

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Thursday, November 20, 2014 -- 1:00 p.m.

Present:	David M. Parker	Chairman
	Michael G. Sanders	Member
	Joseph M. Hennelly, Jr.	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	William Warren	ADOSH Director
	Ana Maldonado	Compliance Officer
	Sylvia Simpson	Chief Financial Officer
	Renee Pastor	Accounting
	Karen Axsom	Labor Director
	Kara Dimas	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Vice Chair Susan Strickler was excused. Also in attendance was Jason Weber of Snell & Wilmer.

Approval of Minutes of November 13, 2014 Regular and Executive Meeting.

The Commission unanimously approved the Minutes of the November 13, 2014 Regular Session on motion of Mr. Sanders, second of Mr. Hennelly. The Commission unanimously approved the Minutes of the November 13, 2014 Executive Session on motion of Mr. Hennelly, second of Mr. Sanders.

Consent Agenda:

- a. Approval of Proposed Civil Penalties Against Uninsured Employers.
  1. 2C14/15-0483 All Pest Management, L.L.C., dba All Pest Management
  2. 2C12/13-1661 CAM Trucking, LLC
  3. 2C13/14-1540 Caring Four Generations, LLC
  4. 2C12/13-0853 Comfort Givers Assisted Living, LLC
  5. 2C14/15-0563 Cynthia J. Kwasigroch, a single woman, dba The Villa Rosa
  6. 2C12/13-0948 Kingsway Express, LLC
  7. 2C13/14-0850 Leslie Hill Contacting, Inc.
  
- b. Approval of Requests for Renewal of Self-Insurance Authority.
  1. Federal Express Corporation dba FedEx Express
  2. FedEx Freight, Inc.
  3. FedEx Ground Package System, Inc.

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.

Ms. McGrory stated there was nothing new to report.

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.

Ms. McGrory stated there was nothing new to report.

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

Arizona Equipment Fabrication L.L.C. 3290 W Edge St Apache Junction, AZ 85120	Fatality/Accident Years in Business: 15 Empl. Covered by inspection: 7
Site Location: 4700 E Nestle Purina Ave Flagstaff, AZ 86004	
Inspection No: U9805-317858686	
Inspection Date: 9/15/2014	

SERIOUS – Citation 1 - Item 1 – Milling Tower: The employer did not properly assess the workplace to determine if hazards are present, which necessitate the use of personal protective equipment when conducting hot work with a potential of combustible dust explosion. (1910.132(d)(1)).

Div. Proposal - \$5,000.00	Formula Amt. - \$5,000.00
TOTAL PENALTY - \$5,000.00	TOTAL FORMULA AMT. - \$5,000.00

Nestle Purina Petcare Company 4700 E Nestle Purina Ave Flagstaff, AZ 86004	Unprogrammed Related Years in Business: 13 Empl. Covered by inspection: 4
Site Location: 4700 E Nestle Purina Ave Flagstaff, AZ 86004	
Inspection No: U9805-317858827	
Inspection Date: 9/15/2014	

SERIOUS – Citation 1 - Item 1 – Mill Building: Four contracted employees performed welding on a bucket elevator which contained or had the potential to contain an explosive atmosphere. (1910.252(a)(2)(vi)(C)).

Div. Proposal - \$5,000.00	Formula Amt. - \$5,000.00
TOTAL PENALTY - \$5,000.00	TOTAL FORMULA AMT. - \$5,000.00

Mr. Warren stated that he would summarize the inspections involving both Arizona Equipment Fabrication L.L.C. and Nestle Purina Petcare Company together because they are both related to the same investigation into an explosion. Mr. Warren summarized the investigation and explained why ADOSH recommended a citation with a proposed penalty of \$5,000.00 for Arizona Equipment Fabrication L.L.C. and a citation against Nestle Purina Petcare Company with a proposed penalty of \$5,000.00. Mr. Warren and Ms. Maldonado responded to questions from the Commissioners. Mr. Sanders asked for more information regarding the grain elevators and the explosion. Mr. Warren and Ms. Maldonado responded to the question and added that ADOSH retained an engineer competent in combustible dust issues to assist with the investigation. Mr. Sanders commented on the forces involved with the explosion Mr. Hennelly asked for the basis of the citation against Nestle. Ms. Maldonado explained why ADOSH recommended the citation against Nestle. Mr. Sanders asked about potential methods to reduce the hazard and Ms. Maldonado identified some options. Mr. Parker asked for clarification on the hot work permit and asked Mr. Warren to read the standards, 1910.252(a)(2)(vi)(C) and 1910.252(a)(2)(vi). Mr. Parker commented on recognition of the hazard with combustible dust under different circumstances and how this is one of the most dangerous situations, including the risk of spontaneous combustion. Ms. Maldonado described some additional facts from the inspection, why ADOSH concluded the specific standards were violated, and how the use of appropriate personal protective equipment could have avoided or reduced the flash burn injuries. Mr. Parker stated that the penalty does not seem sufficient but he recognized that ADOSH is following the penalty policy. Mr. Hennelly asked about abatement and Ms. Maldonado responded to the question. Mr. Sanders, Mr. Parker, and Ms. Maldonado commented on the hazard and abatement.

The Commission unanimously approved the citation and assessed the recommended penalty of \$5,000.00 on Arizona Equipment Fabrication L.L.C. on motion of Mr. Sanders, second of Mr. Hennelly. The Commission unanimously approved the citation and assessed the recommended penalty of \$5,000.00 on Nestle Purina Petcare Company on motion of Mr. Hennelly, second of Mr. Sanders.

#### Discussion and Action Regarding Re-Appointment of Employment Advisory Council Members.

Karen Axsom summarized the appointment process for the Arizona Employment Advisory Council and she recommended reappointment of three current members of the Council: Linda Baugh, Patricia Grum and Gerald D. Banky. She noted that each of these individuals are active members of the council and have been for a number of years. She described the Council's functions. If reappointed, each of these council members will have a term running from January 1, 2015 through December 31, 2017. Mr. Parker asked about the staggered appointments and Ms. Axsom responded. Mr. Parker stated that he really appreciated their service and noted the individuals have great resumes. Mr. Sanders commented on the process during his prior term as a Commissioner. Mr. Parker clarified that the employment agent licensees are those that charge a fee to the applicant and the Commission does not have jurisdiction over those agents who charge a fee to the employer. The Commission unanimously reappointed Ms. Baugh, Ms. Grum and Mr. Banky on motion of Mr. Sanders, second of Mr. Hennelly.

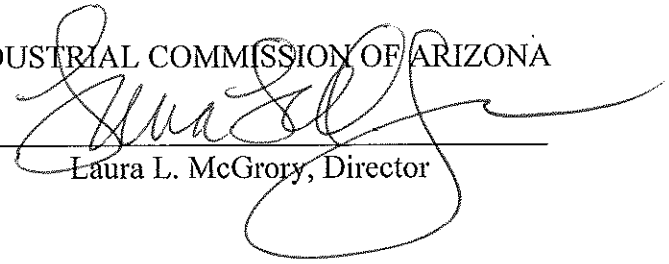
#### Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Parker verified that the current schedule for future meetings was acceptable. Mr. Parker also provided a tentative schedule for future meetings for 2015. He asked the Commissioners to check calendars and the Commission will follow-up on the schedule at a future meeting.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 1:25 p.m.

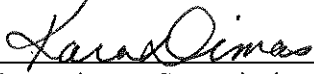
THE INDUSTRIAL COMMISSION OF ARIZONA

By

A large, stylized handwritten signature in black ink, appearing to read 'Laura L. McGrogy', written over a horizontal line.

Laura L. McGrogy, Director

ATTEST:

A handwritten signature in black ink, appearing to read 'Kara Dimas', written over a horizontal line.

Kara Dimas, Commission Secretary