue criminal charges against Mr. Quinonez's employer, Platinum Pipeline, and its onsite management.

Although infrequent, recent precedent for criminal prosecution exists in other, similar tragedies.

In 2015, Richard Liu, owner, and Dan Luo, project manager, of U.S.-Sino Investment, Inc., were convicted of involuntary manslaughter and both were sentenced to two years in prison for the Jan. 28, 2012 cave-in death of Raul Zapata Mercado at a Milpitas, California worksite. Mr. Mercado left a wife and three daughters. (1)

In Seattle, Washington, on January 26, 2016, Harold Felton was killed when he was buried in yet another preventable trench collapse at work. Mr. Felton left a wife and a daughter. Our group encouraged the King County Prosecutor to investigate the incident. In this case, the willful violation of widely known safety procedures that resulted in the 36 year-old's death led to felony manslaughter charges this year against Philip Numrich, owner of Alki Construction, Mr. Felton's employer. The trial is pending. (2)

The current regimen of infrequent inspections and minimal fines is clearly insufficient to discourage employers from taking chances with their employee's lives: In 2016, Harold Felton was only one of the 5190 U.S. workers killed on the job - the highest number in eight years. Almost 100 lives lost every week. Over 14 a day.(3)

That same year California OSHA inspected workplaces at a rate of once every 176 years.(3) Also, in 2016, the average fine that California OSHA levied for a work related death was \$16,738.(3) For comparison, the EPA fine for improper storage of hazardous waste is \$71,264 per day, per violation.

Previously, these tiny, infrequent fines for workplace safety violations have been seen by employers as "the cost of doing business." Introducing the possibility of prison time for violations has changed the equation almost overnight. Elliott Furst, Assistant Washington State Attorney General for workplace safety reveals that after the manslaughter charge was filed in Seattle against Philip Numrich, an employer's attorney told him numerous other employers called him asking how to avoid going to jail. (4)

Jordan Barab, former Deputy Assistant Secretary of Labor at OSHA observed, "Is there any doubt in anyone's mind that employers would pay more attention to trench safety if faced by years in jail versus a \$50,000 fine?" (5)

The immediate costs of workplace death in blood and treasure are overwhelming to those involved. The follow-on effects of each event can last decades when measured in families shattered and futures erased. It does not have to

happen if employers are paying attention to their workers' safety. And to get the employers' attention, we urge you to give Mr. Quinonez's death meaning by pursuing criminal charges with the possibility of jail time for his employer, as allowed under the law.

Thank you for your consideration.

Jay Herzmark, Director - SafeWork Washington

San Mateo County Labor Council

Jenna, Pam, Bruce, Lucy Felton - Harold Felton's wife, mother, father and sister

Jordan Barab, - Deputy Assistant Secretary for OSHA for the Obama Administration

Massachusetts Coalition for Occupational Safety and Health

Public Citizen

Jeff Johnson, President – Washington State Labor Council

Center for Progressive Reform

Rena Steinzor, Edward M. Robertson Professor - University of Maryland, School of Law*

Luzdary Giraldo Safety & Health Specialist - New York Committee for Occupational Safety & Health*

Celeste Monforton, DrPH, MPH, Professorial Lecturer – George Washington University*

Michele Ochsner Ph.D, Professor Emerita - Rutgers University*

David Pratt, Health and Safety Representative - New York State Nurses Association *

Mary E Miller, RN, MN - University of Washington, School of Nursing*

Laura Punnett, Professor - University of Massachusetts, Lowell*

Joan (Lichterman), Health and Safety Director (Retired) - Communication Workers of America 9119 *

Alice Freund, Industrial Hygienist

Sara Markle-Elder American Federation of Teachers, Nurses and Health Professionals *

*Organizations listed for ID only

Cc:

Juliann Sum, Chief, California OSHA

Xavier Becerra, California Attorney General

1. <https://patch.com/california/milpitas/2-year-sentences-bosses-death-milpitas-construction-worker-0>
2. <https://www.seattletimes.com/seattle-news/crime/seattle-contractor-charged-with-felony-for-employees-death-in-2016-trench-collapse/>
3. <https://aflcio.org/reports/death-job-toll-neglect-2018>
4. Personal communication with Jay Herzmark
5. <http://jordanbarab.com/confinedspace/2018/01/12/trench-criminal-prosecution/>