

Cal/OSHA's "Zombie Chief" needs to step aside, and now, please!

By Garrett Brown, April 11, 2019

Juliann Sum, Cal/OSHA's Chief, announced at the beginning of the year that she is retiring on May 1st and that she would take accumulated vacation time starting in February, effectively leaving day-to-day operations at that time. Instead, Ms. Sum continues to be actively involved in critical activities in ways that will have a long-term impact on the agency on the cusp of new leadership.

Sum, who became Chief in September 2013 with the forced resignation of then-Chief Ellen Widess, has gone back and forth over the last year in terms of when and how she would retire from state service. At the beginning of this year, the plan was for Sum to go on three months of vacation before retiring – a common approach taken by state employees who have accumulated hours of vacation that could not be taken due to the press of work. A team of several senior managers was to take over agency operations and decision-making.

Instead, Sum has continued to intervene in critical activities at Cal/OSHA in a haphazard way that undermines the agency just as new leadership will be appointed by Governor Gavin Newsom and Labor Secretary Julie Su.

These interventions by Sum include:

- An unnecessary delay with the indoor heat regulation that caused Cal/OSHA to miss a legislative deadline for producing the draft regulation by January 1, 2019. Sum has continuously made small changes in the draft text, holding up the draft past the deadline, as well as delaying the start of the legally required "Initial Statement of Reasons" (ISOR) and other parts of the package that must be submitted to the Standards Board for the regulation to proceed;
- Intervening and exercising veto power over the development of the "Budget Change Proposal" (BCP) for state fiscal year 2020/2021 (when Sum would be long gone from Cal/OSHA). Sum has directed that all proposals for how to increase and allocate Cal/OSHA's budget must go through her. Cal/OSHA staff are concerned that the consensus goals of strengthening the Mining & Tunneling unit, the Legal Unit and providing more administrative positions in district offices may be overruled by the lame-duck Chief;
- Blocking the development of instructions to enforcement staff on the implementation of legislation (Assembly Bill 2334) that authorizes Cal/OSHA to cite employers for failing to maintain accurate injury and illness records. On a national level, business lobbyists have succeeded in restricting citation of these violations to just the previous six-month period, whereas the California legislation allows Cal/OSHA to cite employers for a

“continuing violation” of the record-keeping rules for a longer time period. Without internal procedures developed by Headquarters, which have been delayed by Sum, the state legislation remains in limbo and unenforced; and

- Continuing the delays with the long-awaited revisions to the regulation limiting exposure to lead by failing to push the Department of Finance to approve the “Standardized Regulatory Impact Assessment” (SRIA) that was submitted by Cal/OSHA first informally and then formally months ago.

Why Juliann Sum would intervene in this manner in the final months of her state service is not clear. It could be the not-uncommon phenomenon of high-ranking state officials who cannot bring themselves to give up the power and control they enjoyed during the final years of their career.

Some inside Cal/OSHA, however, fear it may be the “dead hand” of now-disgraced former Director of the Department of Industrial Relations Christine Baker in an effort to influence Cal/OSHA policies during the transition period. Baker, who the California State Auditor documented had engaged in nepotism and retaliation against whistleblowers from 2011 to 2018, was never an advocate for strong regulations and enforcement by Cal/OSHA. Baker was lionized by employers as DIR Director for her business-friendly approach.

Julian Sum was and is a protégé of Baker, and often referred to Baker as her “beloved mentor.” Sum is not a long-term employee of DIR or Cal/OSHA, but rather was brought into the DIR Director’s Office in 2012, and then promoted, by Baker in one of Baker’s many mysterious personnel actions.

Moreover, another key staff member in the DIR Director’s Office – Amy Coombe – is also a favorite of Baker’s, and was similarly recruited and promoted by Baker. Coombe is the person charged with coordinating the fiscal impact reviews for the indoor heat and lead standards, as well as another key study of the grossly understaffed Mining & Tunneling Unit which will determine whether the unit received more funds and personnel.

Regardless of the motivation, Sum’s interventions into Cal/OSHA policymaking while using accrued vacation time in preparation for retirement, is delaying important Cal/OSHA health and safety regulations, delaying implementation of legislation strengthening Cal/OSHA enforcement, and shaping critical budget decisions for the 2020/2021 state fiscal year.

These actions will impact Cal/OSHA for months and years to come, and may well be very different from the approach that new Labor Secretary Julie Su wants to take with a reinvigorated DIR and Cal/OSHA focused on the goal of protecting workers. Appointments are still pending for the positions of DIR Director and Cal/OSHA Chief in the Newsom Administration.

Juliann Sum should make good on her previous promises to step away from Cal/OSHA business, and she should start enjoying her retirement now.