

## **Forest Workers Networking/Partnership Meeting**

Purpose: Agency and network collaboration to protect the forestry worker group  
Date: 7/31/13  
Time: 10:00 pm to 12:00 pm  
Location: Gus Solomon Building, 620 SW Main, Room 413 and via teleconference  
Chair: Jeffrey Genkos, District Director Portland US DOL Wage and Hour  
Note Taker: Karen Clark, Portland US DOL Wage and Hour

Attendees: Dianna Gray (Oregon OSHA), Mark Wilk (Oregon Law Center), Cece Headley (Northwest Forest Worker Center), Laurie Hoefer (Legal Aid Svcs OR), Tom Silva (US DOL Wage Hour), Rudy Cortez (US DOL Wage Hour), Jeff Genkos (US DOL Wage Hour), Fernando Gutierrez (Oregon Employment Department), Dylan Morgan (Oregon BOLI), Charles "Buddy" Byrd (USFS), Abby Burnett (US DOL OSHA), Gail Mance (BLM), Charles Hill (USFS), Elida Monroe (USFS), Karen Clark (US DOL Wage and Hour), Maurine Hyzer (USFS); via phone: Carl Wilmsen (Northwest Forest Worker Center), Tiffany Taylor (USFS)

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### AGENDA NOTES

Welcome and Introductions: Jeffrey Genkos (US DOL Wage and Hour District Director). Participant introductions. Thank You, Forest Service, for establishing this group, and for bringing us together over the last few years. DOL Wage and Hour will now be taking over the hosting baton.

#### **PRESENTERS:**

US DOL Wage and Hour: Jeff Genkos (US DOL Wage and Hour District Director): This group has made significant accomplishments thus far, we want to continue with that, as well as branch out and look at other options and avenues. We live in a unique area with abundant forestry, our group has an opportunity to make a difference and protect workers in the forest. Looks forward to have the participants drive the agenda, as everyone brings different perspective, and everyone can and should feel part of something to make impact on forestry as a whole. The Portland office makes concerted effort every year, with four to six investigations, many with H-2b issues. Must be noted that H-2b program has relatively new labor component, with enforcement given to Wage and Hour. Karen Clark (US DOL Wage and Hour Community Outreach Specialist): New outreach component with Wage and Hour. Now in addition to investigations, we make contact with stakeholder groups, provide info and outreach in hopes that members become better educated with requirements of laws.

Oregon Bureau of Labor and Industries: Dylan Morgan (OR BOLI Compliance Manager): BOLI enforces minimum wage, overtime and also has farm forest labor unit. BOLI requires farm labor contractor licensing if FLC recruits, supplies, provides work, etc. in reforestation. FLC's must demonstrate that they have workers comp, vehicle insurance, bond, etc., and if there are eventual wage issues BOLI may make recovery for workers. Contractor responsible to provide workers with written employment terms, pay folks on time, and many other basic measures to safeguard and establish labor conditions for those who

wish to become farm /forest labor contractors. Cost for fee has gone up for registration, neighborhood of couple hundred dollars.

Oregon Employment Department: Fernando Gutierrez (OES Monitor Advocate): This year the state received five H-2b job orders, all complete except one which is on hold. The one on hold requested 80 workers in Phoenix, Oregon. Fernando's issue: How do we get contractors to hire domestic workers? On this one particular hold, OR employment could only make one referral, and there were 14 self referrals. Fernando can't monitor the program but does monitor jobs referred to farmworkers. OR Employment needs help from other agencies to push the word out to local workers about these available jobs, to move these jobs to domestic workers. It's a problem, because of the small window to announce these jobs for referrals.

USDA Forest Service: Charles Hill (USFS) US DOL and Forest Service have had a great partnership over the years. History of this group: In 2005, the FS chief committed to do some work on forestry worker protections, and this was reiterated in 2008 by the national director. We took a look at what we were doing and utilized limited resources to ensure worker protections in safety and health. Throughout the years, connections change and threads get weak; we learn things about our ability, but also about the intention and journey. USFS communicated with 700 contractors via mass mail. We gave them an alert, that we're serious about worker protections. Then one year ago we hit maintenance mode on monitoring, making sure team members are engaged on the ground regarding items such as housing, breaks, wages, transportation, etc., and we keep alignment with folks in this room. These meetings serve as reminders, refreshers, but we don't have to start all over. We have website, we will provide later, that contains history of this effort. We've worked with Worksource and also been responsive to congressional inquiries. To respond to Fernando, we need to continually work with reporting to Worksource, and perhaps get him job info on the contracts at earlier times for better preparation for referrals. Intro Maurine Hyzer, Deputy Regional Forester. She also has hand in this. There's commitment that we'd do this work and do it well and be good partners. The field trip pulled off last year, I'm a big advocate of doing that, to see if things are done right or not. Might be an opportunity to do that again in the future. We could look to do something similar again in 2014.

Northwest Forest Worker Center: Carl Wilmsen (Northwest Forest Worker Center): Update on what we've been hearing recently. First, I'll speak to an issue regarding overtime payments to workers. When Wage and Hour began doing inspections in Southern Oregon, our center heard from promotoras who do the safety trainings in Medford. The promotoras said that the workers were saying that it was the alliance's fault that the inspections were happening. Prior to the inspections, workers were paid straight time for all hours worked, including overtime hours, although they were supposed to be paid time and a half for overtime hours. After the inspections the contractors told the workers that they could only work 40 hours a week so that they wouldn't have to pay the overtime required. So for the workers, their income was cut, even though they were paid straight time before for the overtime hours. Well it's a little more complicated because they still weren't paid for all the hours worked. However, the positive side is that this alliance is having an impact, although we would have liked them to have continued working the workers over 40 hours a week and paying them overtime for those hours. Another thing heard this spring, some contractors are figuring out a new strategy of not having to pay overtime. Heard one H-2b worker was hired, he thought by a particular contractor, but is now paid by two different contractors. He showed me pay stubs, for two different pay periods, two different contractors. Trouble is that he worked all the hours in one pay period. At this point the worker doesn't want to come forward, working on this though. I also got an anonymous tip that Ponderosa was using damaged parts to repair parts on vehicles. I called Oregon OSHA in Medford, who actually needed quite specific information, but he went ahead, I assume, and sent them a letter to stop doing that. So, what

all of this feedback from workers and folks in the field is that contractors are still trying to cut corners. This issue of low-cost contracting is still not resolved. Contractors are bidding so low they are trying every trick in the book to cut costs.

## **ROUNDTABLE DISCUSSIONS AND WHERE DOES THE GROUP WANT TO HEAD:**

### Monitoring Efforts:

- Carl Wilmsen (Northwest Forest Workers Center): Question for Charles: Can we get website link referenced by Charles. Also, will you be sending another round of letters to contractors, invitations to FLC pre-work meetings? Per Charles Hill (USFS) – We will provide link to Karen Clark, she will disburse to participants. Regarding pre-work meetings, we have list of labor intensive projects and Jeff Genkos will identify the projects and doesn't have to ask permission. I can't say what's happening from the OSHA standpoint. But while DOL does it's work, we meet from time to time and they let us know what's going on. I think that's what partnership is about. The pre-work meetings occur at various locations, once a year, they are scheduled. There are components for labor from OSHA or DOL to participate. Regarding the 700 mailings to contractors, that was a one-time deal, we may be able to do it again, but it was big work to identify the 700 contractors. We have to find out how big that "bread box" is if we need to do that again. Carl Wilmsen (Northwest Forest Workers Center): The mailing was a good first step, I don't know if doing it again is necessary. Our center got feedback that contractors felt the difference...now they are feeling that they are being scrutinized. This group is having an impact. Elida Monroe (USFS): DOL Wage and Hour will also be presenting compliance training to CO's and COR's, it's forthcoming and will probably coordinate after the busy season in October. Carl Wilmsen (NWFC): In 2010 action plan one of items on the list was to implement comprehensive review of contracting efforts and document results. Are there any follow up reports, evaluations, monitoring? There's a disconnect, as workers and outreach saying more problems than what reported by USFS. Maybe revisit evaluation efforts? Charles Hill (USFS): We did that originally, we asked operational CO's for front end feedback and follow-up and found no major infractions. We are in maintenance mode now with some things. Eric Watrub (with USFS) is familiar with these activities, I will connect with Eric based on what was found. Can there be a way to monitor this with regularity? We need to see what kinds of things can we do that allows us to do that on a regular basis.
- Diana Gray (OR OSHA): We have good relationship with OR Forestry Dept. We get e-mail report of labor intensive activities, and our office has done number of inspections, mostly in logging but in other forestry operations, in addition to housing and farm inspections. Some 200 per season. I don't know if this e-mail, generated by the Dept of Forestry, is standard, but may be useful to firm up relationships with other stakeholders. OR OSHA programs provide free help so that employers can be in compliance ahead of time, and we are looking for ways to promote the consultation program further. Abby Burnett (Fed OSHA): Federal OSHA has limited jurisdiction in Oregon, typically just on tribal lands, federal agencies and on private contractors working in Crater Lake jurisdiction. If USFS allows annual contractor training, would be good to have federal or state OSHA attend. Will provide jurisdiction guide to participants. Charles "Buddy" Byrd (USFS): Clarified that OR OSHA inspects issues on land contracts. If issues arise concerning our federal office and federal employee, then Federal OSHA inspects issue.

- Charles Hill (USFS): The contractor trainings are not the only opportunities to share information. USFS can do an event, we don't need to entirely depend on the training events.

#### H-2(b) Domestic Recruitment Efforts:

- Laurie Hoefer (LASO): Ten day window to recruit for domestic workers (H-2b program). Seems contractor should recruit in all states. Questions to ponder: Can we connect domestic workers better? Secondly, there needs to be better communication about when and where the workers are, and would it be viable for government and community advocates to check in and see what's going on, how it's going on? Mark Wilk (OLC): By the time ETA has issued recruitment announcement, it's too late to recruit fully for domestic workers. Contractor has already aligned workers in Mexico. It would seem better that when USFS knows of the contract and when it's going to proceed, it would be good for monitor advocate to have access to it at least a month ahead of time for the agencies to better recruit local workers. Charles Hill (USFS): We can look into possibility of getting contract information out sooner.

#### Employer Violator Sanctions:

- Jeff Genkos (DOL): We will continue with debarring employers from utilizing H-2b three years, as we do under the Service Contract Act. Revoke FLC licenses. Press releases. Look at other ways to sanction employers – can FS work with us to sanction or some mechanism to penalize employers in violation? Dylan Morgan (BOLI): BOLI also revokes FLC licenses. Abby Burnett (Fed OSHA): serious OSHA violators posted on website. Charles Hill (USFS): debarment is where USFS expects to be.
- Carl Wilmsen (NWFC): I would like to do a pilot project on a forest to help with inspections, look at payrolls, contracts, and discrepancies. It seems that agencies have limited resources. Jeff Genkos (DOL): USFS has authority, should comment on that. Charles Hill (USFS): We'll connect back with Eric (with USFS) to see what would be involved, wire in with the inspection side of USFS to see if doable.

#### ACTION ITEMS:

- Obtain USFS Website link to group history and provide to group: Elida Monroe (USFS) will provide. (NOTE: PROVIDED SEE FOLLOWING LINK)  
[http://www.fs.usda.gov/r6/workingtogether/contracting/H2B meetings](http://www.fs.usda.gov/r6/workingtogether/contracting/H2B%20meetings)
- Invite to leadership of State of Oregon Employment Department next meeting: Karen Clark (DOL) will extend invite.
- Explore opportunities to provide Employment Department Monitor Advocates with advance notice of USFS contracts so that they can conduct ample and effective domestic worker recruitment activities: Charles Hill/Elida Monroe (USFS) will explore that viability.
- Inquire internally at USFS to re-visit evaluation activities and inquire as to feasibility of advocacy agency doing monitoring of contracts with USFS inspection side (Eric Watrub): Charles Hill (USFS) will inquire.
- OSHA (Fed/OR) jurisdiction guide: Abby Burnett (OSHA) will inquire and provide guide to participants.