

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at Assemble Room of the Graham County Board of Supervisors
921 West Thatcher Boulevard
Safford, Arizona 85546
Thursday, September 27, 2018 – 1:30 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner
	James Ashley	Director
	Gaetano Testini	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Renee Pastor	Self Insurance (Telephonic)
	Jessie Atencio	ADOSH Director
	Steven Black	Compliance Officer (Telephonic)
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:33 p.m. Also in attendance were Bob Saenz (Coastal Wire Company, Inc.); and Lito Aquino (Koedyker and Kenyon Construction, Inc.).

Approval of Minutes of September 20, 2018 Regular Meeting.

Commissioner LeMarr moved to approve the Minutes of the September 20, 2018 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr 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 Requests for Renewal of Self-Insurance Authority.
1. Federal Express Corporation dba FedEx Express
 2. Salt River Project Agricultural Improvement and Power District/The Salt River Valley Water Users Association (SRP)
 3. Trademark Construction Co., Inc.

Chairman Schultz noted that Federal Express and Salt River Project have very good experience modification factors especially for their industries.

Vice Chair Hennelly moved to approve the items on the Consent Agenda and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr 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 Schultz discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Koedyker and Kenyon Construction, Inc. 901 W Calle Progreso <u>Tucson, AZ 85705</u>	Fatality/Accident Years in Business: 30 Empl. Covered by inspection: 2
Site Location: 11273 E Rabbit Run Way, Tucson, AZ 85747	
Inspection No: T3633 - 1329121	
Inspection Date: 07/10/18	

Mr. Atencio summarized ADOSH's fatality investigation and reviewed the file. He noted that ADOSH was not recommending a citation.

Mr. Aquino has been with the company for 20 years and their safety officer for about 15 years. He expressed that the company was very sad and helped the family as best they could. He noted they have a good safety program with a focus on safety at all times.

Chairman Schultz noted it appears they have an excellent safety program and prior history and appreciated Mr. Aquino coming to the meeting.

The Commission took no action.

Reidhead Plumbing Inc., dba Reidhead Plumbing and Solar 2309 E Main St., <u>Mesa, AZ 85213</u>	Fatality/Accident Years in Business: 7 Empl. Covered by inspection: 10
Site Location: 2011 E University Dr., Ste., 104 Mesa, AZ 85213	
Inspection No: U9805 - 1307532	
Inspection Date: 04/09/18	

SERIOUS – Citation 1 - Item 1 –

- a) 2753 E Broadway Rd. Ste., 104, Mesa, AZ: An employee replacing an electric water heater, did not utilize an energy control program consisting of procedures to isolate all energy sources. 29 CFR 1910.147(c)(1)

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

Mr. Atencio discussed ADOSH's investigation and summarized the citation and proposed penalty.

Chairman Schultz and Mr. Atencio discussed photograph #4 of the water heater and the size of the heater.

Vice Chair Hennelly, Mr. Atencio and Chairman Schultz discussed ladder training, who owned that ladder and the use and reason why there was no citation for the ladder. Mr. Atencio noted the focus was on lock out/tag out.

Vice Chair Hennelly and Mr. Atencio discussed attributing the fatality to either the ladder inadequacies or the electrical lock out/tag out problem it would be \$7,000 and not reduced. Mr. Atencio noted in photograph #4 the wires and the live system that should have been locked out, and discussed ladder safety training. Vice Chair Hennelly noted his concerns.

Vice Chair Hennelly and Mr. Atencio discussed the cause of death and noted there was no report from the medical examiner to know if the cause was blunt force or electrocution.

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

<p>Trees by Me LLC 7946 W Topeka Dr., Glendale, AZ 85308</p> <hr/> <p>Site Location: 3253 E Glenrosa Ave., Phoenix, AZ 85018</p> <p>Inspection No: A3807 - 1308586</p> <p>Inspection Date: 04/12/18</p>	<p>Fatality/Accident</p> <p>Years in Business: 7</p> <p>Empl. Covered by inspection: 1</p>
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Mr. Atencio summarized ADOSH's fatality investigation and reviewed the file. He noted that ADOSH was not recommending a citation.

The Commission took no action.

<p>Coastal Wire Company, Inc. 1108 W Gila Bend Hwy., Casa Grande, AZ 85122</p> <hr/> <p>Site Location: 1108 W Gila Bend Hwy., Casa Grande, AZ 85122</p> <p>Inspection No: T3633 - 1321477</p> <p>Inspection Date: 07/08/18</p>	<p>Referral</p> <p>Years in Business: 1.5</p> <p>Empl. Covered by inspection: 25</p>
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SERIOUS – Citation 1 - Item 1 –

- a) Galvanizing tank: An employee used the edge of the galvanizing tank, which was two feet wide and approximately five feet long, as a working platform while feeding new wires through the line, so that the employee was working adjacent to molten zinc. 1910.23(c)(3)
- | | |
|-----------------------------------|--|
| Div. Proposal - \$5,000.00 | Formula Amt. - \$1,500.00 |
| TOTAL PENALTY - \$5,000.00 | TOTAL FORMULA AMT. - \$1,500.00 |

Mr. Atencio discussed ADOSH's investigation and summarized the citation and proposed penalty.

Mr. Saenz wanted to show the Commission good faith abatements that they have done. He noted the installation of guard rails and the proper way to make adjustments and provided photos of the abatement. He noted their safety protocols and additional actions that will be taken.

Commissioner LeMarr and Mr. Saenz discussed the status of the injured employee.

Based on the company's prompt abatement, Commissioner LeMarr moved to reduce the proposed penalty by 15% for a quick fix abatement, for a total proposed penalty of \$4,250.00. Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion. The motion passed.

Chairman Schultz thanked Mr. Saenz for coming up from Casa Grande.

Dollar Tree Stores, Inc. dba	Complaint	
Dollar Tree Stores, Inc. #04013	Years in Business:	65
9135 E. Tanque Verde Rd.,	Empl. Covered by inspection:	5
<u>Tucson, AZ 85749</u>		
Site Location:	9135 E. Tanque Verde Rd., Tucson, AZ 85749	
Inspection No:	L8503 - 1321716	
Inspection Date:	04/09/2018	

REPEAT SERIOUS – Citation 1 - Item 1a –

- a) Stockroom: The exit route from the west end of the stockroom to the north exit door was partially blocked by inventory boxes so that the exit route width at the narrowest was approximately 13 inches wide. 29 CFR 1910.36(g)(2)

Dollar Tree Stores, Inc. was previously cited for a violation of this occupational safety and health standard or its equivalent standard 29 CFR 1910.36(g)(2) which was contained in ADOSH Inspection Number 1170707, Citation Number 01, Item Number 01, issued on 11/03/16 and was final order on 8/28/17, with respect to a workplace located at 16815 E Shea Blvd #127, Fountain Hills, AZ and for a violation of this occupational safety and health standard or its equivalent standard 29 CFR 1910.37(a)(3) which was contained in ADOSH Inspection Number 1224253, Citation Number 01, Item Number 01, instance b, issued on 6/1/17, and final order on 6/26/18 with respect to a workplace located at 3927 E. Grant Road, Tucson.

Div. Proposal - \$25,000.00

Formula Amt. - \$25,000.00

REPEAT SERIOUS – Citation 1 - Item 1b –

- a) Stockroom: The exit route in the stockroom leading to the exit door along the north wall of the stockroom was blocked by a portable stocking assemble line roller and a U-boat cart partially stacked with boxes. 29 CFR 1910.37(a)(3)

Dollar Tree Stores, Inc. was previously cited for a violation of this occupational safety and health standard or its equivalent standard 29 CFR 1910.37(a)(3) which was contained in ADOSH Inspection Number 1251587, Citation Number 01, Item Number 01, issued on 8/23/17, and final order on 9/20/17, with respect to a workplace located at 3927 E. Grant Road, Tucson, AZ and ADOSH Inspection Number 1224253, Citation 01, Item Number 01,

issued on 6/1/17, and final order on 6/26/17 with respect to a workplace located at 3927 E. Grant Road, Tucson, and ADOSH Inspection Number 1170707, Citation Number 01, Item Number 02, issued on 11/03/16, and final order on 8/28/17, with respect to a workplace located at 16815 E Shea Blvd #127, Fountain Hills, AZ.

Div. Proposal - \$0.00

Formula Amt. - \$0.00

REPEAT SERIOUS – Citation 1 - Item 2 –

- a) Stockroom: The exit route from the west end of the stockroom to the north exit door was partially blocked by inventory boxes so that the exit route width at the narrowest was approximately 13 inches wide. 29 CFR 1910.176(b)

Dollar Tree Stores, Inc. was previously cited for a violation of this occupational safety and health standard or its equivalent standard 29 CFR 1910.36(g)(2) which was contained in ADOSH Inspection Number 1170707, Citation Number 01, Item Number 01, issued on 11/03/16 and was final order on 8/28/17, with respect to a workplace located at 16815 E Shea Blvd #127, Fountain Hills, AZ and for a violation of this occupational safety and health standard or its equivalent standard 29 CFR 1910.37(a)(3) which was contained in ADOSH Inspection Number 1224253, Citation Number 01, Item Number 01, instance b, issued on 6/1/17, and final order on 6/26/18 with respect to a workplace located at 3927 E. Grant Road, Tucson.

Div. Proposal - \$25,000.00

Formula Amt. - \$25,000.00

TOTAL PENALTY - \$50,000.00

TOTAL FORMULA AMT. - \$50,000.00

Mr. Atencio discussed ADOSH's investigation and summarized the citation and proposed penalties.

Commissioner LeMarr noted this store being cited in the past and the prior history at other locations, also noting the stores have exit/access citations. He noted the report was thorough.

Chairman Schultz, Vice Chair Hennelly, and Commissioner LeMarr discussed the grouping of citations and the repeated behavior leading to the violations.

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

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2018. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

Mr. Ashley noted this will wrap up another productive and informative out of town outreach trip seeking meaningful feedback and input from stakeholders and making ourselves available as a resource to communities throughout the state. He thanked the City of Safford, Graham County, the stakeholders and employees, and local elected officials who we had an opportunity to meet with. Chairman Schultz noted one of the principal reasons for coming is to make sure the people understand what the Commission does and that we are accessible.

Mr. Ashley provided an update on the AMS Agency Scorecard and reviewed the new metrics being tracked and breakthroughs for the first two months for work related injuries, Consultation high-

hazard visits, and SHARP, VPP and PEPP certifications. Chairman Schultz, Mr. Ashley, Mr. Atencio and Commissioner LeMarr discussed the role of Compliance Assistance positions.

Mr. Ashley reviewed a few more Scorecard goals for LEC processing, Special Fund Voluntary Settlements, and employer IREs.

Mr. Ashley provided an update and outline of Agency Division participation at the upcoming State Bar Workers' Compensation Seminar.

Mr. Ashley noted the Commissioner Gemba Walks will be October 11 and October 25.

Mr. Ashley noted that CopperPoint Mutual Insurance Company will be converting to a new claims operating platform on October 1. He also noted that they will be undergoing a name change as of January 1, 2019, when CopperPoint Mutual Insurance Company will be CopperPoint Insurance Company. Chairman Schultz, Vice Chair Hennelly and Mr. Ashley discussed the name change.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through December 2018.

Public Comment.

There was no public comment.

Commissioner LeMarr moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion and the meeting was adjourned at 2:34 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By  _____
James Ashley, Director

ATTEST:



Kara Dimas, Commission Secretary