MINUTES OF MEETING OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street Phoenix, Arizona 85007 Thursday, April 10, 2025 – 1:04 p.m.

Present: Dennis P. Kavanaugh

Chairman

D. Alan Everett

Commissioner

Orion J. Godfrey

Commissioner

Gaetano J. Testini

Director

Afshan Peimani

Chief Legal Counsel Deputy Director

Lisa Padgett Charles Carpenter

Legislative Affairs Chief/Public Information Officer

Brian Hudson

ADOSH Director

Brant Smith

ADOSH Deputy Director

Victoria Medina

ADOSH Supervisor

Taryn North James Reitmeier **ADOSH Supervisor ADOSH Supervisor**

Braxton Byer Ricardo Montenegro **ADOSH Compliance ADOSH Compliance**

Anna Maria Stonerock Brian Mason

ADOSH Compliance ADOSH Compliance ADOSH Compliance ADOSH Compliance

Liam Bristol Cecilia Herera

Thomas Martz

ADOSH Consultation

Cherese Gleason-Perez Crystal Wilder

ADOSH Admin ADOSH Admin

ADOSH Admin

Bethany Votta Jesus Carranza

UofA Intern for ALJ

Paula Eaton Yvonne Borunda Administrative Law Judge **Acting Commission Secretary**

Chairman Kavanaugh convened the meeting at 1:04 p.m. In attendance, confirmed by roll call were Taylor Thomas (Snell and Wilmer); Anne Ryman (ABC15); Juley Bocardo-Homas, James Menlove, Rick Husk, Troy White, Wayne Jones, Joel McDaniel, Earl David LaForge and Aaron Codiga (Gila County).

Approval of Minutes of April 3, 2025, Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the January 16, 2025, regular session meeting and Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Commissioner Everett, and Commissioner Godfrey 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 Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.

1. CP-2025-NM858-0018 Diamond Chemical Company Inc.

2. CP-2025-EG419-0095 Earnhardt Avondale, Inc. dba Earnhardt Honda

3. CP-2025-EG419-0091 MKS Services, LLC

Commissioner Godfrey moved to approve the items on the Consent Agenda and Commissioner Everett seconded the motion. Chairman Kavanaugh, Commissioner Everett and Commissioner Godfrey voted in favor of the motion. The motion passed.

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

Chairman Kavanaugh discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Chairman noted that Mr. Husk of Gila County would like to speak at the direction of Commission after the citations are presented.

Gila County - Russell Gulch Landfill

Complaint

5891 Hope Ln

Years in Business: Empl. Covered by Inspection: 37 3

Globe, AZ 85501

5891 Hope Ln

Globe, AZ 85501

Inspection No:

Site Location:

CP-2025-TN976-0040

Inspection Date:

November 20, 2024

SERIOUS – Citation 1 - Item 1a –

a) 5891 Hope Ln, Globe: One employee worked near a permit-required confined spaces and an evaluation of the workplace to determine if any of these spaces were present not been conducted. 29 CFR 1910.146(c)(1)

Div. Proposal - \$11,524.00

Formula Amt. - \$11,524.00

<u>SERIOUS</u> – Citation 1 - Item 1b –

a) 5891 Hope Ln, Globe: One employee was required to drive a truck with a large water tank, while they had not been identified as a permit-required confined space.

b) 5891 Hope Ln, Globe: One employee was required to use a water tank to fill up a water truck, while they had not been identified as a permit-required confined space. 29 CFR 1910.146(c)(2)

Div. Proposal - \$0.00

Formula Amt. - \$11,524.00

SERIOUS - Citation 1 - Item 2 -

a) 5891 Hope Ln, Globe: One employee was exposed to leaking lithium batteries, without having access to an eye wash station at the worksite. 29 CFR 1910.151(c)

Div. Proposal - \$9,218.00

Formula Amt. - \$9,218.00

SERIOUS – Citation 1 - Item 3 –

a) 5891 Hope Ln, Globe: One employee has reasonably expected exposure to chemicals such as motor oil, propane, leaking lithium batteries, lighter fluid, spray cans, paint, and aerosol cans without having received hazard communication training. 29 CFR 1910.1200(h)(1)

Div. Proposal - \$9,218.00

Formula Amt. - \$9,218.00

TOTAL PENALTY - \$29,960.00

TOTAL FORMULA AMT. - \$41,484.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty. Mr. Hudson commented that Gila County has provided abatement and has been working closely with ADOSH.

Chairman Kavanaugh noted that Mr. Husk would like to comment.

Mr. Husk mentioned the Gila County employees that are present and are involved in taking care of the issues at hand and maintaining the safety of their employees. Mr. Husk mentioned a power point that Maribella provided to ADOSH addressing the violations and what abatement has been completed.

Chairman Kavanagh discussed the opportunity to reach out to the counties and consider the ADOSH staff to offer training and have ADOSH attend their annual meeting.

Commissioner Godfrey moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Kavanaugh, Commissioner Everett and Commissioner Godfrey voted in favor of the motion. The motion passed.

Gila County - Automotive Department Globe

725 Rose Mofford Way

Globe, AZ 85501
Site Location:

t Globe Program Planned Years in Business:

Years in Business: Empl. Covered by Inspection: 12 7

1001 W Besich Blvd Globe, AZ 85501

Inspection No:

PP-2025-TM082-0064

Inspection Date:

November 21, 2024

<u>SERIOUS</u> – Citation 1 - Item 1 –

a) 1001 W Besich Blvd, Globe: One employee used a lockout/tagout device on a Kioti KL 4030 Front Loader without specific energy control procedures established. 29 CFR 1910.147(c)(4)(ii)

Div. Proposal - \$11,524.00

Formula Amt. - \$11,524.00

SERIOUS – Citation 1 - Item 2 –

a) 1001 W Besich Blvd, Globe: One employee used a lockout tagout device on a Kioti KL 4030 Front Loader without being provided with hazardous energy control (lockout/tagout) training. 29 CFR 1910.147(c)(7)(iv)

Div. Proposal - \$11,524.00

Formula Amt. - \$11,524.00

SERIOUS – Citation 1 - Item 3 –

a) 1001 W Besich Blvd, Globe: One employee was required to use or handle R1234YF Freon, engine oil, transmission fluid, hydraulic fluid, brake cleaner, and power steering fluid while performing vehicle maintenance without being provided hazard communication training. 29 CFR 1910.1200(h)(1)

Div. Proposal - \$6,913.00

Formula Amt. - \$6,913.00

TOTAL PENALTY -\$29,961.00 TOTAL FORMULA AMT. - \$29,961.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh checked if anyone would like to comment.

Commissioner Everett noted that it is a good thing that abatements have been made.

Commissioner Everett moved to approve the citation and proposed penalties as presented and Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Commissioner Everett and Commissioner Godfrey voted in favor of the motion. The motion passed.

Gila County - Automotive Department Payson

Program Planned

725 Rose Mofford Way

Years in Business:

27

Globe, AZ 85501

5318 AZ 260

Empl. Covered by Inspection:

9

Site Location:

Star Valley, AZ 85541

Inspection No:

PP-2025-TM082-0068

Inspection Date:

November 25, 2024

SERIOUS – Citation 1 - Item 1a –

a) 5318 E Highway 260, Star Valley Lube Shop: Three employees accessed the Lube Shop to reach an adjacent area and were exposed to a fall hazard from an open lube pit 53 inches deep that did not have fall protection, floor markings, or a warning line with stanchions. 29 CFR 1910.28(b)(8)(ii)

Div. Proposal - \$9,218.00

Formula Amt. - \$9,218.00

SERIOUS – Citation 1 - Item 1b –

a) 5318 E Highway 260, Star Valley Lube Shop: Three employees accessed the Lube Shop to reach an adjacent area and were exposed to a fall hazard from an open lube pit measuring 53 inches in depth that did not have readily visible caution signs posted to warn of a fall hazard. 29 CFR 1910.28(b)(8)(iii)

Div. Proposal - \$0.00

Formula Amt. - \$9,218.00

SERIOUS – Citation 1 - Item 2 –

a) 5318 E Highway 260, Star Valley Lube Shop: Three employees accessed the Lube Shop to reach an adjacent area and were exposed to a fall hazard from an open lube pit 53 inches deep without fall protection training. 29 CFR 1910.30(a)(1)

Div. Proposal - \$9,218.00

Formula Amt. - \$9,218.00

SERIOUS – Citation 1 - Item 3a –

a) 5318 E Highway 260, Star Valley/Diesel & Heavy Equipment Shop: T Two employees operating an Industrial Motor drill press, 2004 model Type K, Serial #APP-075-4 without machine guarding at the point of operation. 29 CFR 1910.212(a)(3)(ii)

Div. Proposal - \$11,524.00

Formula Amt. - \$11,524.00

SERIOUS – Citation 1 - Item 3b –

a) 5318 E Highway 260, Star Valley/Diesel & Heavy Equipment Shop: Two employees were operating a Milwaukee 3/4 HP Bench Grinder, Model 5051, that lacked a tongue guard. 29 CFR 1910.215(b)(9)

Div. Proposal - \$0.00

Formula Amt. - \$6,913.00

TOTAL PENALTY - \$29,960.00

TOTAL FORMULA AMT. - \$46,091.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh noted he did not have a request to speak.

Commissioner Godfrey moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Kavanaugh, Commissioner Everett and Commissioner Godfrey voted in favor of the motion. The motion passed.

Gila County - Automotive Department Payson

Program Planned

725 Rose Mofford Way

Years in Business:

Globe, AZ 85501

Empl. Covered by Inspection:

27

9

Site Location:

5318 E Highway 260

Star Valley, AZ 85541

Inspection No:

PP-2025-TN976-0043

Inspection Date:

November 25, 2024

SERIOUS – Citation 1 - Item 1 –

a) Diesel Heavy Equipment Shop: Three employees were exposed to a work area where an oxygen tank was stored with a combustible flammable material such as acetylene. 29 CFR 1910.253(b)(4)(iii)

Div. Proposal - \$9,218.00

Formula Amt. - \$9,218.00

TOTAL PENALTY -\$9,218.00 TOTAL FORMULA AMT. - \$9,218.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh, Mr. Hudson and Mr. Husk discussed abatement for this citation. Mr. Hudson responded that he would have to verify and is not exactly sure this is abated. Mr. Husk responded to Mr. Hudson.

Commissioner Everett moved to approve the citation and proposed penalties as presented and Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Commissioner Everett and Commissioner Godfrey voted in favor of the motion. The motion passed.

Gila County - Property and Evidence Department Globe

Program Planned Years in Business:

143 2

725 Rose Mofford Way Globe, AZ 85501

725 Rose Mofford Way

Globe, AZ 85501

Inspection No:

Site Location:

PP-2025-TN976-0041

Inspection Date:

November 20, 2024

SERIOUS – Citation 1 - Item 1a –

a) Parking lot: One employee was required to wear a tight-fitting half mask respirator, model and serial number unknown, while conducting a drug burn, without a written respiratory protection program being in place. 29 CFR 1910.134(c)(1)

Div. Proposal - \$9,218.00

Formula Amt. - \$9,218.00

Empl. Covered by Inspection:

SERIOUS – Citation 1 - Item 1b –

a) Parking lot: One employee was required to wear a tight-fitting half mask respirator, model and serial number unknown, while conducting a drug burn, without having received a medical evaluation. 29 CFR 1910.134(e)(1)

Div. Proposal - \$0.00

Formula Amt. - \$9,218.00

SERIOUS - Citation 1 - Item 1c -

a) Parking lot: One employee was required to wear a tight-fitting half mask respirator, model and serial number unknown, while conducting a drug burn, without having been fit tested. 29 CFR 1910.134(f)

Div. Proposal - \$0.00

Formula Amt. - \$9,218.00

SERIOUS – Citation 1 - Item 1d –

a) Parking lot: One employee was required to wear a tight-fitting half mask respirator, model and serial number unknown, while conducting a drug burn, without having received respiratory training. 29 CFR 1910.134(k)

Div. Proposal - \$0.00

Formula Amt. - \$9,218.00

SERIOUS – Citation 1 - Item 2a –

a) Property and Evidence room floor 2: One employee was required to walk past four unlocked/open sewage pipe doors measuring 46 inches in height and 24 inches in width, while walking to and from storage rooms, while an evaluation had not been conducted to determine if any spaces were permit-required confined spaces. 29 CFR 1910.146(c)(1)

Div. Proposal - \$9,218.00

Formula Amt. - \$9,218.00

SERIOUS – Citation 1 - Item 2b –

a) Property and Evidence room floor 2: One employee was required to walk past four unlocked/open sewage pipe doors measuring 46 inches in height and 24 inches in width, while walking to and from storage rooms, while these spaces were not identified as permit-required confined spaces. 29 CFR 1910.146(c)(2)

Div. Proposal - \$0.00

Formula Amt. - \$9,218.00

SERIOUS – Citation 1 - Item 3a –

a) Property and Evidence Room: One employee was required to transfer vials of blood to independent analysis, without a written Exposure Control Plan having been established in the workplace. 29 CFR 1910.1030(c)(1)(i)

Div. Proposal - \$9,218.00

Formula Amt. - \$9,218.00

SERIOUS - Citation 1 - Item 3b -

a) Property and Evidence Room: One employee was required to transfer vials of blood to independent analysis, without having been offered the hepatitis B vaccine. 29 CFR 1910.1030(f)(1)(i)

Div. Proposal - \$0.00

Formula Amt. - \$9,218.00

SERIOUS – Citation 1 - Item 3c –

a) Property and Evidence Room: One employee was required to transfer vials of blood to independent analysis, without having received blood borne pathogen training. 29 CFR 1910.1030(g)(2)(i)

Div. Proposal - \$0.00

Formula Amt. - \$9,218.00

TOTAL PENALTY - \$27,654.00

TOTAL FORMULA AMT. - \$82,962.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh asked if the Commissioner's had any questions and at that time Mr. Husk asked to speak. Mr. Husk said this was a unique citation. The custodian has completed all training.

Mr. Hudson commented that ADOSH had just started conversations with the facilities maintenance department. Mr. Hudson explained the standard for exposure in confined spaces.

Commissioner Godfrey moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Kavanaugh, Commissioner Everett and Commissioner Godfrey voted in favor of the motion. The motion passed.

Gila County - Buckhead Mesa Landfill

Program Planned

725 Rose Mofford Way Globe, AZ 85501

Years in Business: Covered by Inspection: 36 4

Site Location:

1321 E Buckhead Mesa Landfill Rd.

Payson, AZ 85541

Inspection No:

PP-2025-TN976-0042

Inspection Date:

November 25, 2024

SERIOUS - Citation 1 - Item 1a -

a) 1321 E Buckhead Mesa Landfill Rd. Payson: One employee worked near a permit-required confined space and an evaluation the workplace to identify these spaces had not been conducted. 29 CFR 1910.146(c)(1)

Div. Proposal - \$11,524.00

Formula Amt. - \$11,524.00

SERIOUS - Citation 1 - Item 1b -

a) 1321 E Buckhead Mesa Landfill Rd. Payson: One employee was required to drive a truck with a large water tank, and had not been informed that the tank was a permit-required confined space. 29 CFR 1910.146(c)(2)

Div. Proposal - \$0.00

Formula Amt. - \$11,524.00

SERIOUS – Citation 1 - Item 2 –

a) 1321 E Buckhead Mesa Landfill Rd. Payson: One employee was exposed to leaking car batteries, without having access to an eye wash station at the worksite. 29 CFR 1910.151(c) Formula Amt. - \$11,524.00 Div. Proposal - \$11,524.00

SERIOUS – Citation 1 - Item 3 –

Metals Conex Box: One employee was exposed to an improperly stored compressed gas cylinder. 29 CFR 1910.253(b)(2)(ii) Formula Amt. - \$9,218.00 Div. Proposal - \$9,218.00

SERIOUS – Citation 1 - Item 4 –

a) 1321 E Buckhead Mesa Landfill Rd. Payson: One employee has reasonably expected exposure to chemicals such as motor oil, propane, lighter fluid, spray cans, paint, and aerosol cans without having received hazard communication training. 29 CFR 1910.1200(h)(1) Formula Amt. - \$11,524.00 Div. Proposal - \$11,524.00

TOTAL PENALTY - \$43,790.00

TOTAL FORMULA AMT. - \$55,314.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty.

Commissioner Everett and Mr. Hudson discussed confined space in the chamber.

Commissioner Everett moved to approve the citation and proposed penalties as presented and Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Commissioner Everett and Commissioner Godfrey voted in favor of the motion. The motion passed.

Gila County - Signs Department Globe

725 Rose Mofford Way

Globe, AZ 85501

Site Location:

Program Planned

Years in Business:

13 2

Empl. Covered by Inspection:

725 Rose Mofford Way

Globe, AZ 85501

Inspection No:

PP-2025-TM082-0065

Inspection Date:

November 21, 2024

SERIOUS – Citation 1 - Item 1a –

a) 725 N Rose Mofford Way, Globe: One employee used Rust-Oleum brand Stripping Paint, Goof Off Professional Strength Adhesive Remover, Equate brand 91% Isopropyl Alcohol, and Strait-Line brand Alert orange Marking paint and did not readily have access to safety data sheets. 29 CFR 1910.1200(g)(8)

Div. Proposal - \$11,524.00

Formula Amt. - \$11,524.00

SERIOUS – Citation 1 - Item 1b –

a) 725 N Rose Mofford Way, Globe: One employee used Goof Off Professional Strength Adhesive Remover, Equate brand 91% Isopropyl Alcohol, Rust-Oleum brand Stripping Paint, and Strait-Line brand Alert Orange Marking Paint, without having received hazard communication training. 29 CFR 1910.1200(h)(1)

Div. Proposal - \$0.00

Formula Amt. - \$11,524.00

SERIOUS – Citation 1 - Item 1c –

a) 725 N Rose Mofford Way, Globe: One employee used Goof Off Professional Strength Adhesive Remover, Equate brand 91% Isopropyl Alcohol, Rust-Oleum brand Stripping Paint, and Strait-Line brand Alert Orange Marking Paint, and a chemical inventory list was not present in the workplace. 29 CFR 1910.1200(e)(1)(i)

Div. Proposal - \$0.00

Formula Amt. - \$11,524.00

<u>SERIOUS</u> – Citation 1 - Item 2 –

a) Sign Department/Globe service trucks: One employee using Goof Off Professional Strength brand adhesive remover, and did not have access to eye wash for immediate emergency use.

b) Sign Shop: One employee using Goof Off Professional Strength brand adhesive remover, and did not have access to eye wash for immediate emergency use. 29 CFR 1910.151(c) Formula Amt. - \$11,524.00 Div. Proposal - \$11,524.00

TOTAL PENALTY - \$23,048.00

TOTAL FORMULA AMT. - \$46,096.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh asked the Commissioners if they had any questions. Commissioner Godfrey asked to have the opportunity to discuss the citations.

Commissioner Godfrey moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Kavanaugh, Commissioner Everett and Commissioner Godfrey voted in favor of the motion. The motion passed.

Commissioner Godfrey asked Mr. Husk in his opinion what caused the volume of violations during this inspection. Mr. Husk responded that the area is a very rural community, with the major areas of development being Payson and Globe. Employee recruitment and retention is difficult. Mr. Husk mentioned the loss in management personnel and department heads may have brought this on. As of right now 99% of the issues have been addressed.

Commissioner Godfrey and Mr. Husk discussed the current programs in general, the bloodborne pathogens, confined space, parking, and safety data sheets.

Chairman Kavanagh commented that the counties in Arizona are huge and vast which presents a challenge in covering these counties and there are never enough employees. Mr. Husk agreed with the Chairman. Chairman Kavanagh commented that the cases discussed today encourages to follow up with other cities and towns to help as an agency to create partnerships. Mr. Husk commented that with the violations mentioned that there were no employees injured.

Commissioner Godfrey moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Kavanaugh, Commissioner Everett and Commissioner Godfrey voted in favor of the motion. The motion passed.

Commissioner Godfrey moved to amend all seven citations and proposed penalties. Because of the prompt attention to safety and correcting the protocol he suggested a 10% discount. Chairman Kavanagh seconded the motion. Chairman Kavanagh, Commissioner Everatt and Commission Godfrey voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Borunda confirmed Commission meeting dates through May 2025.

Mr. Testini updated the Commissioners the significance of April 28, 2025.

Mr. Carpenter updated the Commissioners that Mr. Testini is officially confirmed as Director of the Agency. April 28, 2025, is ICA Recognition Day to recognize the employers that have been doing exceptional work within the workers' compensation, and ADOSH space.

Public Comment.

ATTEST:

There was no public comment.

The meeting was adjourned at 2:07 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

Gaetano J. Testini, Director

By

rara Cimus

Kara Dimas, Commission Secretary