

Energy bust

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By Jake Nichols

Jackson Hole, Wyo.-Wyoming is a dangerous place to work. In fact, it is the most dangerous state in which to work, according to 2005 AFL-CIO statistics. Use of heavy machinery, combined with poorly trained personnel working long hours, makes workplace environments in Wyoming a prime target for maiming injuries and deaths. Since 1986, big oil and gas companies have been hiding behind legal loopholes to shield themselves from liability while treating their employees like they are as expendable as a broken drill bit.

Mineral extraction in Wyoming is booming again. Injury and fatality rates have soared right alongside the boom. It should be anticipated but not expected, said Riverton Mayor and attorney John Vincent. "These men are going off to work, not to war," said the man who would at least like to see workers in the oil and gas fields properly compensated for injuries or death.

Vincent, who grew up working in the energy industry of Wyoming, has authored an article with Jackson attorney Jessica Rutzick that sheds light on Wyoming's inadequate compensation system for workers who are seriously injured or killed drawing a paycheck. It's Vincent and Rutzick's hope that their treatise will provide the impetus for lawmakers in Cheyenne to reinstate 'joint and several liability' statutes, repealed in 1986, to make it possible for victims and their families to seek damages from mineral extraction companies.

"As I look out the window [of my office] I can see the house of a client of mine," said Vincent. "He went to work one day doing what he was told to do, standing where he was told to stand, and he was killed for no reason whatsoever. His family's case against the oil operator was thrown out."

Vincent knows what he is up against. Big oil and gas has enormous lobbying pull in the state capital. Even bigger companies insure them. But Vincent's blood boils over things like the death of Dean Harris, whose family received \$10,000 and a letter of condolence from the governor after he was killed on a derrick.

"When I see the devastating consequences of these injuries and deaths to kids I've grown up with ... I just couldn't take it anymore," Vincent said. "There is no bigger advocate of oil and mining. I know it makes this economy go. But right now, sage chickens, griz', and wolves get more protection than roughnecks."

As Vincent sees it, the issue is merely a matter of time and space.

Before the ‘joint and several liability’ statutes were repealed in 1986, workers had a better shot of suing their employer. As statutes exist now, owners of gas and oil leases protect themselves from legal responsibility by hiring independent contractors, who pay into the Wyoming Workers’ Compensation program, to run the individual sites. “That’s how they beat these cases,” Vincent said. “So sure, the oil companies draft contracts in such a fashion that they can say, ‘[the operator is] an independent contractor; it’s not our day to watch them.’”

Rutzick agreed. “By hiring and using only subcontractors they are creating immunity under the law for any wrongdoing or negligence and the Wyoming Supreme Court has furthered this,” she said.

Where an employee is injured or killed is just as important as how. In Vincent’s neck of the woods, in the heart of the Wind River Reservation, recovering compensation for the surviving members of a deceased worker could literally depend on which side of the road the rig was on.

Shoshone and Arapahoe Tribal Law and Order Code have remained unchanged and identical to Wyoming statutes prior to the 1986 repeal. Riggers, miners, and tool pushers on the ‘Rez’ all have the right to sue the owner and operator of an oil or gas lease for compensation when they are proved to be at some percentage of fault or negligence. Not so, in state land outside of tribal boundaries.

“The Wind River [Reservation] is a good comparison because they are also largely dependent on oil and gas; about the same as state of Wyoming,” Vincent said. “Their laws are identical to the state’s, pre-1986. And, it has not impeded development on the Rez as far as I can see.”

Inadequacies in Workers’ Comp have made that avenue a dead end for survivors, as well. “Aside from undercompensation, the system places cost of workers’ compensation on taxpayers instead of an industry that I would suggest is better able to pay for damages,” Rutzick says.

Vincent and Rutzick’s article will appear in the Wyoming Law Review next month. Vincent has been in Cheyenne lobbying the Joint Judiciary Committee.
Full disclosure: Jessica Rutzick is Planet Jackson Hole’s attorney.