

DEC 14 2020

Byron-Bethany  
Irrigation District



STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS  
Division of Occupational Safety and Health  
American Canyon District Office  
3419 Broadway Street Ste H8  
American Canyon, CA 94503  
Tel. # (707) 649-3700 Fax # (707) 649-3712

December 10, 2020

Rick Gilmore  
Byron-Bethany Irrigation District  
7995 Bruns Road  
Byron, CA 94514

Dear Mr. Gilmore:

The Division of Occupational Safety and Health has received a complaint (Complaint No. #469-21, 1703164) alleging the following condition(s) at your workplace at 7995 Bruns Road, Byron, which may be a violation of the Safety Orders found in Title 8 of the California Code of Regulations:

Code Section(s) and Alleged Condition(s):

The employer did not maintain an effective injury and illness prevention program in that the employer did not ensure that COVID-19 precautions per the state executive and local public health department orders are being followed at the workplace in the following instances:

- 1. The employer did not ensure employees can maintain a physical distance of at least 6 ft. between other, T8 CCR 3205(c)(6).**

**§3205(c)(6). COVID-19 Prevention.**

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(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(6) Physical distancing.

- 2. The employer did not ensure employees are wearing facial coverings properly, 3205(c)(7)(A).**

**§3205(c)(7)(A). COVID-19 Prevention.**

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(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(7) Face coverings.

(A) Employers shall provide face coverings and ensure they are worn by employees over the nose and mouth when indoors, when outdoors and less than six feet away from another person, and where required by orders from the CDPH or local health department. Employers shall ensure face coverings are clean and undamaged. Face shields are not a replacement for face coverings, although they may be worn together for additional protection. The following

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are exceptions to the face coverings requirement:

1. When an employee is alone in a room.
2. While eating and drinking at the workplace, provided employees are at least six feet apart and outside air supply to the area, if indoors, has been maximized to the extent possible.
3. Employees wearing respiratory protection in accordance with section 5144 or other title 8 safety orders.
4. Employees who cannot wear face coverings due to a medical or mental health condition or disability, or who are hearing-impaired or communicating with a hearing-impaired person.
5. Specific tasks which cannot feasibly be performed with a face covering. This exception is limited to the time period in which such tasks are actually being performed, and the unmasked employee shall be at least six feet away from all other persons unless unmasked employees are tested at least twice weekly for COVID-19.

NOTE: CDPH has issued guidance for employers that identifies examples when wearing a face covering is likely not feasible.

To review Title 8, California Code of Regulations, go to [www.dir.ca.gov](http://www.dir.ca.gov), click on "Title 8 Regulations" then click on "Cal/OSHA" and enter the code section number mentioned above. Or you can go directly to [www.dir.ca.gov/samples/search/query.htm](http://www.dir.ca.gov/samples/search/query.htm).

The Division has not determined whether the hazard(s), as alleged, exist at your workplace and, at this time, the Division does not intend to conduct an inspection of your workplace.

If this complaint involves an allegation related to coronavirus (also known as COVID-19), Cal/OSHA is offering compliance assistance for employers who are unclear about the requirements to comply with Title 8, California Code of Regulations, Section 5199: Aerosol Transmissible Diseases health standard, or other applicable health standards, or are having difficulty complying because of resource shortages, such as the unavailability or projected unavailability, of personal protective equipment. If this applies to you, please contact the district manager upon receipt of this letter, at (707) 649-3700 or e-mail at [DIRDOSHAmericanCanyon@dir.ca.gov](mailto:DIRDOSHAmericanCanyon@dir.ca.gov), for more information. If you do not request for compliance assistance upon receipt of this letter, an on-site inspection may be conducted as appropriate.

You are required to investigate the alleged condition(s) and notify this office in writing no later than fourteen (14) calendar days after receipt of this letter (**Due 12/28**) whether the alleged condition(s) exist and, if so, specify the corrective action(s) you have taken and the estimated date when the corrections will be completed. If possible, please **fax or e-mail your response** to Kathy Garner, district manager, at **fax number (707) 649-3712 or e-mail at [DIRDOSHAmericanCanyon@dir.ca.gov](mailto:DIRDOSHAmericanCanyon@dir.ca.gov)**.

Please include any written documentation, e.g., equipment purchase orders or contracts for corrective work, and photographs, if appropriate, in your response. If you do not respond in a timely and satisfactory manner, an unannounced inspection of your workplace will be scheduled, which may result in citation(s) and monetary penalties. Also, every tenth satisfactory letter response from employers is subject to verification by an inspection.

You are required to post a copy of this letter in a prominent location in the workplace where it is readily accessible for employee review for at least three (3) working days or until the hazard is corrected, whichever is longer.

This letter is not a citation or a notification of a proposed penalty. Citations and penalties can only be issued after an inspection of your workplace. If the Division does not receive a satisfactory response from you within fourteen (14) calendar days after receipt of this letter, an on-site inspection will be conducted as appropriate.

If the identity of the complainant is known to the Division, a copy of this letter will be sent to the complainant. Also, the complainant will be notified that California law protects any person who makes a complaint about workplace safety or health hazards from being treated differently, discharged or discriminated against in any manner by their employer. If a

complainant believes they have been discriminated against, it is their right to file a complaint with the Division of Labor Standards Enforcement within six (6) months of the discriminatory action.

If you have any questions concerning this matter, please contact me at the address in the letterhead.

Your interest in the safety and health of your employees is appreciated.

Sincerely,



Kathy Garner  
District Manager

KG/jd

reference: Complaint No. #469-21, 1703164

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