

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Wednesday, October 30, 2013 – 1:00 p.m.

Present:	David M. Parker	Chairman (video conference)
	Susan Strickler	Vice Chair
	Kathleen Oster	Member
	Michael G. Sanders	Member
	Joseph M. Hennelly, Jr.	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	William Warren	Director, ADOSH
	Brandon Stowell	Compliance Officer
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance were Jeff Homer of General Dynamics and Andrea Lewis of Snell and Wilmer.

Approval of Minutes of October 16, 2013 Meeting

The Commission unanimously approved the Minutes of October 16, 2013 on motion of Mr. Sanders, second of Ms. Strickler.

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. 2C13/14-0337 Bethany Womens Healthcare, P.C.
2. 2C11/12-0736 Bravo Transport Svc., LLC
3. 2C12/13-0421 D.T.L. Automotive LLC, dba PCS Automotive
4. 2C12/13-0976 Lozano Construction, LLC
5. 2C13/14-0562 Hi Tech Roofing, LLC
6. 2C12/13-2255 Norborn M. Felton, a Single Man,
dba B-10 Campground
7. 2C13/14-0377 Rice Plumbing Company
8. 2C12/13-2259 Temp Trans (A California Corporation)

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

1. Central Arizona Water Conservation District
2. Freeport-McMoRan Copper & Gold, Inc.

Chairman Parker stated that item b. 2. is being removed from the consent agenda and considered separately. The Commission unanimously approved the remaining consent agenda items on motion of Ms. Strickler, second of Ms. Oster.

Discussion & Action of Request for Renewal of Self-Insurance Authority

Freeport-McMoRan Copper & Gold, Inc. – Chairman Parker asked if any of the Commissioners wanted staff to present their summary. Hearing none, he advised that Ms. Oster recused herself from consideration of this agenda item. The Commission renewed self-insurance authority on motion of Mr. Strickler, second of Mr. Hennelly with a vote of four in favor and none against. Ms. Oster did not take part in the vote.

Discussion & Action of Proposed OSHA Citations & Penalties

BSN Builders, Inc.
P.O. Box 11025
Prescott, AZ 86304

Complaint
Yrs/Business – 10
Empl. Cov. by Insp. – 4

Site Location: 808 E. Missouri Ave., Phoenix, AZ 85014
Inspection #: R1538-317242550
Insp. Date: 07/17/2013

SERIOUS – Citation 1 - Item 1 –

(a) One employee was observed working on a roof approximately 30 feet above the ground without a fall protection system. (A.R.S. § 23-492(05)(A)).

(b) A written fall protection plan which reduces or eliminates fall hazards for employees engaged in residential construction activities six feet or more above lower levels did not contain the required elements as outlined in subparagraphs A. 5, 6 and 9. (A.R.S. § 23-492(07)(A)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 2 – Employees working on a three-story roof exposed to fall hazards of six feet or more were not trained in recognition of fall hazards. (A.R.S. § 23-492(09)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 3 – One employee was observed working on a scaffold platform that was less than 18 inches wide. (1926.451(b)(2)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 4 –

(a) One employee was observed using a 6 foot Werner A-frame fiberglass ladder on scaffold to increase the working level height. (1926.451(f)(15)).

(b) One employee was observed using a 6 foot Werner A-frame fiberglass ladder for a purpose for which it was not designed. (1926.1053(b)(4)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 5 – Southwest corner of Building: A stairway or ladder was not provided where a break in elevation of 19” or more existed. An employee was observed climbing from scaffold on to roof. (1926.1051(a)). There was one other instance of this violation.

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$6,250.00

TOTAL FORMULA AMT. - \$6,250.00

Bill Warren and Brandon Stowell 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 \$6,250.00 on motion of Ms. Oster, second of Mr. Sanders.

Canyon Building & Design, L.L.C.

4750 N. La Cholla Blvd.

Tucson, AZ 85705

Complaint

Yrs/Business – 15

Empl. Cov. by Insp. – 11

Site Location: 3833 & 3825 E. 2nd St., Tucson, AZ 85716

Inspection #: L8491-317154219

Insp. Date: 05/29/2013

SERIOUS – Citation 1 - Item 1 – 3825 E 2nd St, Tucson: Employees removed asbestos containing thermal systems insulation, a Class I abatement activity, without establishing a regulated area. (1926.1101(e)(1)). There was one other instance of this violation.

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 2-

(a) 3825 E 2nd St, Tucson: An initial exposure assessment was not performed to determine potential employee exposures during asbestos removal operations. (1926.1101(f)(2)(i)). There was one other instance of this violation.

(b) 3825 E 2nd St, Tucson: Employees performed Class I removal of asbestos containing Thermal Systems Insulation but a negative exposure assessment and/or monitoring to determine employee exposure was not performed. (1926.1101(f)(3)(i)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 3 - 3825 E 2nd St, Tucson: Engineering controls, such as area containment and negative pressure systems, wet methods and leak tight containers were not used during employee removal of TSI containing 8-10% chrysotile asbestos. (1926.1101(g)(1)). There was one other instance of this violation.

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 4 – 3825 E 2nd St, Tucson: Employees performed the removal of TSI which contained 8-10% chrysotile asbestos, a Class I abatement activity, in plain work

clothes without the provision of coveralls. (1926.1101(i)(1)). There was one other instance of this violation.

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 5 – 3825 E 2nd St, Tucson: Employees removed TSI containing 8-10% chrysotile asbestos from copper pipe in the facility without any form of barrier containment to prevent the spread of asbestos contamination including a decontamination area, equipment room, clean change room or shower. (1926.1101(j)(1)(i)). There was one other instance of this violation.

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 6 – 3825 E 2nd St, Tucson: Employees performing removal of asbestos containing TSI, a Class I abatement activity, had not been trained in the removal of asbestos containing materials and were not informed that the material they were removing potentially contained asbestos. (1926.1101(k)(1)). There was one other instance of this violation.

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 7 – 3825 E 2nd St, Tucson: A competent person trained in the oversight of Class I removal of asbestos containing TSI was not present at the site when employees removed asbestos containing TSI from copper pipe throughout the building. (1926.1101(o)(1)). There was one other instance of this violation.

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

TOTAL PENALTY - \$10,500.00

TOTAL FORMULA AMT. - \$10,500.00

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 \$10,500.00 on motion of Ms. Strickler, second of Ms. Oster.

Discussion & Action regarding Request for Lump Sum Commutation

Rumaldo Martinez #20061-040040 – Chairman Parker advised that consideration of this lump sum request was being held for additional information.

Discussion & Action regarding the Arizona Occupational Safety and Health Plan and the Enforcement of Residential Fall Protection Requirements under that State Plan

Laura McGrory summarized the meetings that she and Scot Butler have had with respect to the threatened action by Federal OSHA. Ms. McGrory stated that Federal OSHA has advised that they will be providing a “show cause” letter shortly and she described the process that was expected to take place upon receipt of that letter. The Commission unanimously voted to go into Executive Session to further discuss the matter on motion of Mr. Sanders, second of Ms. Oster.

Executive Session Minutes are kept separately.

Discussion &/or Action regarding Legislation

Ms. McGrory advised that she and Scot Butler have been meeting with stakeholders regarding proposed legislation and she summarized those meetings.

Announcements and Scheduling of Future Meetings

Ms. McGrory stated that she has formed a small stakeholder work group to evaluate the methodology used in the Physicians' Fee Schedule to calculate reimbursement rates, and other related issues. She provided a time table for the group's recommendations.

Secretary Hilton reminded the Commissioners of the meetings scheduled through the rest of the year and that the next meeting is scheduled for Wednesday, November 6, 2013. Chairman Parker stated that he would provide a draft set of dates for 2014 for Commission meetings.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 2:26 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary