

March 15, 2019

CEO Jean-Sebastien Jacques
Rio Tinto Group

Sent via email to Jean-Sebastien.Jacques@riotinto.com

Dear Mr. Jacques,

I write to you today to call your immediate attention to the labor and human rights violations committed by NFI Industries and its subsidiary, Cal Cartage Express. NFI is a logistics provider for Rio Tinto, hauling borates from the Rio Tinto mine in Boron, CA to the Port of Los Angeles. **I call on Rio Tinto to enforce its Supplier Code of Conduct and end its business relationship with NFI Industries.**

My organization, Los Angeles Alliance for a New Economy (LAANE) has been part of numerous attempts to raise concerns directly with NFI Industries over the course of several years. Founded in 1993, LAANE promotes a new economic approach based on good jobs, thriving communities, and a healthy environment. For the past 25 years, LAANE has been at the forefront of Los Angeles' progressive movement, transforming conditions in key industries and improving the lives of hundreds of thousands of working families in southern California.

LAANE has stood shoulder to shoulder with port truck drivers and warehouse workers for the last 12 years. Drivers and warehouse workers have gone on strike seven times, filed numerous complaints with California's Department of Labor Standards Enforcement¹, delivered petitions directly to NFI management and yet NFI Industries has not taken these concerns seriously. NFI continues to misclassify drivers as independent contractors² and therefore has several outstanding complaints by port truck drivers and warehouse workers concerning wage theft³, minimum wage violations⁴ and even unfair competition laws⁵ in California. I have included with this letter a formal summary of NFI Industries legal issues.

In October 2018 Cal Cartage Express/NFI port truck drivers went on strike concerning unfair labor practices and participated in an ambulatory picket outside of the Rio Tinto Boron mine. On December 17, 2018, port drivers and members of the Our People Our Port community coalition, of which LAANE is a member, delivered a letter to Rio Tinto at the Port of Los Angeles calling on Rio Tinto to stop doing business with companies like NFI that continue to break the law.

I have reviewed the Rio Tinto Supplier Code of Conduct and firmly believe that NFI Industries is not following these standards.

¹ Regulatory Action and Litigation at NFI/Cal Cartage, Page 2

² Regulatory Action and Litigation at NFI/Cal Cartage, Pages 1, 2, 3

³ Regulatory Action and Litigation at NFI/Cal Cartage, Pages 2, 3, 5

⁴ Regulatory Action and Litigation at NFI/Cal Cartage, Pages 2, 3, 5

⁵ Regulatory Action and Litigation at NFI/Cal Cartage, Pages 2, 3

According to Rio Tinto's Supplier Code of Conduct, the company requires suppliers to "uphold fundamental human rights" including labor rights. In our experience, NFI Industries routinely and flagrantly violates workers' rights.

Rio Tinto Standard: Ensuring fair remuneration and work conditions for all workers.

"In December, 2018, 13 of my coworkers and I were awarded \$4 million by the California Department of Labor Standards Enforcement (DLSE) because of unpaid wages and illegal paycheck deductions. This company has broken the law by misclassifying us as independent contractors in order to pay us less than the minimum." – Gustavo Villa, Cal Cartage Express Driver

This most recent judgement is one of many actions brought against NFI by port drivers. In total, NFI has been ordered to pay \$26.9 million due to NFI's violations of minimum pay and sick day standards. These judgements could result in Rio Tinto being held financially responsible now that California's SB1402 is in effect which holds beneficial cargo owners jointly liable for any unpaid final judgments concerning port drivers.

Rio Tinto Standard: Ensuring all work is freely chosen; without the use of forced or compulsory labor.

"We are only allowed to work for one company and we aren't allowed to negotiate our rates. If we were truly 'independent contractors' like NFI says we are we'd have that freedom, but that is not the case." – Juan Lara, Cal Cartage Express Driver

According to a series of USA Today investigative articles in 2017, port trucking is a system of "modern-day indentured servitude." In October 2018, more than fifty organizations sent a letter to Rio Tinto expressing deep concern about NFI Industries' use of forced labor.

Rio Tinto Standard: Respecting workers' rights to lawfully and peacefully form or join trade unions of their choosing and to bargain collectively.

"My co-workers and I wanted to form a union at the NFI warehouse where we work to address some of the serious problems there, including heat, racial discrimination and safety violations. NFI fought us every step of the way, using intimidation tactics. Finally, in January 2019, NFI decided to leave the facility instead of allowing us to form a union without intimidation. While our work at the NFI Warehouse doesn't overlap with that of Cal Cartage Express, our fight with NFI is a unified one. This company has mistreated us workers for far too long." – Jeremy Hoke, NFI Warehouse Worker

The last standard in Rio Tinto's Supplier Code of Conduct is one in which NFI Industries has broken time and time again. It states: "Management Commitment - Suppliers who work with Rio Tinto share our commitment to the principles raised in this Supplier code of conduct by adopting and promoting the commitments in the code and encouraging their subcontractors to do the same." NFI's management has shown no such commitment.

It isn't just workers and community organizations like LAANE that have raised concerns regarding NFI Industries. On January 8, 2018, the City Attorney of Los Angeles filed lawsuits⁶ against NFI based on

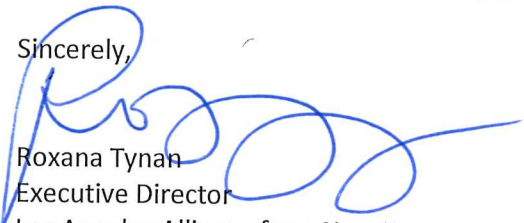
⁶ Regulatory Action and Litigation at NFI/Cal Cartage, Page 2

California's Unfair Competition Laws for evasion of taxes and not providing drivers with proper benefits because NFI is calling their drivers "independent contractors." The Los Angeles City Council has also expressed concerns regarding continued labor disruptions of the Port of LA and because of this, NFI has chosen to abandon the Port of LA Willington property rather than make a commitment to abide by the law. This action alone shows that NFI has no intention of following the law and is similar to a factory shuttering its doors in the middle of the night to avoid legal responsibilities to its workers.

As supporters of Rio Tinto supply chain workers, LAANE is fed up with the way NFI Industries continues to mistreat its workers. I call on Rio Tinto to immediately cease doing business with NFI Industries because the company is a repeat offender in violation of both Rio Tinto's Supplier Code of Conduct and the law. We request that you work to ensure that workers' jobs will be protected with a new, high-road contractor that can be trusted to follow the Rio Tinto Supplier Code of Conduct.

We look forward to your immediate reply. You can respond to me via email at rtynan@laane.org.

Sincerely,



Roxana Tynan
Executive Director

Los Angeles Alliance for a New Economy

Attachments: Summary document concerning Regulatory Action and Litigation at NFI/Cal Cartage

CC: Brett Horton, Rio Tinto Mining