

...Rampant safety violations contributed to near-fatal accident

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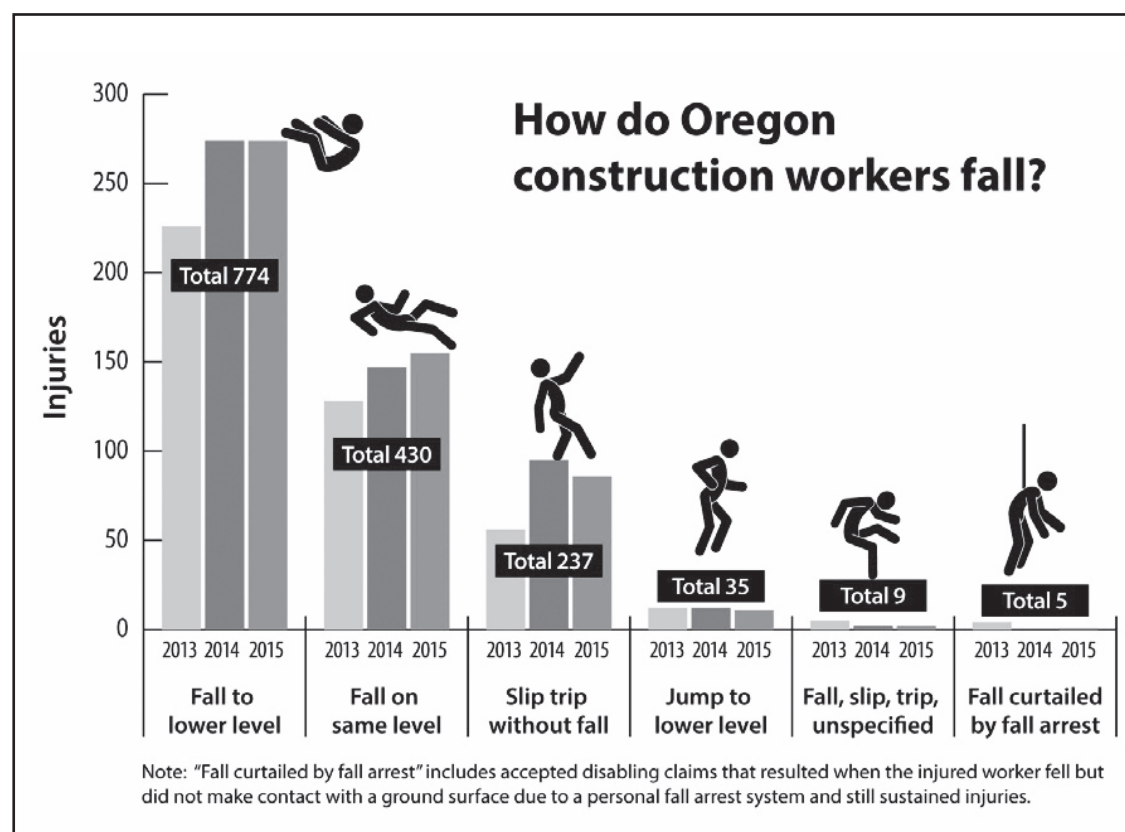
sand, paint chips and other material. The hose got stuck in a metal piece covering a gap in the scaffold, which caused him to lose his balance and fall through an unsecured 3-foot-wide ladder access opening in the scaffold. He fell 37 feet to a temporary platform below, landing on his son Christopher Montiel, who was scraping paint near the base of the ladder. After a fire department ladder rescue, both were taken to Oregon Health and Science University hospital with multiple injuries, including facial and other fractures and bleeding on the brain.

“In most cases this type of fall would have resulted in at least one of the two employees being a fatality,” OR-OSHA said in its report.

Falls are the number one killer of construction workers, so OSHA rules are very strict about fall protection. But as detailed in the OR-OSHA report, Abhe & Svoboda’s Ross Island Bridge project was ripe for a fatal accident.

OR-OSHA found that no guardrail had been set up near the hatch to prevent Lilly’s fall. Nor was he wearing the required “personal fall arrest system” — a body harness with a lanyard that’s attached to a securely anchored safety line. In fact, no horizontal lifelines or fall protection anchors had been installed. Self-retracting lifelines had been installed at ladder access points, but employees were routinely disconnecting from them once they reached the upper level of the scaffold. Even when workers did wear and attach their harnesses, they were using — as anchor points — the aluminum braces on the bottom of the scaffold plank. Those braces weren’t rated for fall protection and would most likely have failed if a “shock load” was placed on them, such as when a person falls.

There was much more. Scaffolds had not been set up under the direction of a competent person qualified in scaffold erection, OR-OSHA found, nor were they inspected for defects by a competent person before



each shift, as required. According to the manufacturer’s specifications, the scaffolds were supposed to be set up with diagonal bracing for stability. None of the scaffolds had diagonal bracing.

Working 37 feet above the next level, at least eight employees had been exposed to an unsecured edge and floor openings with no kind of fall protection system. Workers had been using a 14-inch-wide scaffold plank as a walkway and working surface to do scraping, sanding, blasting and painting on multiple levels. OR-OSHA says workers aren’t supposed to climb ladders more than 35 feet high without a rest platform installed part-way up, but Abhe & Svoboda didn’t install any rest platforms. In fact, workers often didn’t have ladders at all: To access some work areas, they had to climb up or down the scaffolding system itself, as well as

walk (foot to foot) along the outside support of the scaffold. They also had to step over holes ranging from 3 inches to 24 or more inches. In some cases, workers would avoid holes by side-

stepping along scaffold ledgers while holding onto the ledger above their head. On top of scaffold platforms employees also routinely stood on top of makeshift 20-inch-tall wooden



Painters Local 10 member Orvin Dean — shown above at a union picket near the Ross Island Bridge — worked for Abhe & Svoboda three years ago in New Jersey and Florida, and says a company foreman chastised him for taking the time to put on a safety harness.

boxes to increase their working height.

Nearly every one of those violations had been exposing workers to the risk of injury or death — eight hours a day, five days a week, for more than a year.

“For them to have nine violations, two of them ‘willful,’ is a pretty big deal,” said OR-OSHA spokesperson Aaron Corvin. “This is essentially an employer who ignored rules that we’ve had on the books for some time.”

In Renton, Washington, Lilly and Montiel are still at home recovering from their injuries. The accident that sidelined them could easily have been prevented.

OR-OSHA investigators said the company’s site safety man-

ager, Thurman London, said he knew that the scaffolding system was not set up per OSHA rules. [As we reported in our April 21 issue, London is a former federal OSHA compliance officer who was convicted of theft of government property.] Meanwhile, Abhe & Svoboda’s corporate safety manager Rick Pendleton told investigators that the company follows federal OSHA rules, but he doesn’t worry about the state’s OSHA rules because they “change too much.”

OR-OSHA says Abhe & Svoboda remedied some of the hazards shortly after the accident. The company was given until June 23 to remedy other violations — such as having a qualified person to construct the scaffold.

OR-OSHA’s fines can’t undo the injuries suffered by Lilly and Martiel, but they do vindicate one labor union’s campaign to expose Abhe & Svoboda as a serial safety violator at bridge painting projects around the country.

For years, the International Union of Painters and Allied Trades has tried to raise alarms about nonunion Abhe & Svoboda. Then in 2016 it sent in organizer Omar Rubi as an underground union “salt” on the Ross Island Bridge repainting project. At work underneath the bridge, Rubi and other workers witnessed and complained about serious safety lapses, but were ignored and even disciplined by company management. Rubi himself was sent home the day before the accident after telling co-workers at a company safety meeting that they have the right under federal law to talk to each other, and to government agencies, about safety concerns. A week later, he was terminated. A charge that his termination was unlawful is currently under investigation by the National Labor Relations Board.

ODOT’s reaction: Safety is super-important to us. Really.

Oregon Department of Transportation reacted to news of OR-OSHA’s fines with an unattributed official statement: “Nothing matters more to ODOT than ensuring the safety of workers on our projects, whether they are ODOT employees or contractor employees,” the agency said.

Could OSHA’s findings lead to some loss of ODOT business for Abhe & Svoboda? ODOT spokesperson Don Hamilton said ODOT has the option to revoke or suspend a contractor from the “pre-qualified” bidder list.

“We’re going to have to take a look at the report and make some decisions about that as we go forward,” Hamilton said. “One violation is generally not sufficient to remove someone from the pre-qualification list, but we have to look at the substance of what OSHA has found here.”

Abhe & Svoboda has been fined before for safety violations in Oregon: Nearly \$30,000 in 2011 for dozens of OSHA violations on the Astoria-Megler Bridge. The company was also fined \$15,500 for three serious OSHA violations in Hawaii in 2012.

Graphic courtesy of Oregon OSHA