

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Wednesday, June 4, 2014 – 1:00 p.m.

|          |                         |                             |
|----------|-------------------------|-----------------------------|
| Present: | David M. Parker         | Chairman (video conference) |
|          | Michael G. Sanders      | Member                      |
|          | Joseph M. Hennelly, Jr. | Member (video conference)   |
|          | Andrew Wade             | Chief Counsel               |
|          | William Warren          | ADOSH Director              |
|          | Ron Harnsberger         | Compliance Officer          |
|          | Sylvia Simpson          | Chief Financial Officer     |
|          | Renee Pastor            | Self Insurance Manager      |
|          | Yvonne Borunda          | Legal Division              |
|          | Karen Axsom             | Labor Director              |
|          | Kara Dimas              | Commission Secretary        |

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Susan Strickler and Kathleen Oster were excused. Also in attendance were Lee McCleary of ADOT and Jason Weber of Snell & Wilmer.

Approval of Minutes of May 22, 2014 Meeting

The Commission unanimously approved the Minutes of the May 22, 2014 General Session on motion of Mr. Sanders second of Mr. Hennelly.

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. 2C13/14-0015 Cactus Rose Ranch, LLC
2. 2C13/14-1331 G&F Carrier, L.L.C.
3. 2C13/14-1335 Grace Home Assisted Living, L.L.C.
4. 2SP13/14-0134 Sharnet's Child Care, LLC dba Rising S.T.A.R.S. Preschool
5. 2C12/13-1218 Triple Baker Transport, LLC

b. Approval of Requests for Renewal of Self-Insurance Authority.

1. International Paper Company
2. Truly Nolen of American, Inc.
3. Weyerhaeuser Company

Chairman Parker asked if any agenda items needed to be removed from the Consent Agenda. Hearing none, the Commission unanimously approved the items on the consent agenda on motion of Mr. Hennelly, second of Mr. Sanders.

Discussion and/or Action regarding Legislation

Mr. Wade stated there was nothing to report at this time.

Discussion and/or Action regarding Residential Fall Protection and Federal OSHA's Notice of Initiation of Proceedings to Reject State Initiated Plan Change No. 133, and Reconsider Arizona's State Plan Authority under Section 18(e) of the Occupational Safety and Health Act. The Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(3) and (A)(4) to consult with its attorneys to obtain legal advice and to consider its position and instruct its attorneys regarding pending or contemplated litigation

Mr. Wade stated there was nothing new to report at this time. Mr. Sanders commented on the May 30, 2014 letter from the Arizona Congressional delegation to federal OSHA and asked how they became involved. Mr. Wade responded that he had no specific information.

Discussion and Action of ADOSH Proposed Citations and Penalties

Arizona Department of Transportation  
1324 N 22<sup>nd</sup> Ave  
Phoenix, AZ 85009

Fatality/Accident  
Years in Business: 40  
Empl. Cov. By Insp.: 1

Site Location: ADOT Storm Drain Canal, McQueen to Arizona Ave  
Chandler, AZ 85249  
Inspection No: N4762-317588325  
Inspection Date: 1/31/2014

Mr. Warren summarized the investigation into the death of an ADOT employee and responded to questions from the Commissioners. Mr. Warren stated that the medical examiner has not completed all of the toxicology testing and, as a result, the specific cause of death has not yet been determined. Mr. Warren described ADOSH's working hypothesis of the incident. He stated that ADOSH does not recommend any citation. Mr. McCleary, the Loss Prevention Liability Specialist for ADOT, addressed the Commissioners. Mr. Parker stated that unless there was a request for further investigation, the matter would be concluded. There was no request for further investigation.

Coast King Packing, LLC  
2358 E 13<sup>th</sup> St.  
Yuma, AZ 85364

Fatality/Accident  
Years in Business: 3  
Empl. Cov. By Insp.: 28

Site Location: County 11 and Avenue D  
Yuma, AZ 85364  
Inspection No: P0775-317585107  
Inspection Date: 1/08/2014

SERIOUS – Citation 1 - Item 1 – Harvester: The chain drive to the right wing conveyor belt was not adequately guarded to prevent accidental contact by an employee. (1928.57(a)(7)(i)).

Div. Proposal - \$5,000.00

Formula Amt. - \$5,000.00

Mr. Warren stated that this matter had previously been presented to the Commission and he summarized the requests made at the prior meeting and ADOSH's response to those requests. He summarized the citation and proposed penalty as listed and responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citation and assessed the recommended penalty of \$5,000.00 on motion of Mr. Sanders, second of Mr. Hennelly.

Mr. Warren summarized ADOSH's outreach efforts with stakeholders in Yuma and he described future efforts. Mr. Parker requested that Mr. Warren provide another update at a future date and suggested that ADOSH explore incorporating some of the types of issues in the Coast King Packing matter into the Claims Seminar.

Discussion & Action regarding Proposed Youth Employment Penalty.

CL-1314-0029: Shane & Kristine Enterprises, Inc. dba McDonald's #6329 – Karen Axsom summarized the Labor Department's investigation following the receipt of a work injury report stating that a 15 year old youth was injured while working at a restaurant. The youth sustained an injury to her wrist while emptying fries from a deep fryer. Ms. Axsom stated that the Labor Investigator also examined payroll records and determined that the 15 year old youth consistently worked more than 18 hours a week when school was in session in violation of Arizona law. The Commission discussed the facts and reviewed the applicable statute. The Commission assessed the proposed penalty of \$1,000.00 on motion of Mr. Sanders, second of Mr. Hennelly.

Announcements and Scheduling of Future Meetings

Mr. Parker confirmed the next meeting scheduled for Thursday, June 19, 2014, and the dates through August 2014.

Mr. Wade presented a retirement resolution for signature for Mary Ann Olive for 18 years of state service with the Claims division.

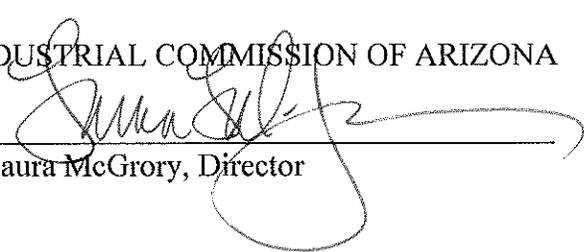
Mr. Parker added that he received an email from Michael Hawthorne thanking for him for time with the Commission.

Mr. Warren added that this is National Safety Stand-Down Week and he explained the purpose is to raise awareness of preventing fall hazards in construction and he described ADOSH's participation in several Stand-Down events.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 1:26 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
\_\_\_\_\_  
Laura McGrory, Director

ATTEST:

  
\_\_\_\_\_  
Kara Dimas, Commission Secretary