

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Wednesday, August 21, 2013 – 12:30 p.m.

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| Present: | David M. Parker | Chairman |
| | Susan Strickler | Vice Chair |
| | Kathleen Oster | Member |
| | Michael G. Sanders | Member |
| | Joseph M. Hennelly, Jr. | Member |
| | Andrew Wade | Chief Counsel |
| | William Warren | Director, ADOSH |
| | Patrick Ireland | Compliance Officer |
| | Nathan Casiraro | Compliance Officer |
| | Angela McCray | Human Resources Manager |
| | Teresa Hilton | Commission Secretary |

Chairman Parker convened the Commission meeting at 12:30 p.m. noting a quorum present. Also in attendance was Jason Weber of Snell and Wilmer.

Approval of Minutes of August 15, 2013 Meeting

The Commission unanimously approved the Minutes of the General Session of August 15, 2013 on motion of Mr. Sanders, second of Mr. Hennelly.

The Commission unanimously approved the Minutes of the Executive Session of August 15, 2013 on motion of Ms. Oster, second of Ms. Strickler.

Consent Agenda:

- a. Approval of Proposed Civil Penalties Against Uninsured Employers.
 1. 2C12/13-2015 Glendale Aviation Group, LLC dba Glendale Flyers
 2. 2C11/12-2722 Rogelio Trejo & Veronica Trejo, Husband & Wife,
dba Doorcraft & Millwork aka Doorcraft &
Millwork Custom Doors and Closets

- b. Approval of Request for Renewal of Self Insurance Authority.
 1. Bashas', Inc.

Chairman Parker stated that item b (1) was being removed from the Consent Agenda and will be considered at a later meeting. The Commission unanimously approved the remaining items on the Consent Agenda on motion of Ms. Strickler, second of Mr. Sanders.

Discussion & Action regarding ADOSH Boiler Advisory Board Appointment pursuant to A.R.S. §23-474(2) and A.A.C. R20-5-403

Bill Warren advised that in response to a vacancy on the Boiler Advisory Board, Randy Austin, Chief Boiler Inspector, has solicited replacement candidates and has recommended Mr. Ivan Insua as representing boiler owners/operators. Mr. Warren concurred with this recommendation. Upon review of Mr. Insua's resume, statement of qualifications, and letter of interest, the Commission unanimously appointed Mr. Ivan Insua to the Arizona Boiler Advisory Board for a term of three years representing boiler owners/operators on motion of Mr. Sanders, second of Ms. Oster.

Discussion & Action of ADOSH Discrimination Complaint.

#13-3875-01 Miguel A. Ochoa vs. Pinal Feeding Co. – Bill Warren presented a summary of Mr. Ochoa's complaint, the employer's response, and the Division's investigation of the matter and responded to questions from the Commissioners. Mr. Warren recommended that the Commission decline to pursue the matter because the investigation did not find sufficient evidence to support a causal link between the exercise of any protected activity and adverse action. The Commission unanimously voted not to pursue the complaint on motion of Mr. Sanders, second of Ms. Oster.

Discussion & Action of Proposed OSHA Citations & Penalties

Burlingame Industries, Inc. dba Eagle Roofing Products
4602 W. Elwood Dr.
Phoenix, AZ 85040

Fatality/Accident
Yrs/Business – 14
Empl. Cov. by Insp. – 45

Site Location: 4602 W. Elwood Dr., Phoenix, AZ 85040
Inspection #: I6950-317075810
Insp. Date: 04/12/2013

SERIOUS – Citation 1 – Item 1 – An evaluation of the workplace was not adequately completed because the employer did not identify which spaces are considered permit-required confined spaces. (1910.146(c)(1)).

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 – Item 2 – Sand Hopper: The employer did not provide danger signs or other effective means for employees working near and around permit required confined spaces. (1910.146(c)(2)).

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

TOTAL PENALTY - \$2,000.00

TOTAL FORMULA AMT. - \$2,000.00

Bill Warren summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$2,000.00 on motion of Ms. Oster, second of Mr. Sanders.

SERIOUS – Citation 1 -

Item 2(a) – Tag lines used adjacent to 12KV power lines were not fabricated of a non-conductive material. (1926.1408(b)(2)).

Item 2(b) – Insulating link(s) were not utilized during the lifting and placing of structural steel near energized 12KV power lines. (1926.1410(d)(4)(i)).

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| Div. Proposal - \$1,500.00 | Formula Amt. - \$1,500.00 |
| TOTAL PENALTY - \$3,000.00 | TOTAL FORMULA AMT. - \$3,000.00 |

Bill Warren summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$3,000.00 on motion of Mr. Sanders, second of Ms. Strickler.

Town of Clarkdale, Town Yard/Shop
P.O. Box 308
Clarkdale, AZ 86324-0308

Programmed Planned
Yrs/Business – 56
Empl. Cov. by Insp. – 7

Site Location: 891 First South St., Clarkdale, AZ 86324
Inspection #: U5916-317075588
Insp. Date: 04/02/2013

SERIOUS – Citation 1 - Item 1 – Shop Area: Employee had not been provided training on how to safely use the vehicle lift (make, model and serial number unknown) prior to the employee using the vehicle lift as specified by the equipment owner’s manual and the applicable industry standard, ANSI/ALI ALOIM: 2008 (American National Standards Institute/Automotive Lift Institute, Standard for Automotive Lifts – Safety Requirements for Operation, Inspection and Maintenance). (A.R.S. § 23-403(A)). There was one other instance of this violation.

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| Div. Proposal - \$1,250.00 | Formula Amt. - \$1,250.00 |
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SERIOUS – Citation 1 - Item 2 – Mezzanine over office area: The door opening, approximately 8’ 2 ¼” above the floor was not guarded by standard railings or equivalent on all open sides, in that it had a top rail but did not have a mid-rail or toe boards. (1910.23(c)(1)).

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| Div. Proposal - \$1,000.00 | Formula Amt. - \$1,000.00 |
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SERIOUS – Citation 1 - Item 3 – 891 First South St, Clarkdale, AZ 86324; Town Yard/Shop: The employer did not establish an energy control program at the Shop that included equipment-specific energy control procedures, including but not limited to earth-moving equipment, and periodic inspections. (1910.147(c)(1)).

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

Item 4(a) – Shop Area: One Ace brand bench grinder, model 6” Dual Light Grinder, serial number unknown, did not have safety guards installed to cover the spindle ends, nuts, flange projections on its left wheel. (1910.212(a)(1)).

Item 4(b) – Shop Area: One Ace brand bench grinder, model 6” Dual Light Grinder, serial number unknown, was not equipped with a work rest to support off-hand grinding work on the right wheel. (1910.215(a)(4)).

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

SERIOUS – Citation 1 - Item 5 – Shop Area: The compressed air distribution system at the entire site was comprised of polyvinyl chloride pipe. (A.A.C. R20-5-628).

Div. Proposal - \$ 300.00

Formula Amt. - \$ 300.00

TOTAL PENALTY - \$4,800.00

TOTAL FORMULA AMT. - \$4,800.00

Chairman Parker tabled consideration of this agenda item until the next meeting due to time constraints.

Executive Session under A.R.S. § 38-431.03(A)(1) to Interview and Discuss Candidates for the Position of Chief Administrative Law Judge

1:00 a.m. – 4:00 p.m. (approximately)

Interview candidates

Prior to going into Executive Session, Andrew Wade advised that the candidates have been provided the notice required under A.R.S. § 38-431.03(A) and none have requested consideration in open session. The Commission unanimously voted to go into Executive Session on motion of Ms. Strickler, second of Mr. Sanders. Executive Session Minutes are kept separately.

Discussion and/or Action regarding the consideration of candidates, salary, and appointment of Chief Administrative Law Judge. The Commission may vote to discuss this matter in executive session pursuant to A.R.S. §38-431.03(A)(1). A list of the names of the candidates may be reviewed in the Office of the Director by contacting the Commission’s Executive Secretary. The Commission may defer a decision on this matter to a later date

Upon return to General Session, the Commission unanimously voted to offer the position to candidate number two on motion of Ms. Oster, second of Ms. Strickler. The Commission unanimously voted to offer the position to candidate number one if candidate number two declines the offer on motion of Mr. Sanders, second of Mr. Hennelly. The Commission unanimously agreed to offer candidate number two the salary identified in executive session on motion of Ms. Strickler, second of Ms. Oster. Chairman Parker stated that in the event candidate number two declines, the salary for the position will be established at a later time.

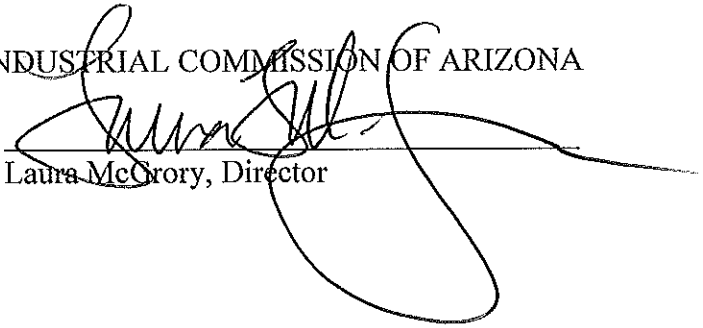
Announcements and Scheduling of Future Meetings

Ms. McGrory stated that an agenda item for the next meeting will be the consideration of the Special Fund assessments for 2014 and that she will provide the Commissioners with a memorandum in advance of the meeting. Secretary Hilton reminded the Commissioners that the next meeting is scheduled for September 4, 2013.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 5:58 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


Laura McGrory, Director

ATTEST:


Teresa Hilton, Commission Secretary