

Letter to the Editor – *Cal/OSHA Reporter*

August 5, 2015

Dear Editor:

An article in the July 24<sup>th</sup> issue of *COR* regarding Federal OSHA's criticism of Cal/OSHA's staffing levels indicates that DIR Director Christine Baker has attempted to rewrite and reinvent history at Cal/OSHA:

As for staffing, DIR points the finger directly at the recently departed Chief Ellen Widess and her senior staff who, it says, did not do the work or take the actions necessary to increase staffing levels. DIR demonstrates improvement by saying its new Chief, Juliann Sum, took immediate steps to obtain more staff and to reflect (sic) success the new state budget has provided for substantially increased staffing levels. (Page 00-11224)

These claims are patently false and an attempt to blame others for the consequences of the DIR Director's policies and decisions.

Fortunately, there is a substantial documentary record that shows that Director Baker blocked continuous efforts by Chief Widess and her Headquarters staff to backfill empty positions and to hire new inspectors between April 2011 and September 2013, when Widess was forced to resign. Widess' "recent" departure was two years (23 months) ago.

From the very beginning of Widess' term in April 2011, DOSH HQ staff identified the reversal of the severe and chronic understaffing of Cal/OSHA as a top priority. Widess and staff prepared – following the guidelines and instructions of DIR – a steady stream of memos, "workload analysis," detailed descriptions of each legally-mandated task, lists of the Federal guidelines and state laws that DOSH was unable to meet because of understaffing, and specific hiring proposals.

Many of these documents have been publicly available on the "Inside Cal/OSHA" website for more than a year, including:

- January 11, 2013, staffing crisis memo to DIR at [http://insidecalosha.org/\(68\)%20DOSH%20Memo%20on%20workload%20-%202011%20Jan%202013.pdf](http://insidecalosha.org/(68)%20DOSH%20Memo%20on%20workload%20-%202011%20Jan%202013.pdf)
- February 15, 2013, workload analysis for DIR at [http://insidecalosha.org/\(65\)%20DOSH%20Workload%20Memo%20-%20Feb%202013.pdf](http://insidecalosha.org/(65)%20DOSH%20Workload%20Memo%20-%20Feb%202013.pdf)
- February 15, 2013, workload charts for DIR at [http://insidecalosha.org/\(66\)%20DOSH%20Workload%20-%20charts%20-%20Feb%202013.pdf](http://insidecalosha.org/(66)%20DOSH%20Workload%20-%20charts%20-%20Feb%202013.pdf)

Most of these hiring documents went through second and third iterations because DIR, having received the DOSH documentation it requested, would send them back to Cal/OSHA HQ saying that the criteria had changed, or new endpoints were needed. Despite the fact that DOSH followed every directive from DIR in the preparation of these materials, DIR failed to advance any DOSH new hiring proposals to the Department of Finance (the next step in the lengthy budget process) for either state fiscal year 2012/13 or 2013/14.

In fact, a limited amount of staff hiring did occur during Widess' tenure. In early 2012, DIR allowed DOSH to replace ("backfill") some – but not all – vacant, already-funded positions based on the work plan generated by DOSH HQ staff.

But on two occasions in 2012 and 2013, Cal/OSHA was initially told by DIR that it could backfill already funded positions that had become vacant because of retirements or staff turn-over – only to be told at the last minute that this hiring approval had been rescinded.

After Widess had been forced to resign, DOSH HQ staff completed in January 2014 the text and justification for the 2014/15 BCP – started while Widess was Chief – to add 12 CSHOs to the Process Safety Management unit (as required by the California Legislature) and a handful of positions to DIR and DOSH. I was the principal author of these documents, and have on file the laudatory emails from Director Baker and DIR Chief Financial Officer Greg Edwards I received for this work.

It is a little known fact that Cal/OSHA does not control its funding, resources or hiring – the DIR Director controls all of these. Cal/OSHA has four streams of funding – none which are the General Fund, but all of which are controlled exclusively by DIR.

“Austerity” was and is the watchword for this Governor and this DIR Director – both are corporate Democrats anxious to keep corporate campaign contributors happy – no matter how much this understaffing weakens worker protections in California, as has been documented in the Fed OSHA response to the PEER CASPA, and the Feds' annual FAME reports on Cal/OSHA's understaffing stretching back to 2011.

It was Brown Administration decisions that resulted in the number of field compliance officers inherited from Republican Arnold Schwarzenegger (195 inspectors in January 2011) to decline to 170 inspectors by December 2013, resulting in Cal/OSHA becoming the weakest it had been in decades.

It was Director Baker's implementation of Administration policy to refuse Cal/OSHA HQ's hiring requests and to continuously “move the goal posts.” Cal/OSHA staff were sent on a circular paper chase month after month – a clever method of keeping DOSH HQ staff busy without resulting in any net hiring.

Unfortunately the DIR Budget Change Proposal that went into effect in July for FY 2015/16, will not result in a “substantial” increase in staffing as claimed. A grand total of 26 new field compliance positions will be added over a two-year period – with the last of

these “trickle-in” hires not coming until June 2017. The number of “baby boomer” inspectors retiring continues to pick up speed, and it is not clear whether Cal/OSHA will be able to backfill already-funded positions vacated by these retirements, as this has been blocked by DIR in the past. “Trickle-in” hiring will barely keep pace with retirements and normal staff turn-over.

Field enforcement staffing at Cal/OSHA remains much worse than that Fed OSHA or our neighboring states of Oregon and Washington. In July 2015, there were only 190 field compliance officers in DOSH, plus 33 vacant positions. Last month, the standard inspector-to-worker ratio used for comparisons was 1 inspector to 100,224 workers in California; 1 inspector to 59,000 workers for Fed OSHA; 1 inspector to 25,000 workers in Washington; and 1 inspector to 22,000 in Oregon. There are more than 250 Fish & Game Wardens in California, compared to the 190 Cal/OSHA compliance officers.

Chronic understaffing at Cal/OSHA’s undermines workplace safety because there are fewer job site inspections, fewer hazards are identified, and fewer corrective orders are issued. Lack of compliance officers means rushed accident investigations and limited health-related inspections to prevent illnesses. (Most of DOSH’s health investigations are related to heat exposures, with very few investigating chemical, noise or ergonomic exposures.)

The current BCP hires are a good, although insufficient, start, but they will not mean anything unless DIR allows Cal/OSHA to backfill current vacancies and increases staff in the following years.

Moreover, this BCP does not add any new positions to key units like the Mining & Tunneling unit, the Medical Unit, or the Training unit. The M&T unit has half the number of field personnel it did 15 years ago and is currently unable to meet its state-required schedule of hazard inspections of tunnels under construction throughout the state.

It is sad and ironic that DIR claims that its “first priority” is prevention (as if Fed OSHA, by contrast, wants more fatalities, illnesses and injuries) when the latest available statistics document daily deaths of workers in California, especially among Latino workers.

The latest available fatality statistics (CFOI) indicate that 396 workers died on the job in California in 2013, 21 more deaths than the year before and the highest number since 2009. Among Latino workers, there was a 37% leap in fatalities to 194 deaths, now constituting 49% of all worker fatalities in California as a whole.

In light of the fact that more than one worker is killed on the job every day of the year in California – not to mention the increase in Latino worker deaths – DIR’s triumphalism about “prevention” by the under-staffed and under-resourced Cal/OSHA seems inappropriate, at best.

If the Brown Administration and its appointees had the political will to effectively protect workers in California, it could be done without any increase to the state General Fund. A small increase to the tiny surcharge on workers compensation insurance premiums – which generates the state “OSH Fund” for Cal/OSHA – could provide the resources to meet the Fed OSHA ratio of inspectors to workers, or just even match the field personnel the Fish & Game Department uses to protect the wildlife of California.

This Governor clearly has the “political juice” to accomplish just about anything he wants, but protecting California workers is simply not a priority. Instead DIR implements half-measures that fail to adequately address the problem, and then blames others for an agency that could be so much more.

Sincerely yours,

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If the *Cal/OSHA Reporter*, or state legislators, or the general public would like to verify the information above with the contemporaneous documents, please look at the “Inside Cal/OSHA” website (<http://insidecalosha.org>), or contact Garrett Brown at [garrettdbrown@comcast.net](mailto:garrettdbrown@comcast.net).