

February 15, 2013

To: Christine Baker

Fr: Ellen Widess

Re: DOSH Workload Assessment and Staffing Needs

The bullet points below and attached charts show that the current DOSH staffing levels are not sufficient to meet the workload of DOSH units, to meet the benchmarks established by Federal OSHA to maintain our grant, to meet the mandates required by the California Labor Code, and to effectively protect workers on the job and provide prevention services to California's employers. As of January 1, 2013, the DIR Personnel office recognized 51 vacancies in all job classifications in DOSH (see Table A). The pace of retirements is picking up in 2013, and DOSH must backfill positions in a timely manner to meet the workload demands to replace knowledgeable staff who are leaving, and ensure a smooth transition to fill these critical voids of technical knowledge with a new generation of staff with the required experience and seasoning. If we wait much longer, we will see staff with unique knowledge retire and have no one trained in their place.

Workload Measures

- As indicated in Chart 1, the number of worker complaints, reported accidents and fatalities has remained basically steady over the past 10 years, while the number of authorized field enforcement positions has declined from 211 positions in 2002 to 179.6 positions in 2012. In January 2013, we had only 167 filled field compliance officer positions. We previously provided detailed information on the workloads of each enforcement office in our January 15th memo, and summarize this in Charts 2, 3 and 4. These charts show that DOSH's workload is generated by outside actors – worker complaints and employer reports of accidents – and is not evenly distributed throughout the state. Many District Offices have levels of incoming complaints and accidents that tax their capacity to respond in a manner consistent with state law mandates and Federal OSHA requirements.
- The Process Safety Management Unit currently has only seven field inspectors (five qualified to conduct inspections in refineries) while the unit is responsible for inspecting 10 major oil refineries, six smaller refineries, and more than 1,400 other facilities with large quantities of toxic, flammable and explosive materials that can cause major harm to workers and the community. It takes at least three to four years to fully train a PSM inspector, so there is an urgent need to hire now and begin that training process.
- The Mining & Tunneling Unit is required by Labor Code Section 7953 to inspect all active underground mines four times a year, all surface mines annually, and all tunnels under construction six times a year, in addition to continuous oversight of major projects like the Hetch Hetchy water system tunnels; conduct blaster, gas-tester and safety representative exams; and provide Federally-mandated training. Both mining and tunneling work is increasing. The Governor's State of the State address mentioned several priority multi-year tunneling projects that will all require the unique expertise of DOSH's Mining and Tunneling unit. Our M&T unit currently has 7.5 field engineers for the same workload that required 18 safety engineers in 2003.

- As indicated in Chart 5, between 1992 and 2012, the state’s civilian labor force grew by 21% while the number of authorized field enforcement positions has declined by 18%, from 221 to 179.6 positions.
- The actual number of filled positions in DOSH has always lagged below the number authorized positions. The number of filled field Enforcement and Consultation positions in January 2013 is significantly below January 2011 levels – 167 filled field positions now as compared to 183 in 2011 (see Chart 6 and Table B). Of the 167 filled positions in January 2013, six were essentially vacant because the inspectors were on medical leave, leaving 161 compliance officers in the field. These are near-historic lows for DOSH’s field enforcement staff with a workload that has remained steady and a workforce that has grown substantially over the past decade, and increasing statutory mandates. This will also affect our ability to put an adequate number of inspectors in the field during the upcoming heat season.

Performance Outcomes

- As indicated in Charts 7, 8 and 9, DOSH is unable to meet the Federal benchmarks for time to open inspections, initiate letter investigations of complaints, and to close on-site inspections. Fed OSHA has noted these violations in each EFAME report for the past several years. This makes us less effective than the Feds. The Division has made progress in reducing the time require to open inspections and investigations in recent years, but the decline in authorized and filled field enforcement positions has prompted a rise in case lapse time in the last two years. Vacancies at the current levels threaten to reverse the progress made with opening dates and increase the case lapse time, key benchmarks evaluated annually by Fed OSHA. This threatens our federal grant.
- As indicated in chart 10, DOSH has been unable to conduct the number of follow-up inspections required by the Labor Code Section 6320 (at least 20%) for inspections resulting in Serious, Willful or Repeat citations. In addition, with current staffing levels, the Division has also been unable to conduct the mandated number of inspections of work sites where construction and asbestos permits have been issued, as required by various Labor Code statutes. Our on-site inspections of letter-initiated investigations – every 10th letter is to result in an on-site, follow-up inspection – have not occurred at the levels required by state law.

As indicated in Chart 11, declining staffing levels have required DOSH enforcement offices to reduce the number of programmed inspections in order to respond to worker complaints and reported accidents, which must take priority to comply with statutory mandates. We all recognize the value of increasing programmed inspections based on good targeting data as key to our goal of *preventing* worker injury, illness and death. Yet we cannot increase our programmed inspections without backfilling the many vacancies.

Consultation Service

- As shown in Chart 6 and Table B, the field staff of the Consultation Service in January 2013 is 13% below its staffing level in January 2011, with 46 field consultants in 2011 and 40 in 2013. As recently as 2009, Consultation had 50 filled field positions, 25% more than the 2013 staffing level. Currently,

there are four offices (two major Area offices) without a manager, and three offices (including the Program Manager's offices) without any administrative staff.

- The staff shortage means many employers experience delays in receiving essential services to help them identify and prevent hazards – response to phone calls, requests for on-site assistance, and outreach initiatives. Our Area Offices have at risk of missing mandatory verification of correction of on-site hazards to workers. Critical administrative tasks are delayed, including processing of partnership programs, and field personnel are tied up with clerical tasks, which prevents them from providing valuable consultation services to employers. The Division also experiences additional costs related to travel time and expenses by managers having to cover multiple offices.
- The staff shortage also threatens to reduce the positive impact for employers, as demonstrated in Table C, generated by Consultation Service activities when this assistance is limited by vacancies. This affects small, high hazard employers, and will result in more workplace injuries, illnesses and deaths leading to higher workers' comp rates -- exactly the wrong trend given DIR's priority on prevention.

As seen in Chart 12, the number of compliance inspections conducted by the Division is directly connected with the number of authorized and actually *filled* field compliance officer positions. A declining number of field compliance inspectors inevitably generates a lower number of inspections, and fewer inspections produce a lower number of citations issued.

To meet the ongoing workload demands, the mandates of state law and the Federal OSHA benchmarks, to provide essential and beneficial services to employers, and to protect workers who have filed complaints, suffered injuries or illnesses or work in hazardous industries, the current DOSH vacancies in Table A need to be filled as quickly as possible.

Attachments: Tables A through C, and Charts 1 through 12