

Cave creek OSH report recommended court action

The Department of Conservation should have faced High Court action over its involvement in the **Cave Creek** tragedy, according to a report.

An Occupational Safety and Health (OSH) service investigation report into the **Cave Creek** disaster said the department (DOC) should have been taken to court for failing to safely build and correctly inspect the platform for its safety.

Fourteen people died and four survived when a viewing platform at **Cave Creek** in the Paparoa National Park north of Greymouth collapsed on April 28, 1995, and plunged 30m.

In May, lawyer for the **Cave Creek** families **Grant Cameron** asked Prime Minister Helen Clark to consider appointing a retired High Court judge to finally see if any police action should be taken against DOC staff. The prime minister declined the request last month.

A commission of inquiry found no one guilty and police have never laid charges.

Former Detective Inspector Kevin Burrowes, who investigated the case, recommended a number of DOC staff be arrested and charged for their part in the incident but his 1995 file has since been reportedly lost by police.

Judge Graeme Noble, who headed the government inquiry, said DOC, but not its staff, was negligent and incompetent in constructing the faulty viewing platform.

NZPA, under the Official Information Act, today obtained the OSH report into **Cave Creek** which had not been previously released publicly, though aspects of health and safety were discussed at the August 1995 commission of inquiry.

The report said DOC should have faced court action for its part in the events.

"I believe an application to the High Court for a declaration that DOC has contravened the provisions of the Act would be the appropriate action to take," report author Brian Smith said.

Mr Smith has since left the Department of Labour.

At the time of the **Cave Creek** disaster, DOC and other government departments were exempt from prosecution. The law has since removed their impunity.

The Noble inquiry report found no single DOC staff member was at fault and it blamed the deaths on the department's systemic failure.

The OSH report said DOC failed to take all practicable steps to ensure the safety of its employees while they were on the platform.

DOC's Punakaiki field centre manager, Stephen O'Dea, was one of those killed when the structure plunged 30m to a rocky chasm floor.

His mother Linda O'Dea said today her family requests for a copy of the OSH report had been turned down.

OSH found DOC didn't ensure the correct engineering designs and specifications were included at the time the platform was approved.

DOC also failed to inspect the platform to see if it was safe and was not a hazard.

The breaches warranted prosecution, the report said.

Tai Poutini Polytechnic in Greymouth also breached the Health and Safety in Employment Act for failing to identifying existing hazards to its staff. However, its role did not warrant court action, OSH said.

The Government injected an extra \$68.4 million into conservation a year after the accident. Conservation Minister Denis Marshall later resigned.

Mr Smith said in his report that the immediate cause of the accident was directly related to the "load of the group on the platform and the manner in which the bearers were fixed to the piles".

"A safe load on the platform would only be two or three persons.

"Had the platform been securely attached to the concrete steps it is probable that the weight of the steps would have prevented the platform from falling into the chasm."

He said the platform was built by DOC staff who were unqualified and were supervised by other staff who were unqualified.

Papers relating to **Cave Creek** released by the Department of Labour to NZPA include those from the Burrowes investigation file.

Mr Burrowes has said criminal negligence charges should still be laid against those responsible for the collapse of the platform.

Police have lost Mr Burrowes' report recommending charges be laid.

Police legal adviser Ian McArthur wrote to NZPA to say he could not find the report.

"I am disappointed to say that it appears that the report you seek has been removed from the file," he said.

Mr Burrowes has said he could not see why police could still not go ahead with a prosecution.

"It's just about justice being done," he told NZPA earlier.

Some **Cave Creek** families want the matter laid to rest but others feel that by doing nothing, the Government could be accused of perpetuating the injustice.

Marjorie Shaw, mother of one of the victims, said the failure to lay charges was the biggest case of injustice in New Zealand history.

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