

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION  
Held on February 18, 2016  
West Covina, California**

**PRESENT:**

Art Carter, Chair  
Ed Lowry, Member  
Judith Freyman, Member  
Jeff Mojcher, Chief Counsel  
Neil Robinson, Presiding Administrative Law Judge  
Ursula Clemons, Presiding Administrative Law Judge  
Autumn Gonzalez, Industrial Relations Counsel  
Lee Berlin, Staff Services Manager  
Janis Jonas, Management Services Technician  
Andia Farzaneh, Graduate Student Assistant

**MINUTES OF February 4 , 2016 MEETING:**

*(Approve or amend minutes of previous Board meeting)*

ACTION: Member Lowry moved that the Board approve the draft minutes of the February 4, 2016 Board meeting as amended. Member Freyman seconded. The Board voted to approve the draft minutes of the February 4, 2016 Board meeting as amended.

**NEW BUSINESS:**

*(The Appeals Board hears and discusses new reports presented by staff.)*

ACTION: The Board discussed calendaring conflicts and will review the dates of the Cal/OSHA Advisory Committee meetings to see what changes should be made to the Board meeting calendar.

**OLD BUSINESS:**

*(The Appeals Board hears and/or discusses matters on a follow-up basis.)*

ACTION: No report.

**LEGISLATION:**

*(Review and discuss current legislation which may affect the Appeals Board)*

ACTION: No report.

**CHAIRPERSON'S REPORT:**

*(Hear report from the Chairperson on activities and issues affecting the Appeals Board.)*

ACTION: Chair Carter attended the Cal/OSHA Advisory Committee Meeting held last week. He presented an update on the OASIS project and explained that on March 10, 2016 the Board will hold a demonstration of the new program for the public. Chair Carter also reported on several other items discussed at the Advisory Committee meeting, including new and ongoing initiatives regarding roofing, confined spaces, work place

violence, Fed OSHA reporting requirements, and a new high school program to introduce career opportunities with Cal/ OSHA.

**BOARD MEMBERS' REPORTS:**

*(Hear reports from Board Members on activities and issues affecting the Appeals Board.)*

ACTION: Member Freyman was also in attendance at the Cal/OSHA Advisory Committee meeting. While there, she heard several questions about temporary workers. There was discussion on this topic and Chair Carter suggested the Board might schedule some training sessions for District Managers to review some of the recent Board Decisions affecting temporary workers and other topics.

**EXECUTIVE OFFICER'S REPORT:**

*(Report regarding administrative matters)*

OPERATIONS UPDATE:

ACTION: Interim Executive Officer Ha is still on leave. Lee Berlin reported in her absence that there is a meeting scheduled later today with the Appeals Initiation Unit to preview forms and notices created for the new OASIS program and for use by the Board staff moving forward.

**STAFF REPORTS:**

*(Reports from the Presiding ALJ and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)*

OASIS PROJECT:

ACTION: PALJ Robinson reported that the OASIS program is moving forward as planned. On March 10 there is a demonstration scheduled for the public to preview the OASIS web portal. During the week of March 21-25 there will be Judge training on OASIS to be held in West Covina. Another public demonstration may be scheduled in the West Covina office on March 25. There is continued work on reformatting all letters and forms so that all are consistent. The OASIS team is working with the Accounting department to create an interface with their system.

RULEMAKING:

ACTION: A public meeting is set for March 3. At this time there has been no response to the new regulations nor questions about the public meeting.

**LITIGATION UPDATE:**

**ACTION:** There is a court hearing scheduled for February 26, 2016 and Counsel Gonzalez will be representing the Board.

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

**PUBLIC COMMENT:**

*(Public comment will be entertained during discussion of each agenda item of the Open Meeting.)*

**ACTION:** NONE

The Board recessed to its closed session.

**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

**BIGGE CRANE & RIGGING CO., 14-R1D2-1798**

**ACTION:** The Board took no action on this matter.

**COAST WASTE MANAGEMENT, INC., 11-R3D2-2385 AND 2386**

**ACTION:** Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.

**FEDEX FREIGHT, INC., 14-R2D1-0144**

**ACTION:** Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.

**NOLTE SHEET METAL, INC., 14-R6D7-2777 THROUGH 2783**

**ACTION:** Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.

**SILVERADO CONTRACTORS, INC., 14-R4D7-3044**

**ACTION:** Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion.

The Board voted to approve this Decision of an Administrative Law Judge.

**PETITIONS FOR RECONSIDERATION:**

BOTHUN TURKEY FARM, 15-R2D4-0137

ACTION: Member Lowry moved that the Board vote to deny this Petition for Reconsideration. Member Freyman seconded. The Board voted to deny this Petition for Reconsideration.

DAVEY TREE SURGERY CO., 13-R3D3-1018 through 1021

ACTION: Member Lowry moved that the Board vote to grant this Petition for Reconsideration. Member Freyman seconded. The Board voted to grant this Petition for Reconsideration.

DRICKS ENTERPRISES INC. dba PETS PLUS, 15-R3D1-9215

ACTION: The Board took no action on this matter.

MASTER CARE WINDOW WASHING, 15-R1D4-9230

ACTION: Member Lowry moved that the Board vote to grant this Petition and approve the filing of a late appeal. Member Freyman seconded. The Board voted to approve the Petition and granted filing a late appeal.

MORROW-MEADOWS CORPORATION, 12-R4D1-0717 ~ 0719

ACTION: Member Lowry moved that the Board vote to grant this Petition for Reconsideration. Member Freyman seconded. The Board voted to grant this Petition for Reconsideration.

RAAM CONSTRUCTION, INC., 15-R1D4-0155

ACTION: Member Lowry moved that the Board vote to deny this Petition for Reconsideration. Member Freyman seconded. The Board voted to deny this Petition for Reconsideration.

**DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):**

CALIFORNIA SECURITY & INVESTIGATIONS ACADEMY dba CSTA  
15-R2D1-9190

ACTION: Member Lowry moved that the Board vote to approve this draft Denial of Petition for Reconsideration for signature. Member Freyman seconded. The Board voted to approve this draft Denial of Petition for Reconsideration for signature.

**ORDERS DISMISSING APPEAL:**

**ORDER DENYING LEAVE TO FILE LATE APPEAL**

**MATTERS HELD OVER FROM PREVIOUS MEETINGS:**

*(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)*

**MATTERS PENDING RECONSIDERATION:**

*(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)*

BURTECH PIPELINE, INC., 13-R3D2-0830 AND 0831

ACTION: Member Lowry moved that the Board vote to have the Legal Unit draft a Decision After Reconsideration for signature. Member Freyman seconded. The Board voted to have the Legal Unit draft a Decision After Reconsideration for signature.

CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 and 3186

CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999

CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038

CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364

EKEDAL CONCRETE, INC., 13-R3D1-0131 THROUGH 0133

HERMAN WEISSKER, INC., 13-R3D1-3279

JM ENVIRONMENTAL, INC., 15-R2D1-9232

L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822

MAGNA TOOL INC., 15-R3D1-9214

MCM CONSTRUCTION, INC., 13-R1D2-3851 THROUGH 3854

ACTION: Member Lowry moved that the Board vote to approve this draft Decision After Reconsideration for signature. Member Freyman

seconded. The Board voted to approve this draft Decision After Reconsideration for signature.

MDB MANAGEMENT INC., 14-R4D1-2373 AND 2374  
OC COMMUNICATIONS, 14-R2D2-0120, 0166 and 0340  
SIERRA FOREST PRODUCTS, 09-R2D5-3979  
SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562  
THROUGH 2570  
UNITED PARCEL SERVICE, 13-R3D2-2664 and 2665

**LEGISLATION:**

**PENDING LITIGATION:**

*(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)*

**SUPERIOR COURT:**

1. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
2. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
3. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
4. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
5. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
6. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
7. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
8. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
9. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
10. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
11. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)

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12. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
13. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
14. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
15. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
16. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
17. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
18. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
19. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
20. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
21. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
22. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
23. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)
24. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)
25. KEY ENERGY SERVICES, INC., S-1500-CV-283958, EB (13-R4D3-2239 ~ 2242)
26. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL (14-R3D2-1935 & 1936)
27. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)
28. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR, 15CV-00945 (08-R2D1-3093 ~ 3098)
29. STANISLAUS FOOD PRODUCTS CO., 34-2015-80002087 (13-R2D4-0572 ~ 0574)
30. OLDCASTLE PRECAST, INC., 34-2015-80002167 (13-R3D3-0583)

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31. SHIMMICK CONSTRUCTION CO., INC./OBAYASHI CORP., 34-2015-80002204 (12-R3D1-0781)
32. CHARLES PANKOW BUILDERS, LTD., 34-2015-8000221 (13-R4D1-1759)
33. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
34. TRI STATE STAFFING, 12-R6D2-0378
35. CHEVRON U.S.A., N15-2013 (13-R6D3-0655 THROUGH 0662)
36. T & R CONSTRUCTION GROUP, BS159712 (14-R4D3-4120 & 4121)
37. ABM FACILITY SERVICES, INC. dba ABM BUILDING VALUE, 30-2016-00831661, 12-R3D6-3496 ~ 3498

**APPELLATE COURT:**

1. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
2. AC TRANSIT, A142799, RG13-687314 (08-R1D4-0135)
3. THYSSENKRUPP ELEVATOR CORPORATION, C077115, 34-2013-80001456 (11-R2D1-2217 ~ 2219)
4. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, C078953, 34-2011-80000965, (10-R6D2-0188 THROUGH 0191)

**ORDERS OF ADMINISTRATIVE LAW JUDGES:**

*(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)*

A-CO TEMPORARY POWER, INC., 15-R4D-1799 THROUGH 1801  
ALILA FARM LABOR LLC, 15-R2D5-2257  
ARBON EQUIPMENT CORPORATION, 15-R3D2-0641  
A SAMBADO & SON INC, 15-R6D1-2750 AND 2752  
AUGUSTO BROS., INC. DBA FIRST STREET AUTOMOTIVE, 15-R6D7-2822  
BAIRD ROOFING CO., 15-R2D3-3904  
BAXENDALE NURSERY, INC., 15-R6D2-4268  
BOWMAN PLATING COMPANY, INC., 15-R3D5-4563  
BRUSH RESEARCH MFG., 15-R4D4-3578

BUY DIRECT CABINETS & FURNITURE INC., 15-R6D7-3180 THROUGH 3183  
CALIFORNIA CARTAGE COMPANY, LLC, 15-R3D5-4715 THROUGH 4719  
CEDAR FAIR L.P., DBA KNOTT'S BERRY FARM, 15-R3D1-2857 AND 2858  
CHAMPION BALLROOM ACADEMY, INC., 15-R3D2-2087  
COAST CRANE COMPANY, 15-R2D1-3340 THROUGH 3342  
DEVCON CONSTRUCTION INCORPORATED, 15-R1D3-3084 AND 3085  
DKD CAR WASH INC DBA FOOTHILL CAR WASH AND DETAIL,  
15-R4D4-0276  
GHIRARDELLI CHOCOLATE COMPANY, 15-R1D4-0416 THROUGH 0418  
ARTURO GONZALEZ DBA GONZALEZ PLASTERING, 15-R6D1 3108  
THROUGH 3111  
GRANITE CONSTRUCTION COMPANY, 14-R3D2-3252  
HASTINGS CONSTRUCTION, INC., 15-R6D7-1494 THROUGH 1496\*  
HBUILT, INC., 15-R6D7-3009  
HERMAN WEISSKER, INC., 15-R4D3-1077  
HOT ROD ENTERPRISE LLC DBA HEARTLAND THRIFT STORE,  
15-R4D4-0277  
J.B. HUNT, 16-R2D4-0098  
JKB ENERGY, INC., 15-R2D5-4515  
JOHN S. MEEK COMPANY, INC., 14-R4D1-3500 THROUGH 3504  
JPL CONSTRUCTION, INC., 15-R6D5-2604 THROUGH 2608  
JSL FOOD, INC., 15-R4D1-3010 THROUGH 3013  
JSL FOOD, INC., 15-R4D1-3014 THROUGH 3016  
KENTON KNOP DBA AGELESS PLASTERING CO, 16-R1D2-0021  
THROUGH 0023  
KIEWIT INFRASTRUCTURE WEST, INC., 14-R1D3-2414  
KR CONSTRUCTION, INC., 15-R6D7-3478 THROUGH 3480  
LANDMARK SURVEYING SOLUTIONS, INC., 15-R4D1-3231 AND 3232  
JOSE LARA DBA BAHA AUTOBODY, 15-R6D5-4744 AND 4745  
LARGO CONCRETE, INC., 15-R1D4-3186\*  
LUBRICATING SPECIALTIES CO., 15-R4D1-3917 THROUGH 3921  
MACY'S WEST STORES INC DBA MACY'S, 15-R1D2-4523 THROUGH 4525  
MARQUEZ FARMS, 15-R2D5-3699 AND 3700  
MATTHEWS CONSTRUCTION, 15-R3D1-3241 THROUGH 3243  
JAMES MCCORMICK DBA YBJ CONSTRUCTION SERVICES,  
15-R6D1-2991 THROUGH 2995  
MICHAEL MCKINZIE DBA MICHAEL MCKINZIE CONSTRUCTION,  
15-R6D7-2759  
MID STATE STEEL ERECTORS, INC., 15-R1D3-0578 AND 0579  
MID VALLEY DISPOSAL, 15-R2D5-4046  
MIYA FARMS INC, 15-R2D5-4513 AND 4514  
MOBILE HI TECH WHEELS, 15-R3D5-0141  
NEWSTAR FRESH FOODS, LLC, 14-R1D2-4137  
NISSIN FOODS (USA) CO INC, 15-R3D5-3227 AND 3228  
OZONE ROOFING, INC., 15-R3D1-3362 AND 3363

PATRICK WARREN CONSTRUCTIN, INC., 15-R6D7-3603 AND 3604  
PERFECTION PET FOODS, 15-R2D5-2558 THROUGH 2560  
PETERSENDEAN ROOFING & SOLAR, 15-R3D1-0043 AND 0044  
PLANT CONSTRUCTION COMPANY, L.P., 15-R1D3-2246 AND 2247  
PRO-TEC COATINGS, INC DBA PRO-TEC PAINTING & COATINGS,  
15-R2D5-1758  
Q & B FOODS INC., 15-R4D4-2925 AND 2926  
QUALITY ALUMINUM FORGE, 15-R3D5-0218  
RICHARD KIM CONSTRUCTION, 15-R1D2-4694  
RICHWOOD MEAT COMPANY, 15-R2D4-1753  
ROEM BUILDERS, INC, 15-R1D2-2049  
RONNY'S, INC., 15-R2D4-1755  
ROSS AND SONS REFRIGERATION AND CONSTRUCTION INC,  
15-R7D1-3414 THROUGH 3417  
SAN FRANCISCO A-1 ROOFING & MAINTENANCE COMPANY INC,  
15-R1D1-2343 THROUGH 2346  
SILVAN ENTERPRISES, INC. DBA KABAB MAHALEH,  
15-R4D1-4145 THROUGH 4147  
SUMMERFIELD FARMS, LLC, 15-R2D5-3653  
TARAZI SPECIALTY FOODS, LLC., 15-R4D4-4152  
TIGER ELECTRIC, INC., 14-R4D3-0999 THROUGH 1001\*  
TILTON PACIFIC CONSTRUCTION, INC., 15-R1D3-0229  
UC LOS ANGELES FACILITIES MANAGEMENT, 15-R4D1-2450  
UCSD-SCRIPPS INSTITUTION OF OCEANOGRAPHY, 14-R3D2-3874 AND 3875  
ULTIMATE CONSTRUCTION, INC., 15-R3D5-4408 AND 4409  
WESTERN NATIONAL CONTRACTORS, 15-R1D3-3605 AND 3606  
WEST HILLS CONSTRUCTION, INC., 15-R3D5-3867 THROUGH 3869  
WOODWORKS PLUS INC., 15-R3D2-2803 AND 2804  
YENETH GRANADOS MANZO DBA OSORNIO'S MOBILE HAND CARWASH,  
16-R6D5-0206 THROUGH 0208

ACTION: Member Lowry moved that the Board approve these Orders of Administrative Law Judges as amended. Member Freyman seconded the motion. The Board voted to approve these Orders of Administrative Law Judges. Orders with asterisks are deemed approved as amended.

**PERSONNEL:**

*(Issues regarding staff)*

ACTION: NONE

The Closed Session was adjourned at 11:43 and the Board returned to the Public Meeting. The Appeals Board incorporated by reference its ACTIONS in the Closed Session, as indicated above. The meeting was adjourned at 11:44.