

**STATE OF NEW MEXICO
CONSTRUCTION INDUSTRIES DIVISION**

MINUTES

The Construction Industries Commission held a regular meeting on May 20, 2005. Officially attending the meeting was:

Bobby McDade, Member,
(Representing Licensed Electrical Contractors)
John Renner, Member,
(Representing the LP Gas Industry)
David Dallago, Member,
(Representing Residential Construction)
Steve Crespin, Member
(Representing the Licensed Mechanical Contractors)
Dale Dekker, Member,
(Representing the Registered and Practicing Architects)
Larry Shed, Member,
(Representing the Subcontracting Industry)
Paul Wood, Member,
(Representing the Public Sector)
Michael Brogdon, Member,
(Representing the General Construction Industry)
Lisa D. Martinez, Director/CID
Kate Baca, General Counsel/CID
Fermin Aragon, General Construction Bureau Chief
JT Baca, Mechanical Bureau Chief
Rem Pacheco, Electrical Bureau Chief
Marvin Vaughn, LP Gas Bureau Chief
Wayne Dotson, Chief Investigator

Not Present: Thomas A. Montaña, Member, Representing Organized Labor

Other Attendees: **See Attachment A.**

ITEM NO. 1 - DETERMINATION OF QUORUM

Commissioner Dallago stated there was a quorum and called the meeting to order at 9:36 a.m. All Commission members and the audience introduced themselves.

MOTION: Commissioner Dekker moved to approve the Agenda.
Commissioner Shed seconded the Motion.

VOTE: All voted in favor of the Motion.

MOTION: Commissioner Crespin moved to approve the Minutes of the March 18, 2005 Regular Meeting. Commissioner Wood seconded the Motion.

VOTE: All voted in favor of the Motion.

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ITEM NO 2. - APPEAL OF ADMINISTRATIVE PENALTY - Dynamic Heating and Cooling LLC

Richard Romero stated the matter against Dynamic Heating and Cooling, LLC is being presented before the Commission because Bryon Knowlton, QP wishes to appeal the administrative penalty assessed by Compliance Officer Romero as a result of his investigation of Case #04-0425. Mr. Bryon Knowlton holds an MM1, MM2, MM3, MM4, GB98 and ER1 classifications.

Mr. Romero gave a brief history of the case as filed by CID Electrical Inspector, Ronnie Killgore. As a result of the investigation, an administrative penalty of \$1000 was assessed against Dynamic Heating and Cooling, LLC, for contracting beyond the scope of the applicable license classification and for failure to obtain the required electrical permit prior to commencing work.

Mr. Bryon Knowlton provided the Commission the information herein described as **Attachment B.** Mr. Knowlton gave a history of his discussions with Inspector Killgore and the failure of CID staff to respond to his questions regarding this issue.

Commissioner Crespin questioned when CID started conducting pre-job inspections before work is started. He further asked why the inspector came to the job site? He questioned inspector Killgore's presence at the job site and inquired if he observed work being conducted at that time.

Inspector Killgore stated that when he travels around his inspection area he looks for work being conducted and will stop by a job site, especially if he observes a commercial dumpster on site.

Commissioner Crespin again questioned Inspector Killgore regarding whether work was being done on the job site in question.

Inspector Killgore stated there was work being done at the job site.

Mr. Knowlton denied that electrical work was being done during Inspector Killgore's first visit to the job site.

Commissioner McDade questioned whether Mr. Knowlton has an EE-98 license. Commissioner McDade further asked Mr. Knowlton whether he believed he needed an EE98 license for this work.

Mr. Knowlton stated he has an ER-1 license and did not believe he needed an EE98 because the building is classified as R-1 construction. It is a residence, not a commercial/industrial building. He stated he could have done the work, however but the building has a second story.

Commissioner McDade further questioned whether Mr. Knowlton has hired electrical contractors on other work he has done. Additionally, he asked whether Mr. Knowlton employs electricians that have a journeyman's license and whether Mr. Knowlton hires journeyman under his ER-1 license.

Mr. Knowlton stated he does hire electrical contractors for work he performs and subcontracts work to electrical contractors that hire journeyman. Mr. Knowlton stated he has journeymen working under his ER-1 license for residential work.

Commissioner McDade asked Mr. Knowlton how long he has been a contractor.

Mr. Knowlton stated he has been an electrical contractor for 3-4 years and received his license in 1998.

Commissioner Dekker deferred to Kate Baca, General Counsel for CID, questioning issues about working outside the scope of a license. His understanding is that under the definition of an ER-1, a contractor can undertake a contract for not more than four multi-family units in one single project. It appears that, Mr. Knowlton has interpreted the complex in question to be one multi-family complex not eight multi-family units. Commission Dekker added that it seems that an ER-1 can work on a four-plex and fewer units, but not an eight-plex, which is what an eight unit would be. To address the issue of working outside the scope of a license, the ER-1 is intended to limit contractors to work on a four-plex type project.

Ms. Kate Baca, General Counsel for CID, responded that she does not regularly interpret the classification schedules and deferred the question to Andy Dalmy, Licensing Manager for CID. Ms. Baca stated she agreed in principle with the logic of Commissioner Dekker's statement.

Andy Dalmy, Licensing Manager, stated the classification description for work under the ER-1 license would be for four-family units or less that would have to be single floor dwellings.

Commissioner Crespin asked Fermin Aragon, General Construction Bureau Chief, if the building code considers buildings larger than a four-plex to be considered commercial?

Fermin Aragon, General Construction Bureau Chief, stated that under the GB-02 license classification, the construction of four-family units or less is allowed.

Commissioner McDade asked Inspector Killgore how many years of experience he has in the electrical trade/business.

Inspector Killgore stated he has been an electrical inspector for almost 21 years. He further provided a brief assessment of the condition of the building in question; stating that he felt the building was unsafe.

MOTION: Commissioner Crespin moved to accept staff's recommendation and enforce the Administrative Penalty. Commissioner McDade seconded the motion.

Commissioner Dekker stated that in making this motion and in reviewing the classification for the ER-1 license it is the Commission's interpretation that the ER-1 allows for the construction of not more than four multi-family units, not eight units. Evidence was presented that Mr. Knowlton was building a two-story, eight unit project. Therefore the contractor was working outside the scope of his ER-1 license.

VOTE: All voted in favor of the motion.

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ITEM NO. 3 – REQUEST APPROVAL OF ELECTRICAL CONTINUING EDUCATION COURSES AND INSTRUCTORS

Rem Pacheco, Electrical Bureau Chief, on behalf of the division and the bureau, requested the approval of the revised list of fifteen (15) additional Electrical Continuing Education Courses and Instructors. The Course and Instructor applicants comply with applicable State regulation requirements for electrical continuing education. The information herein presented as **Attachment C** was presented for approval by Mr. Pacheco. Mr. Pacheco presented a brief update on the continuing education initiative at CID. He stated the division is in full support of the bureau and the continuing education initiative for electricians. Mr. Pacheco reported that in April and May a total of 13 seminars were taught throughout the State with 832 attendees. Mr. Pacheco feels the program is a complete success and exemplifies the need for continuing education. Mr. Pacheco commended Land Clark, Mark Olsen and Dave Davison, CID electrical inspectors who have organized and presented these seminars. Mr. Pacheco also commended the other electrical inspectors who have been instrumental in securing good facilities for the programs. The communities have greatly supported this initiative. Additionally, the seminars presented have been at no cost to the contractors or the division. The next two seminars will be held in Deming and Las Cruces. Following these sessions, Mr. Pacheco believes the bureau will have instructed over 1000 attendees at the eight hour seminars. Mr. Pacheco reported the Commission has now approved 60 courses.

Commissioner Crespin requested the Bureau graph the reduction of violations based on continuing education, and report back in a year on the result of these seminars. Commissioner Crespin commended Mr. Pacheco for pursuing the continuing education initiative on behalf of the bureau.

Commissioner Dallago added that he attended the seminar held in Gallup and was very impressed with the number of attendees. He commended the instructors on behalf of himself and the Commission.

MOTION: Commissioner McDade moved to proceed with the approval of electrical continuing education courses and instructors. Commissioner Shed seconded the Motion.

VOTE: All voted in favor of the Motion.

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ITEM NO. 4. – SUBCOMMITTEE UPDATE - MASTER METERS

JT Baca, Mechanical Bureau Chief, provided an update on the work of the Master Meter Subcommittee. Mr. Baca stated that a subcommittee was appointed by Chairman Montano. Members of this committee include staff of the PRC Pipeline Safety Bureau, Construction Industries Division and the Industry. A subcommittee meeting was held on May 6, 2005 with the goals of identifying the differences and similarities between the Pipeline Safety Bureau Manual and the UMC/UPC and developing a public outreach program based on an established agreement about installations. Several key issues were identified regarding jurisdictional responsibilities, operator qualifications and training, contractor responsibilities and licenses, and the impact of these regulatory differences on the industry.

Mr. Baca further reported that a code committee was appointed by the subcommittee chair, Commissioner Crespín, which will meet and compare CID codes to the PRC operational document. A license committee was also appointed to meet and identify licensing issues regarding master meter installations. The subcommittee will meet again on June 6, 2005 to review the code and license information gathered.

Commissioner Crespín added that Jack Milarch, representing New Mexico Home Builders, will be appointing a member to the subcommittee. Once that appointment is made, that individual needs to be updated and provided with all information on this topic.

Jack Milarch, New Mexico Home Builders, stated he believes the subcommittee will have to work beyond the planned outreach. He added that several of his members attended the initial outreach program presented by Mr. Janecka and were not impressed. The program did not take care of outstanding issues of concern. However, the idea of outreach is good, once the problems have been resolved.

Vice-Chairman Dallago stated he has met with Mr. Ben R. Lujan, Public Regulation Commission (PRC), and he is committed to working with the Commission and the subcommittee.

Lisa Martinez, Director, Construction Industries, stated the division has worked closely with the PRC and with legislators on this issue and understands how important it is to move the project forward and ensure the Bill is implemented. Director Martinez stated she wrote a letter on the subject and has a signed commitment from PRC, which was presented to the legislators. This signed commitment helped discourage legislators from considering the potential repeal of the original Bill. Director Martinez stated CID intends to move the issue forward and provide solutions for the industry. Director Martinez further added that she too has met with Chairman Lujan and he supports this issue.

Vice Chairman Dallago stated the Association of Counties and the Rural School Districts are supportive of this issue. He is speaking on behalf of the Association of Counties having met with the Director, Mr. Gustavo Cordova, who was very supportive.

No Action Taken.

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ITEM NO. 5 – REPORT ON RULES REVISIONS TO CHAPTER 6 OF NMAC FOR CALENDAR YEAR 2005

Andy Dalmy, Licensing Manager, reported the division has established a rule subcommittee to review and revise parts of the NMAC, Title 14, which is the CID Rules and Regulations and Title 19 of the LP Gas Standards. Mr. Dalmy stated the committee consists of the three trade bureau chiefs, LP Gas Bureau Chief, Kate Baca, Deputy Director/Counsel, and Mr. Dalmy.

Mr. Dalmy stated the subcommittee has identified areas that require review in regards to the new statutory changes and how they impact the rules and regulations. The subcommittees schedule is very aggressive and changes might need to be made.

Mr. Dalmy stated the bureau chiefs are reviewing Chapter 6, Parts 5 and 6 that deal with Inspectors and Classifications. The General Construction Bureau and TAC are looking at errors and typos with Classifications and Inspectors. They will make sure the language tracks with the Statutes. The Bureau Chiefs are developing written summaries of the recommendations. Which are being presented to the respective TAC's for discussion. The TAC's will then assist with developing rule changes that will result in working drafts in the proper format. The end result will be a working draft of the rule changes.

Mr. Dalmy and Kate Baca, Deputy Director/Counsel are working on the General Licensing Requirements. Mr. Dalmy, Rem Pacheco and J.T. Baca are working on the Journeyman Certification Requirements. Mr. Dalmy stated that Marvin Vaughn, LP Gas Bureau Chief, is working on procedure errors, typos, completeness and relevance. Mr. Dalmy stated they will also be working on proposed legislation to make changes in the LP Gas Act and CILA.

Mr. Dalmy stated the LP Gas Bureau Chief and Mechanical Bureau Chief will be addressing Boiler Regulations to make sure they track with Chapter 10, Steam and Hot Water Boilers in the Uniform Mechanical Code and NM Mechanical Code.

Mr. Dalmy stated the subcommittee also intends to address the issue of elevators, in accordance with the Joint Memorial passed during the last legislative session.

Mr. Dalmy stated the implementation schedule for the new rules is being fast tracked. He stated that working drafts should be completed by June 13, 2005. The subcommittee would like to review the final drafts by July 1, 2005 and present the proposals to the CIC at the regular meeting on July 15, 2005. Upon approval by the CIC, the division will proceed to public hearing in September and October 2005. At the November 17, 2005 CIC Meeting, the division will present the proposed changes for adoption. In December, 2005 the division expects to file rule changes with Records and Archives, and in January or February 2006, the rules are expected to will become effective.

Ms. Baca, Deputy Director, reiterated that this is an aggressive schedule that will require a quorum at the July 2005 and November 2005 CIC Meeting. The schedule will need to be extended about two months if the subcommittee cannot bring these rule changes before the Commission in July and November.

Commissioner Renner thanked the subcommittee for their efforts and believes this is a good project. He added that he would also like the subcommittee to address better customer service on LP Gas installations. This will require addressing some legal issues.

Director Martinez stated this issue will be addressed by the subcommittee to look for a solution to better address this matter.

No Action Was Taken.

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ITEM NO. 6 - PARENTAL RESPONSIBILITY ACT - NOTICES OF CONTEMPLATED ACTION

Ms. Kate Baca, Deputy Director, reported that the RLD Legal Department has requested that this item be removed from the Agenda. They are not prepared at this time and will make a presentation at the next CIC Meeting.

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ITEM NO. 7 - STIPULATED AGREEMENTS

Wayne Dotson, Chief Investigator, presented the information herein described as **Attachment D.**

Mr. Dotson stated the Division was submitting 37 stipulated agreements for the Commission's approval and has collected \$141,675.98 since the last CIC meeting in March. The Commission was provided with a synopsis of each of the cases.

MOTION: Commissioner Dekker moved to accept the Stipulated Agreements as presented. Commissioner Brogdan seconded the Motion.

VOTE: All voted in favor of the Motion.

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ITEM NO. 8 – DIRECTOR’S REPORT

Lisa Martinez, Director, presented the information herein described as **Attachment E.**

Director Martinez provided a status report of the 2005 Goals for CID. Director Martinez reported the division has met with the State Personnel Office (SPO) staff to work on a comparative analysis of inspector and investigator salaries within New Mexico and surrounding states. The division expects to have all research completed and submitted to SPO by the end of

June. Once approval is acquired from SPO, this initiative will be the Division's prime area of financial focus during the next Legislative Session.

Director Martinez reported the division will be scheduling meetings with political subdivisions to address local issues of concern which relate to the work conducted by CID. The division will follow up with its commitment to the industry to support local jurisdictions in their attempt to provide professional and high quality building inspectors (multiple inspectors certified in more than one discipline). The division's commitment to the industry was to create a working group to look at qualifications, evaluate alternatives, and propose new approaches to the qualification requirements for multiple inspectors. Discussions were held to promote a pilot program for mechanical and plumbing multiples that might recognize a practical test in lieu of work experience requirements. Director Martinez reported an invitation has been extended to the New Mexico Homebuilders, City of Rio Rancho and City of Clovis to participate in the work group. This work group will meet in Santa Fe on May 24, 2005 in the Rio Grande Conference Room of the Regulation and Licensing Department.

Director Martinez reported the division will be meeting with Annual Permit holders, Intel, Colleges and Universities and others to discuss the use of Annual Permits. The division believes an update to the existing policy needs to be made.

Director Martinez reported that the CID Reorganization is in the final stages of completion. This reorganization will create a Compliance Bureau, which will be a combination of compliance and investigations. The approval for creating this bureau has been granted by State Personnel. Mr. Wayne Dotson is the new bureau chief for the Compliance Section. The reorganization also created two Deputy Director positions. Mr. Marvin Vaughn was appointed Deputy Director of Field Operations and Ms. Kate Baca was appointed Deputy Director of Office Operations.

Director Martinez stated the division will be working on completing the code adoption process. The remaining codes to be adopted are the Swimming Pool and Hot Tub Code, Accessibility and the Solar Energy Code.

Director Martinez reported Susannah St. Clair and Kate Baca have been working on the Kiva Palm Pilot Program and looking at the cost of updating the core system to interface with the wireless Palm pilot project and Public School Facilities Authority (PSFA) processes. Director Martinez has been working on coordinating plan review efforts between the two entities, and in an effort to organize this phase of our work as it relates to schools, PSFA has offered to help finance upgrades to Kiva.

Director Martinez reported the division has scheduled a follow-up strategic planning meeting to develop long term goals and make decisions on the future of CID.

Director Martinez reported she had attended the National Association of State Contractors Licensing Agencies (NASCLA) Meeting in Orlando, Florida. The organization was created to assist members to protect the health and safety of the general public for the construction industry. The membership consists of state and local licensing agencies, construction firms and construction trade organizations. Director Martinez stated that one of the on-going goals of NASCLA is to develop a national certification exam for contractors. The concept is tied to reciprocity, but not necessarily to licensing it is about developing a certification that would be nationally recognized throughout the nation. The exam is currently in the development stage and

is slated to launch in 2006. Director Martinez stated the annual conference for NASCLA will be held in Salt Lake City, Utah, in September. She stated the agenda for the annual conference includes many of the issues in the construction industry that CID is already addressing.

Director Martinez reported that the current contract with CLSI will expire at the end of October. She stated that Andy Dalmy, Licensing Manager and Kate Baca, Deputy Director have been working diligently on the RFP to ensure continuation of CID's licensing service. Director Martinez stated she has received additional inquiries from the Governor's Office and the group assigned to the "Move New Mexico Forward" project regarding bringing the licensing and certification function in-house. She has provided a subsequent report, which is expected to bring some closure to this issue and allow the division to move forward with the RFP.

Director Martinez provided an overview of the work she has been doing with the Public School Capital Outlay Council. She reported there is a lot of upcoming public school work that will affect CID. The PCOC has received requests for 62 new projects in 2005. Approval of these projects will be made in the next few months. Director Martinez reported the Deficiencies Correction Program, which has been on-going, has 332 projects underway. She reported that new legislation was introduced allocating monies for full day kindergarten programs and emergency re-roof projects. Director Martinez provided a report (**See Director's Report Tab C**) that outlines the Public School Capitol Outlay Council's financial plan. She reported that this plan includes the monies was granted by SB455 which will reimburse CID for plan review and inspection services for schools. The monies that are provided for reimbursing CID are current estimates based on oil and gas revenues.

Director Martinez gave a brief update on the Legislative Session. She reported that the repeal of the Sunset Clause for the Division was a great accomplishment. Additionally, the division is working on a status report on Bills introduced at the last Legislative Session. The report will be provided to the Commission, local jurisdictions and the general public outlining changes that affect the industry.

Director Martinez gave a brief update on the construction work in the Albuquerque office that has helped to provide better security for staff.

Director Martinez reported that with the close of the fiscal year, the division has focused on purchasing computer equipment (high speed internet, DSL, etc.) to assist in staff work performance. This equipment will assist in reducing comp time and other overtime issues.

Director Martinez reported the division participated in three Home Shows on the weekend of April 23, 2005 (Albuquerque, Santa Fe, and Alamogordo). Director Martinez thanked the industry groups that provided the free booths, with special thanks extended to the Homebuilders Association.

Director Martinez reported that the Office of the Superintendent will provide additional staff to assist CID with the Carnival, Hoisting Operators and Employee Leasing Programs. She indicated that during the Legislative Session, CID attempted to introduce legislative changes for two of these programs. However, it was quite evident that more expertise is needed in these areas, along with more department assistance.

In closing, Director Martinez requested the approval of new contractor licenses for March and April, 2005.

A brief discussion was held to discuss the procedures needed to work on the inspector salary study. The commissioners offered their assistance to the director on this issue.

For the record, Commissioner Crespín expressed an unfavorable response to the UNM Physical Plant being issued a GB98 license.

MOTION: Commissioner Dekker moved to approve the new licenses issued for January and February 2005. Commissioner Wood seconded the Motion.

VOTE: All voted in favor of the Motion.

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ITEM NO. 10 – PUBLIC COMMENT

Stan Bessey, Electrical Contractors Association for New Mexico, stated that training classes for journeyman are well attended and believes this is a result of the current continuing education requirements. He believes the industry will definitely see the benefits of this training on the job. Mr. Bessey thanked the Commission and division for their support and for the number of continuing education classes that are being approved.

Mr. Bessey further expressed his support and that of the industry to the division on the salary study issue for inspectors.

Jack Milarch, New Mexico Homebuilders Association, presented three issues.

- The change in the Electrical Code – Voltage Drop Issues.
- The inspection issues – local jurisdictions – possible law changes.
- The New Mexico Building Code – NMAC (not user friendly)

Mr. Milarch requested the division's help and recommendations on the above mentioned issues.

Bill Master, Environmental Consultant in Albuquerque, stated he had received a letter from the Public Regulation Commission (PRC), Petroleum Bureau stating that they need to be a qualified firm and in compliance with the CID regulations. The letter does not provide any guidance. Mr. Masters stated the rules are vague in terms of what kind of licensing is required. Mr. Masters provided the division with a copy of the letter to initiate communication with the PRC, Petroleum Bureau.

Vice Chairman Dallago stated the Commission and Division will initiate communication on this issue with the Department of Environment and will discuss the guidelines.

Andy Dalmy, Licensing Manager, stated he has spoken with several environmental companies regarding licensure. He was contacted by staff at Department of Environment to set up a meeting on this issue.

Commissioner Crespín requested that Director Martínez write a letter to the Attorney General's office regarding the appointment of an attorney to represent the Commission at their meetings.

Commissioner Crespín stated he received a call regarding whether plan review had been turned over to the Public School Facilities Authority.

Director Martínez stated plan review is still conducted by CID. She reported that the role of the Public School Facilities Authority is to review plans for compliance with the document called the Statewide Adequacy Standards. They also look at code related issues because their Statute does require them to consider compliance with the code. However, they do not have permitting authority. This permitting authority is granted solely to CID and in order to issue a permit, CID must conduct a full plan review.

Commissioner Crespín stated that the rumor mill indicates that Experior is going to layoff their proctors and use one multiple proctor for all trades.

Director Martínez responded, stating she has not heard such information. She went on to ask Mr. Dalmy, Licensing Manager, if he had heard such statements. He replied that he had not.

Commissioner McDade requested that the subcommittee regarding Journeyman Ratios reconvene and look at this issue as it relates to the electrical industry.

Vice Chairman Dallago requested Commissioner Crespín and Commissioner Renner call a meeting of the subcommittee and look at this issue again.

Commissioner McDade requested that the subcommittee develop a ratio that applies to electrical only.

Vice Chairman Dallago reappointed the past members of the subcommittee on Journeyman Ratios to the present committee.

Kate Baca, Deputy Director, introduced Susanna St. Clair, the new IT person working on the KIVA system to meet the division's expectations.

ITEM NO. 11 – OTHER BUSINESS

Vice Chairman Dallago welcomed all the new staff to CID, and extended Congratulations on the continuing education training. He would like to see the other industries consider some continuing education training.

The next regular meeting for the Commission will be on July 15, 2005, at Dekker, Perich and Sabatini Conference Room on Jefferson in Albuquerque, New Mexico.

With no further business, Vice-Chairman Dallago adjourned the meeting at 11:25 a.m..

Thomas A. Montano, Chairman

Attest:

Lisa Martinez, Secretary