



Alberta Federation of Labour

HORIZON OIL SANDS PROJECT

THE ISSUE

The Alberta government has invoked a little-used section of the provincial Labour Code to give Canadian Natural Resources Ltd. (CNRL) of Calgary an unfair advantage at the bargaining table. Under special provisions outlined in Division 8 of the Code, CNRL now has the right to negotiate an agreement with one bargaining agent (i.e. a union or contractor of its choosing) that would apply to all trades people working on the construction of the company's \$10 billion Horizon Oil Sands project near Ft. McMurray.

In essence, the government is giving CNRL special privileges which undermine any incentive the company might have to actually negotiate with building trades unions. Instead of a negotiated agreement, the estimated 6,000 trades people who end up working on the Horizon project will likely work under an agreement that – for all intents and purposes – has been imposed on them by CNRL and the government.

OUR CONCERNS

The process outlined under Division 8 of the Labour Code differs substantially

from the approach to bargaining usually followed by oil sands developers and the workers and/or subcontractors they employ. Basically, what the new arrangement means is that anyone who wants to work on the Horizon project will have to accept the terms of the central agreement. There will be no room for individual unions or contractors to negotiate their own agreements.

The Alberta Federation of Labour fears that CNRL's intent is to negotiate a "sweetheart" deal with a questionable bargaining agent (most likely the employer-friendly Christian Labour Association of Canada – or CLAC for short). From our perspective, any deal negotiated under these conditions will likely cement in place a wage and benefit regime for the project that is below the going market rate.

A related concern has to do with a special labour force agreement enacted by the federal government last May (with the Alberta government's explicit encouragement and approval) that establishes a fast track for big companies like CNRL wanting to bring foreign workers into Alberta to fill oil sands construction jobs.

The AFL sees the combination of the fast-track for foreign temporary

workers and special treatment for employers under Division 8 of the Labour Code as a dangerous one-two punch, aimed directly at Alberta trades workers. CNRL's goal appears to be to set wages lower than the going market rate and, if Canadian workers are unwilling to work for those wages, use the foreign-worker fast-track to bring in workers from other countries who would be willing to work for less.

The company denies that its appeal for special treatment had anything to do with lowering labour costs. Instead it says it was merely an effort to "ensure labour stability" by eliminating the risk of strikes. They also say their approach is aimed at guaranteeing a steady stream of workers for their project (in a time of tight labour supply). And they say it will streamline operations and reduce the "headaches" that come from negotiating and administering multiple contracts.

HALF-TRUTHS AND MISCONCEPTIONS

CNRL's explanations for why they need a special deal under Division 8 of the Labour Code are based on a series of half-truths and, it appears, deliberate misrepresentations. Three of these misleading arguments are particularly notable.

First, if their goal was to eliminate the risk of strikes, there were other options. The truth is that Alberta building trades unions have long shown a willingness to sign "no strike" provisions – in exchange for contracts

that provide fair wages, benefits and protections.

Second, as far as the "headache" of handling multiple contracts goes, that's also a red herring. It's true that big projects like Horizon usually involve the negotiation and administration of many different contracts. But, at least when it comes to labour, deals are usually negotiated at the same time through one body – the Alberta Building Trades Council – which negotiates multi-trade master agreements. As a result, the administrative headaches that CNRL talks about are NOT nearly as serious as they suggest.

Third, if CNRL is really concerned about ensuring access to necessary skilled labour, why don't they first focus on recruiting people from lower employment regions in Canada before turning to foreign temporary workers? Why don't they push for more training of potential workers right here in Alberta? And why are they pushing a bargaining approach (under Division 8) that will almost certainly put in place wages and benefits that are below the going market rate? Won't this make it harder for them to attract Canadian trades people?

Of course, this may be exactly what they want. If local workers are not trained and local trades people refuse to work on the project, that would make it easier for CNRL to cry "labour shortage" and open the door for lower-cost foreign workers.

CNRL is even building an aircraft runway near the Horizon site big enough to land 737s – and there is

evidence that they've been actively recruiting trades people in places like South America and Eastern Europe. This suggests that foreign workers are not merely being considered as a fall-back or contingency – bringing them into Fort McMurray seems to be a central part of CNRL's human resource strategy.

GOVERNMENT TIPS THE PLAYING FIELD

The AFL believes that what's happening with the Horizon Project is yet another example of the Alberta government's willingness to use its legislative power to tip the playing field in favour of large employers – in this case, one of Canada's wealthiest energy corporations. CNRL has been handed a big stick that will almost certainly be used in an attempt to beat building trades workers into submission.

The government says it's just trying to facilitate negotiations and ensure that an important project gets off the ground. But, invoking Division 8 of the Labour Code won't really help move negotiation along. In fact, it removes all incentive for CNRL to actually negotiate. With the decked stacked against workers and the unions that represent them, CNRL can now just say "take it or leave it." From the AFL's perspective, that's not negotiating – that's bullying.

The government also justifies using the Labour Code's heaviest hammer by saying that negotiations with building trades unions weren't "moving quickly enough." But, the question is: quickly

enough for whom? The truth is that negotiations were moving and there was no danger of the project being disrupted.

If there was an impasse it was because the company realized it could probably get the government to tip the playing field in its favour – and hence they didn't really have to negotiate seriously. The bottom line was that there was no real crisis. With that in mind, it's clear that the government's intervention in the bargaining process on Horizon was inappropriate and uncalled for.

BREAKING THE BARGAIN

The AFL accepts that the Alberta government has a responsibility to promote economic development in the province. But we also feel strongly that the government has a responsibility to promote and protect the interests of individual Albertans. In this case, members of the government may think they're helping to get an important project off the ground – but they've done so by trampling the interests of working Albertans.

By siding so blatantly with CNRL, the AFL also believes that the government is breaking a bargain with Albertans. Here in Alberta there has always been an unspoken social contract: big oil companies can exploit our commonly-owned natural resources but, in return, Albertans get royalties and access to good jobs.

The government has already stretched this implicit bargain to the limit by giving companies like CNRL sweetheart deals

on royalties. But now, by granting special status for the Horizon project under the Labour Code, it's clear the other half of the bargain (having to do with access to good jobs) is also being broken. In fact, this may be the whole point of CNRL's request for Division 8. Executives at the company know they are at the beginning of a 10 or 20 year boom in Fort McMurray – we at the AFL think they are trying to set the mold for lower wages and a more compliant workforce right from the beginning of that boom.

The government's actions are also inappropriate because they set a dangerous precedent. From now on, other oil sands developers (and likely companies in other industries as well) will point to the Horizon project and ask: Why do they get special treatment? Labour laws in Alberta are already stacked against workers and the unions that represent them. Now, thanks to Horizon, employers may begin pressuring for even more favourable treatment. And Alberta workers – and their families and communities – will pay the price.

In the end, CNRL may end up signing an agreement with building trades unions – partly because groups like CLAC simply can't supply the necessary number of workers and because any scheme to bring in foreign workers could become a public relations nightmare for the company. But neither of these issues

(CLAC or foreign workers) would even have been on the table if the government hadn't decided to intervene in the bargaining process. So either the government was duped by CNRL into giving the company tools that could be used against homegrown Alberta workers at the bargaining table. Or they consciously agreed to stack the deck in CNRL's favour. In either case, the government's actions on the Horizon project are indefensible and represent a betrayal of Alberta working people.

ACTION

1. The Alberta Federation of Labour will lobby the provincial government and urge them to rescind Order in Council 565/2004 granting special status to the Horizon Project under Division 8 of the Alberta Labour Code.
2. The AFL will also lobby the federal government and pressure them to revoke the memorandum of understanding allowing the entry of foreign temporary workers to work on oil sands construction projects.
3. If neither the provincial nor federal governments agree to change their policies, the AFL will make the mistreatment of Alberta oil patch workers an issue in the next provincial and federal elections.

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April 12th, 2005