



2017, a year to remember for all the wrong reasons

Guy Smith

Chief Health, Safety, and Risk Officer



Business continuity plan

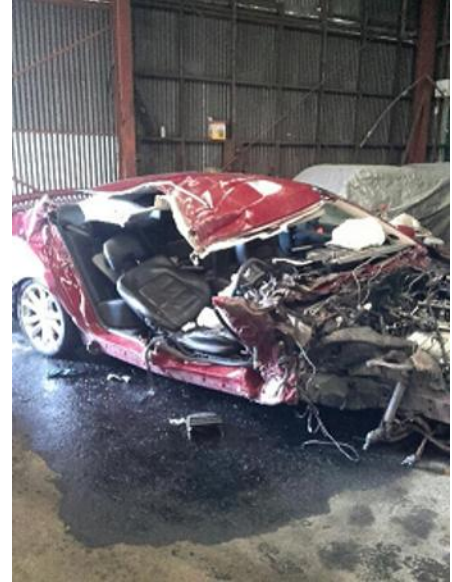
2017, A YEAR TO REMEMBER, BUT FOR ALL THE WRONG REASONS



WM New Zealand (WMNZ) were involved in 4 fatalities and 1 serious harm event

- 6 year old schoolgirl hit by an LEV (low entry vehicle)
- Member of public drove across the centre line and went under the front of a Technical Services Medical Waste truck
- WM driver drove across an unmanned level crossing when a train was coming
- Team member overcome by H2S (hydrogen sulphide)
- An agency worker degloved his arm when trying to move stones from a conveyor belt

THE SCENES



UNDERSTANDING THE CHARGES: S47 VS S48



Two charges under New Zealand's Health and Safety at Work Act (HSWA) 2015:

- **s48 – Failing a duty:** not meeting a health-and-safety duty in a way that exposes someone to serious injury or death. WMNZ pleaded guilty to this.
- **s47 – Reckless conduct:** the most serious charge – consciously disregarding that risk. WorkSafe pushed for it, but WMNZ challenged it and was found not guilty.
- **Why it matters:** s47 carries far heavier penalties, so the fight over reckless-versus-failure shaped years of court action.
- **Reparation:** compensation paid to victims or their family, separate from any fine.



Schoolgirl event

SCHOOLGIRL EVENT

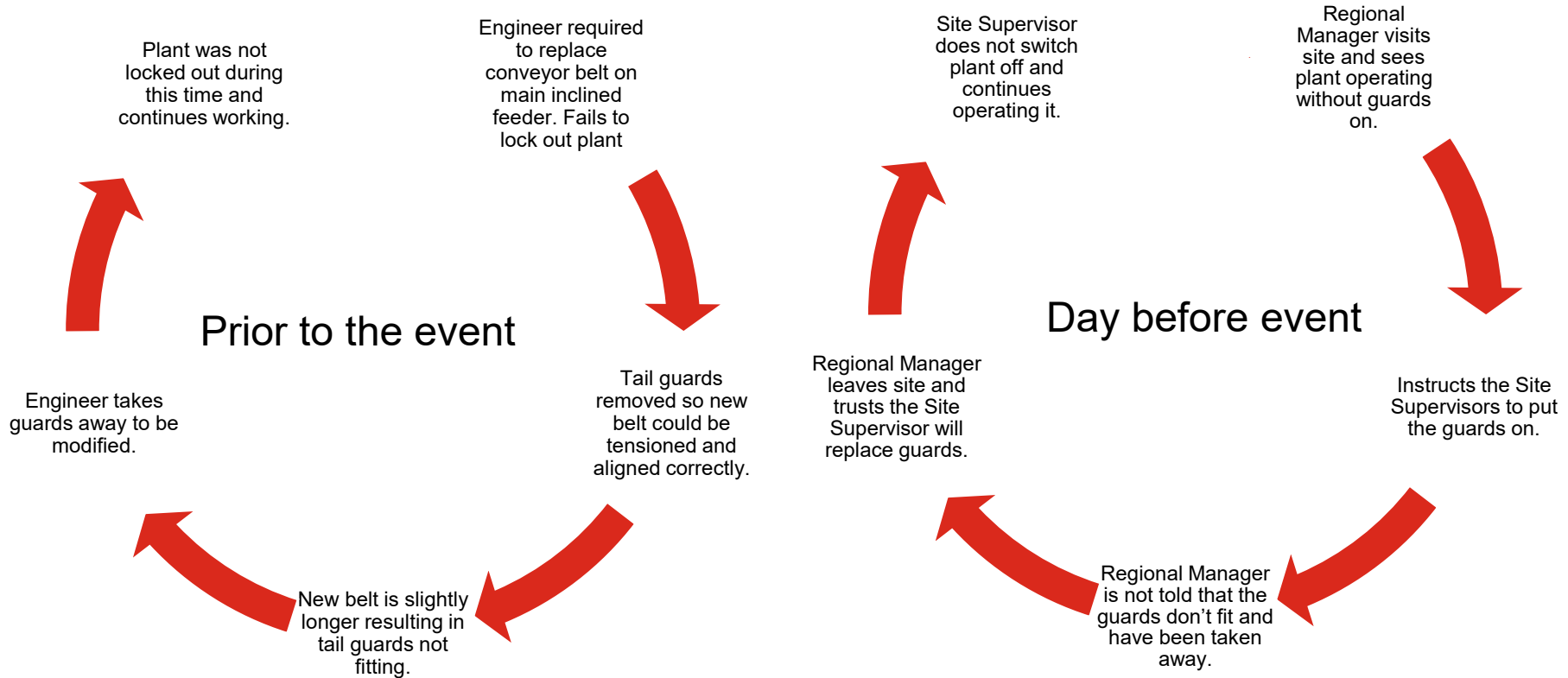


- WM driver was undertaking kerbside recycling collections using a low entry vehicle (LEV).
- As he went to pull away he failed to see the schoolgirl run in front of the truck.
- Driver didn't realise he'd hit the girl and drove off to continue collections.
- Mother came around the corner to see daughter lying in the road.
- Community was very mixed – some were against the driver, while others supported him, his family, and WMNZ.
- Driver was cleared of driving without due care and attention.
- Worksafe found no fault with WMNZ processes, vehicles etc.
- Coroners inquest was brutal. Family supported WMNZ but not WorkSafe or Council.
- Driver never returned to driving duties and left Gisborne. Manager resigned not long afterwards.
- Every year the EGM for the division gets a message or a call from the parent reminding him of the event.
- Estimated 3,000hrs of work involved from time of event to Coroners inquest (2017 to 2019).

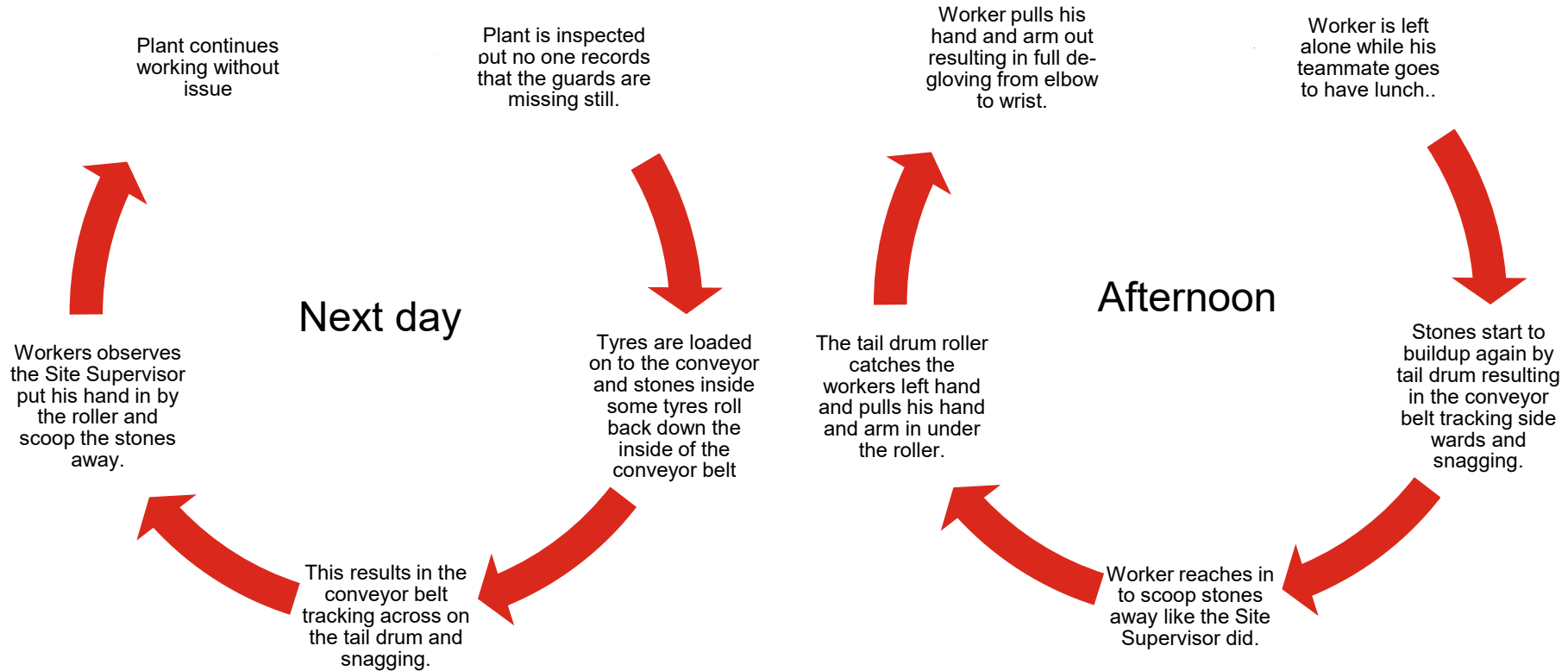


Degloving event

TYRE RECYCLING CONVEYOR BELT EVENT OVERVIEW



TYRE RECYCLING CONVEYOR BELT EVENT OVERVIEW



DEGLOVING: WHAT WENT WRONG



- Plant was never locked out – management left an unsafe process running with no lock-out/tag-out (LOTO)
- The contractor's performance was never reviewed against the contract
- Daily pre-start checks didn't suit the plant and weren't completed on the day of the accident
- No signed record the injured worker had been trained – no work instruction or risk assessment
- The site's lock-out procedure didn't match the HSEQ (health, safety, environment & quality) system
- WorkSafe praised the HSEQ system – the site simply didn't follow it, and as principal WM carried the contractor's failings

DEGLOVING: THE CONTRACT AND THE VERDICT

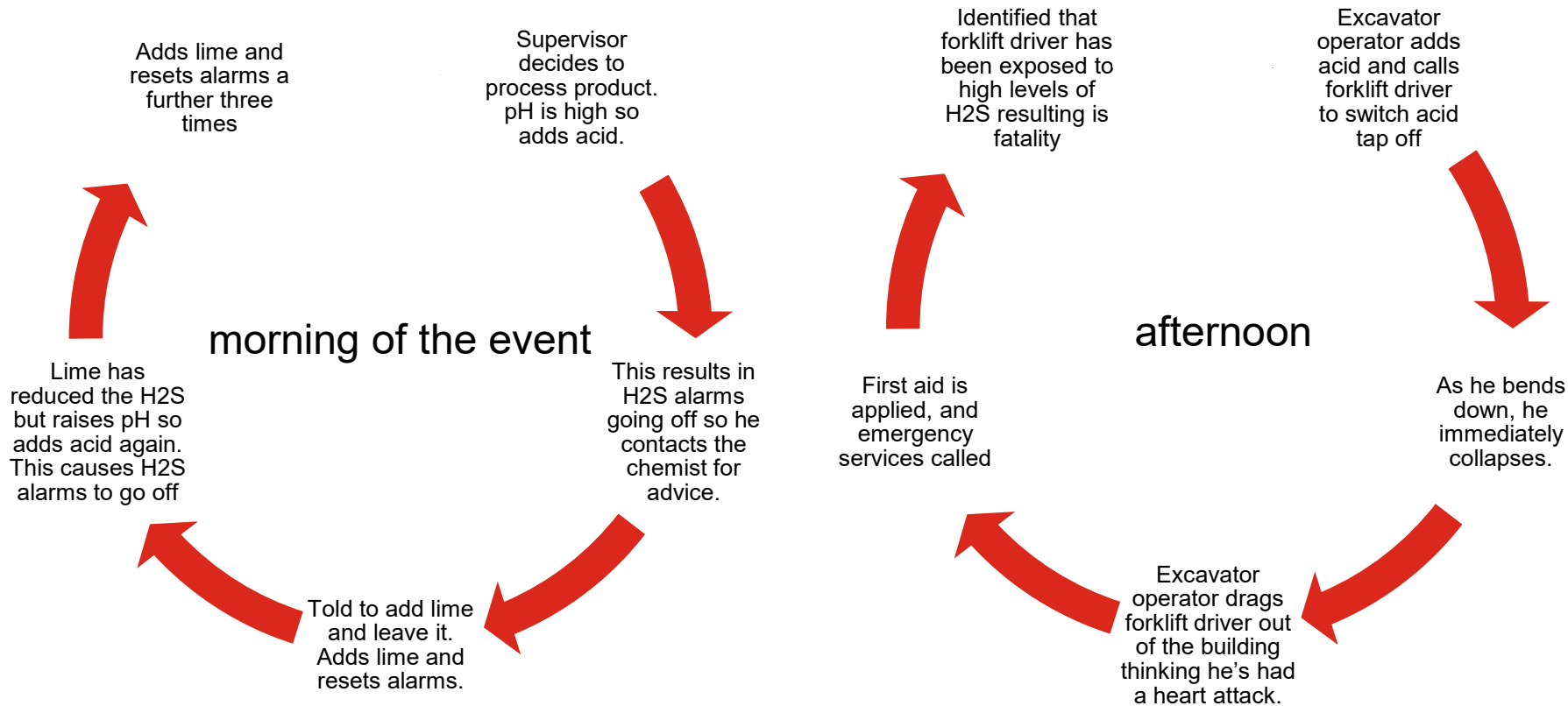


- The contract never defined the contractor's authority – it said “site supervisor” but not that he controlled site safety
- The contractor form even carried the wrong name
- He engaged other contractors, so WorkSafe saw him as WM's representative
- No commissioning check confirmed the guards were back in place after repairs
- Management assumed safety was HSE's job and trusted the contractor
- The Judge ruled that trust was lost once the plant ran without guards
- **Sentenced November 2020, s48 – Failing a duty: \$400,000 fine plus \$50,000 reparation**



H₂S event

H2S EVENT OVERVIEW



H₂S: WHAT WORKSAFE FOCUSED ON



WorkSafe's focus:

- Product left in storage for months, unchecked by the Chemist
- Waste declaration certificates couldn't be found
- The Site Supervisor wasn't trained in the dangers of H₂S, and no authorisation was given to blend products
- The supplier claimed the risks were explained to the Branch Manager, but no record could be found
- WorkSafe pushed its own witnesses toward a reckless charge, exposing them to self-incrimination
- Gas monitors and PPE were available on site – but not used

H₂S: THE RESPONSE AND FALLOUT



- The emergency plan didn't separate the H₂S alarm from the general site alarm
- Responders could smell the gas – like rotten eggs – from 2 km away
- Neither the Supervisor nor the team understood the risks of H₂S – a failure to educate
- WorkSafe's aggression stopped workers engaging; workers can choose to talk, managers cannot
- Many workers were exposed – only one person died

H₂S: THE GAPS BEHIND IT



Gaps

- A February 2017 internal audit had already flagged gaps in the site's HSEQ system
- The Branch Manager reported the corrective actions as done – they weren't
- "Leave it" was misread: the Supervisor heard "until the alarms reset," the Chemist meant "until I return to site"
- The team knew not to enter while the alarms sounded – and followed that rule
- The Forklift Operator entered when the alarms were silent, so wore no mask – and was exposed

H₂S: THE HUMAN TOLL



- WorkSafe accused WMNZ of being reckless
- WMNZ pleaded guilty to the s48 charge (failing a duty that exposed someone to serious risk) but not s47 (reckless conduct)
- In court, WorkSafe switched to arguing that the workers – its own witnesses – were reckless
- The family were hostile throughout; the hearing and sentencing
- WMNZ claimed costs against WorkSafe – and won
- None of those involved still work for WMNZ
- **Around 5,500 hours of work, from the 2017 event to sentencing in 2021**

H₂S: THE ROAD THROUGH THE COURTS (2017 TO 2022)



- **Aug 2018** – Charged under HSWA with s47 (reckless conduct) and s48 (failing a duty); WMNZ accepted s48 but challenged s47
- **Nov 2020** – Case finally reached court, opening with a preliminary hearing on the s47 charge
- **Dec 2020** – Two-week trial – long days and long nights
- **Jun 2021** – COVID delayed the verdict: not guilty on s47
- **Oct 2021** – WorkSafe’s appeal overruled in WM’s favour; the not-guilty verdict upheld
- **May 2022** – Sentenced on s48 – Failing a duty: \$450,000 fine and \$200,000 reparation, on top of \$150,000 already paid



Worksafe Investigation Process

WORKSAFE INVESTIGATION PROCESS



Three step process

1st - Plant

2nd - People

3rd - Process



PLANT FOCUS AREAS



Condition & design

- Age / condition
- Fit-for-purpose
- Design and pre-purchase documents
- Safety and design spec
- Modifications

Install & maintain

- Installation
- Commissioning
- Maintenance records and personnel
- Parts ordering
- Pre-start checks

Guarding & isolation

- Guarding
- Isolation
- Emergency systems
- Location / environment

Certification & records

- Certifications
- Audits and inspections
- Instructions / manuals
- Signage / labelling

PEOPLE FOCUS AREAS



Competency & training

- Experience / qualifications
- Skill set for role
- Competency assessments
- Pre-employment checks
- Induction
- Training

Culture & engagement

- Workplace culture
- Worker engagement
- Safety observations
- Management / supervision
- Roles & responsibilities
- HSRs
- Lone workers

Fitness & wellbeing

- Fit for work
- Fatigue management
- Physical ability
- Exposure – health
- Ergonomic assessments
- PPE
- D&A policies

Records & history

- Incidents and accidents history
- Disciplinary actions
- Staff turnover
- Work hours
- Language barriers / jargon
- PEPs

PROCESS FOCUS AREAS



Leadership & governance

- Leadership
- Policies
- Legislation
- Management of Change
- Monitoring / KPIs
- Escalation process

Operations & assets

- Installation and commissioning
- Maintenance systems
- Testing, calibration and inspection
- Procurement
- Contractor Management
- Worktime Logbooks

Risk & safety management

- Hazard and Risk Management
- Isolation of Energy / LOTO
- Permit to Work
- Emergency procedures
- Safety review process
- SOP / WI / RA / Bowtie

Records, audits & people

- Document control
- Incident Records
- Review and audits (internal & external)
- Waste Declarations
- New employee onboarding
- Training
- Worker engagement

THE RISK





Court hearings

WHAT ITS LIKE BEING IN COURT?



One word

Horrible

THE REAL IMPACTS



Long days

Concentration at the highest level

Having to watch your workers go through questioning

Hearing the family (victim) statements

NOT A NICE PLACE TO BE



