

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION  
Held on January 21, 2015  
Sacramento, California**

**PRESENT:**

Ed Lowry, Acting Chair  
Judith Freyman, Member  
Kari Johnson, Executive Officer  
Jeff Mojcher, Chief Counsel  
Ursula Clemons, Presiding Administrative Law Judge  
Neil Robinson, Administrative Law Judge  
Aaron Jackson, Industrial Relations Counsel  
Autumn Gonzalez, Industrial Relations Counsel  
Judy Whitall Lee, Staff Services Manager  
Lee Berlin, Executive Secretary

Chair Carter was unable to attend the meeting and on January 20, 2015, designated Member Lowry as Acting Chair.

**MINUTES OF JANUARY 7, 2015 MEETING:**

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

ACTION: Member Freyman moved that the Board approve the draft minutes of the January 7, 2015 Board meeting. Member Lowry seconded. The Board voted to approve the draft minutes of the January 7, 2015 Board meeting.

**ADMINISTRATIVE MATTERS:**

*(Information and discussion regarding the general administration of cases pending before the Appeals Board)*

**APPEAL VOLUME REPORT:**

ACTION: The Board reviewed the report for calendar year 2014 and noted that the Board logged 289 more docketed appeals in 2014 than in 2013.

**EXPEDITED PROCEEDINGS:**

ACTION: The Board also reviewed the year-end report of expedited cases and requested some changes to the report to clarify the abatement timeframes. The report is posted to the website each month.

**HEARING CALENDAR REPORT:**

ACTION: Year-end hearing statistics were presented for the 13-month period from December 2013 to December 2014. The report also shows the locations of hearings scheduled and held.

**NEW BUSINESS:**

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

**CALENDARING EFFICIENCY PROJECT:**

**ACTION:** The Board is considering a new procedure that could reduce the number of cases placed on the hearing calendar. The Board plans to discuss the project at a future meeting and will inform stakeholders of the date so they may provide input and insight as the project develops.

**OLD BUSINESS:**

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

**MANDATORY SETTLEMENT CONFERENCE PILOT PROJECT:**

**ACTION:** SSM1 Whitall-Lee reported that final hearings for this project are scheduled this month and next. A more complete analysis of the project from start to finish will be presented after the data is compiled.

**OASIS PROJECT:**

**ACTION:** Business Lead Neil Robinson visited two stakeholder groups this month and reported that his OASIS presentation was well received. He has another presentation to a stakeholder group scheduled for next month.

The FSR document is closer to completion because we now have more information about the costs of data storage for OASIS. In the meantime, the OASIS in-house team is rewriting business requirements to clarify what is needed for the system. When the requirements are finalized, the team will begin mapping how work will flow through the OASIS system and to the appropriate employees.

**REGULATIONS:**

**ACTION:** This week the Board will distribute a memo and information about proposed regulations to stakeholders, inviting them to join a discussion at the next meeting of the Board on February 4.

**LEGISLATION:**

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

**ACTION:** No report

**CHAIRPERSON'S REPORT:**

*(Chair's report of activities and issues affecting the Appeals Board.)*

**ACTION:** No report.

**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)*

ACTION: The Board will have an opening for a receptionist at the end of the month.

**STAFF REPORTS:**

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

ACTION: Counsel Mojcher journeyed to Hanford last week for a hearing in Kings County.

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 the discussion of each agenda item of the Open Meeting.)*

ACTION: No report.

The Board recessed to its Closed Session.

**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

DISNEYLAND RESORT, 13-R3D1-1131 AND 1132

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

**PETITIONS FOR RECONSIDERATION:**

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

**MATTERS INVOLVING LATE APPEALS:**

*(These are matters such as orders dismissing appeal, orders granting leave to file late appeal and orders denying leave to file late appeal)*

SAFEWAY, INC., 14-R2D4-4200

ACTION: Member Freyman moved that the Board approve this Order Granting Leave to File Late Appeal of an Administrative Law Judge. Member Lowry seconded. The Board voted to approve this Order Granting 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 TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895 (ER)  
A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895  
(DOSH)

B.A.R.T., 11-R2D2-3137 THROUGH 3139 (ER)

B.A.R.T., 11-R2D2-3137 THROUGH 3139 (DOSH)

BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1218 THROUGH 1221  
(DOSH)

RANDALL JOHN BILLINGTON, 2014-R3D3-9170

CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038

HARRIS CONSTRUCTION, 03-R2D5-3914

ACTION: The Board discussed this matter.

HHS CONSTRUCTION, 12-R3D2-0492-0497

ACTION: The Board discussed this matter.

LANGER FARMS, LLC, 13-R4D7-231 THROUGH 0233

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

MARIA DE LOS ANGELES COLUNGA DBA MERCED FARM LABOR,  
08-R2D1-3093 THROUGH 3098

McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406

McCARTHY BUILDING CO., INC., 12-R1D4-3458

ACTION: The Board discussed this matter.

NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186

ACTION: The Board discussed this matter.

ORANGE COUNTY SANITATION DISTRICT, 2013-R3D1-0287

ROEBBELEN CONTRACTING, INC., 12-R2D2-3248

ACTION: The Board discussed this matter.

SIERRA FOREST PRODUCTS, 09-R2D5-3979

TREASURE ISLAND MEDIA, INC., 10-R6D1-1093 THROUGH 1095

VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674

**LEGISLATION:**

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

Minutes of the Public Meeting and Closed Session

JANUARY 21, 2015

Page 5

**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.)*

1. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)  
ACTION: The Board discussed this matter.
2. MASCON, INC., 34-2011-80000819 (08-R2D1-4278 AND 4279)
3. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
4. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
5. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
6. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
7. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
8. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219  
AND 0220)
9. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
10. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258  
(05-R2D4-2650 AND 2651)
11. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
12. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
13. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
14. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
15. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
16. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-  
R4D5-0459 & 0460)
17. HOME DEPOT USA, INC., BS141301 (10-3284)
18. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)

19. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)
20. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
21. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)  
ACTION: The Board discussed this matter.
22. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
23. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
24. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
25. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
26. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056 THROUGH 3058) (DOSH)
27. LAND O'LAKES PURINA FEED, LLC, RG14715717 (08-R2D4-1843 AND 1844) (DOSH)
28. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH 3058) (3<sup>rd</sup> Party)
29. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
30. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
31. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
32. BHC FREMONT HOSPITAL INC, RG13731145 (13-R1D2-0204)
33. IRWIN INDUSTRIES, BS14-9634 (12-R4D3-3276 & 3277)
34. TL PAVLICH CONSTRUCTION, INC., BS14-9660 (11-R3D6-1303 THROUGH 1310)
35. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)
36. MORROW MEADOWS CORP., BS151385 (09-R3D3-2295)

37. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)

**APPELLATE COURT:**

1. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, C075477, 34- 2011-80000640 (08-R2D1-0027 THROUGH 0030)
2. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
3. AC TRANSIT, A142799, RG13-687314 (08-R1D4-0135)
4. THYSSENKRUPP ELEVATOR CORPORATION, C077115, 34-2013-80001456 (11-R2D1-2217 ~ 2219)

**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.)*

99 CENTS ONLY STORE, 14-R4D1-2496 AND 2497  
ABERCROMBIE & FITCH STORES INC., 14-R3D1-2248 THROUGH 2251  
ACM MACHINING INC., 14-R2D1-1892 THROUGH 1894  
ADVANCED EROSION SERVICES CORP., 14-R3D3-3765 THROUGH 3768  
ARTISIC WELDING, INC., 14-R6D2-3604 THROUGH 3612 \*  
BAGHOUSE & INDUSTRIAL SHEET METAL SERVICES, INC., 14-R3D5-3883  
RICHARD BROWN DBA RB FIBERGLASS PRODUCTS, 14-R3D5-3437  
THROUGH 3438  
CASS CONSTRUCTION, INC., 14-R4D4-0595  
CEMEX CONSTRUCTION MATERIALS PACIFIC LLC., 14-R5D3-3045  
CITY OF HOPE NATIONAL MEDICAL CENTER, 14-R4D4-1542 AND  
14-R4D4-4045  
COBRA ENGINEERING INC., 14-R3D1-3569 AND 14-R3D1-4005  
THROUGH 4007  
CONSTRUCTION SPECIALTY SERVICE, INC., 13-R4D7-3310 AND 3311  
COSTCO WHOLESALE CORPORATION, 14-R4D3-2539 AND 2540  
COSTCO WHOLESALE, 13-R3D2-3415 \*  
C V WINDOWS & DOORS OF RIVERSIDE, INC., 14-R3D3-1651  
DAIRY FARMERS OF AMERICA, 14-R4D3-1003 AND 1004  
FEDERAL EXPRESS CORPORATION, 14-R4D1-3723  
FOSTER POULTRY FARMS DBA FOSTER FARMS CORPORATION,  
14-R2D4-0638 THROUGH 0640  
GOLDEN STATE LLC DBA AMAZON FULFILLMENT, 14-R3D3-3102  
THROUGH 3104

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

Minutes of the Public Meeting and Closed Session

JANUARY 21, 2015

Page 8

GREEN ELEMENT LLC DBA TRIPLE 7 REALTY, INC., 13-R2D2-2320  
AND 2321  
INTERLINE BRANDS, 14-R3D3-3579 THROUGH 3581  
STEPHEN KOCH DBA K M VINEYARD SERVICES, 14-R1D4-4008  
LATHAM POOL PRODUCTS INC., 14-R2D1-3925 AND 3926  
LFP VIDEO GROUP LLC., 14-R3D1-2194 THROUGH 2195  
LOS ALAMITOS FISH CO DBA THE ORIGINAL FISH CO., 14-R3D1-1418  
THROUGH 1420  
MARINA LANDSCAPE INC., 14-R3D1-3624  
MARTIN BATTRUD INC., DBA BAXSTRA, 14-R6D2-3473 THROUGH 3481  
MERCED UNITED SHEET METAL INC., 14-R2D4-0697 AND 0699  
MILLWORK CONCEPTS INC., 14-R3D3-3935  
NAKASH ENTERPRISES DBA SHELL GAS STATION, 14-R2D1-2140 AND 2141  
OLD RANCH CONSTRUCTION, 14-R4D7-1476  
PACWEST SECURITY SERVICES, 14-R3D5-2958  
PARKHOUSE TIRE, INC., 14-R3D5-2870  
PERFORMANCE HEALTH MEDICAL GROUP, INC., 14-R3D1-2040  
PROJECT SURVIVAL, 13-R2D5-1634  
REPET INC., 14-R4D4-2672 THROUGH 2674  
ROTH WOOD PRODUCTS, LTD., 14-R6D1-2733 AND 2734  
SIERRA PACIFIC INDUSTRIES, 14-R2D1-0328 THROUGH 0330  
SNUGTOP, 14-R3D5-3047 THROUGH 3049  
SONRAY SOLAR, INC. DBA SONRAY CONSTRUCTION, 14-R2D1-2333  
SOUTHLAND INDUSTRIES, INC., 14-R1D1-3547 \*  
SOWERS CONSTRUCTION, 14-R4D3-2591  
STERLING EXPRESS SERVICES, INC., 14-R3D5-2761  
THE MON-MAY COMPANY INC., 13-R4D3-3237 AND 3238  
JAKE VERBURG DBA VERBURGE & SON DAIRY, 14-R6D7-3816 AND 3817  
VISTA PAINT CORPORATION, 12-R3D1-1707 THROUGH 1719 \*  
BORIS ZAK, DDS. INC DBA SEA BREEZE DENTAL CARE, 14-R4D3-2525 AND  
14-R4D3-3193 THROUGH 3198  
ZPSCO CONTRACTORS, 14-R3D1-2211

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

**PERSONNEL:**

*(Issues regarding staff)*

ACTION: No report.

The Closed Session was adjourned at 12:28 p.m. 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 12:29 p.m.