

Forest Worker Partnership Meeting

Date: July 26, 2016

Purpose: MOA Agency and network collaboration to protect the forestry worker group
Time: 4:00 pm to 5:00 pm
Location: Medford Library, Medford, Oregon
Note Takers: Elida Monroe (US Forest Service)
Karen Clark (Portland US DOL Wage and Hour)

Attendees:

Tom Silva, DOL District Director	U.S. Department of Labor
Karen Clark, Community Outreach	U.S. Department of Labor
Charles Hill Jr., AQM R6 Director	U.S. Forest Service
Elida Monroe, Procurement Analyst	U.S. Forest Service
Sheila Finney, AREA Co-Lead Contracting West	U.S. Forest Service
Brad Reed, AREA Co-Lead Contracting West	U.S. Forest Service
Norman Brenteson, Safety Specialist	U.S. Forest Service
Carl Wilmsen, Exec.	N.W. Forest Worker Center
Tim Wilson, Procurement Analyst	U.S. Bureau of Land Management
Gary Beck, Statewide Safety Enforcement Manager	Oregon Occupational Safety and Health Administration
Cecil Tipton, Area Director	Federal Occupational Safety and Health Administration
Brian Peters, Administration	Federal Occupational Safety and Health Administration
Rob MacWhorter, Forest Supervisor	U.S. Forest Service

MEETING NOTES

OPENING REMARKS AND LOGISTICS - WELCOME AND INTRODUCTIONS:

Elida Monroe from US Forest Service facilitated. Roll call.

Documents: Copies of agenda, MOA and its attachments, Oregon Occupational Safety and Health Administration spreadsheet.

U.S. DEPARTMENT OF LABOR:

Tom Silva: Spoke about the press release concerning Alpha and Eco Group for projects having to do with tree thinning and pruning. It was stated by Tom that many forest workers were paid on a piece rate wage, or misclassified, or deductions in wages and therefore not paid the required prevailing wages and fringe benefits to the workforce. In addition, CWHSSA (Contract Work Hours and Safety Standards Act) is the

overtime provision that applies to contracts in excess of \$100,000. Employers not paying the required overtime rates, either under CWHSSA or the Fair Labor Standards Act (FLSA). It is also common that some prime contractors will sub to another contractor. General question: Do you, as the BLM or USFS, become concerned if a contractor is subbing out work to a sub-contractor? Is this an issue that would affect their contract status with you? General consensus that they would want to know.

We are assessing liquidated damages on FLSA violations (additional amounts payable to workers) and civil money penalties in warranted cases. We are also looking to move forward on debarment on future government contracts on two contractors...

Karen Clark: For clarification, Alpha is the prime contractor and Eco is a sub-contractor.

Alpha and Eco will end up paying \$100K in back wages. The employers were not paying the correct prevailing wages and overtime required, in addition to several MSPA violations.

In general, the Wage and Hour investigations this year are disclosing SCA prevailing wage and fringe benefits issues: incorrect or non-payment of prevailing wages based on piece rates, misclassification, deductions, and the like; incorrect or non-payment of fringe benefits including holiday and vacation. Also lots of issues under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA). Employers are not disclosing workplace conditions at time of recruitment, forest labor contractors and their employees who transport or recruit workers are not federally licensed as FLC; vehicles are not meeting insurance requirements; and other issues

Tom Silva: Finding that some H-2b contractors might be utilizing these workers in fire suppression activities. H2B coordinator is in San Francisco, CA, we are checking as to if H2B workers can do fire contracting. We believe they cannot.

Karen Clark: We have been doing a lot of outreach and education directed to the contractor and worker communities regarding MSPA and SCA compliance this year with partners. OSHA and BOLI have participated, along with other enforcement agencies and BLM & USFS and contractor associations helping to market events. Several Forest and Farm Labor outreach trainings with other agencies and plans for more trainings with fire suppression association and others. Would like to explore more opportunities with partner in the future to educate communities.

N.W. FOREST WORKER CENTER:

Carl Wilmsen: I have been collaborating on a National Institute for Occupational Safety and Health (NIOSH)-funded study with Pacific NW Ag Safety and Health Center in Washington and US Berkley on forest workers, their work conditions, injuries on the job and unsafe work conditions, with the goal of instituting proactive change on their work conditions

Project on-going, and only preliminary results can be provided at this time with the official report pending. Interviews were conduct on forest workers. We revised requirements for the study criteria and included 98 workers who speak Spanish, 22 of them also speaking English. 92 were from Mexico, four from El

Salvador, and two from the U.S. Age average 31.6 years. Focus on those living in Jackson and Josephine Counties. 37 were H-2b workers. Incidents must have occurred 1-2 years ago.

Several questions included: circumstances under which workers were injured on the job and if they had been provided educational materials to avoid injuries; if workers feared retaliation and wouldn't speak up, and the circumstances as to why this occurred; more dialog is necessary to remedy these type of scenerios.

Preliminary results: 79 workers tried making an attempt to improve working conditions. There were chain saw issues (chainsaw kick back), chaps worn out, heat stress, lack of rest breaks, accidents mostly caused by being struck by objects (trees) as workers worked too close together, slips, falls, trips, etc. Only 16% of workers got safety training; ½ got first aid and CPR; 13% got rest breaks. The major issues from this research includes the following:

- Dull chain saws
- Fatigue
- Working too close together
- Chainsaw kickbacks
- Worker inattention
- Low visibility
- Steep slopes
- Slash
- Heat strokes

U.S. FOREST SERVICE:

Charles Hill: Spoke about the sensing surveying of the CORs which was done in FY 2014.

The audience consisted of Contracting Officer Representatives working these type of projects.

Spoke about the MOA and there are two agencies yet to sign it. US DOL, Wage and Hour and US OSHA. These two agencies are working the MOA to make it through their clearance process.

Mentioned the current profile of the Forest Service projects and location of the spreadsheet and how other partners can have access to it for their respective responsibility.

How do we go further and who will lead this effort to the next level. USPS still committed, still building relationships. Need to continue to figure out how to make workers safe. We need to think about how we collectively change culture.

Brad Reed: On the first day of contract, there is a pre-work meeting onsite with contractors. That is often when CO's do a check on contractor requirements.

U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT:

Tim Wilson: Is the new procurement analyst from the VA. This topic is confusing to him as he is used to performance based contracts and he hasn't heard of these issues before.

These contractors also do fire work. ??

Wasn't sure when the FS and BLM check for the safety requirements.

OREGON OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION:

Gary Beck: We have a bunch of new compliance officers out in the field. Since October, 2015 we have conducted 90 inspections in forestry, 84 of those in logging, five in reforestation. Unfortunately reforestation workers don't file complaints, so OSHA doesn't know what's going on necessarily. If we get complaint, we go out immediately.

We do not find a lot of reforestation in the FS spreadsheet.

Gary spoke about the spreadsheet he handed out and made available in the invite.

Licensed contractors are red card and can do fire jobs.

The first day of the contract is pre-work meeting to make sure all contractors are in compliance. CORs/inspectors make sure they are doing the inspector requirements. OSHA will evaluate if people can operate safely and are they wearing safety protection.

. We continue to do training and outreach as an organization. We want people to be open to speak with us.

FEDERAL OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION:

Cecil Tipton: Most workers fall under Oregon OSHA. We do have some jurisdiction such as on Indian reservations, Crater Lake. We do overlap with silviculturists and work with their inspectors. We do have trouble targeting workers; we often just run into folks and find the issues. We have a communication problem.

We need to emphasize program for this type of work.

To be proactive we need to continue enforcement, we have to have it. We also need to meet with workers and the establishment community.

ACTION ITEMS:

Elida Monroe and Karen Clark will finalize the notes and forward to everyone.

There will be a conference call of all meeting attendees for moving forward and implementing for next level in a strategic and collaboratively manner.

Moving forward, need to think about partnering on more training programs or opportunities for the forestry community.