

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Wednesday, August 1, 2012 – 1:00 p.m.

Present:	David Parker	Chairman (video conference)
	Kathleen Oster	Vice Chair
	John A. McCarthy, Jr.	Member
	Michael G. Sanders	Member (telephonic)
	Andrew Wade	Chief Counsel (Acting Director)
	Darin Perkins	Director, ADOSH
	Renee Pastor	Self Insurance Manager
	Kamen Kovatchev	Self Insurance
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:03 p.m. noting a quorum present. Susan Strickler was not able to attend. Also in attendance was Eda Barolli of Snell & Wilmer.

Approval of Minutes of July 26, 2012 Meeting

The Commission unanimously approved the Minutes of the July 26, 2012 General Session on motion of Mr. McCarthy, second of Mr. Sanders.

The Commission unanimously approved the Minutes of the July 26, 2012 Executive Session on motion of Ms. Oster, second of Mr. Sanders.

Consent Agenda:

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C11/12-1092 Colmed Collection Services, L.L.C.
2. 2C11/12-0406 Comfort-N-Home, Inc.
3. 2C11/12-2770 Desert Dog Hummer Adventures, Inc.
4. 2C11/12-0925 Maria Cecilia Torres Lara, a Single Woman,  
dba MCL Cleaning Services
5. 2C10/11-0914 Ron Self & Stacy Self, Husband & Wife,  
dba S.R.S. Yardcare
6. 2C11/12-2809 Royal Enterprises, Inc. dba Big Tiger Fuel and Fleet
7. 2C11/12-0797 Sun Water Company, LLC

Chairman Parker asked whether any items needed to be removed from the consent agenda. Secretary Hilton stated that there were not. The Commission unanimously approved the consent agenda on motion of Mr. McCarthy, second of Ms. Oster.



SERIOUS – Citation 1 - Item 1b – The employer did not select and employees were not required to wear personal protective equipment necessary to protect against Hantavirus (1910.132(d)(1)(i)).

Div. Proposal - \$4,500.00

Formula Amt. - \$4,500.00

SERIOUS – Citation 1 - Item 2 – Rodent infestation and excrement was allowed to build up harboring a potential for Hantavirus (1910.141(a)(3)(i)).

Div. Proposal - \$4,500.00

Formula Amt. - \$4,500.00

SERIOUS – Citation 1 - Item 3 – Preventive maintenance was not performed in the well fields to minimize rodent entry or harborage of field mice, and an effective extermination program was not instituted (1910.141(a)(5)).

Div. Proposal - \$ 4,500.00

Formula Amt. - \$ 4,500.00

TOTAL PENALTY - \$13,500.00

TOTAL FORMULA AMT. - \$13,500.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. He explained that ADOSH learned of the issues after an employee’s death was attributed to Hantavirus. Mr. Perkins stated that he was not aware of any formal conclusion that the Hantavirus was contracted at work. Mr. McCarthy questioned whether there should be an adjustment factor for good faith since the employer responded to the hazard immediately. Mr. Perkins replied that the employer did make good abatement efforts but should have remedied the problems long before. Ms. Oster asked if the workers’ compensation claim had been accepted by SRP and, if so, whether the penalty should be different. Mr. Perkins replied that he did not know if a workers’ compensation claim had been accepted. Mr. Wade described some options available to the Commission. Mr. Sanders asked if SRP had cleaned up all of their facilities statewide. Mr. Perkins responded to the question. Mr. Sanders also questioned whether the Hantavirus could survive at all temperature variations, latitudes and altitudes. In response to Mr. Sanders’ question, Mr. Parker presented some background information concerning the Hantavirus. He stated that he was struggling with the penalty since the employer did take corrective action immediately and also commented on whether there should be a good faith adjustment. Following further discussion, the Commission unanimously approved issuing the citations and decreased the penalty for each by adding a good-faith adjustment factor of 25% for penalties of \$3,250.00 for each citation and a total penalty of \$9,750.00. The Commission also directed staff to ascertain if a workers’ compensation claim had been accepted and, if so, to place the matter back on the agenda so the Commission can reconsider the matter all on motion of Mr. Parker, second of Mr. Sanders. The Commission also directed staff to follow-up on Mr. Sanders question regarding whether SRP had cleaned up all of the sites statewide.

Victoria Plastering, L.L.C.  
4849 W. Calle Don Miguel  
Tucson, AZ 85757

Planned  
Yrs/Business – 2  
Empl. Cov. by Insp. – 3

Site Location: 2475 E. Water Street, Tucson, AZ 85719  
Inspection #: P0775/316569763  
Insp. Date: 06/19/12

SERIOUS – Citation 1 - Item 1a – Two employees were working on a tubular welded frame scaffold that was approximately 11.6 feet high, 110 feet long and three feet wide that was not fully planked or decked between the guardrail supports (1926.451(b)(1)).

SERIOUS – Citation 1 - Item 1b – Two employees were working on a tubular welded frame scaffold that was approximately 11.6 feet high, 110 feet long and three feet wide that did not have adequate mud sills (1926.451(c)(2)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS - Citation 1 - Item 2 – Two employees were working on a tubular welded frame scaffold that was approximately 11.6 feet high, 110 feet long and three feet wide that was not inspected before each work shift by a competent person for visible defects such as those found at the job-site that included missing guardrails, mud sills and inadequate planking (1926.451(f)(3)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS - Citation 1 - Item 3 – Two employees were working on a tubular welded frame scaffold that was 11.6 feet high, 110 feet long and three feet wide that was lacking guardrails on two ten foot long sections to prevent the employee from falling to the lower level below (1926.451(g)(4)(i)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS - Citation 1 - Item 4 – Two employees who were working on a tubular welded frame scaffold that was 11.6 feet high, 110 feet long and three feet wide had not been trained by a qualified person to recognize the hazards associated with the type of scaffold and how to control or minimize those hazards (1926.454(a)).

Div. Proposal - \$ 750.00

Formula Amt. - \$ 750.00

TOTAL PENALTY - \$3,000.00

TOTAL FORMULA AMT. - \$3,000.00

Darin Perkins summarized the citations and proposed penalty as listed. The Commission unanimously approved issuing the citations and assessed the recommended penalty of \$3,000.00 on motion of Ms. Oster, second of Mr. McCarthy.

#### Discussion & Action of Applications for Renewal of Self Insurance Authority

Chairman Parker recused himself from the next agenda item. Vice Chair Oster took over chairmanship of the meeting for this item only.

Arizona Municipal Risk Retention Pool - Renee Pastor presented staff's renewal report along with current Dunn and Bradstreet bond and credit ratings and responded to questions from the Commissioners. Administration is recommending renewal of workers' compensation self-insurance authority based on the Pool's solid financial position, total assets of \$75.3 million, ability to successfully manage the workers' compensation program for its member cities and towns, the receipt of a clean audit report and an acceptable credit rating. Following discussion, the Commission approved continuance of self-insurance authority on motion of Mr. McCarthy, second of Mr. Sanders with a vote of three in favor and none against.

Central Arizona Water Conservation District – Renee Pastor presented staff's renewal report along with current Standard and Poor's and Dunn and Bradstreet bond and credit ratings. Administration is recommending renewal of workers' compensation self-insurance authority based on the District's profitability and stability; a clean audit report; and acceptable bond and credit ratings. The Commission unanimously approved renewal of self-insurance authority on motion of Ms. Oster, second of Mr. McCarthy.

UNS Energy Corporation- Renee Pastor presented staff's renewal report along with current Fitch, Moody's, Standard & Poor's, and Dunn and Bradstreet bond and credit ratings and responded to questions from the Commissioners. Administration is recommending renewal of workers' compensation self-insurance authority based on their financial stability and profitability, large size with assets exceeding \$3.9 billion, a clean audit report, and acceptable credit ratings. Chairman Parker stated that they have a good program and Dave Baker should be recognized for the amazing job he is doing. The Commission unanimously granted continuance of self-insurance authority on motion of Ms. Oster, second of Mr. Sanders.

The Wendy's Company – Renee Pastor presented staff's renewal report along with current Moody's, Standard & Poor's, and Dunn and Bradstreet bond and credit ratings and responded to questions from the Commissioners. Administration is recommending renewal of workers' compensation self-insurance authority based on the company's financial stability with worldwide assets of just over \$4.3 billion, a clean audit report and acceptable credit ratings. Following discussion, the Commission unanimously approved renewal of self-insurance authority on motion of Mr. Sanders, second of Mr. McCarthy.

Ms. Pastor advised that she is exploring whether to use Experian rather than Dunn and Bradstreet ratings in the future.

Announcements and Scheduling of Future Meetings

Meetings are scheduled for August 10, 22, September 5, 19 and 26. The August 10<sup>th</sup> meeting will be held at 11:30 a.m. at the Wigwam Resort during the Claims Seminar.

There being no further business to come before the Commission and no public comment, Chairman Parker adjourned the meeting at 2:05 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By   
Andrew Wade, Acting Director

ATTEST:

  
Teresa Hilton, Commission Secretary