

## **MEETING MINUTES- 9/15/2016**

**Attendees:** Trenda Smith, Francisco Rodriguez, Lauren Norton, Drew Long, Martina Gonzales, Alan Fortner, Kathy Capps, Johana Ramirez, Regina Cullen, Kevin Beauregard.

**Guest attendees from NC Commerce:** William "Bubba" Grant

Regina Cullen welcomed everyone to the meeting opened the meeting at 9:00 a.m. The minutes of the previous staff meeting (July 2016) were submitted by Johana Ramirez, approved by Drew Long, and seconded by Trenda Smith.

### **Kevin:**

#### *ASH In the future:*

Kevin discussed the concern regarding Regina Cullen (ASH Bureau Chief) potentially retiring late 2017. Current staff were uncertain of potential changes to the ASH Bureau following her retirement. Kevin said that he does not foresee changes in staff operations. Kevin mentioned that the staff who are currently in the field would stay in the field. Kevin mentioned that ASH operates efficiently under the direction of Bureau Chief Cullen. When NC DOL choses another Bureau Chief, to fill the vacancy, he (Kevin) does not foresee any changes in how the Bureau is operated or conducts its inspections. Kevin indicated how important it was to keep productive and well-trained employees happy with their jobs with NCDOL.

Kevin also discussed his current promotion to OSH Deputy Commissioner and mentioned ASH concerns about a replacement for his prior position as Assistant Deputy Commissioner. Currently he is doing both jobs, old and new. He was not sure on the timing of this, but is hopeful that someone will be selected for the position of Assistant Deputy Commissioner shortly after the November 8 election.

#### *General News:*

NC is hosting the OSHSPA Conference in Wilmington NC in September. NCDOL staff are busy preparing for the event. Currently there are five (5) states boycotting NC because of House Bill 2 (HB2). In addition, the NC Manufactures Association Meeting is being held in Wilmington at the same time. Kevin mentioned that NC is often seen as a leader amongst State Plan programs and NC has led the way in many areas, such as promulgating the nations' first communication tower standard. OSH has CSHOs enforcing the communication tower standard and the related SEP. Kevin mentioned the difficulties associated with

inspecting towers because of the speed in which they are erected and maintained. Kevin mentioned that if we (ASH) see communication tower work that in progress, we should call an OSH supervisor and if we see an apparent hazard in involving communication tower work we should report this directly to the OSH Complaint desk. Lastly, Kevin reported that statewide OSH inspection activity has dropped due to the lack of released CSHOs.

## **Gold Star Meeting**

Regina

Gold Star meeting:

Regina reminded everyone of the Gold Star meeting on February 1. It will be an all-day event (2 events), one for double gold Stars (morning) and one for single gold stars (afternoon). Regina asked for CSHOs to get together a list of people who we want to honor in this year's events. Regina mentioned to the CSHOs that we should be deciding on what counties to be doing this year for pre-occupancy inspections.

**UPDATE** October 13, 2016: There will be two Gold Star meetings on two days, Feb 1 and Feb 2. Both will be held from 10:00 a.m. to 1:00 p.m.

The change was the result of a decision by facilities management at the State Fairgrounds. They realized that they would need time to set up each event, and two meetings on the same day did not give them adequate prep. time.

## **NC Commerce: H-2A FLC's**

GUEST SPEAKER: William (Bubba) Grant, Ag Services Division

### **H-2A FLC's**

H-2A FLCs job orders and commerce assisting. Due to response of the latest case (FLC Jasiel Rodriguez-Nunez) done by CSHO Long, NC Commerce has discontinued services to the respective FLCs. In addition, NC Commerce is checking every hotel/motel that are listed on H-2A FLC job orders. Bubba Grant said that motels/hotels are a big issue because of jurisdiction. Hotels have been used in the past as a loophole in the law. His agency is cracking down on FLC abusing the system. NC Commerce checks "shady" agreements, especially when an H-2A FLC files the job order with an agency that has been known to do

the job incorrectly. Bubba mentioned that the case where Drew Long initiated compliance activity (Rodriguez-Nunez) and said that many other federal agencies were involved with the case (US DOL, ICE, FBI). This case involved much more than meets the eye. It appeared to be a case of human trafficking (smuggling) but also involved organized crime, as well as other illegal activities. It seems by viewing the job orders, especially in sweet potato harvest, many H-2A FLC's request work orders. This seems to be the direction in which agricultural contractors are heading (more FLC's using H-2A labor).

### **CSHOs Questions for Mr. Grant**

#### CSHO Norton

Are we by inspecting/certifying the sites for more workers than are needed (but growers/FLC have beds) creating spots where workers can cross without having certified housing?

Response: maybe

#### Long

Does not give gold star to growers/FLC who max out their camp. CSHO Long does not believe that if grower/FLC has beds in common areas that there are providing a GS Site. In addition, what can we do as CSHO's in the field to make sure the FLC's are NOT abusing the H-2A visa system?

Response: Keep an eye out for things that do not seem right.

#### Fortner

What happens to workers when you (Commerce) says they cannot have H2-A workers and the workers are already in the US?

Response: they have to go home.

#### Cullen

Said she knows of a case this year where workers were not paid properly last year and the H-2A grower lost workers this year because of this. Remember Lea's rules. In addition, Cullen said that she believes that if we can get industry behind the H-2A FLC issues (especially Sweet Potatoes) we can have a proactive approach to the problem as we did with the tobacco industry.

Response: Yes, industry support is a very strong factor. The workers must be paid according to the adverse wage rate.

Around the room

Lauren

Spoke of the action request for Midseason checks that would only include field San and Housing and not HAZCOM. We are going to take out HAZCOM.

Martina

Mentioned changes from ASH Client to OE not going to happen. We will be using ASH client but NCDOL IT will be updating the system and sending MBD files to the office. The upload process should prevent the current reliance on inspector paperwork.

Fortner

Al asked about field sanitation and citing 11 or more or 10 or fewer and asked what standards we are to site.

Answer: From the OSHNC Update, October 1:

**Field Operations Manual (FOM) Chapter 11** – Revisions were made to paragraph b. Field Sanitation Compliance section in response to Action Request 26-16. This change includes the following: “Each field sanitation inspection will address all of the requirements of 29 CFR 1928.110, as well as 13 NCAC 07F.0302, which indicates that the scope of 1928 shall not be limited to any specific number of employees. If there were 11 employees in the field at any time during the past 6 months, they are covered by 1928.110 (a) Scope.”

This was missing from the recent edit and needs to be added to the FOM:

If the number never reaches 11 or more, then any citation issued needs to reference 13 NCAC 07F .0302. Reference CPL 02-00-05.1

Note: This would only apply to those farms that operated a TLC or employed at least 11 or more employees, overall, during the previous 12 months

Note: the appropriations rider is for the previous 12 months; whereas, the field sanitation is for 6 months, due to a statute of limitations.

(That could get real tricky if the time frame would fall in the 5, 6, or 7 month time window. Put on list to discuss at the next staff meeting. )

Group adjourned for lunch.

Respectfully submitted,

Drew Long

