Update on Rio Tinto supply chain workers

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By Justice for Port Drivers Campaign

From 2018 until now, port truck drivers have tried to engage with Rio Tinto and also their employer NFI Industries concerning illegal employment practices. Drivers continue to be disappointed at Rio Tinto’s lack of action even though Rio Tinto claims to care about human rights.

In September 2019, port truck drivers from Cal Cartage Express, a subsidiary of NFI Industries, went on strike to protest the unfair labor practices by their employer. These drivers haul boron from a Rio Tinto mine in the Mojave Desert to the Port of Lost Angeles. NFI Industries has knowingly continued to misclassify port truckers as independent contractors in an effort to externalize labor and business costs. Under this employment scheme, drivers have to pay for their trucks, insurance, fuel, parking and other job related costs that should be covered by their trucking company. Additionally drivers are not paid for some of the hours they spend on the clock, including waiting for dispatch and conducting safety inspections of the trucks.

While port drivers were on strike, they traveled from Los Angles to Salt Lake City to London to demand that Rio Tinto, the leading customer of Cal Cartage Express, drop business with NFI Industries because the company continues to break the law. Rio Tinto has for years claimed that they uphold the highest standards for their supply chain partners yet Rio Tinto has ignored the blatant violations of Cal Cartage Express and NFI Industries towards its port truck drivers. It is shameful that Rio Tinto hasn’t taken any meaningful action or even at a minimum, worked to minimize the risk and liability of Rio Tinto for doing business with a company that has millions of dollars in outstanding wage theft claims.

Rio Tinto launched a “third party” investigation in 2019 into the concerns raised by drivers; however Rio Tinto did not share the results of that investigation and continues to do business with Cal Cartage Express. Port drivers that have spoken out and gone on strike even while the “third party” investigation was ongoing found that they were further discriminated against by Cal Cartage Express in that instead of being extended the standard six month work contract, they are now under a one month agreement. This is in apparent violation of federal labor laws, and an investigation into the matter is currently underway by Region 21 of the National Labor Relations Board.

As of the writing of this update, at least 15 wage claim cases have been heard by the CA Division of Labor Standards Enforcement (DLSE) where close to $4 million has been awarded to Cal Cartage Express port drivers in unpaid wages and penalties. Fourteen of these awards have since been appealed by Cal Cartage Express and a trial is scheduled for June 15, 2020 in California Superior Court. In addition, the Los Angeles Office of Wage Standards continues to investigate claims that Cal Cartage Express is in violation of the Los Angeles minimum wage and paid sick day ordinance.

Additional Resources:

* Closed and pending cases concerning NFI Industries: <https://justiceforportdrivers.org/2019/03/18/regulatory-action-litigation-nfi/>
* Press Release concerning Cal Cartage Express striking drivers arriving to Rio Tinto’s office in Salt Lake City: <https://justiceforportdrivers.org/2019/09/10/striking-ca-truckers-who-baul-borax-arrive-at-rio-tintos-headquarters-in-utah>

Background

The Ports of Los Angeles and Long Beach combined are the busiest ports in the US. It is estimated that 16,000 port truck drivers provide critical logistics support for imports and exports out of these ports. NFI Industries is the largest port trucking company at the Ports of Los Angeles and Long Beach. It is critical that ALL port drivers are transitioned to direct employees so that they have access to our social safety net and are properly protected under US labor laws.