

**DIVISION OF INDUSTRIAL RELATIONS ADVISORY COUNCIL**  
**Minutes of the Meeting, Wednesday, January 6, 2021**

**1. Call to Order and Roll Call**

At 10:00 a.m. January 6, 2021, the meeting of the Advisory Council for the Division of Industrial Relations (DIR) via WebEx was called to order by DIR Administrator Victoria Carreon.

Council members present at the WebEx meeting were Ian Langtry, Raymond McAllister, Paul McKenzie, William Spiegel and William Stanley. It was determined a quorum was present.

DIR staff present at the WebEx meeting were Victoria Carreon, Perry Faigin, Jess Lankford, Jeff Bixler, Chuck Verre, Brennan Paterson, Stephen Rodgers, Donald C. Smith, David Tackitt, and Amanda Guimont.

Others present were Dale Hansen, Emily Cervi, Haydee Meeker, Alan Vance, Jennifer Atlas, Kerrie Dalton, Lisa Figueroa, Lori Hoover, and Sydney Banks.

**2. Public Comment** on items to which actions may be taken

No items for public comment were raised.

**3. Selection of Chair and Vice Chair** – Bill Stanley nominated Paul McKenzie as Chair, seconded by Rusty McAllister. The motion was approved unanimously. Bill Stanley nominated William Spiegel for Vice Chair, seconded by Rusty McAllister. The motion was approved unanimously.

**4. Approval of Minutes of Previous Meeting** – February 12, 2020. Bill Stanley made a motion to approve the minutes of the February 12, 2020 meeting as presented. Bill Spiegel seconded the motion. The motion was approved unanimously.

**5. Administrator's Report**

DIR Administrator Victoria Carreon introduced herself, Administrative Assistant IV – Amanda Guimont, IT Professional III – David Tackitt, Interim Deputy Administrator – Perry Faigin, Chief Administrative Officer of WCS – Chuck Verre, Senior Division Counsel – Donald C. Smith, Chief Administrative Officer of MSATS – Jeff Bixler, Chief Administrative Officer of MCS – Brennan Paterson, Program Coordinator of SCATS – Stephen Rodgers, and Chief Administrative Officer of OSHA – Jess Lankford

Victoria Carreon shared the division's strategic plan including the vision, mission, and structure. She also discussed new performance measures that DIR will focus on in the upcoming years.

Victoria discussed DIR's COVID-19 response, including that OSHA has been tasked with being at the forefront of the COVID-19 response. OSHA was given the responsibility for enforcing the Governor's directives. They have been doing observations and their usual follow-up on complaints received. She also showed the OSHA COVID-19 dashboard, and how it can be manipulated to show specific information. She also shared the SCATS website and the COVID-19 Resource page, including a Spanish language webpage. SCATS has been responsible for outreach, providing technical assistance, and reviewing plans for all events.

WCS has been monitoring the number of COVID-19 Workers' Compensation cases. They have also had to issue many stop work orders due to lack of workers' compensation coverage.

In MSATS and MCS, they have been providing technical assistance in how to best comply during the pandemic.

## **6. Write-off Recommendations**

Don Smith reviewed the process and requirements of NRS 232.605

There was a discussion about why DIR is requesting to write off debts for businesses with active business licenses, and possible future actions to eliminate the issue.

Bill Stanley made a motion to approve \$928,702.47 of write-offs as presented. Rusty McAllister seconded the motion. The motion was approved unanimously.

## **7. DIR Section Updates**

### **a. Mine Safety and Training Section-MSATS (Jeff Bixler)**

Jeff discussed the adjustments required to inspect mines and teach MSHA classes due to COVID-19. For the first time, Federal MSHA allowed online training for new miners and the annual refresher class.

### **b. Safety Consultation and Training Section-SCATS (Stephen Rodgers)**

Stephen Rodgers stated that within two weeks of the office shut-down, SCATS started planning to host classes through WebEx. Online classes began May 1, 2020. Nevada was the first state to be approved to teach the OSHA 10 and 30 classes online. AB290 required that SCATS have a website to verify OSHA 10 and OSHA 30 cards. This has been implemented, and it is working smoothly. Stephen also discussed the public service announcements and guidance that SCATS has provided during the COVID-19 pandemic. SCATS also assisted many businesses with reopening plans. Stephen also discussed SCATS' recognition programs. SCATS has 10 Voluntary Protection Program sites, and the Safety and Health Achievement Recognition Program has 30 sites.

### **c. Mechanical Compliance Section-MCS (Brennan Paterson)**

Brennan Paterson discussed the update to Nevada Administrative Code 455C. Most importantly DIR added an additional rule which will address the root cause of the Argenta Hall explosion. This new rule will require a valve to stop the flow of gas when an emergency shut down button is activated. Brennan also informed the Council that the concerns about pool boilers by the members of the public who attended the last Advisory Council meeting have been addressed.

### **d. Workers' Compensations Section-WCS (Chuck Verre)**

Chuck Verre discussed legislation that was implemented over the last year. He also informed the Advisory Council about the new positions that were awarded last year, and other vacant positions WCS is working to fill. Mr. Verre gave an update on the Claims and Regulatory Data System (CARDS), and explained how the new Business Process Analyst II was instrumental in completing 2 maintenance projects with CapTech Ventures. He also discussed the annual statutory updates. The Nevada Workers' Compensation Educational Conferences planned for August 2020 and August 2021 were cancelled due to COVID-19. Mr. Verre explained that all training has gone virtual, using WebEx, and many people have attended classes. WCS is working closely with the Division of Insurance to review and approve TPA applications.

**e. Legal Section Report (Donald C. Smith)**

**1) Pending legislation update**

Donald Smith discussed DIR's proposed bill, SB 55, which would transfer responsibility for registration of employee leasing companies from DIR to the Division of Insurance.

**2) DIR regulation update**

Mr. Smith also discussed E006-20, an emergency regulation for MCS that was adopted effective June 15, 2020 and expired October 13, 2020. R045-20 is a permanent regulation that mirrors E006-20, and it became effective October 23, 2020.

Donald Smith explained pending regulations LCB File No. R033-20 for MSATS and LCB File No. R048-20 for OSHA.

OSHA also has regulations pending with the LCB: LCB File No. R044-20 Medical Workplace Violence, R053-20 Heat Stress, and R069-20 Clean Up Regulations.

WCS has the following regulations pending with the LCB: LCB File No. R134-20 Clean Up Regulation.

**f. Occupational Safety and Health Administration-OSHA (Jess Lankford)**

Jess Lankford explained the difference between complaints and referrals, and how OSHA processes them as they come in. He also discussed OSHA's response to fatalities and programmed and targeted lists based on data from the Bureau of Labor Statistics. He reminded the Advisory Council that all practices and policies are monitored by the Federal OSHA program, and that Nevada OSHA receives about 20% of their funding from a Federal grant.

In 2020, Nevada OSHA was tasked with enforcing the Governor's directives regarding COVID-19. OSHA had over 8,000 complaints, and over 5,000 of them were due to COVID related issues. Mr. Lankford also discussed the process for observations that were performed at businesses to ensure employee safety and public compliance with COVID-19 directives.

Mr. Lankford also discussed OSHA's employee turnover rate.

**8. Determine what studies or investigations concerning the organization and administration of the Division, or any section of the Division (Mine Safety, OSHA, Safety Consultation & Training and Workers' Compensation) the Council will undertake.**

This item was discussed in conjunction with Item 9 below.

**9. Determine what reports or information will be necessary for the Council to fulfill its statutory duties, or any study or investigation to be undertaken by the Council.**

Bill Stanley will supply the UCIC report regarding misclassification of employees. He would like to see DIR, especially the Workers' Compensation Section, to look at best practices and solutions to the Uninsured Claim Fund.

Bill Stanley also mentioned a proposed expansion of an underground mass transit system that will encompass most of the Las Vegas tourist corridor area. He is concerned that he has not been able to locate a provision, guidance, or building standard that has been adopted by the division for the construction and follow-up of the operation of an underground transportation system of this magnitude. Mr. Stanley has walked the jobsite and had many concerns with

worker safety on the site. There was discussion about the possibility of passing emergency regulations to protect the workers on site.

Paul McKenzie wants the Advisory Council to investigate the loophole in statute 353C to ensure businesses and employers are not able to be licensed if they have a bad debt with the state. Bill Stanley would like to view a published list of entities that are currently in collections with DIR. Victoria mentioned that DIR can work with our fiscal department along with the Controller's office to provide a list.

**10. Examine and study the Division's debt collection process and make appropriate recommendations.**

Victoria mentioned that DIR provided handouts. DIR worked with the Controller and established a new waiver allowing DIR additional time to do our own debt collection process before turning it over to the controller. DIR has established better internal administrative processes and a timeline including demand letters, telephone calls, referral to DIR legal as appropriate and then referral to the Department of Business and Industry which then sends the debt over to the Controller's office.

Bill Stanley mentioned concern that nowhere in the timeline does it mention notifying the regulatory agency. He also discussed the \$20,000 limit. Writing off debt for OSHA should not be based on a cost benefit analysis because these fines are to enforce regulations for safety purposes. Collecting this debt is paramount in ensuring workers' safety on the worksite.

Don Smith responded that contacting licensing agencies lies with the Controller's office so there is one central place for every agency to get information. Our sections do contact the State Contractor's board directly when there is statutory authority. He also explained that the cost benefit analysis is based on limited available attorneys to pursue the debt.

Victoria Carreon mentioned that the majority of the larger fines are Uninsured Workers' Compensation Claims. OSHA has really good success collecting their penalties. DIR is sending smaller debts to the Controller's office to pursue but keeping the larger Uninsured Workers' Compensation Claims to pursue within our legal section.

**11. Determine if the Council will request the assignment of a deputy attorney general from the Nevada Attorney General to represent the Council during Council meetings and as otherwise needed.**

Bill Stanley thinks it is advisable that each board has a DAG either on the phone or present at meetings. Bill Stanley made a motion to make a request to the Attorney General to have a DAG present at all DIR Advisory Council meetings. The motion was seconded by Bill Spiegel and Rusty McCallister. The motion was approved unanimously.

**12. Discuss the frequency of the DIR Advisory Council meetings.**

Paul McKenzie mentioned that with more frequent meetings, each meeting would be shorter, and the council would be able to more address urgent safety issues in a timelier manner.

Bill Stanley motioned that we plan quarterly meetings for the DIR Advisory Council. Bill Spiegel seconded the motion. The motion was approved unanimously.

**13. Public Comment related to Agenda items for next scheduled meeting.**

Bill Stanley would like to agendize where we are with the boring company.

**14. General Public Comment on any item not included on the February 12, 2020 agenda.**

No comment.

**15. Adjournment**

The DIR Advisory Council adjourned at 1:24pm.