

1 NEVADA OCCUPATIONAL SAFETY AND HEALTH
2 REVIEW BOARD

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5 CHIEF ADMINISTRATIVE OFFICER OF
6 THE OCCUPATIONAL SAFETY AND
7 HEALTH ADMINISTRATION OF THE
8 DIVISION OF INDUSTRIAL RELATIONS
9 OF THE DEPARTMENT OF BUSINESS
10 AND INDUSTRY, STATE OF NEVADA,

Docket No. LV24-2278

Inspection No. 1695272

9 Complainant,

10 vs.

11 JOHN BULL BUILDERS, LLC.

12 Respondent.
13

FILED
April 14, 2026
OSH REVIEW BOARD
By: K Kennedy

14 **DECISION OF THE BOARD, FINDINGS OF FACT,**
15 **CONCLUSIONS OF LAW AND FINAL ORDER**

16 On August 29, 2023, Nevada OSHA conducted a Programed Planned inspection of a
17 construction site located at 4700 North Rancho Drive, Las Vegas, Nevada. *See*, State's Exhibit 1,
18 pp. C15, C16. The target company was the general contractor, ARCO/Murray National Dallas,
19 Inc., (ARCO/Murry). In this matter, the Respondent is John Bull Builders LLC, (John Bull or the
20 Respondent) a Nevada Limited Liability Company. *See*, State's Exhibit 1, pp. C15, C21. John Bull
21 was one of ten subcontractors at the aforementioned construction site. *See*, State's Exhibit 1, p.
22 C21. During the inspection, several deficiencies were noted, resulting in the issuance of five
23 Citations with five Items against John Bull. *See*, State's Exhibit 1, pp. C60-C108. ARCO/Murry

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1 was not cited for any of these violations because it was not subject to Nevada OSHA’s jurisdiction.
2 *See, Tr.*, p. 136;13-23.¹

3 The matter came for hearing before the Nevada Occupational Safety and Health Board of
4 Review (Board) on February 12, 2025, in furtherance of a notice, duly provided according to law.
5 *See, Notice of Hearing* dated December 16, 2024. In attendance at the February 12, 2025, Board
6 meeting were Chairman Jorge Macias, Secretary William Spielberg, Member Tyson Hollis,
7 Member Gled Bautista and Member Scott Fullerton. *See, Tr.*, p. 2;5-16. There being five Board
8 Members present to hear this matter with at least one member representing management and one
9 member representing labor, in attendance, a quorum was present to hear the matter and conduct the
10 business of the Board.

11 Charles R, Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., was present as legal counsel
12 to the Board. *See, Tr.*, p. 2;21-23. Salli Ortiz, Esq., appeared on behalf of the Complainant, Chief
13 Administrative Officer of the Occupational Safety and Health Administration, Division of Industrial
14 Relations (the State). *See, Tr.*, p. 6;4-6. John Bull, a lay person representative, appeared on behalf
15 of the Respondent. *See, Tr.*, p. 6;15-23.

16 On February 9, 2024, a Citation and Notification of Penalty (Citation) was issued to the
17 Respondent alleging violations of federal regulations and State law. Citation 1, Item 1, charged a
18 Repeat-Serious violation of 29 CFR 1926.501(b)(1), as stated below:

19 Each employee on a walking/working surface (horizontal and vertical surface) with
20 an unprotected side or edge which is 6 feet (1.8 m) or more above a lower level shall
21 be protected from falling by the use of guardrail systems, safety net systems, or
personal fall arrest systems.

22 The employer did not ensure that each employee on a walking/working surface with
23 unprotected sides and edges which is 6 feet or more above a lower level was
24 protected from falling by the use of guardrail systems, safety net systems, or
25 personal fall arrest systems. Employees were installing metal floor decking and
26 guardrails around the perimeter of the decking approximately 21 feet above the next
27 lower level and were not protected from falls. Employees were exposed to serious
28 injuries such as fractured bones or death in the event of a fall.

1“Tr.” stands for the transcript of the hearing conducted on February 12, 2025, followed by the page
and line number where the matter cited can be found.

1 John Bull Builders LLC was previously cited for this occupational safety and health
2 standard or its equivalent standard, which was contained in NVOSHA inspection
3 number 1453271, citation number 1, item number 1, and was affirmed as a final
4 order on April 21, 2020. *See*, State's Exhibit 1, p. C60.

5 Based upon the nature and severity of the alleged violation of Citation 1, Item 1, the State
6 proposed a penalty in the amount of \$14,195.00. *See*, State's Exhibit 1, p. C61.

7 Citation 1, Item 2, alleged a Repeat-Serious violation of 29 CFR 1926.1052(c)(1)(ii), as
8 stated below:

9 Stairways having four or more risers or rising more than 30 inches (76 cm),
10 whichever is less, shall be equipped with: One stair rail system along each
11 unprotected side or edge. Note: When the top edge of a stair rail system also
12 serves as a handrail, paragraph (c)(7) of this section applies.

13 The employer did not ensure that a stairway having four or more risers or
14 rising more than 30 inches was equipped with a stair rail system along each
15 unprotected side or edge. Employees utilized a stairway located at the
16 northeast side of the project to access the second floor. The stairway had 10
17 risers and was not equipped with a stair rail system along an unprotected
18 side. Employees were exposed to possible serious injuries in the event of a
19 fall.

20 John Bull Builders LLC was previously cited for a violation of this
21 occupational safety and health standard or its equivalent standard, which was
22 contained in OSHA inspection number 1453271, citation number 1, item
23 number 4 and was affirmed as a final order on April 21, 2020. *See*, State's
24 Exhibit 1, p. C67.

25 Based upon the nature and severity of the alleged violation of Citation 1, Item 2, the State
26 proposed a penalty in the amount of \$10,141.00. *See*, State's Exhibit 1, p. C68.

27 Citation 1, Item 3, alleged a Repeat-Serious violation of 29 CFR 1926.1052(c)(12), as stated
28 below:

Unprotected sides and edges of stairway landings shall be provided with
guardrail systems. Guardrail system criteria are contained in subpart M of
this part.

The employer did not ensure unprotected sides and edges of stairway
landings were provided with guardrail systems. One supervisory employee
and five employees utilized the northeast stairwell to access the roof which
had openings on the landing as wide as 22 inches which could allow a person
to fall 62 inches to the lower level. The employees were exposed to serious
injuries such as fractured bones.

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2 John Bull Builders LLC was previously cited for a violation of this
3 occupational safety and health standard, which was contained in OSHA
4 inspection number 1453271, citation number 1, item number 5 and was
5 affirmed as a final order on April 21, 2020. *See*, State's Exhibit 1, p. C72.

6 Based upon the nature and severity of the alleged violation of Citation 1, Item 3, the State
7 proposed a penalty in the amount of \$10,141.00. *See*, State's Exhibit 1, p. C73.

8 Citation 2, Item 1, alleged a Repeat-Other violation of 29 CFR 1926.503(b)(1), as stated
9 below:

10 The employer shall verify compliance with paragraph (a) of this section by
11 preparing a written certification record. The written certification record shall
12 contain the name or other identity of the employee trained, the date(s) of the
13 training, and the signature of the person who conducted the training or the
14 signature of the employer. If the employer relies on training conducted by
15 another employer or completed prior to the effective date of this section, the
16 certification record shall indicate the date the employer determined the prior
17 training was adequate rather than the date of actual training.

18 The employer did not verify fall protection training by preparing a written
19 certification record that contained the name or other identity of the
20 employees trained, the date(s) of the training, and the signature of the person
21 who conducted the training or the signature of the employer. Employees were
22 performing construction activity from a height of 21 feet above a lower level.
23 Certification records were requested and the employer did not provide a
24 written fall protection certification record for one employee.

25 John Bull Builders LLC was previously cited for a violation of this
26 occupational safety and health standard, which was contained in OSHA
27 Inspection number 1453271, citation number 2, item number 1 and was
28 affirmed as a final order on April 21, 2020. *See*, State's Exhibit 1, p. C77.

Based upon the nature and severity of the alleged violation of Citation 2, Item 1, the State
proposed a penalty in the amount of \$2,028.00. *See*, State's Exhibit 1, p. C78.

Citation 3, Item 1, alleged a Repeat-Regulatory violation of NRS 618.987(1), as stated
below:

If a construction worker other than a supervisory employee fails to present his or her
employer with a current and valid completion card for an OSHA-10 course not later
than 15 days after being hired, the employer shall suspend or terminate his or her
employment.

The employer did not ensure that four construction workers presented their current
and valid completion card for an OSHA-10 course not later than 15 days after being
hired. At the time of the inspection, construction workers had been employed for
approximately 45 days to 1 year and had not presented their employer with a current
and valid completion card for an OSHA-10 course. The employer did not suspend or
terminate their employment.

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2 John Bull Builders LLC was previously cited for a violation of this occupational
3 safety and health standard, which was contained in OSHA inspection number
4 1453271, citation number 3, item number 1 and was affirmed as a final order on
5 April 21, 2020.

6 John Bull Builders LLC was previously cited for a violation of this occupational
7 safety and health standard, which was contained in OSHA Inspection number
8 1620769, citation number 2, item number 1 and was affirmed as a final order on
9 April 3, 2023. *See*, State's Exhibit 1, p. C83.

10 Based upon the nature and severity of the alleged violation of Citation 3, Item 1, the State
11 proposed a penalty in the amount of \$70,967.00. *See*, State's Exhibit 1, p. C84.

12 Citation 3, Item 2, alleged a Repeat-Regulatory violation of NRS 618.987(2), as
13 stated below:

14 If a supervisory employee on a construction site fails to present his or her
15 employer with a current and valid completion card for an OSHA-30 course
16 not later than 15 days after being hired, the employer shall suspend or
17 terminate his or her employment.

18 The employer did not ensure that two supervisory construction workers
19 presented their current and valid completion card for an OSHA-30 course not
20 later than 15 days after being hired. At the time of the inspection, two
21 supervisory employees had been working for approximately 1.5 months to 2
22 years and had not presented their current and valid completion card for an
23 OSHA-30 course. The employer did not suspend or terminate their
24 employment.

25 John Bull Builders LLC was previously cited for a violation of this
26 occupational safety and health standard, which was contained in OSHA
27 inspection number 1453271, citation number 3, item number 2 and was
28 affirmed as a final order on April 21, 2020. *See*, State's Exhibit 1, p. C87.

Based upon the nature and severity of the alleged violation of Citation 3, Item 2, the State
proposed a penalty in the amount of \$440.00. *See*, State's Exhibit 1, p. C88.

Citation 4, Item 1, alleged a Serious violation of 29 CFR 1926.51(a)(1) as stated below:

An adequate supply of potable water shall be provided in all places of
employment.

The employer did not ensure an adequate supply of potable water was
provided in all places of employment. Eight total employees worked at the
Rancho Storage construction site performing construction work outdoors.
The employees were not able to access potable water at the job site when the
general contractor was not on site as the general contractor locks their trailer
and the water is located inside. The employees were exposed to serious
health injuries such as heat exhaustion and heat stroke. *See*, State's Exhibit
1, p. C91.

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2 Based upon the nature and severity of the alleged violation of Citation 4, Item 1, the State
3 proposed a penalty in the amount of \$6,084.00. *See*, State's Exhibit 1, p. C92.

4 Citation 4, Item 2, alleged a Serious violation of 29 CFR 1926.451(c)(2)(i) as stated below:

5 Footings shall be level, sound, rigid, and capable of supporting the loaded
6 scaffold without settling or displacement.

7 The employer did not ensure that footings were level, sound, rigid, and
8 capable of supporting the loaded scaffold without settling or displacement.
9 One employee operated a Genie GS-3384 scissor lift at a height of
10 approximately 21 feet to install guard rails. Two of the tires of the scissor lift
11 rested on pieces of wood that were more narrow than the tires, in order to
12 level the lift enough for it to operate on the uneven terrain. The terrain was
13 sloped and a small hole was located adjacent to one of the pieces of wood
14 and tire. Inadequate footings could result in the lift tipping over, exposing the
15 employee to possible serious injuries. *See*, State's Exhibit 1, p. C95.

16 Based upon the nature and severity of the alleged violation Citation 4, Item 2, the State
17 proposed a penalty in the amount of \$5,071.00. *See*, State's Exhibit 1, p. C96.

18 Citation 4, Item 3, alleged a Serious violation of 29 CFR 1926.503(a)(1) as stated below:

19 The employer shall provide a training program for each employee who might
20 be exposed to fall hazards. The program shall enable each employee to
21 recognize the hazards of falling and shall train each employee in the
22 procedures to be followed in order to minimize these hazards.

23 The employer did not ensure that employees who were exposed to fall
24 hazards were provided with a training program to recognize the hazards of
25 falling and the procedures to be followed in order to minimize these hazards.
26 Employees worked from a roof approximately 21 feet above a lower level but
27 had not been provided with fall protection training. Employees were exposed
28 to potential injuries such as concussions, broken bones, or death in the event
of a fall to the ground surface below. *See*, State's Exhibit 1, p. C99.

Based upon the nature and severity of the alleged violation Citation 4, Item 3, the State
proposed a penalty in the amount of \$7,098.00. *See*, State's Exhibit 1, p. C100.

Citation 5, Item 1, alleged an Other-than-Serious violation of NAC 618.538 as stated below:

An employer who enters into business in this State after May 18, 1994, shall, within
60 days after the date on which his eleventh employee is hired in this State, establish
a written safety program in accordance with NRS 618.383 and NAC 618.538 to
618.544, inclusive.

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2 The employer failed to establish a written safety in accordance with NRS 618.383
3 and NAC 618.538 to 618.544 within 60 days after the date on which their eleventh
4 employee was hired. At the time of the inspection, the company employed 12
5 employees and did not have a written safety program as required. *See*, State's
6 Exhibit 1, p. C105.

7 Based upon the nature and severity of the alleged violation of Citation 5, Item 1, the State
8 proposed a penalty in the amount of \$569.00. *See*, State's Exhibit 1, p. C106.

9 On March 11, 2024, the Respondent sent its notice of intent to contest the Citation. *See*,
10 State's Exhibit 1, p. C105. On March 29, 2024, the State served the Respondent with its Complaint.
11 *See*, State's Exhibit 1, pp. C126-C138. On or about April 25, 2024, Noel M. Hernandez, Esq.,
12 Ogletree Deakins Nash Smoak & Stewart, P .C., answered the Complaint for the Respondent. *See*,
13 State's Exhibit 1, pp. C139-C145. On or about January 17, 2025, the firm of Ogletree Deakins
14 Nash Smoak & Stewart, P .C., withdrew its representation of the Respondent.

15 At the hearing on the matter, the State offered for admission three exhibits consisting of a
16 total of 426 pages. *See*, Tr., p. 6;8-14. The Respondent objected to the admission of all three of the
17 State's Exhibits. *See*, Tr., pp. 7-11. However, the Respondent was unable to articulate any legal
18 grounds, such as relevance or hearsay, upon which to deny the admission of the Exhibits. *See, Id.*
19 Instead, the basis of the Respondent's objection went to the substance of the State's case in chief.
20 The State's Exhibits 1, 2 and 3 were admitted into evidence subject to the Respondent's ability to
21 specifically object to any document when it was offered and/or referenced as a part of the State's
22 witnesses' testimony. *See*, Tr., p. 13;8-16. During the course of the hearing, the Respondent
23 offered no evidentiary objections. Therefore, all of the State's documents were admitted into
24 evidence in this proceeding.

25 The Respondent offered for admission an unspecified number of records of payments to
26 subcontractors. *See*, Tr., p. 14;15-18. These documents had not been submitted to the State or
27 provided to the Board in advance of the hearing. *See, Id.* The State objected to the admission of
28 these unseen documents. *See*, Tr., p. 14;19-22. The Board reserved its ruling on the State's
objection. Should the Respondent offer or reference any of its documents, the Board could rule on
their admissibility at that time. *See*, Tr., pp. 14-16. During the course of the hearing, the

1 Respondent did not offer any documents for admission. Accordingly, none of the Respondent's
2 documents were admitted into evidence. Jurisdiction in this matter has been conferred in
3 accordance with Chapter 618 of the Nevada Revised Statutes.

4 At the hearing on the matter, the State offered the testimony of OSHA investigator Steven
5 Anderson, Adrian Zacaris and Pedro Puelasl. *See*, Tr., pp. 21-128. The Respondent indicated that
6 Mr. Bull would testify on its behalf. *See*, Tr., p. 14;9-11. Mr. Bull did not ultimately testify for the
7 Respondent. *See*, Tr., p. 138;1-3.

8 FINDINGS OF FACT

9 On August 29, 2023, Mr. Anderson conducted a Programed Planned inspection at the
10 Rancho Storage construction site. *See*, Tr., pp. 21;23-24, 22;1-4. ARCO/Murry, the general
11 contractor, was the target company for this investigation. *See, Id.* John Bull was one of the
12 subcontractors at this job site. *See*, Tr., p. 22;5-8.

13 Mr. Anderson noted certain unsafe conditions during the August 29, 2023, inspection and/or
14 subsequent to that inspection. First, employees were on a walking working surface located
15 approximately twenty-one over feet above the ground without a guardrail system and without the
16 use of personal fall protection. *See*, State's Exhibit 1, pp. C146-C150, C152-C155, *see also*, Tr., p.
17 63;4-9. The danger of this condition was enhanced because some of the steel panels of this roof
18 were not properly installed. *See*, State's Exhibit 1, pp. C155-C158, *see also*, Tr., p. 64;16-21.
19 Second, the northwest stairway was not equipped with a stair rail system along an unprotected side.
20 *See*, State's Exhibit 1, pp. C159-C171. Third, the landing for the northeast stair way did not have a
21 rail system along an unprotected edge. *See*, State's Exhibit 1, pp. C172-C186. Fourth, the scissor
22 lift used to transport materials to the roof was not placed on level footings. *See*, State's Exhibit 1,
23 pp. C262-C269. Interviews with the Respondent's employees showed that one or more of them
24 were exposed to each of these hazards. *See*, State's Exhibit 1, pp. C25, C28, C30, C31.

25 The opening conference was conducted with Juan Hernandez, who identified himself as a
26 foreman. *See*, State's Exhibit 1, p. C3, *see also*, Tr., p. 23;12-14. Mr. Hernandez told Mr.
27 Anderson that John Bull had four employees on the job on the day of the inspection. *See*, State's
28 Exhibit 1, p. C3. Mr. Anderson also conducted an interview with Mr. Hernandez on October 13,

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3 2023.² *See*, State’s Exhibit 1, pp. C26-C39. Mr. Hernandez said that he and his crew had been
4 working on the roof from March through August of 2023. *See, Id.* Mr. Hernandez said that the
5 employees were not wearing fall protection because “they don’t listen.” *See*, Tr., p. 27;8-9.

6 Mr. Hernandez provided a second interview on November 8, 2023. *See*, State’s Exhibit 1,
7 pp., C30, C31. This time, Mr. Hernandez provided a significantly different story. Basically, Mr.
8 Hernandez had been compelled to lie about many of the things he told the inspector on November 8,
9 2023. Mr. Bull had told Mr. Hernandez that if he was subject to a fine, it would be deducted from
10 the employees’ paychecks. *See Id.* This threat would have been particularly concerning to Mr.
11 Hernandez because, at the time, he had not been paid for the previous six weeks. *See Id.*

12 First, Mr. Hernandez said that he was not a foreman, he was only a laborer. *See*, State’s
13 Exhibit 1, p. C31. Second, Mr. Hernandez had misrepresented the number of John Bull employees
14 at the construction site. *See, Id.* He told the inspector that there were only four John Bull
15 employees at the job site while there were more than that number. *See, Id.* Third, Mr. Hernandez
16 changed the story about the use of personal protective equipment. Instead of the lack of its use
17 being a product of employee misconduct, it was John Bull who refused to supply it. *See, Id.*
18 Fourth, Mr. Hernandez had been instructed to delay the inspector’s access to the roof so that tape
19 and warning lines could be deployed before the inspector accessed the area. *See Id.* In order to
20 insure that John Bull’s dishonesty was not discovered, Mr. Hernandez was threatened with legal
21 action. “John Bull has told me and the other employees not to return to the site or he or the
22 superintendent will call the police on me.” *See Id.*

23 During and subsequent to the August 29, 2023, inspection, Mr. Anderson conducted
24 interviews with the Respondent’s employees. Further, Mr. Anderson reviewed the documents he
25 received from the Respondent. In the course of these interviews and the review of the Respondent’s
26 documents, Mr. Anderson discovered certain additional violations. First, that neither of John Bull’s

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28 ²John Bull was present at Mr. Hernandez interview. Mr. Bull was allowed to attend because Mr. Hernandez purported to be a member of management. *See*, Tr., p. 26;3-10.

1 foremen possessed OSHA 30 hour cards. *See*, State's Exhibit 1, p. C88. Second, that at least four
2 of John Bull's workers did not possess OSHA 10 hour cards. *See*, State's Exhibit 1, p. C84. Third,
3 that the Respondent had at least one employee who did not receive certified fall protection training.
4 *See*, State's Exhibit 1, p. C96. Fourth, that the Respondent did not have either a fall hazard training
5 program or a written safety program. *See*, State's Exhibit 1, p. C96. Finally, that potable water was
6 not consistently available to the Respondents' workers at the job site. *See*, State's Exhibit 1, p.
7 C91.

8 Mr. Anderson was cross-examined by Mr. Bull on a couple of topics. Specifically,
9 regarding Mr. Bull's concern that he was being singled out for enforcement because it was a multi-
10 employer job site.

11 Mr. Bull: At the time, were you aware of Hunt Steel, installing those stairs?
12 subcontractor to Arco Murray. Were you aware of that?

13 Mr. Anderson: It was alleged that Hunt Steel was a subcontractor at that site.

14 Mr. Bull: And they did install the stairs, correct?

15 Mr. Anderson: I do not know that.

16 Mr. Bull: Okay. Well, they did. Do you think the stairs...³ *See*, Tr., p. 115;10-20.

17 During the course of the hearing, Mr. Bull had repeatedly questioned the relationship
18 between the creation of the hazard and the responsibility for the Respondent's employees' exposure
19 to that hazard. In order to explain the regulation of multi-employer job sites, Mr. Anderson
20 provided the following testimony:

21 Ms. Ortiz: In order for an employer to be cited for exposing its employees to
22 a hazard when using a stairway that does not have handrails or guarding, do
they have to be the employer who installed the stairway?

23 Mr. Anderson: No.

24 Ms. Ortiz: And why is that?

25 Mr. Anderson: There's four different ways an employer can be responsible
26 for their employees.

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28 ³Ms. Ortiz then objected to Mr. Bull's attempt to provide testimony in the guise of cross-
examination. The objection was sustained.

1 Ms. Ortiz: And in this circumstance with John Bull Builders, what is the way
2 that they are responsible for the employees?

3 Mr. Anderson: I believe we cited them as an exposing an employer.

4 Ms. Ortiz: Which means what exactly?

5 Mr. Anderson: That [John Bull] allowed their employees to be exposed to a
6 hazard. *See, Tr.*, pp. 119;8-24, 120;1-3.

7 In addition to testifying about the substantive violations, Mr. Anderson testified to the
8 calculation of the penalties for each of the alleged violations. *See, Tr.*, pp. 90-103. The penalty
9 amounts were a function of the gravity of the violation and probability of injury from the violation.
10 *See, Id.* Regarding Citation 1, Item 1, the State categorized the violation as Repeat-Serious.⁴ *See,*
11 State's Exhibit 1, p. C60. The severity factor of any potential injury resulting from the violation was
12 considered high. *See, Id.* The probability of an accident was considered greater as the result of the
13 number of employees exposed to the hazard (six employees), the frequency of their exposure and
14 their proximity to the hazard. *See, Tr.*, p. 92;1-5. Using the combination of the severity and the
15 probability of an accident, the State alleged that the gravity was high. *See, Tr.*, p. 92;6-12. Based
16 upon the gravity, the base penalty was calculated to be \$15,625.00. *See, State's Exhibit 1, p. C61,*
17 *see also, Tr.*, p. 44;9-15. The base penalty was adjusted as a result of the repeat violation and a
18 discount for the size of the employer to the amount of \$14,195.00. *See, State's Exhibit 1, p. C61,*
19 *see also, Tr.*, p. 92;19-23.

20 Regarding Citation 1, Item 2, the State categorized the violation as Repeat-Serious.⁵ *See,*
21 State's Exhibit 1, p. C67. Using the severity and probability factors, the State determined that the
22 gravity was moderate. *See, State's Exhibit 1, p. C68, see also, Tr.*, p. 93;19-24. The base penalty
23 was then calculated to be \$13,394.00. *See, State's Exhibit 1, p. C67.* The base penalty was
24 adjusted down to \$10,141. *See, State's Exhibit 1, p. C68.*

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26 ⁴John Bull was cited for violating 29 CFR 1926.501(b)(1) on March 17, 2020, pursuant to inspection
27 Number 1453271. *See, State's Exhibit 2, pp. C323-C358.*

28 ⁵John Bull was cited for violating 29 CFR 1926.502(b)(1) on March 17, 2020, pursuant to inspection
Number 1453271. *See, State's Exhibit 2, pp. C323-C358.*

1 Regarding Citation 1, Item 3, the State categorized the violation as Repeat-Serious.⁶ *See*,
2 State's Exhibit 1, p. C72. However, the State determined that the gravity was only moderate
3 because less severe injuries were envisioned. *See*, State's Exhibit 1, p. C72, *see also*, Tr., p. 95;1-5.
4 The base penalty was then calculated to be \$13,394. *See*, State's Exhibit 1, p. C72. The base penalty
5 was adjusted to \$10,141. *See*, State's Exhibit 1, p. C73.

6 Regarding Citation 2, Item 1, the State categorized the violation as Repeat-Serious.⁷ *See*,
7 State's Exhibit 1, p. C77. The severity of the violation was determined to be minimal because there
8 was little probability of death or serious injury. *See*, State's Exhibit 1, p. C78, *see also*, Tr., p.
9 96;4-12. Using the risk to exposure calculation, the gravity was determined to be moderate. *See*,
10 State's Exhibit 1, p. C78, *see also*, Tr., p. 96;1-12. The base penalty was then calculated to be
11 \$2,232.00. *See*, State's Exhibit 1, p. C78. The base penalty was adjusted to \$2,028.00 based upon
12 the previous violation of the same regulation and certain discounts. *See, Id.*

13 Regarding Citation 3, Item 1, the State categorized the violation as Repeat-Regulatory.⁸ *See*,
14 State's Exhibit 1, p. C83. A regulatory violation is one where the State has determined a specific
15 penalty amount. *See*, Tr., p. 96;23-24. This categorization resulted in there being no gravity
16 determination. *See*, State's Exhibit 1, p. C84. The penalty was specified by statute. *See*, Tr., p.
17 96;20-24. The base penalty was determined to be \$15,625.00. *See*, State's Exhibit 1, p. C84.
18 However, the penalty was subject to a multiple of ten because this was the second violation of this
19 regulation. This multiplier caused the base penalty to increase to \$70,976. *See*, State's Exhibit 1, p.
20 C84, *see also*, Tr., p. 98;1-13.

23 ⁶John Bull was cited for violating 29 CFR 1926.1052(c)(12) on March 17, 2020, pursuant to
24 inspection Number 1453271. *See*, State's Exhibit 2, pp. C323-C358.

25 ⁷John Bull was cited for violating 29 CFR 1926.503(b)(1) on March 17, 2020, pursuant to inspection
26 Number 1453271. *See*, State's Exhibit 2, pp. C323-C358

27 ⁸John Bull was cited for violating NRS 618.987(1) on March 17, 2020, pursuant to inspection
28 Number 1453271. *See*, State's Exhibit 2, pp. C323-C358. John Bull was also cited for violating NRS
618.987(1) on March 2, 2023, pursuant to inspection Number 1620769. *See*, State's Exhibit 2, pp. C359-
C369.

1 Regarding Citation 3, Item 2, the State categorized the violation as Repeat-Regulatory.⁹
2 *See*, State’s Exhibit 1, p. C87. The base penalty was determined to be \$1,00000 because the amount
3 is set by statute. *See*, State’s Exhibit 1, p. C88. Further, the amount was subject to a 10% increase
4 because it was the second violation. *See, Id.* However, the penalty was discounted by 60% as a
5 result of the size of the employer. *See, Id.* The resulting penalty was then \$440.00. *See, Id.*

6 Regarding Citation 4, Item 1, the State categorized the violation as Serious. *See*, State’s
7 Exhibit 1, p. C91. The State determined that the gravity was moderate. *See*, State’s Exhibit 1, p.
8 C91. The base penalty was then calculated to be \$13,394.00. *See*, State’s Exhibit 1, p. C92. The
9 base penalty was reduced to \$6,084.00 as the result of certain discounts. *See, Id.*

10 Regarding Citation 4, Item 2, the State categorized the violation as Serious. *See*, State’s
11 Exhibit 1, p. C95. The State determined that the gravity was moderate. *See*, State’s Exhibit 1, p.
12 C96. The base penalty was then calculated to be \$11,162.00. *See*, State’s Exhibit 1, p. C97. The
13 base penalty was reduced to \$5,071.00 as the result of certain discounts. *See, Id.*

14 Regarding Citation 4, Item 3, the State categorized the violation as Serious. *See*, State’s
15 Exhibit 1, p. C99. The State determined that the gravity was high. *See*, State’s Exhibit 1, p. C100.
16 The base penalty was then calculated to be \$15,625.00. *See*, State’s Exhibit 1, p. C101. The base
17 penalty was reduced to \$7,098.00 as the result of certain discounts. *See, Id.*

18 Regarding Citation 5, Item 1, the State categorized the violation as Other-than-Serious. *See*,
19 State’s Exhibit 1, p. C105. The State determined that the gravity was moderate. *See*, State’s Exhibit
20 1, p. C106. The base penalty was then calculated to be \$1,653.00. *See, Id.* T he base penalty was
21 reduced to \$569.00 as the result of certain discounts. *See, Id.*

22 The Board was concerned by the Respondent’s efforts to mislead Nevada OSHA and to hide
23 evidence. This concern was expressed in Member Hollis’ examination of Mr. Anderson.

24 Mr. Hollis: [E]arlier... there’s a witness statement that talked about that there
25 was a lack of OSHA cards and that that (sic) employee stated that they were
26 passing out OSHA cards. Do you recall that statement?

27
28 ⁹John Bull was cited for violating NRS 618.987(2) on March 17, 2020, pursuant to inspection
Number 1453271. *See*, State’s Exhibit 2, pp. C323-C358.

1 Mr. Anderson: Yes.

2 Mr. Hollis: Did they go into detail as far as passing out blank OSHA cards as
3 in fraudulent OSHA cards?

4 Mr. Anderson: I believe the interviews that I were (sic) discussing with the
5 employees, John Bull had called the employees to a meeting at the job site
6 after I had been gone. And the employees that did not actually have OSHA
7 cards were provided with OSHA cards of different people so that those
8 employees could present themselves as the alternative identity for when I
9 interviewed them so it would appear that they really do have OSHA cards, if
10 that made sense.

11 Mr. Hollis: It does. Was it more than one testimony of one individual that
12 stated that? I mean, one statement is a statement but –

13 Mr. Anderson: I think it was two that had mentioned that in the interview
14 statement. And I think Juan Hernandez had told me that verbally when he
15 requested, I interview him again. *See, Tr., pp. 120;24-25, 121;1-14*

16 Testimony was given by two other participant witnesses, Adrian Zacarias and Pedro Ruelas.

17 Mr. Zacarias was employed by AMC Concrete in August of 2023. *See, Tr., p. 106;5-10.* Mr.
18 Zacarias witnessed 10 unbolted panels on the roof. *See, State's Exhibit 1, p. C39, see also, Tr., p.*
19 *108;13-16.* On cross-examination, Mr. Zacarias confirmed that other subcontractors were on the
20 roof, installing the heavy steel gage. *See, Tr., pp. 109;24-25, 110;1-10.*

21 Mr. Ruelas testified that he was a foreman for Sunrise Air System working at the subject
22 construction site in August of 2023. *See, Tr., p. 126;5-14.* Further, that his employees had used the
23 northwest stairway to access the roof. *See, Tr., p. 127;23-24.*

24 To the extent that any of the Conclusions of Law constitute Findings of Fact, they are
25 incorporated herein.

26 CONCLUSIONS OF LAW

27 In a contested hearing, the burden is on the State to prove its *prima facie* case by a
28 preponderance of the evidence. *See, NAC 618.788(1), see also, Original Roofing Company LLC v.*
Chief Administrative Officer of the Nevada OSHA, 442 P.3d 146, 149 (Nev. 2019). The State carries
the burden of proof in demonstrating a violation of OSHA law. *See, NAC 618.788.* In order for the
State to meet its burden it must establish: (1) the applicability of the OSHA regulation; (2)
noncompliance with the OSHA regulation; (3) employee exposure to a hazardous condition; and (4)
the employer's actual or constructive knowledge of the violative conduct. *See, Original Roofing,*

1 *supra*, at 149; *Secretary of Labor v. Atl. Battery Co.*, 16 BNA OSHC 2131, 2135, 1994 WL 682922
2 (No. 90-1747, 1994).

3 At this hearing, the Respondent offered no defense against any of the substantive allegations
4 and failed to proffer any affirmative defenses. *See*, Tr., p. 138;1-3. The Respondent's failure to
5 provide any arguments on the merits is properly viewed as an admission of liability for each of the
6 violations. *See*, Rule 13, District Court Rule.¹⁰ Therefore, the State proved its *prima facie* case for
7 all ten of the alleged violations. That is to say that the State's evidence was sufficient to show that
8 each of the elements of all ten of the alleged violations was presented at the hearing. Further, the
9 Respondent's default served to confirm the amount of each penalty assessed for each of the ten
10 violations.

11 Regardless of the Respondent's failure to mount a formal defense, Mr. Bull alleged his
12 company was being singled out for enforcement on a multi-employer construction site. *See*, Tr., p.
13 144;1-13. Mr. Bull's concern was somewhat understandable because the general contractor,
14 ARCO/Murry, was not cited for any of the violations discovered in this inspection. *See*, Tr., p.
15 136;13-23.

16 Turning to the specific citations, it is likely that the alleged violations of 29 CFR
17 1926.51(a)(1) were created by ARCO/Murry because that entity locked its offices when its
18 employees were not on site, denying access to a source of potable water to the subcontractors. *See*,
19 State's Exhibit 1, pp. C31, C34, C247, *see also*, Tr., p. 59;6-7. The alleged violations of 29 CFR
20 1926.50 l(b)(1), 29 CFR 1926.1052(c)(1)(ii), 29 CFR 1926.1052(c)(12) and 29 CFR
21 1926.451(c)(2)(i) may have been created by ARCO/Murry or one of the other subcontractors on the
22 job. None of the State's documentation specifically identified which of the contractor or contractors
23 created the hazards.

24 Nevertheless, the creation of the hazard is not relevant to an exposing employer in the multi-
25

26 ¹⁰“A party filing a motion shall also serve and file with it a memorandum of points and
27 authorities in support of each ground thereof. The absence of such memorandum **may be construed**
28 **as an admission that the motion** is not meritorious and cause for its denial or as a waiver of all
grounds not so supported.” *See*, Rule 13, District Court Rules.

1 employer context. When an employer exposes its employees to a hazard, that employer is
2 presumptively liable, regardless of whether that employer created the hazard. *See*, OSHA
3 Instruction CPL 02-00-124, (December 10, 1999). OSHA regulations create a duty for all
4 employers to protect their employees from any hazard specifically identified in the regulations
5 regardless of who created the hazard. *See*, 29 USC 654(a)(2), *see also*, *Teal v. E. I. du Pont de*
6 *Nemours & Co.*, 728 F.2d 799, 803, 804 (6th Cir. 1984); *Ellis v. Chase Communications*, 63 F.3d
7 473, 477 (6th Cir. 1995)(The class of employers who owe a duty under 29 USC 654(a)(2) is defined
8 with reference to control of the workplace and opportunity to comply with OSHA regulations).
9 Thus, the State’s review of the roof, stairwell and scissor lift did not require a determination of
10 whether the general contractor, another subcontractor or John Bull created the hazard. The only
11 relevant inquiry was whether John Bull exposed its employees to the hazard. As John Bull
12 functionally admitted to liability for each of the aforementioned violation, the State proved that the
13 Respondent’s employees were exposed to each of the enumerated hazards.

14 Another item of note is the apparent inequity of the penalty amounts attributable to the
15 individual violations. To wit, the failure of John Bull’s supervisors to possess OSHA 30 training
16 cards resulted in a \$440.00 penalty. In contrast, the Respondent’s failure to possess OSHA 10
17 training cards for its workers resulted in a \$70,976.00 penalty. Chairman Macias queried Mr.
18 Anderson on this topic:

19 Mr. Macias: I guess it’s hard for me to understand it. But I see that citation
20 three, item one is a citation for Nevada Revised Statute 618.987. And sorry,
21 that is on C120 page number. It’s a repeat regulatory, and this is pretty much
22 for the employer failing to have or employees not having 10-hour OSHA
23 cards. And that citation is for 70,000 dollars. And then we go down to
24 citation three, item two on page C121. Same type of violation, but this one’s
25 actually for the 30 hours. It’s a repeat regulatory under NRS 618.9872, and
26 it’s only \$440. So, what was the huge difference between those two numbers?

27 Mr. Anderson: So, if we go back to C84 where the calculation actually is.

28 Mr. Macias: Okay.

Mr. Anderson: So, in the proposed penalty justification towards the bottom, it
says for violating this regulation three times and in accordance with Nevada
Revised Statute 618.990.1(c) the employers being cited is if they committed a
willful violation. So, the statute is requiring the penalty amount to be in
accordance with a willful violation. So, that’s the reason why.

1 Mr. Macias: Okay, got it. So, the rule would take it higher than just a repeat?
2 See, Tr., p. 132;3-25.

3 Therefore, as set forth above, the State proved its *prima facie* case for the violation of each
4 of the ten statutes and regulations. The Respondent's concerns about the fairness of the process
5 and/or the amount of the assessed fines provided no grounds for relief.

6 Board Member Hollis moved to uphold each citation, including total fines in the amount of
7 \$126,743.00. See, Tr., p. 150;1-2. The motion was seconded by Member Fullerton. See, Tr., p.
8 150;3-8. The motion was adopted upon a vote of 5 in favor of the motion and 0 against the motion.
9 See, Tr., p. 150;8-9. The Board, by this motion, authorizes the Chairman, Jorge Macias, to execute,
10 without further Board review, this Decision on behalf of the Board of Review.

11 Service of the findings of fact and conclusions of law signed by the Chairman of the Nevada
12 Occupational Safety and Health Review Board shall constitute the Final Order of the Board.

13 On February 18, 2026 the Board convened to consider adoption of this Decision combined
14 with the Findings of Fact and Conclusions of law, as written or as modified by the Board, as the
15 decision of the Board.

16 Those present and eligible to vote on this question consisted of the four current members of
17 the Board, to-wit, Chairman, Jorge Macias, and members, Tyson Hollis, Gled Bautista and Shannon
18 Chambers. Upon a motion by Tyson Hollis, seconded by Gled Bautista, the Board voted 4-0 to
19 approve this Decision of the Board as the action of the Board and to authorize Chairman Jorge
20 Macias, after any grammatical or typographical errors are corrected, to execute, without further
21 Board review, this Decision on behalf of the Nevada Occupational Safety and Health Review
22 Board. Those voting in favor of the motion either attended the hearing on the merits or had in their
23 possession the entire record before the Board upon which the decision was based.

24 Dated this 14th day of April, 2026.

NEVADA OCCUPATIONAL SAFETY AND
HEALTH REVIEW BOARD

26
27 By: /s/ Jorge Macias
Jorge Macias, Chairman

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NOTICE: Pursuant to NRS 233B.130, any party aggrieved by this Final Order of the Nevada Occupational Safety and Health Review Board may file a petition for judicial review to the District Court within thirty (30) days after service of this order.

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Law Offices of Charles R. Zeh, Esq., and that on this date I served the Attached *Decision of the Board, Findings of Fact, Conclusions of Law and Final Order* , on those parties identified below by placing an original or true copy thereof in a sealed envelope, certified mail/return receipt requested, postage prepaid, placed for collection and mailing in the United States Mail, at Reno, Nevada:

Salli Ortiz, Esq.
Division Counsel
Divison of Industrial Relations
1886 College Pkwy., Suite 110
Carson City, NV 89706

John Bull Builders, LLC
5036 Rollingwood Dr,
Las Vegas, NV, 89120

Dated this 14th day of April, 2026.

/s/Karen Kennedy
Employee of
The Law Offices of Charles R. Zeh, Esq.

S:\Clients\OSHA\LV 24-2278, John Bull Builders LLC\ADA Final Decision.wpd