

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, June 23, 2016 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Robin S. Orchard	Commissioner
	James Ashley	Director
	Stephen Ball	Acting Chief Legal Counsel
	Melinda Poppe	Deputy Director
	Bob Charles	Legislative Affairs Chief / Public Information Officer
	Molly Jones	Claims Manager
	Larry Gast	Assistant ADOSH Director
	Billie Gingrass	Compliance Officer
	JR Imes	Compliance Officer
	Kara Dimas	Commission Secretary

Chairman Schultz convened the Commission meeting at 1:00 p.m. Also in attendance were Emily Bregel, a reporter with the Arizona Daily Star, and Christina Jutzi of Snell & Wilmer.

Approval of Minutes of June 9, 2016 Regular and Executive Session Meetings.

Commissioner Orchard moved to approve the Minutes of the June 9, 2016 Regular Session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Orchard voted in favor of the motion. The motion passed.

Vice Chair Hennelly moved to approve the Minutes of the June 9, 2016 Executive Session meeting and Commissioner Orchard seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Orchard voted in favor of the motion. The motion passed.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C15/16-1240 CEM Green Xeroscape Exp, LLC
2. 2C15/16-2218 H. Saiti & Son, Inc., dba Brother's Pizza
3. 2C15/16-0910 Happy Trimmer LLC
4. 2C15/16-0760 Min-De Transportation LLC
5. 2C15/16-1450 Top Quality Lawn and Grounds Service, LLC

Vice Chair Hennelly moved to approve the items on the Consent Agenda and Commissioner Orchard seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Orchard voted in favor of the motion. The motion passed.

Presentation from and/or discussion with the Industrial Commission's Public Information Officer. This agenda item may include discussion regarding the operations of the Industrial Commission.

Mr. Charles reported on media and public records requests related to the Yarnell Fire investigation and ADOSH's investigation into the fatal accident near Bell Road and the 101 freeway.

Mr. Charles commented on a presentation given by Jacqueline Kurth regarding the new Treatment Guidelines.

Mr. Charles provided an update on the Commission's website development project.

Mr. Charles discussed the positive response received by the Commission resulting from letters sent to members of Congress, committee staff, and bill sponsors regarding the Voluntary Protection Program (VPP) legislation (Senate Bill 2881).

Finally, Mr. Charles reported on his and Chairman Shultz' presentation at the Chamber of Commerce for the Arizona Manufacturing Council and the positive feedback received.

Chairman Schultz commented on the Commission's continued community out-reach efforts to build more broad-based support for issues like evidence based medicine. He commented on the importance of the new Commission website and its role in implementing the treatment guidelines process.

Chairman Schultz commented on the next Commission meeting in Prescott and the upcoming Safety Summit in Flagstaff.

Discussion & Action of Resolution Appointing Custodians of Records.

Ms. Jones explained the proposed resolution to appoint Isabelle Soto as a custodian of records for the Commission. At Chairman Shultz request, Ms. Jones explained the purposes of a custodian of records. Chairman Schultz discussed the complexity of fulfilling document requests and the importance of custodians of record.

Commissioner Orchard moved to approve the appointment of Ms. Soto and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, and Commissioner Orchard voted in favor of the motion. The motion passed.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

Dolce Dolci, LLC dba Villa Dolce Gelato
2425 W Utopia Rd
Phoenix, AZ 85027

Site Location: 2425 W Utopia Rd
Phoenix, AZ 85027

Planned
Years in Business: 3
Empl. Covered by inspection: 15

Inspection No: A3807-1124243
Inspection Date: 02/10/2016

SERIOUS – Citation 1 - Item 1 – 2425 W Utopia Rd, Phoenix, AZ 85027: The employer did not establish and maintain a program of energy control procedures, employee training and periodic inspections to protect employees from unexpected energizing, startup or release of stored energy that could occur and cause injury when performing any servicing or maintenance on the Dari Fill machine. (29 CFR 1910.147(c)(1)).

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 2 –

a) Warehouse: One employee who operated a Mitsubishi Forklift model FB16PNT, serial EFB2500291 did not receive training and evaluation prior to operating the forklift. (29 CFR 1910.178(l)(1)(i)).

b) Warehouse: Two employees operated a Mitsubishi Forklift model FB16PNT, serial EFB2500291 which was not examined for defects before each shift. (29 CFR 1910.178(q)(7)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 3 –

a) Warehouse: One cardboard compressing machine model and serial number unknown was not guarded to prevent employees from having any part of their body in the danger zone during the operating cycle in that the interlock did not function properly to prevent operation when the gate was open. (29 CFR 1910.212(a)(1)).

b) Production room: One Dari Fill machine model and serial unknown was not guarded at the point of operation to prevent the machine operator and other employees from having any part of their body in the danger zone during the operating cycle of the machine. (29 CFR 1910.212(a)(3)(ii)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$3,500.00

TOTAL FORMULA AMT. - \$3,500.00

Mr. Gast summarized the proposed citations and penalties as listed. Vice Chair Hennelly asked whether the employer was unaware of the training and inspection requirements relating to the forklift issues. He noted that mounted photograph # 5 suggested that the employer had not done forklift inspections for quite some time. He also asked about abatement steps the employer was taking. Mr. Gast responded to the questions. Vice Chair Hennelly commented on the diversity of the violations and the employer's understanding of safety at its work sites.

Commissioner Orchard clarified that there was no known abatement and asked why ADOSH commenced the inspection. Mr. Gast responded to the question. Commissioner Orchard commented on her assessment of the proposed citations and the employer's apparent lack of a workplace safety and health program. She asked for clarification on the basis for the citation in Item 1. Mr. Gast responded to the question.

Chairman Schultz asked about the condition of the forklifts. Mr. Gast responded to the question, noting that no other forklift violations were found. Chairman Schultz asked about the severity assigned to Item 1 and how the classification was determined. Mr. Gast explained the classifications and how potential severities are determined.

Commissioner Orchard moved to amend the proposed citations based on the status of the employer as a new company. She moved to amend, as follows: Item 1 be reduced to \$500.00 and Item 2 be reduced to \$500.00, for a total penalty of \$2,250.00. Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Orchard voted in favor of the motion. The motion passed.

Hughes Performance, Inc. 2244 W McDowell Rd Phoenix, AZ 85009		Planned	
		Years in Business:	45
		Empl. Covered by inspection:	40
Site Location:	2244 W McDowell Rd Phoenix, AZ 85009		
Inspection No:	L7648-1142406		
Inspection Date:	04/25/2016		

SERIOUS – Citation 1 - Item 1 –

- a) 2244 W McDowell Rd, Phoenix, AZ 85009: The employer provided employees a 3M 5200 Series half-facepiece respirator and a 3M R95 8240 Particulate Respirator, while painting transmissions and torque converters and did not establish and implement a written respiratory protection program. (29 CFR 1910.134(c)(1)).
- b) 2244 W McDowell Rd, Phoenix, AZ 85009: A medical evaluation was not provided to employees to determine their ability to use a 3M 5200 Series half-mask tight fitting respirator or a 3M R95 8240 Particulate Respirator while painting transmissions and torque converters. (29 CFR 1910.134(e)(1)).
- c) 2244 W McDowell Rd, Phoenix, AZ 85009: Employees who wore a 3M 5200 Series half-mask tight fitting respirator or a 3M R95 8240 Particulate Respirator while painting transmissions and torque converters were not fit tested prior to initial use of the respirator. (29 CFR 1910.134(f)(2)).

Div. Proposal - \$1,250.00	Formula Amt. - \$1,250.00
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SERIOUS – Citation 1 - Item 2 – 2244 W McDowell Rd, Phoenix AZ 85009: One Hyster forklift, model H50XM and serial number unknown, was not taken out of service for the unsafe condition of a missing seat belt. (29 CFR 1910.178(p)(1)).

Div. Proposal - \$1,250.00	Formula Amt. - \$1,250.00
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SERIOUS – Citation 1 - Item 3 –

- a) Machine Shop, General Machine Area: One Jet Vertical Metal Band saw, model VSF 14-1, serial number 40900434, did not have the blade guarded on the non-working portion of the saw to prevent injury. (29 CFR 1910.212(a)(1)).

b) Machine Shop, General Machining Area: One Bridgeport Milling Machine, model unknown, serial number J158241, did not have a point-of-operation guard to prevent the operator from placing any part of their body into the danger zone during operation. (29 CFR 1910.212(a)(3)(ii)).

c) Machine Shop, Northwest corner: A LeBlond 13" Lathe, serial number unknown did not have the pulleys completely enclosed to prevent an employee from placing any part of their body in the danger zone while the machine was operated. (29 CFR 1910.219(d)(1)).

d) Machine Shop, Northwest corner: A LeBlond 13" Lathe, serial number unknown did not have the vertical drive belts completely enclosed to prevent an employee from placing any part of their body in the danger zone while the machine was operated. (29 CFR 1910.219(e)(3)(i)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$3,750.00

TOTAL FORMULA AMT. - \$3,750.00

Mr. Gast summarized the proposed citations and penalties as listed. Commissioner Orchard asked about the employer's safety program regarding respiratory protection. Mr. Gast responded to the question. Commissioner Orchard noted a possible quick-fix abatement regarding the seatbelt in mounted photograph #7. Mr. Gast agreed. Chairman Schultz commented on the employer's access to a seatbelt and his surprise that no action had been taken.

Commissioner Orchard and Chairman Shultz expressed concerns regarding the employer's forklift training and safety program. Vice Chair Hennelly commented on the respirator issues in light of the chemicals used by the employer. He asked for clarification regarding the number of machines that were unguarded. Mr. Gast responded. Vice Chair Hennelly expressed concern over the employer's failure to place guards on its machines. Commissioner Orchard asked if there was any type of uniform policy which forbids the wearing of sleeves or loose fitting clothing. Mr. Gast responded to the question.

Commissioner Orchard moved to amend the proposed citations, as follows: Item 1 be reduced to \$500.00, Item 2 be reduced to \$100.00 (applying a quick fix discount), and Item 3 be increased to \$1,500.00, for a total penalty of \$2,100.00. Vice Chair Hennelly seconded the motion. Chairman Schultz stated that the communication to the employer should include a strong recommendation from the Commission that the employer avail itself of ADOSH's consultation division in order to improve its overall safety program. Chairman Schultz, Vice Chair Hennelly and Commissioner Orchard voted in favor of the motion. The motion passed.

ITS Wire & Cable LLC dba Casa Grande Wire & Cable
1108 W Gila Bend Highway
Casa Grande, AZ 85122

Complaint

Years in Business: 3

Empl. Covered by inspection: 20

Site Location: 1108 W Gila Bend Highway
Casa Grande, AZ 85122

Inspection No: T3633-1144970

Inspection Date: 05/04/2016

SERIOUS – Citation I - Item 1 – Wire treatment line: An oxygen cylinder and an acetylene cylinder, which were standing unsupported in an open area east of the galvanizing tank, were not stored in accordance with the Compressed Gas Association's Pamphlet P-1-1965 in that the cylinder valves on both cylinders did not have their protective caps in place. (29 CFR 1910.101(b)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 2 – Galvanizing tank: Employees added zinc ingots to the molten zinc in the galvanizing tank, which was approximately 880 degrees F, wearing normal work clothes, gloves, and safety glasses, and the employer had not assessed the workplace to determine appropriate personal protective equipment to protect the employees against splashes of molten zinc to their face, arms, and body. (29 CFR 1910.132(d)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 3 – 1108 W. Gila Bend Highway, Casa Grande: Employees did maintenance work on machines including the Mekosan and Vaught brand wire mills, and the employer had not established lockout/tagout procedures and trained employees to ensure that the equipment would be isolated and rendered inoperative prior to any work where the unexpected energizing or startup could occur and cause injury. (29 CFR 1910.147(c)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 4 – Water treatment area: Employees filled and dispensed 50% sodium hydroxide and 35% hydrochloric acid from bulk tanks, and the eyewash/drench shower installed in the area was not supplied with water. (29 CFR 1910.151(c)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 5 – 1108 W. Gila Bend Highway, Casa Grande: Employees operated a Hyster brand forklift, model S50FT, serial number F187V10655E, and the employees had not been trained and evaluated by the employer concerning forklift operation. (29 CFR 1910.178(l)(1)(i)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 6 –

a) Wire coating line: A Hyster brand forklift, model S50FT, serial number F187V10655E, had a hand brake which did not work. (29 CFR 1910.178(p)(1)).

b) 1108 W Gila Bend Highway, Casa Grande: Employees operated forklifts including a Hyster brand forklift, model S50ST, serial number F187V10655E, and the forklift had not been examined prior to being placed in service for the day. (29 CFR 1910.178(q)(7)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 7 –

a) Mill area: Employees used an overhead crane, unknown manufacturer, model, and serial number, to remove spools of wire from the Mekosan brand wire mill, and the crane had been modified in that the bridge had been cut into two parts, and a new rated load had not been determined, tested, and posted. (29 CFR 1910.179(b)(3)).

b) Mill area: Employees used an overhead crane, unknown manufacturer, model, and serial number, to remove spools of wire from the Mekosan brand wire mill, and appropriate daily and monthly inspections as required by the standard were not conducted. (29 CFR 1910.179(j)(2)).

c) Mill area: Employees used an overhead crane, unknown manufacturer, model, and serial number, to remove spools of wire from the Mekosan brand wire mill, and a complete inspection of the crane was not performed at least annually. (29 CFR 1910.179(j)(3)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 8 – Welding area: A synthetic web sling that had been most recently used to move a motor had tears and had not been removed from service. (29 CFR 1910.184(i)(9)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 9 – Wire coating line: Ingoing nip points on the pulleys at each wire unspooling station, which changed the travel direction of the wire from vertical to horizontal, were not guarded. (29 CFR 1910.212(a)(1)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 10 –

a) Wire treatment line: A bench grinder, unknown manufacturer, model, and serial number, which was mounted on a Microweld brand induction welder located at the front end of the line, had an unguarded grinding wheel. (29 CFR 1910.215(a)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 11 – Wire treatment line: The combustion fan serving the Industrial Combustion Equipment Manufacturing Inc. brand furnace, had a motor shaft section and coupler which were not guarded. (29 CFR 1910.219(c)(2)(i)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 12 – Wire mill area: A Real Gear brand right angle grinder, unknown model and serial number, did not have a guard. (29 CFR 1910.243(c)(3)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

NON-SERIOUS – Citation 2 - Item 1 – 1108 W. Gila Bend Highway, Casa Grande: Its Wire and Cable LLC dba Casa Grande Wire and Cable had more than 10 employees, and was not keeping the OSHA injury and illness records (OSHA 300 log and OSHA 300A form). (29 CFR 1904.1(a)(2)).

Div. Proposal - \$300.00

Formula Amt. - \$300.00

TOTAL PENALTY - \$10,800.00

TOTAL FORMULA AMT. - \$10,800.00

Mr. Gast summarized the proposed citations and penalties as listed. Commissioner Orchard and Chairman Schultz commented on the complaints that prompted the inspection and ADOSH's findings regarding those complaints. Mr. Gast commented on the complaints and scope of the inspection.

Vice Chair Hennelly commented on the employer's widespread safety problems and asked that this employer also be advised to avail itself of ADOSH's consultation division. Vice Chair Hennelly commented on the Compliance Officer's determination with respect to the severity and probability of injury/illness determinations, particularly with Citation 1, Items 1 & 4. He also commented on the citation groupings in light of the employer's size and history. Vice Chair Hennelly asked about Item 9 and if the machines were purchased from California. Mr. Gast did not know the answer. Chairman Schultz noted that it did not appear the machines had any guarding and

noted there was no personal protective equipment being used by the operator on the right angle grinder. Vice Chair Hennelly noted that the employer was only three years old, but indicated they should be doing a better job with safety.

Commissioner Orchard moved to amend the proposed citations, as follows: (1) Citation 1, Item 3 be reduced to \$100.00 (based on the fact the employer set the faulty equipment aside), Citation 1, Item 5 be reduced to \$750.00 (based on other forklift citations the Commission has considered), for a total of \$9,400.00. Vice Chair Hennelly seconded the motion. Chairman Schultz noted that the citation should include a strong recommendation to the employer to avail itself of ADOSH's consultation services. Chairman Schultz, Vice Chair Hennelly and Commissioner Orchard voted in favor of the motion. The motion passed.

Lumberjack Timber, LLC
671 S Garland Prairie Rd
Williams, AZ 86046

Site Location: 671 S Garland Prairie Rd
Williams, AZ 86046
Inspection No: H1793-1126887
Inspection Date: 02/22/2016

Referral
Years in Business: 1
Empl. Covered by inspection: 13

SERIOUS – Citation 1 - Item 1 – Southwest Corner of Shop Floor: The floor was not maintained in a clean and dry condition, in that hydraulic oil and motor oil presented a hazardous condition. (29 CFR 1910.22(a)(2)).

Div. Proposal - \$450.00

Formula Amt. - \$450.00

SERIOUS – Citation 1 - Item 2 – Shop Equipment: An energy control program and training for servicing and maintenance of equipment was not developed to prevent unexpected startup or release of stored energy that could cause injury. (29 CFR 1910.147(c)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 3 – Yard area: An employee had operated a Gradall forklift model 534B and serial number 86449180, and had not received training and evaluation to operate the forklift. (29 CFR 1910.178(l)(1)(i)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 4 – Yard area: An employee who was operating a Gradall forklift model 534B and serial number 86449180 with a rollover protective cage was not wearing a seat-belt as the seat-belt did not function properly. (29 CFR 1910.178(p)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 5 –

a) South Main Shop Floor: One air compressor, model and serial number unknown did not have a guard to cover the rotating pulleys. (29 CFR 1910.219(d)(1))

b) Main Shop Floor: One air compressor, model and serial number unknown did not have a guard to cover the rotating horizontal belt. (29 CFR 1910.219(e)(1)(i)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 6 – Outside Power Transmission Waste Chain: The exposed power transmission sprockets of the waste chain conveyer were not guarded to prevent the operator's hands or parts of clothing from being caught between the sprockets and chains. (29 CFR 1910.265(c)(18)(i)).

Div. Proposal - \$5,000.00

Formula Amt. - \$5,000.00

SERIOUS – Citation 1 - Item 7 –

a) North Main Shop Floor: The North West circuit breaker box was missing panel knock-outs, numbers 25-30 and was not protected by a circuit breaker or cover to guard against accidental contact with the live 240 volt current bus bar. (29 CFR 1910.303(b)(7)(i)).

b) North Main Shop Floor: The North West circuit breaker box was missing a left side panel knock-out and did not adequately cover against accidental contact with the live 240 volt current bus bar. (29 CFR 1910.305(b)(1)(ii)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

TOTAL PENALTY - \$9,200.00

TOTAL FORMULA AMT. - \$9,200.00

Mr. Gast summarized the proposed citations and penalties as listed and reviewed the photographs. Commissioner Orchard asked if the seatbelts were abated for Item 4. Mr. Gast responded that there was no indication of abatement.

Vice Chair Hennelly asked about abatement relative to Item 6. Mr. Gast responded to the question. Vice Chair Hennelly commented on the severity and probability of injury/illness determinations in Item 4. He asked if the employer purchased the sawmill as part of the effort to thin the forests in Northern Arizona. Mr. Gast responded to the question.

Vice Chair Hennelly moved to approve the citation as presented. Commissioner Orchard seconded the motion. Chairman Schultz commented about recent deaths across the nation from forklifts rolling over the operator and the importance of seatbelt use. He also commended ADOSH on the thoroughness of the investigation and presentation. Chairman Schultz, Vice Chair Hennelly and Commissioner Orchard voted in favor of the motion. The motion passed.

Quail Plumbing, Inc.
21831 N 16th St
Phoenix, AZ 85024

Site Location: 3034 N 40th St
Williams, AZ 86046
Inspection No: H9685-1127565
Inspection Date: 02/24/2016

Planned
Years in Business: 25
Empl. Covered by inspection: 3

SERIOUS – Citation 1 - Item 1 – East Side of Property: Three employees were not provided with instruction in the recognition and avoidance of unsafe conditions and the regulations applicable to their environment to control or eliminate hazards while digging and locating sewer pipes in an unprotected excavation that was 8 feet deep. (29 CFR 1926.21(b)(2)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 2 – East Side of Property: Two employees were not provided with an adequate supply of potable drinking water when they were tasked with manually digging an excavation outside with shovels and a jackhammer. (29 CFR 1926.51(a)(1)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 3 – East Side of Property: A stairway, ladder, ramp or other safe means of egress was not provided for two employees who were working inside an excavation approximately 6 feet long by 8 feet 2 inches wide by 8 feet deep. (29 CFR 1926.651(c)(2)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 4 – East Side of Property: Two employees inside an 8 foot deep excavation, that were attempting to locate a sewer pipe by shoveling and jackhammering, were potentially exposed to a hazardous atmosphere because the service to the pipe had not been turned off and the atmosphere inside the excavation had not been tested before employees entered the excavation. (29 CFR 1926.651(g)(1)(i)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 5 – East Side of Property: Two employees were working in and around an excavation that had the excavated soil piled within two feet of the edge of the excavation and no retaining devices were used. (29 CFR 1926.651(j)(2)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 6 – East Side of Property: A daily inspection of an excavation approximately 6 feet long by 8 feet 2 inches wide by 8 feet deep was not made by a competent person for evidence of a situation that could have resulted in a possible cave-in. (29 CFR 1926.651(k)(1)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 7 – East Side of Property: Two employees in an excavation 8 feet deep were not protected from cave-ins by an adequate protective system designed in accordance with 29 CFR 1926.652(c). (29 CFR 1926.652(a)(1)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$7,750.00

TOTAL FORMULA AMT. - \$7,750.00

Mr. Gast noted a clerical error regarding the listed location. He stated that the site location was 3034 North 40th Street, Phoenix, Arizona 85018. He summarized the proposed citations and penalties as listed and reviewed the photographs. Commissioner Orchard commented on the various violations of the employer. She inquired about grouping Items 5, 6, and 7, as they all appeared related to cave-in hazards. Mr. Gast responded to the question.

Vice Chair Hennelly clarified that there were no braces or trench box of any kind in use in the hole and that there was a jackhammer present. He asked about soil classifications and the various types of soil. Chairman Schultz commented on evaluating soil before excavating. Mr. Gast responded to the questions. Chairman Schultz and Vice Chair Hennelly commented about other incidents involving excavation hazards.

Commissioner Orchard moved to amend the proposed citations, as follows: Items 5 and 6 be combined with a combined citation of \$1,250.00, for a total penalty of \$7,000.00. Vice Chair

Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Orchard voted in favor of the motion. The motion passed.

Western Bonded Products, Inc. dba Flex Foam
617 N 21st Ave
Phoenix, AZ 85009

Site Location: 617 N 21st Ave
Phoenix, AZ 85009
Inspection No: W0250-1144728
Inspection Date: 05/04/2016

Complaint
Years in Business: 37
Empl. Covered by inspection: 8

SERIOUS – Citation 1 - Item 1 – Warehouse: An employee was working in close proximity to a 10" x10" opening above a pit, which was designed as an overflow for steam from two boilers. (29 CFR 1910.22(c)).

Div. Proposal - \$5,000.00

Formula Amt. - \$5,000.00

TOTAL PENALTY - \$5,000.00

TOTAL FORMULA AMT. - \$5,000.00

Mr. Gast summarized the proposed citation and penalty as listed. Vice Chair Hennelly asked for information about a prior inspection. Mr. Gast reviewed the history of inspections. Commissioner Orchard asked if the investigators determine whether a previous violation continues to be abated. Mr. Gast responded.

Commissioner Orchard moved to approve the citation as presented. Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Orchard voted in favor of the motion. The motion passed.

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2016. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

Ms. Poppe provided an update on the approval of the State Plan moving ADOSH cases to the Office of Administrative Hearings and discussed transition plans.

Ms. Poppe discussed the annual Claims Seminar on August 11-12 and the content to be presented relating to the new Treatment Guidelines.

Ms. Poppe discussed the Commission's continued outreach efforts to inform stakeholders about the Treatment Guidelines.

Finally, Ms. Poppe reported on Commission initiatives, including the website development project, fillable forms, and improving the Commission's phone systems.

Chairman Schultz and Ms. Poppe commented about content to be presented at the annual Workers' Compensation Seminar. Chairman Schultz commented on Ms. Kurth's efforts to educate the public and provide training regarding the new Treatment Guidelines.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley discussed plans for the July 13-14 trip to Prescott for a Commission meeting.

Mr. Ashley discussed the upcoming tour at Palo Verde Nuclear Generating Station scheduled for July 19. Chairman Schultz commented on the tour and VPP recertification status.

Mr. Ashley reported on plans to meet with stakeholders regarding potential legislative agenda items.

Mr. Ashley reported on the status of rulemaking related to self-insurance pools.

Mr. Ashley commented on the tour of the UPS facility.

Mr. Gast noted that the ADOSH Advisory Committee Meeting will be in Flagstaff on July 5, the day before the Safety Summit on July 6-7.

Ms. Dimas announced Commission meeting dates through August 2016.

Chairman Schultz discussed the retirement resolution for Teresa Harding and congratulated her on her service.

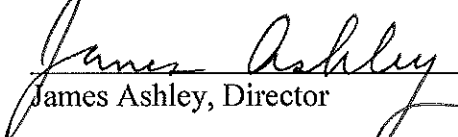
Public Comment.

Chairman Schultz invited Ms. Bregel to comment and thanked her for joining the meeting. Ms. Bregel commented that the meeting helped her understand the Commission's process.

Vice Chair Hennelly moved to adjourn and Commissioner Orchard seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner Orchard voted in favor of the motion and the meeting was adjourned at 3:04 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary