

Part 4, Health and Safety at Work Act 2015

The commitments in this application are offered to WorkSafe New Zealand by Robin Wilks, Environment Health and Safety Manager on behalf of Dongwha New Zealand Limited (Dongwha).

This enforceable undertaking is given on the day and date that it is accepted and signed by the regulator. The undertaking and its enforceable terms will operate as a legally binding commitment on the part of the person from the date it is given.

WorkSafe respects your privacy and is committed to protecting personal information. The information provided in this document is for the purpose of an undertaking given to WorkSafe under Part 4 of the *Health and Safety at Work Act 2015*. This information will be managed within the requirements of both the *Privacy Act 1993* and the *Official Information Act 1982*.

There is an expectation that WorkSafe will generally publish the undertaking in full on its website.

Terms and definitions:

Contravention means an action which offends against the *Health and Safety at Work Act 2015* and/or any Regulations made under it. A contravention also includes an alleged contravention.

HSMS means a Health and Safety Management System.

Person means an individual who or a legal entity which has a duty under the Health and Safety at Work Act 2015 and can give a written undertaking. The term includes individuals, each partner in a partnership, corporations, trustees of trusts, and crown organisations.

Health and Safety legislation means *Health and Safety at Work Act 2015* and associated regulations.

Enforceable undertaking means a written undertaking given under Part 4 of the Health and Safety at Work Act 2015 by a person in connection with a matter relating to a contravention by the person of the Health and Safety at Work Act 2015 and includes all of the contents of that document including the general information, general and enforceable terms.

1. GENERAL INFORMATION

1.1 Details of the person/persons/entity giving the undertaking

Nominated person: (point of contact for WorkSafe communications)

Robin Wilks, Environmental Health and Safety Manager

Street address: 301 Pioneer Highway, Mataura 9774

Mailing address: PO Box 189, Gore 9740

Work phone: +64 3 2093159

Mobile phone: [REDACTED]

Email: robin.wilks@dongwha.com

Type of legal entity: Limited company

Industry: Reconstituted Wood Manufacturing

Workers: Full time: 113

Part time: 1

Casual/ Contractors: 8

Products and services: Dongwha is a Medium Density Fibreboard (MDF) manufacturer, MDF refers to an engineered wood product formed by essentially breaking down hardwood and/or softwood into wood fibres using a defibrator, then combining it with resin binder and wax and assembling panels by heating and pressurizing it, sanding, cutting to finished board size, labelling wrapping and dispatching to the end customer. Value added products include Melamine faced board (MFB), where resin impregnated paper is attached to the MDF substrate using heat and pressure. MDF and MFB are used in many home and professional projects, such as furniture, cabinetry and flooring, this is due to its smooth finish, machinability, strength and consistency

1.2 Detail the contravention

Dongwha has been charged with one offence under section 36(1)(a), 48(1) and (2)(c), of the Health and safety at Work Act 2015 in relation to an incident on 8th December 2016

It is alleged that being a PCBU Dongwha, failed to ensure, so far as was reasonably practicable, the health and safety of workers who worked for the PCBU, including the victim, while the workers were at work in the business or undertaking, namely cleaning a machine called a Pendistor, and that failure exposed the workers to a risk of serious injury, arising from exposure to a nip point between the Pendistor conveyor belt and a tensioning roller.

The Pendistor is a piece of machinery that is part of a continuous process line. The Pendistor is a mat former which is designed to distribute wood fibres into a mat which is then transported by conveyor into another machine which acts as a hot press.

In particular it is alleged that it was reasonably practicable for Dongwha to have:

- a) Isolated workers from the nip point by installing adequate guarding
- b) Monitored the effectiveness of the controls that were in place to manage the risk to workers
- c) Developed and implemented standard operating procedures for the Pendistor
- d) Monitored workers to ensure the Pendistor was being cleaned safely

1.3 Detail the events surrounding the contravention

The victim is employed at Dongwha New Zealand Limited as a MDF technician. He has held this role at the same factory for 14 years under different employers (10 years with Dongwha).

As part of MDF manufacture, the Pendistor removes excess air from the fibres and then spreads the fibre into an evenly distributed mat across the width of the Pendistor conveyor belt. This mat then moves along the length of the Pendistor onto a weight scale and then into a mat pre-compressor. It is then moved onto a saw belt through to the press in-feed conveyor and eventually into the Kusters press where it is formed into a continuous panel, cut into lengths cooled and stacked for further processing.

The tension roller is associated with the Pendistor. It is accessible through a movable gate guard which is designed to allow access for maintenance of the belt tensioning and tracking roller. The Pendistor is normally shut down and isolated for these tasks.

During normal operation of the Pendistor fibre builds up around the tension roller due to the static nature of the installed mat forming belt. It is normal practice for specific authorised and trained workers to use an Air-Lance (which is a hose attached to compressed air) to blow the fibre from the moving tension roller and forming belt. This process is undertaken on the outside position of the movable gate guard isolating the worker from the tension roller and forming belt.

The frequency of this cleaning can vary between once a day to every second day.



Figure 1: Air-Lance used to remove fibre build up

There are 2 Air-Lances which are permanently fixed at the ground level and level 1 of the Pendistor machine. The Air-Lance on the ground floor has a 8 metre hose from the fixed position and is located within reach of the movable gate guard.

There are two vacuum cleaning devices available for the worker to suck up the blown fibres from the floor area outside the Pendistor. The first cleaning device uses a vacuumation ducted system which has 4 access ports on the machine line. Workers attach a 10 metre flexible vacuum hose to the access ports during its use. The second vacuum is a motorised vacuum cleaner which is used to suck up large areas of blown fibre. The second vacuum is stored when not in use midway within the forming line area which is approximately 40 metres from the moveable gate guard.

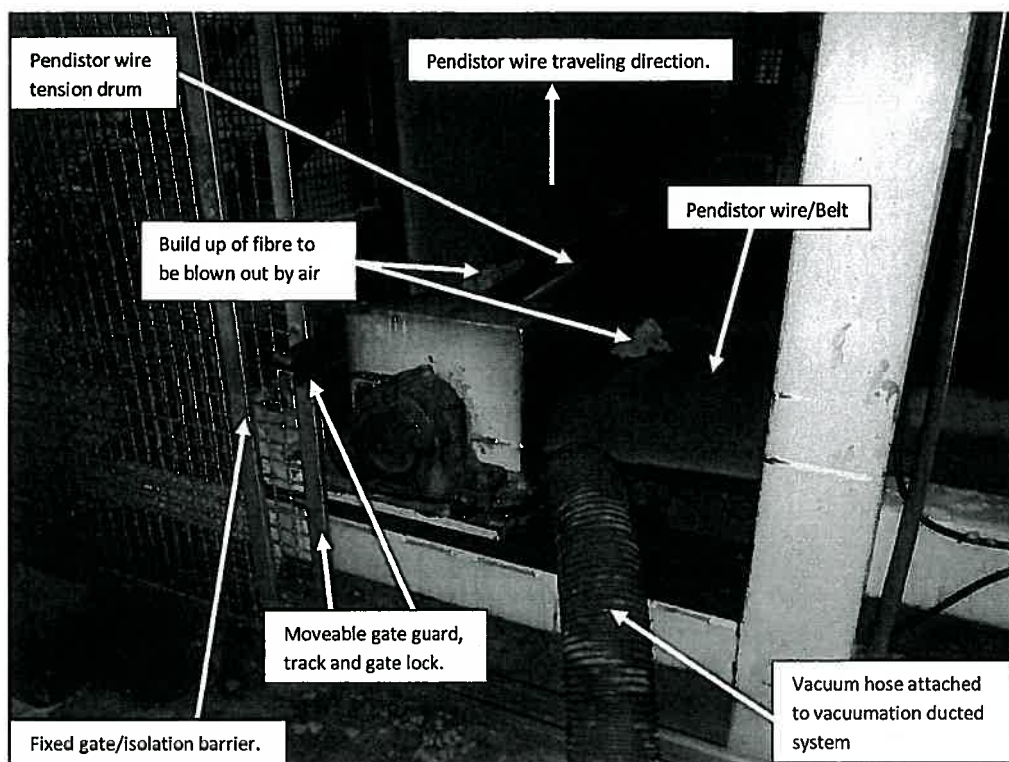


Figure 2: Moveable Gate Guard photo taken on the day of the incident.

On the day of the incident and at the start of his 12 hour shift, the victim was conducting routine plant inspection on fibre board forming and pressing equipment looking for issues and to reduce the risk of fire, plant breakdown, and poor product quality. The victim identified fibre build-up on the top side of the Pendistor tension roller.

The victim accessed the roller through the moveable guard gate and used the 4 metre vacuum cleaner hose attached to the vacuumation system.

The victim positioned the hose from his left hand side behind his back to his right side and feeding the end of the hose along the top of the roller whilst the roller was moving. The vacuum hose dropped from the top of the roller and was drawn into the nip point between the roller and belt. The victim lost his balance, extending his left arm to regain balance and his left arm was drawn into the same nip point as the vacuum host.

The left arm was drawn in up his shoulder fracturing his upper and lower arm, the injured worker pulled his arm free from the machine and called for assistance, ambulance services were called.

1.4 Detail any enforcement notices issued that relate to the contravention

No enforcement notices were issued on the day of the incident or following the assessment of the scene by WorkSafe NZ. An improvement notice (WSNZ 29151) was issued two months later on the 3rd February following discussions with a WorkSafe NZ Inspector on proposed additional Pendistor guarding improvements.

1.5 Detail the rectifications to the workplace or work practices made as a result of the contravention (1.2), events (1.3) and the enforcement notices issued (1.4)

The following rectifications occurred:

1. On the day of the incident the attending WorkSafe NZ inspector advised Dongwha to bolt shut the moveable guard gate.
2. After the incident Dongwha undertook a review of procedures and processes in relation to cleaning and maintaining plant equipment, this included:
 - a. Improvements of the Standard Operating Procedure including cleaning the Pendistor, the use of compressed air for the removal of fibre and safe handling of compressed air cleaning equipment.
 - b. Dongwha NZ Managing Director and Health and Safety Manager presented a series of plant wide briefs to all Dongwha workers and contractors regarding the incident, and raised awareness about the;
 - i. contributing factors surrounding the incident
 - ii. learnings from this and subsequent improvements
 - iii. the value in worker engagement when work practices change or need improving
 - iv. the value in participation in shift handovers between supervisors, workers and contractors on current machine state, work processes and safe work methods.
3. Review to reduce the Pendistor cleaning requirement which resulted in the change of supplier of perforated forming belts with anti-static properties to reduce static build-up of fibre.
4. Additional machinery safety reviews of the Pendistor and the associated machinery which resulted in changes in the area (and the lifting of improvement notice WSNZ 29151) where the worker was harmed by;
 - a. Additional local guarding including isolation fencing
 - b. Additional emergency pull cords
 - c. Improvements to moveable gate guard

1.6 Total amount of money spent on rectifications

RECTIFICATION	AMOUNT
<p>PENDISTOR: UPGRADE GUARDING TO MEET OR EXCEED AS/NZS 4024.1601.2014 BY INSTALLING/IMPROVING:</p> <ul style="list-style-type: none"> • LOCAL GUARDING, MAINLY FENCING TO ALL AREAS • EMERGENCY PULL CORDS EAST AND WEST SIDES FIRST LEVEL. • MOVEABLE GATE GUARD 	\$34,846
<p>KUSTERS PRESS SPINDLE CHAIN AND SPROCKET GUARDING: DESIGN MANUFACTURE AND INSTALL LOCAL GUARDING TO 50 PRESS SPINDLE DRIVE CHAIN SPROCKETS THAT MEET OR EXCEED AS/NZS 4024.1601.2014</p>	\$7,820
<p>FIBRE MAT PRE-COMPRESSOR: UPGRADE ASSOCIATED MACHINE GUARDING TO MEET OR EXCEED AS/NZS 4024.1601.2014 BY:</p> <ul style="list-style-type: none"> • LOCAL GUARDING, MAINLY FENCING TO ALL AREAS • ERGONOMIC ALTERATION – RELOCATION OF HYDRAULIC PACK TO AVOID SLIP HAZARD IN AREA 	\$65,343
<p>ERGONOMIC ALTERATION – ALTERATION OF WALKWAY SUPPORTS TO IMPROVE DIFFICULT TASKS DURING MAINTENANCE</p>	
<p>SANDLING LINE: UPGRADE OTHER PLANT MACHINERY GUARDING TO MEET OR EXCEED AS/NZS 4024.1601.2014 BY:</p> <ul style="list-style-type: none"> • LOCAL GUARDING, MAINLY FENCING. • LIGHT CURTAINS, SAFETY RATED CONTACTORS, EMERGENCY PULL CORDS. 	\$171,645
<p>MASTER PANEL CUT TO SIZE SAW:</p> <ul style="list-style-type: none"> • ERGONOMIC ALTERATION - INSTALLED MIMIC PANEL TO REDUCE OPERATOR MOVEMENTS IN THE CONTROL ROOM • ERGONOMIC ALTERATION INSTALLED AIR SYSTEM TO ELIMINATED NEED TO MANUALLY PUSH PACKS AT CROSS SAW OUTFEED 	\$6,289
TOTAL (INCL GST)	\$285,943

Rectifications were budgeted as scheduled work prior to the incident and the work plan was subsequently modified and improved. Internal costs incurred for rectifications have not been costed.

1.7 Detail the injury sustained or illness suffered by victim(s) or other(s) as a consequence of the contravention, the potential for fatal injury of future fatal illness

The victim sustained three fractures, one to the upper arm (humerus) and two to the forearm (radius and ulna). Surgery was required to pin the fractures. The victim required hospital care for seven days and ongoing outpatient treatment to recover.

He returned to work on light duties 14 weeks after the incident and deemed fit to resume full duties 15 weeks later.

We acknowledge that there was the potential for a more serious injury and this has been considered as part of the offer of amends.

1.8 Detail any offer of amends or payments made to the victim(s) who sustained injury or suffered illness (Including in 3.12.3)

The victim has been a long standing and valued employee of Dongwha for over 10 years.

Prior to the submission of this application we sought and obtained from the victim his consent to undertake at Dongwha's cost an updated medical assessment of the victim's injuries from;

- His current treatment provider (physiotherapist) who was recommended by the injured worker's ACC case officer
- The medical practitioner who performed the original surgery

At the time of this application, based on the results of the medical assessment by the physiotherapist, we believe that the victim has suffered a total loss of 20% reduced level of movement in his left arm and there is a low probability of any further improvement (subject to specialist advice from the medical practitioner).

As part of this enforceable undertaking we have made payments and will offer further amends to the victim to a total amends of \$54,882.49 which includes amounts for the:

- a) 80% top up of ACC during his time off
- b) Support to victim and family
- c) Amends for reduction in level of movement and trauma suffered from the incident

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DESCRIPTION OF PAYMENT	GROSS AMOUNT
FIRST WEEK INJURY PAY WITH A GROSS PAY OF	\$1327.25
SUPPORT PROVIDED IN THE FORM OF:	\$1,060.00
<ul style="list-style-type: none"> • PETROL VOUCHERS • MEAL VOUCHERS • FLOWERS • WELLNESS – GYM MEMBERSHIP 	
TOPPING UP OF ACC PAYMENTS TO 100% OF AVERAGE PAY FOR THE PERIOD ENDING 01/06/17 WITH A GROSS PAYMENT TO THE VALUE OF	\$7,495.24
PROPOSED PAYMENT TO VICTIM FOR AMENDS FOR THE REDUCTION IN LEVEL OF MOVEMENT IN THE LEFT ARM AND TRAUMA SUFFERED FROM THE INCIDENT	\$45,000.00
TOTAL	\$54,882.49

1.9 Detail any consultation with the victim(s) as to their views on whether an enforceable undertaking would be an acceptable alternative to prosecution

The victim has been consulted during the enforceable undertaking process. The victim has been active in providing his views, specifically in the community and worker/workplace sections and is supportive of the application. The victim has expressed his view that an enforceable undertaking is a pragmatic approach to what occurred and delivers better outcomes than a prosecution and closure for him.

1.10 Detail any consultation with unions/sector/industry on whether an enforceable undertaking would be an acceptable alternative to prosecution

There are only two other manufacturers of MDF in New Zealand, Nelson Pines and Daiken New Zealand Ltd.

Daiken New Zealand Ltd (Daiken) has purchased 100% of the shares in Dongwha. This enforceable undertaking process has the full support of both the previous owner and new owner. The parties have met and openly discussed the incident and the causes. They have identified wide ranging similarities between the two business and methods for continued improvement of reporting and ongoing compliance. The purchase does not impact on Dongwha's obligation to fully comply with this enforceable undertaking.

Dongwha has consulted with the EMA (Employers and Manufactures Association) who are New Zealand's leading employer advocacy organisation for manufacturers. Their knowledge and experience in the area of health and safety and machinery safety is widely acknowledged, the EMA supports this application and believes the proposed 'machinery safety forum' will deliver benefits not only to employers in the manufacturing sector, but also contractors, workers and representatives alike. This benefit would not be achieved through prosecution alone.

1.11 Detail the support provided by the person to the victim(s), other(s)

<i>Date</i>	<i>Description of support</i>	<i>Comments</i>
08/12/2016	Head of production meet the worker when he arrived at hospital and the workers family on their arrival	Support to worker and his Family.
09/12/2016	The workers 5 team members visited him in hospital during recover	Between 9th and 12th Dec 2016.
09/12/2016	Operations manager visited the worker in hospital	
10/12/2016	H & S Manager visited the worker in hospital	

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10/12/2016	The workers supervisor visited the worker in hospital	
23/12/2016	15 Dongwha employees gather for home working bee	Mow lawns, stack wood, general home maintenance.
19/03/2017	The Worker returned to work on light duties	Dongwha supervisor provides transport to and from work for two weeks while a taxi is arranged.
19/03/2017	Support person assigned to the worker while on Light duties	Dated March 19 2017 to July 01 2017
01/07/2017	Worker back on full duties, Continued support person assigned to the worker	Period July 01 to September 04 2017

1.12 Detail any current HSMS implemented and maintained by the person

Dongwha has been an advocate of good Health and Safety practices in the Southland community and manufacturing industry for many years. Audited against AS/NZS 4801 with the ACC WSMP scheme, we gained Tertiary accreditation in 2005 and held it to 2018 when WSMP accreditation was ceased permanently by ACC.

Health and safety management is part of everyday business life at Dongwha and is demonstrated through our safe systems of work and the engagement, participation and communicating with the various stakeholders. Continuous improvement practice is at the heart of our HSMS and everyone is part of the 'Identify, monitor and review' process which is facilitated through a number of means such as;

- Our site induction for employees and contractors
- Easy access to site specific policies and SOPs via DNZ in-house web based intranet.
- Regular review and amend as necessary SOPs relevant for job specific tasks
- Reporting of hazards as they arise with incident forms, notifications, equipment unsafe tags, take five, Job Safety Analysis).
- Safety briefings and presentations
- Workplace area hazard walks
- Improvements through the 'Suggestion system' module
- Suggest ideas or areas for improvement to departmental H&S committee meetings which feedback to the site wide H&S Committee.
- Availability of training courses to increase knowledge and build skills
- Site, traffic and environment management

Managers and Team leaders hold specific safety duties to ensure their own teams are being engaged and participating in health and safety by;

- Maintaining currency of training documents and evaluating if they are fit for purpose
- Encouraging full attendance at safety briefings
- Encouraging completion of take five and job safety analysis forms and systems
- Encouraging timely reporting of all property damage, environment incident, near miss and accidents
- Hazard walks are completed monthly for departments.
- The correct safe systems of work (permits) are being used for highly hazardous work such as;
 - Confined Space
 - Hot Work
 - Personal danger tags
 - Equipment unsafe tags
 - Isolation of high voltage, hazardous plant and substances (LOTO)
- Investigations on serious incidents and accidents are carried out in a timely manner
- Communication and information to other departments and their people regarding hazards in an environment and the risk that the hazards pose.
- Correct control of existing and new hazards as they arise
- Managing and/or monitoring contractors and their risks.

On-site hazards and risks are managed on a daily basis by a team of committed and dedicated people who have the best interest of the company and its people at the fore front of decisions.

1.13 Detail the level of auditing undertaken on the HSMS, including compliance audits and audit frequency

At the time of the incident Dongwha held tertiary audit status in the ACC WSMP (Workplace Safety Management Programme). This programme was audited 16/02/2016 and the audit certificate remained valid until 16/02/2018.

Dongwha has also been audited yearly against the following good practice standards of:

- a) ISO 9001 (Telarc) for effective Quality Management
- b) ISO 14001 (Telarc) for effective Environmental Management

The internal and external audit timetable is:

	2 yearly	Annually	6 monthly	Monthly	Daily
Internal	SOP Updates (also as needed)	Rail Safety Audit	Test & Tag compliance	Managers Hazard & Housekeeping Walks	Mobile Plant Checks
		Ladder Audit	Environmental Spill Kits	Fire extinguisher audit / Fire exits	Visual Plant inspection
		Radiation Safety Audit	Fall Protection/ Harness Testing	Departmental Hazard & Housekeeping Walks	
			ISO Internal Auditing Process frequency (set by company by each area)		
External		ISO9001			
		ISO14001			
		Hydrant testing			
		Lifting Equipment Testing			
		Crane Lifting / Man cages			
		Fire systems			

1.14 Detail the consultation undertaken or proposed to be undertaken, in relation to this undertaking

There was wide consultation undertaken within the various stakeholder groups (workers, management, contractors, suppliers and officers) during the post incident review and rectifications that were undertaken in Section 1.5. In addition there was;

- Plant briefs immediately after the incident
- Review of how we manage hazards and risks plus supervision.
- Consultation with workers, contractors, supervisors and managers
- Consultation with senior members of the organisation

Dongwha will also be seeking independent assurance and verification with expert subject matter providers on;

- Helping to identify improvements in our supervision and competency model
- Improving hazard reporting and participation in risk assessments
- Hazard database function, reporting and effectiveness
- Effectiveness of standard operating procedures

The owners of Dongwha at the time of the incident consulted with the new owners, Daiken, in relation to this enforceable undertaking. Daiken has given its full support to the undertaking, recognising the similarities between the two business and methods for continued improvement of reporting and ongoing compliance.

2: GENERAL TERMS

The person acknowledges and commits to the general terms set forth in the sub-terms below.

2.1 Acknowledgement that the regulator alleges a contravention occurred as detailed in term 1.2

Dongwha acknowledges that WorkSafe alleges a contravention occurred.

2.2 Statement of regret that the contravention occurred

Dongwha deeply regrets the harm and distress to the victim as a result of the incident and acknowledges the affect this incident has had and continues to have on the victim. Dongwha is genuinely remorseful that this incident occurred.

The incident had the potential to be a more serious event and we are thankful that the victim's quick actions avoided more serious harm. We acknowledge his reduction in movement and continue to support him during his ongoing recovery.

Dongwha have involved the victim throughout this process.

We are committed to our obligations under the Health & Safety at Work Act 2015 and fully co-operated with WorkSafe during its investigation.

We acknowledge that compliance is not sufficient to justify WorkSafe accepting this undertaking in lieu of proceeding with the prosecution of the charge that has been laid against Dongwha. We are committed to learning from this incident and ensuring it does not happen again.

We offer this undertaking as an opportunity to demonstrate leadership in Health & Safety in which the manufacturing industry plays an important role in exporting our product and economically supporting our local families and community in the Gore and surrounding districts.

2.3 Statement of the reasons why, on balance, the person considers this undertaking is the most appropriate response to the contravention

Dongwha understands that the stated purpose of an enforceable undertaking in WorkSafe's policy is to benefit the workers or the workplace, the wider industry or sector and/or the community while also taking into account the nature of the misconduct, submissions from any interested party (including any victims), past history of compliance and current commitment to remedy the misconduct.

By reference to those purposes / criteria and in addressing the specific issues raised in the Suitability Assessment of 16th January 2018, in summary Dongwha:

- a) Supports local community and businesses and the wider economy by exporting approximately 75% of the locally sourced and produced product to North American and Asian countries.
- b) The previous conviction in 2006 as an aggravated factor was unrelated to the management of machinery risk and Dongwha accepted the fallings, modified our work practices and entered a guilty plea at the earliest opportunity.
- c) The aggravated factor of enforcement action in the form of an improvement notice was issued in November 2014 which referenced that a sump guard be installed. This language of a sump guard could be taken to be read as inadequate machine guarding. A hazard assessment was undertaken which confirmed that at the time of the improvement notice there was no machine (plant and equipment) and the sump had no potential for entanglement, crushing, stabbing, puncturing, shearing, high pressure, striking, explosion, electrical, noise or exposure hazards. The risk was for the potential of a fall from ground level to the sump basket of approximately 1 metre from only one side of the sump. The other three sides surrounding the sump (which was accessible to workers walking past) was isolated by fixed concrete barriers. The potential risk of a fall from the rear of the sump was eliminated by installing a grated basket lid over the sump.
- d) The other improvement notices (non machinery based, rectified and lifted by WorkSafe) related to:
 - a. Two expired safety datasheet sheets
 - b. Respirators stored incorrectly
 - c. Gantry crane operational procedure required improving
 - d. Air quality in storeroom and office area
 - e. Certification of two man cages
- e) As part of a machinery safety review in late 2015, Dongwha identified the need to upskill two engineers (mechanical and electrical) and the operations manager in the latest machinery safety standards (2014/2015) in order to ensure that Dongwha had competent people to manage machinery risks. In June and November 2016 the three representatives were trained by PILZ (subject matters experts in machinery safety) in New Zealand and Australia (due to infrequency of course availability in New Zealand) in AS/NZS4024 series of machinery safety and two of those people completed the TUV Nord qualification from Germany to become Certified Mechanical Safety Experts (CSME) which is the highest competency available for machinery safety people.
- f) Have cooperated fully with WorkSafe in its investigation of this incident. That included its detailed responses to enquiries as to the due diligence on the part of its officers. No charge has been laid alleging breach of duty of any officer.

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- g) No enforcement action was taken at the time of the incident and the improvement notice issued two months after the incident in relation to proposed guarding improvements was lifted.
- h) Have undertaken rectifications to the value of \$285,943 to date.
- i) Will make an additional payment of \$45,000 to the victim, which will make the total amends of \$54,882.
- j) Will benefit workers, workplace and industry to the value of \$34,625 by:
 - a. Undertaking a health and safety culture survey
 - b. Improving the knowledge and skills of 24 workers and contractors in machinery safety
 - c. Implement ISO 45001 standard for Health and Safety systems management
- k) Will benefit industry to the value of \$57,660 by establishing and funding a pan industry machinery safety forum for the next 5 year period to build additional knowledge and awareness about the importance of safe machinery.
- l) Will benefit and support the local community to the value of \$62,002 by;
 - a. Funding the development of a Safety Skills Programme for Gore High School Students participating in a Gateway Programme for employability skills.
 - b. Funding the St Johns Youth Training Programme for disadvantaged families for a period of 5 years.
 - c. Funding the Riding for Disabled Rehab Programme for 10 people.

This joint proposal above is not of a kind that can be achieved by prosecution and achieves tangible benefit to workers, community and industry which could not addressed elsewhere and at zero cost to other industry organisations and workers.

It is submitted that the steps Dongwha proposes are proportionate in this particular case.

2.4 Statement of commitment that the behaviour, activities and other factors which caused or led to the contravention has ceased and will not reoccur

Dongwha is committed to ensuring that the behaviour, activities and other factors which caused or led to the contravention have ceased and will not reoccur.

This will be achieved by:

- Extensive reviews of procedures and processes
- Improvements to our standard operating procedure
- Machine safety reviews
- Investment in rectifications to the workplace
- Focussing on continuous improvement including our health and safety culture

2.5 Acknowledgment of the policy published by the regulator for the acceptance of an undertaking

Dongwha has read and understood the Enforceable Undertakings Operational Policy July 2017.

2.6 Acknowledgement that this undertaking will be published and publicised in full

Dongwha acknowledges that the undertaking will, if accepted, be published on WorkSafe's website in full and may be referenced in WorkSafe material.

2.7 Statement of the person's ability to comply with the terms of this undertaking and meet the projected costs of the activities

Dongwha has the financial ability to comply with the terms of this undertaking and have provided evidence by way of financial accounts from for the period ending 31st December 2016 with this undertaking to support this declaration.

2.8 Statement outlining any relationship between the person and any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this undertaking

None save the worker as employee.

2.9 Statement regarding Intellectual Property

Dongwha grants WorkSafe a perpetual, non-exclusive, worldwide and royalty-free licence to use, for any purpose, all Intellectual Property Rights in relation to any material developed as a result of this undertaking.

This licence includes the right to use, copy, modify and distribute the materials.

2.10 Acknowledgement that the person may be required to provide a statutory declaration

Dongwha acknowledges that it may be required to provide a statutory declaration outlining details of any prior convictions (safety related) outside of New Zealand and that it will provide such declaration if required by WorkSafe.

2.11 Statement of commitment from the person to participate constructively in all compliance monitoring activities for this undertaking

1. It is acknowledged that responsibility for demonstrating compliance with this undertaking rests with the person.
2. Evidence to demonstrate compliance with the terms will be provided to WorkSafe by the due date for each term.
3. The evidence provided to demonstrate compliance with this undertaking will be retained by the person until advised by the regulator, that this undertaking has been completely discharged.
4. It is acknowledged that any failure to meet the due date for an enforceable term will result in the matter being escalated and may lead to enforcement action.
5. It is acknowledged that WorkSafe may undertake other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to WorkSafe.
6. It is acknowledged that WorkSafe may initiate additional compliance monitoring activities, such as inspections, as considered necessary at WorkSafe's expense.
7. It is acknowledged that details of all seminars, workshops and training conducted by a non-registered training provider must be notified to WorkSafe, by email, at least one week prior. Notification should include time, date, location and the trainer/facilitator.

3.0 ENFORCEABLE TERMS

The person acknowledges all activities set forth in the enforceable terms below must be auditable and include a date for completion and an estimated cost for each activity.

The person commits to performing the activities below diligently, competently and by the respective completion date.

3.1 A commitment by the person to perform activities that will ensure the ongoing effective management of risks to health and safety in the future conduct of its business or undertaking

Dongwha is committed to the performance of the activities as detailed above in this application and specifically commits to perform the activities details in section 3.3 below, which will ensure the ongoing effective management of risks to health and safety in the future conduct of the business and this enforceable undertaking.

3.2 A commitment by the person to disseminate information about this undertaking to workers, and other relevant parties

In the event the enforceable undertaking (EU) is accepted, it will be disseminated to workers through the following means:

- a) EU progress and outcomes will be discussed at Health and Safety Committee meetings
- b) EU progress and outcomes will be discussed at management meetings
- c) Dongwha will report and communicate quarterly with workers on the progress and outcomes of the EU.

Dissemination will occur within 3 months of acceptance of this EU.

3.3 Activities to be undertaken to promote the objects of the safety legislation that will deliver benefits for workers and/or work and/or the workplace

Activity	Cost \$(Incl GST)	Timeframe
<p>An in-depth survey which is to benchmark the health and safety culture of the organisation against the various stakeholder groups. The survey will cover leadership, resourcing, communications, engagement, participation, training, reporting and continuous improvement and will align with the key principles of ISO 45001. The results of the survey will be published and communicated to all those that participated and the results will be reviewed by the health and safety committee and any recommendations submitted to Dongwha for consideration.</p>	\$3,450	Within 6 months of EU Acceptance
<p>Onsite-inhouse training of up to 24 people (workers and contractors) with machinery safety responsibility with the newly developed 2 day machinery safety course from the EMA based on the AS/NZ4024 machinery safety series. Costs include training, travel, accommodation and meals.</p>	\$18,975	Within 9 months of EU Acceptance
<p>½ day mock incidents drill to train our staff, involving the Fire Service and Ambulance service. These training exercises test our systems and assist the emergency services to test theirs in a live environment. Cost includes afternoon's wages for the entire staff plus an afternoon tea and gifts for the emergency service providers.</p>	\$3,000	Within 6 months of EU Acceptance
<p>Undertake an initial audit assessment of ISO 45001 (International Health and Safety System Management Standards) by the independent auditing organisation Telarc. This timeline is subject to ISO 45001 being</p>	\$3,450	Within 18 months of EU Acceptance

APPLICATION FOR AN ENFORCEABLE UNDERTAKING BY DONGWHA NEW ZEALAND LIMITED

adopted by Standards New Zealand during 2018.

Undertake the full audit of ISO 45001 (International Health and Safety System Management Standards) by the independent auditing organisation Telarc.

\$5,750

Within 6 months of the initial audit assessment.

Total estimated cost of benefits for workers and/or work and/or workplace

\$34,625

3.4 Activities to be undertaken to promote the objects of the safety legislation that will deliver benefits for the wider industry or sector

Activity	Cost \$(Incl GST)	Timeframe
<p><i>Machinery safety in the manufacturing sector is a focus area for WorkSafe NZ due to the high number of workplace injuries. The risks associated with machinery hazards are well known and information on how to manage the risk is available e.g. AS/NZS4024 Series on machinery safety and WorkSafe NZ 2014 Best Practice Guidelines for the Safe Use of Machinery.</i></p> <p><i>Machinery risks created by the manufacturing sector need to be managed by the same sector, i.e. those that create the risk need to manage the risk.</i></p> <p><i>Dongwha proposes to fund the establishment of an online pan industry machinery safety forum (Forum) and the running costs of that forum for a period of 5 years.</i></p> <p><i>The Forum will complement the resources made available by WorkSafe NZ on machinery safety and managing risks in the manufacturing sector by:</i></p> <ul style="list-style-type: none"> • <i>Delivering live quarterly webinars on managing machinery risks by subject matter experts including;</i> <ul style="list-style-type: none"> ○ <i>current trends</i> ○ <i>lessons learnt from failures</i> ○ <i>different stakeholder roles in managing risk (upstream and overlapping PCBU duties)</i> ○ <i>focus sessions on specific chronic (health) and acute (harm) hazards and risks</i> • <i>Develop and support a web site based library of the webinars for industry and other stakeholders to access post the event.</i> <p><i>This initiative is supported by HASTAG (Health and Safety Training Advisory Group) within Business NZ</i></p>	\$57,660	Within 66 months of EU Acceptance

who reach over 18,000 organisations through the various employer groups including:

- Employers and Manufacturers Association
- Business Central
- Canterbury Employers Chamber of Commerce
- Otago-Southland Employer's Association

The Forum will be managed and delivered by the Health and Safety Group within the Employers and Manufacturers Association (EMA), who have been delivering webinar based sessions for the last 7 years and currently deliver nationwide webinar based health and safety education and awareness in;

- Health and Safety for Employees
- Health and Safety for Managers and Supervisors
- Due Diligence for Officers
- Drugs and Alcohol in the Workplace

The EMA have subject matter experts (CSME and AS/NZ4024 competent) in this area of specialist risk.

The Chamber of Commerce network will also be invited to participate and promote the benefits of the Forum to reach a wider audience.

This service will be free of charge for participants.

Total estimated cost of benefits for wider industry or sector (Incl GST) \$57,660

3.5 Activities to be undertaken to promote the objects of the safety legislation that will deliver benefits for community

In consultation with the victim, there was a strong preference by the victim for Dongwha to fund community programmes for St Johns and Riding for Disabled. Dongwha recognises that simply funding an organisation without direct benefits to promoting the objectives of safety legislation is not sufficient for this application to be seriously considered. Dongwha proposes a mixture of programmes that support the victims wishes and promotes the objects of the enforceable undertaking.

Activity	Cost \$(Incl GST)	Timeframe
<p>Community Programme 1: Gore High School Gateway Programme for school leavers.</p> <p><i>Gore High School operates a career pathway and employability skills framework programme called 'Gateway'. This programme benefits the student, their family and industry in the Eastern Southland and Gore communities. Students through the Gateway programme experience a 'real work' environment where they will gain knowledge, skills and ideas to support their transition from secondary education to the workforce.</i></p> <p><i>During the Gateway programme, students develop 7 essential employability skills;</i></p> <ul style="list-style-type: none"> • <i>Positive attitude</i> • <i>Communication</i> • <i>Team work</i> • <i>Self-management</i> • <i>Willingness to learn</i> • <i>Thinking, problem solving and decision making</i> • <i>Resilience, adaptability and flexibility</i> <p><i>These skills are necessary, to become a valued employee for the future. Since 2015, 111 students have participated in the programme. In 2017, nearly 95% of those participating went onto:</i></p>	\$36,685	Within 18 months of EU Acceptance

- *Workforce employment in apprenticeships, part time or full time work (53.79%)*
- *Returned to school (38.41%)*
- *Tertiary education (15.38%)*

To ensure the students safety in the workplace there must be an emphasis on health and safety from the workplace they are entering and how the Gateway programme prepares them for this.

Dongwha proposes to extend the value of the Gateway programme by funding the development of a Safety Skills programme/workbook that builds on the current 7 skills by applying a health and safety lense. The programme will develop additional health and safety skills and knowledge in:

- 1. Workplace health and safety rights and responsibilities including:*
 - a. Responsibilities of PCBUs under the HSWA are identified and described in relation to taking all reasonably practicable steps to ensure the safety of workers, providing personal protective clothing and equipment, managing risks, providing supervision and training.*
 - b. Responsibilities and rights of workers, health and safety representatives and committees under HSWA are identified and described in protecting the health and safety of self and others, using protective clothing and equipment, the right to refuse unsafe work, to be adequately supervised and/or trained.*
- 2. How risks and hazards are explained in terms of the requirements in the HSWA.*
- 3. Workplace health and safety principal systems including;*

- a. *emergency procedures, training, worker participation and engagement, risk identification and hazard reporting, risk management.*
- b. *The hierarchy of controls is described in terms of eliminating and minimising risk.*

The programme and the workbook will include a 'Learning Journal' for when students participate in work experience and site visits, they can record and self-reflect on those experiences and capture four examples of identified hazards and how the risks of the hazards are eliminated and/or minimised.

The workbook will also include the assessment for NZQA Unit Standard (US) 497 (demonstrate knowledge of workplace health and safety requirements), which is a level 1 and 3 credits on the learners record. US497 is an essential building block for those entering the workforce and understanding how effective health and safety practices are implemented in the workplace.

Gore High School is approved to assess US497.

The guidelines from the Tertiary Education Commission for Gateway students will be followed along with Gore High School expectations.

Community Programme 2: St Johns Youth Training Programme for disadvantaged families.

St Johns Hokonui covers the Gore, Wyndham, Blue Mountain areas and there are approximately 1000 students who receive basic first aid training.

Students moving into apprenticeship or trades based learning need additional skills and knowledge in first aid in an occupational

\$18,417

Within 66 months of EU Acceptance

environment. The costs associated with this are difficult for families on limited budgets or means to fund. The skills gained from this advanced training is complimentary to the health and safety of workers and families alike.

Dongwha will fund St Johns Hokonui for a period of 5 years to undertake annual Level 2 First Aid training course (capacity 22 students per course over 5 years equals 110 youth). The course will cover;

- *Scene assessment*
- *Safety*
- *Identifying hazards*
- *CPR and intro to AED*
- *Chest pain (e.g. heart attack)*
- *Medical conditions (e.g. stroke)*
- *Dislocations*
- *Broken bones*
- *Burns*
- *Poisoning*
- *Soft tissue injury*
- *Head and spinal injuries*
- *Asthma*
- *Seizures*
- *Bleeding*
- *Environmental conditions*
- *Major incidents*

Three units standards will be applied to this training;

- *6400 Manage first aid in an emergency situation*
- *6401 Provide first aid*
- *6402 Provide basic life support*

Three credits will be assessed against the learning record of each student. The qualification will be valid for 2 years and the renewal will be managed by their employer.

St Johns Hokonui will work with the schools in this district to identify, evaluate and approve the candidates for the course. There is also an opportunity and pathway for the youth attending these course to volunteer for St Johns, which adds additional value back to the community.

Community Programme 3: Riding for Disabled Rehab Programme.

\$6,900

Within 1 month of EU Acceptance

The New Zealand Riding for the Disabled (NZRDA) is a registered charity which provides opportunities for anyone with a disability to enjoy safe, stimulating, therapeutic horse riding and horse-related activities in New Zealand.

They provide over 3,000 children and adults with disabilities an unforgettable experience each year.

Riding is an enjoyable form of healthy, outdoor exercise, and an exciting, challenging and motivating activity. Riding and equestrian skills are also transferable into many aspects of daily life. Interactions with the horse and the effects of its movement on the human body also have significant therapeutic benefits.

The benefits of the riding programme is used to develop, increase and improve:

- **Physical abilities:** Muscle tone, balance, coordination, muscle strength, flexibility, fitness, posture, gait (ability to walk), respiration, circulation, metabolism, sensory perception and integration, independence: self-care and mobility.
- **Psychological abilities:** Concentration, problem solving and decision making, insight, motivation, self-esteem, confidence, learning/practicing concepts e.g. letters, numbers, colours, distances, shapes etc.

- **Social abilities:** *Communication and social skills, learning appropriate behaviour and manners, interaction with peers: individuals and groups, human/animal contact and bonding, building relationships, consideration for others and taking on responsibility.*

The victim participated in the programme during his rehabilitation and found the programme to benefit his recovery both physically and emotionally.

Dongwha will fund NZRDA to the value of \$6900 to support 10 people to undertake these activities. It costs around \$690 to keep each RDA rider safe and sound for a year. That includes;

- *helping them to set and achieve positive and measurable therapy*
- *rehabilitation*
- *educational and/or recreational goals for the year*
- *providing rider with their own expert support team of trained RDA coaches and volunteers.*

Total estimated cost of benefits for community \$62,002
(Incl GST)

3.6 Agreement to pay WorkSafe's recoverable costs

Dongwha agrees to pay WorkSafe's costs associated with this undertaking, as itemised below, and it is acknowledged that payment is due 30 days after receipt of the WorkSafe invoice:

COSTS	MINIMUM SPEND
TOTAL RECOVERABLE COSTS	\$11,845 (Including GST if any)

3.7 Acknowledgement regarding any promotion of the person in relation to this undertaking

Dongwha agrees that it will not undertake any activities that may promote or benefit the person without explicitly linking that activity / benefit to this undertaking.

3.8 Where WorkSafe considers appropriate in the circumstances, developing a commitment to (establish and maintain OR maintain) an HSMS

3.8.1 Dongwha acknowledges there is a formal documented HSMS acceptable to WorkSafe that satisfies the principles of AS/NZS 4804:2001 Occupational health and safety management systems – General guidelines on principles, systems and supporting techniques

3.8.2 Dongwha acknowledges that the HSMS will be maintained in accordance with AS/NZS 4804:2001 Occupational health and safety management systems – General guidelines on principles, systems and supporting techniques.

3.9 If a HSMS is required, a commitment to ensure that the HSMS is audited by third party auditors

See Section 3.3 for commitment to undertake an audit to ISO 45001 or equivalent by independent auditors Telarc.

3.12 Minimum spend

3.12.1 Dongwha combined commits to a minimum spend of \$223,015 (excluding rectifications of \$285,943) for this undertaking.

3.12.2 Dongwha agrees to spend any residual amount arising from an original term not being completed or being less costly than estimated in this undertaking. Agreement on how to spend this residual will be sought from WorkSafe.

3.12.3 Dongwha acknowledges the minimum spend comprises of the:

TOTAL COST	MINIMUM SPEND (INCL GST IF ANY)
FINANCIAL AMENDS PAID TO VICTIM	\$54,882
BENEFITS TO WORKERS/WORKPLACE	\$36,625
BENEFITS TO INDUSTRY	\$57,660
BENEFITS TO COMMUNITY	\$62,002
WORKSAFE'S RECOVERABLE COSTS	\$11,845
ESTIMATED COST OF THE UNDERTAKING	\$223,015

4.0 Execution

Undertaking given by Robin Wilks in my own right and in my capacity as Environmental Health and Safety Manager of Dongwha New Zealand Limited.

On the 12 of April, 2018.

[Redacted signature]

Undertaking given before me:

Witness name:

Shelley Karena

Witness address:

[Redacted address]

Witness signature:

5: Acceptance

This undertaking is accepted by WorkSafe.

On the [day] of [month], 20[year].

27 April 2018

Signature of the person

[Redacted signature]

Name of WorkSafe representative:

Simon Humphries

Witness: *Cordell Weir - Senior Advisor - Enforceable Undertakings*
Address: *86 Customhouse Quay*
Sig: [Redacted] *27/04/18*

