

**STATE OF CALIFORNIA**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**MINUTES OF THE PUBLIC MEETING & CLOSED SESSION**  
**Held on August 11, 2016**  
**Sacramento, California**

**PRESENT:**

Art Carter, Chair  
Ed Lowry, Member  
Han Ha, Interim Executive Officer  
Jeff Mojcher, Chief Counsel  
Neil Robinson, Presiding Administrative Law Judge  
Autumn Gonzalez, Industrial Relations Counsel  
Aaron Jackson, Industrial Relations Counsel  
Lee Berlin, Staff Services Manager  
Janis Jonas, Management Services Technician  
Andia Farzaneh, Graduate Student Assistant

**MINUTES OF July 28, 2016 MEETING:**

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

ACTION: Member Lowry moved that the Board approve the draft minutes of the July 28, 2016 Board meeting as amended. Chair Carter seconded. The Board voted to approve the draft minutes of the July 28, 2016 Board meeting as amended.

**NEW BUSINESS:**

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

ACTION: Interim Executive Officer Ha requested that one of the Board Meetings in October be held in West Covina. The Board agreed and asked Executive Officer Ha to confirm the date for the meeting.

**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: Counsel Gonzalez reported that the Regulation packet has been approved and will be effective October 1, 2016.

**CHAIRPERSON'S REPORT:**

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

ACTION: Chair Carter reported having a meeting with David Lanier, Secretary of the California Labor and Workforce Development Agency.

**BOARD MEMBERS' REPORTS:**

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

ACTION: No report

**EXECUTIVE OFFICER'S REPORT:**

*(Report regarding administrative matters)*

**OPERATIONS UPDATE:**

**ACTION:** Lee Berlin, Staff Services Manager, reported that the position for Legal Analyst has been posted. She also reported that the position of Hearing Officer 1 has been reposted and will close August 23, 2016.

**STAFF REPORTS:**

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

**OASIS PROJECT:**

**ACTION:** Judge Robinson presented the Board with examples of the new OASIS logo. He explained the ongoing testing of the new OASIS system and gave key dates marking end to end testing and migrating cases from ORACLE to OASIS. The target date to go live for internal users, is September 27, 2016. The public web portal will be activated October 3, 2016.

**LITIGATION UPDATE:**

**ACTION:** Chief Counsel, Jeff Mojcher reported that the next court hearing is scheduled for October 7, 2016 in San Diego.

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:**

**BLUE DIAMOND GROWERS, 15-R2D1-1196 AND 1197**

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

PARAMOUNT CITRUS PACKING COMPANY LLC, 15-R4D7-2213  
THROUGH 2215

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

**PETITIONS FOR RECONSIDERATION:**

*(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)*

CALIFORNIA CONSTRUCTION CONSULTANTS, INC., 13-R4D1-2122 AND 2123

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

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

KIMCO STAFFING SERVICES, 15-R3D3-4594

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

**ORDERS DISMISSING APPEAL:**

UNITED AG PERSONNEL MANAGEMENT, INC., 16-R4D7-1591 AND 1592  
MASTER RECYCLING INC., 16-R6D2-1049 THROUGH 1051

ACTION: Member Lowry moved that the Board approve these Orders Dismissing Appeal from Administrative Law Judges. Chair Carter seconded. The Board voted to approve these Orders Dismissing Appeal from an Administrative Law Judge.

**ORDER DENYING LEAVE TO FILE LATE APPEAL**

UNITED PARCEL SERVICE, INC., 16-R4D7-9109

ACTION: Member Lowry moved that the Board approve this Order Denying Leave to File Late Appeal of an Administrative Law Judge. Chair Carter seconded. The Board voted to approve this Order Denying Leave to File Late Appeal of an Administrative Law Judge.

**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.)*

A TO Z TREE NURSERY, INC. dba A TO Z SPECIMEN TREE MOVERS, 15-R6D1-2277 through 2279  
ATKINSON CONSTRUCTION, LP, 14-R3D1-4111  
BARRETT BUSINESS SERVICES, INC., 12-R3D1-1204 THROUGH 1206  
BIGGE CRANE & RIGGING CO., 14-R1D2-1798  
CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999  
COAST WASTE MGNMT OF CA, INC., 11-R3D2-2385 & 2386  
COMPASS CONTAINER GROUP, INC., 16-R1D4-9014  
CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364  
DAVEY TREE SURGERY CO., 13-R3D3-1018 THROUGH 1021  
DYNAMIC CONSTRUCTION SERVICES, INC., 15-R4D1-1471 AND 1472  
FEDEX FREIGHT, INC., 14-R2D1-0144  
FIRST PRIORITY DESIGN & CONSTRUCTION, 16-R3D5-9073  
FOUNDATION BUILDING MATERIALS LLC, 14-R1D2-3533 THROUGH 3535  
GATEWAY PACIFIC CONTRACTORS, INC., 10-R2D3-1502 THROUGH 1508  
GIBRALTAR PARTNERSHIP LP, 15-R3D2-4782 THROUGH 4785  
JD MILLER CONSTRUCTION, INC. dba M & M FRAMING, 16-R4D4-9058

JM ENVIRONMENTAL, INC., 15-R2D1-9232

ACTION: Member Lowry moved that the Board approve this Order of Remand of an Administrative Law Judge. Chair Carter seconded. The Board voted to approve this Order of Remand of an Administrative Law Judge.

KEY ENERGY SERVICES, LLC, 15-R4D7-0255 AND 0256  
L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822

MAGNA TOOL INC., 15-R3D1-9214

ACTION: Member Lowry moved that the Board approve this Order of Remand of an Administrative Law Judge. Chair Carter seconded. The Board voted to approve this Order of Remand of an Administrative Law Judge.

NOLTE SHEET METAL, INC., 14-R6D7-2777 through 2783

RUSSELL FABRICATION CORP. dba AMERICAN FABRICATION,  
15-R6D2-9008

ACTION: Member Lowry moved that the Board approve this Order of Remand of an Administrative Law Judge. Chair Carter seconded. The Board voted to approve this Order of Remand of an Administrative Law Judge.

SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562  
THROUGH 2570

SYNERGY TREE TRIMMING, 15-R2D1-0828

UNITED PARCEL SERVICE, 13-R3D2-2664 and 2665

WALT OXLEY ENTERPRISES INC. dba CIARRA CONSTRUCTION,  
16-R1D2-9075

**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. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
2. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
3. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
4. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219  
AND 0220)
5. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
6. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
7. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
8. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)

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9. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
10. A.TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332  
(09-R4D5-0459 & 0460)
11. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
12. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575  
(12-R5D1-337)
13. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
14. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749  
(2008-R2D1-3414 THROUGH 3418)
15. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
16. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
17. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817  
(09-R6D2-2238 ~ 2241)
18. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
19. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
20. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360  
THROUGH 3362)
21. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL  
(14-R3D2-1935 & 1936)
22. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)
23. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR, 15CV-00945  
(08-R2D1-3093 ~ 3098)
24. STANISLAUS FOOD PRODUCTS CO., 34-2015-80002087 (13-R2D4-0572 ~ 0574)
25. OLDCASTLE PRECAST, INC., 34-2015-80002167 (13-R3D3-0583)
26. SHIMMICK CONSTRUCTION CO., INC./OBAYASHI CORP., 34-2015-80002204  
(12-R3D1-0781)
27. CHARLES PANKOW BUILDERS, LTD., 34-2015-8000221 (13-R4D1-1759)

28. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
29. TRI STATE STAFFING, 12-R6D2-0378
30. CHEVRON U.S.A., N15-2013 (13-R6D3-0655 THROUGH 0662)
31. T & R CONSTRUCTION GROUP, BS159712 (14-R4D3-4120 & 4121)
32. ABM FACILITY SERVICES, INC. dba ABM BUILDING VALUE, 30-2016-00831661,  
12-R3D6-3496 ~ 3498
33. MCM CONSTRUCTION, INC., 34-2016-80002312 (13-R1D2-3851 ~ 3854)
34. SOLARCITY CORP., 14-R3D2-3707, 34-2016-80002345
35. BURTECH PIPELINE, INC., 13-R3D2-0830 and 0831, 37-2016-00013806

**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)
5. KEY ENERGY SERVICES, INC., F073567, S-1500-CV-283958-LHB

**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.J. FISTES CORPORATION, 16-R1D3-0309 AND 0310  
AERO PORT SERVICES, INC., 15-R4D1-4650  
ALLIANCE ENVIRONMENTAL GROUP INC dba ALLIANCE ENVIRONMENTAL  
GROUP, 15-R3D2-4307

ANTELOPE VALLEY HEALTHCARE DISTRICT ANTELOPE VALLEY HOSPITAL  
DBA ANTELOPE VALLEY HOSPITAL, 16-R4D3-0817  
ARROW DISPOSAL SERVICES INC DBA ARROW SERVICES, INC.,  
16-R6D2-1864  
MEASE BUTHAN DBA A B T ELECTRIC, 14-R1D2-0821 AND 0822  
C C POOL CONSTRUCTION CO., INC., 16-R6D5-1341 AND 1342  
CABINETS 2000, INC., 16-R3D1-1020 THROUGH 1022  
CAL COAST STUCCO, INC., 16-R3D1-1080  
CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION  
CALIFORNIA STATE PRISON LOS ANGELES COUNTY, 16-R4D3-1304  
CAMINO REAL FOODS INC. DBA CAMINO REAL KITCHEN, 16-R4D1-  
1189 AND 1190  
CAMPBELL DRY INC DBA PEGASUS REFINISHING, 16-R6D7-1159  
THROUGH 1161  
CENTRAL PRO TILE, 16-R2D5-K0318  
CITY OF STOCKTON MUNICIPAL UTILITY DIST., 16-R7D1-1939  
THROUGH 1943  
COMMERCIAL SCAFFOLDING OF CALIFORNIA, INC., 16-R2D3-1128  
CROWN NURSERY LLC, 16-R2D3-2102 THROUGH 2105  
DELTA AIR LINES, INC., 16-R4D1-0939  
DOUBLE "D" DAIRY, LLC, 15-R2D5-1389  
ECOPET PLASTICS, INC., 14-R4D4-4125 AND 4126  
ENCINO CONSTRUCTION INC., 16-R6D7-1325 AND 1326  
EVANS ROOFING CO., INC., 16-R3D1-0846 AND 0847  
VICTOR FERNANDEZ DBA FERNANDEZ BROTHERS, 16-R6D7-1466  
THROUGH 1468  
FIGUEROA AUTO EXPRESS, 16-R6D5-1198  
FOSTER PLANING MILL CO., 16-R6D2-0531 THROUGH 0533\*  
GRIMMIUS CATTLE COMPANY, INC., 16-R2D5-1144 AND 1145  
GOLDEN CUTTING & SEWING SUPPLIES, 15-R4D1-2918 AND 2919  
HARRIS REBAR, 15-R4D4-1200 THROUGH 1202  
ADRIAN LOPEZ INIGUEZ DBA TOP AUTO REPAIR, 16-R6D7-1156  
THROUGH 1158  
J & D HARVESTING INC., 15-R4D3-3900  
JESUS H TORRES FLC INC, 16-R4D7-1835  
K & R SERVICES, 16-R3D1-1023 THROUGH 1026  
KWAN WO IRONWORKS, INC., 14-R1D1-3424 THROUGH 3430  
LA COUNTY FIRE, 15-R4D1-1397  
LAMAR BROTHERS TIRE SERVICE, INC, 15-R1D2-4519 AND 4520  
LEGACY SPECIALTIES, INC., 15-R2D5-1126 AND 1127  
LESLIE'S POOLMART, INC., 16-R2D4-1512 AND 1513  
LOS ANGELES COUNTY DEPARTMENT OF MENTAL HEALTH,  
16-R4D3-0940  
MADSEN ROOFING & WATERPROOFING INC., 16-R2D1-1626 AND 1627  
MRC ROCK AND SAND, LLC., 15-R4D3-3895

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JATINDER AND AMANDEEP NAGRA DBA SUBWAY, #27084, 15-R4D3-3576  
NORMAN'S NURSERY, INC, 16-R2D4-0510 THROUGH 0513  
O'CONNELL LANDSCAPE MAINTENANCE, 16-R3D3-1701 AND 1702  
PACIFIC MDF PRODUCTS INCORPORATED, 15-R6D1-3858 AND 3859  
PACKAGEONE, INC., 16-R2D1-0953 AND 0954  
PLEASANTON GARBAGE SERVICE INC, 16-R6D1-1017 AND 1018  
PRESTIGE MOTORCOACH CORPORATION, 16-R3D5-1374 THROUGH 1376  
QUALITY SHUTTERS, INC., 15-R6D2-4025 THROUGH 4030\*  
RAMIREZ PALLETS INC, 16-R6D2-1975 THROUGH 1978  
RED CHAMBER CO. DBA HL FOOD SERVICE INC, 16-R4D1-1547  
THROUGH 1550  
REID PRODUCTS, INC., 16-R3D3-1286 AND 1287  
RIDGID DESIGN AND CONSTRUCTION, INC., 16-R4D3-0941  
SCOTT SHERMAN DBA SHERMAN BROTHERS CONSTRUCTION  
ROOFING, 15-R2D1-2891 AND 2892  
STAKT CONSTRUCTION CORP, 16-R6D5-1401  
SUNSWEEP DRYERS, 16-R2D1-0878 THROUGH 0880  
SUNTECH CONSULTING & ROOFING, 16-R3D3-1256 AND 1257  
TAFT ELECTRIC COMPANY, 16-R4D3-0041 AND 0042  
TULARE COUNTY AG COMMISSIONERS OFFICE, 16-R2D5-1500  
TWO TIMES TWO INCORPORATED, 16-R6D5-2211 AND 2212  
US RUBBER RECYCLING INC, 16-R3D3-1764 THROUGH 1766  
USA CORP DBA WILCOX & WILCOX, 16-R4D3-0185  
WEBER DISTRIBUTION, LLC, 16-R2D4-1918  
WEST ISLAND COTTON GROWERS, INC., 15-R2D5-1764  
X-ACT FINISH & TRIM INC, 16-R4D3-0120 AND 0121

ACTION: Member Lowry moved that the Board approve these Orders of Administrative Law Judges. Chair Carter 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 10:49am 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 10:50am.