

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION  
Held on February 4, 2015  
Sacramento, California**

**PRESENT:**

Art Carter, Chair  
Ed Lowry, Member  
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  
Mitch Seaman, California Labor Federation, AFL-CIO  
Bill Knocke, Legal Consultant  
Marti Fisher, California Chamber of Commerce  
Nicole Marquez, Worksafe  
Jeremy Smith, State Building and Construction Trades Council  
Daniel Leacox, Greenberg Traurig, LLP

**MINUTES OF JANUARY 21, 2015 MEETING:**

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

ACTION: Member Lowry moved that the Board approve the draft minutes of the January 21, 2015 Board meeting. Member Freyman seconded. The Board voted to approve the draft minutes of the January 21, 2015 Board meeting.

**ADMINISTRATIVE MATTERS:**

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

ACTION: No report.

**NEW BUSINESS:**

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

ACTION: No report.

**OLD BUSINESS:**

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

OASIS PROJECT:

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**ACTION:** Business Lead Neil Robinson reported that the local OASIS team is refining the project requirements and then will begin diagramming the workflows that will direct work through the OASIS system. The FSR is moving toward approval. Once that is approved, Rene Taylor Consulting will create the procurement document that will go out to prospective vendors.

**REGULATIONS:**

**ACTION:** The Board requires several rule changes in order to meet the demands of recent legislation and the new work processes required by the OASIS system. New rules have also been proposed to conform to best practices and to correct numbering as rules are updated. Copies of the new rules package were sent to stakeholders before the meeting and several attended the meeting specifically to discuss new regulations. There are several more lengthy steps in the rules process. The Board plans further discussion of proposed regulations at its meeting on February 18.

**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:** Chair Carter thanked members of the public for their presence at the meeting and feedback on the proposed new rule package.

**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:** No report.

**STAFF REPORTS:**

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

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:** Public comment was taken regarding the potential rulemaking changes, and the Chair allowed comment on this matter during the Board's

discussion of the Rulemaking item. The meeting was recorded and the Board requested staff to have the meeting recording transcribed. Written comments from Nicole Marquez of Worksafe were received as well.

The Board recessed to its Closed Session.

**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

COURTNEY, INC., 14-R3D1-2023

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:**

BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1221

ACTION: Member Lowry moved that the Board vote to accept the Legal Unit's recommendation to deny this Petition for Reconsideration. Member Freyman seconded. The Board voted to accept the Legal Unit's recommendation to deny this Petition for Reconsideration.

RANDALL JOHN BILLINGTON, 14-R3D3-9170

ACTION: Member Lowry moved that the Board vote to accept the Legal Unit's recommendation to grant this Petition for Reconsideration. Member Freyman seconded. The Board voted to accept the Legal Unit's recommendation to grant this Petition 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)*

AMCON DEVELOPMENT, INC., 14-R4D4-2296

ACTION: Member Lowry moved that the Board approve this Order Dismissing Appeal from an Administrative Law Judge. Member Freyman seconded. The Board voted to approve this Order Dismissing Appeal from 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  
B.A.R.T., 11-R2D2-3137 THROUGH 3139  
BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1218 THROUGH 1221  
RANDALL JOHN BILLINGTON, 2014-R3D3-9170  
CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038

HARRIS CONSTRUCTION, 03-R2D5-3914

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.

HHS CONSTRUCTION, 12-R3D2-0492-0497

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.

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

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.

McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406  
McCARTHY BUILDING CO., INC., 12-R1D4-3458  
NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186  
ORANGE COUNTY SANITATION DISTRICT, 2013-R3D1-0287  
ROEBBELEN CONTRACTING, INC., 12-R2D2-3248  
SIERRA FOREST PRODUCTS, 09-R2D5-3979  
TREASURE ISLAND MEDIA, INC., 10-R6D1-1093 THROUGH 1095  
VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674

**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.)*

1. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
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)

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

A-BAR AG ENTERPRISES, 14-R2D5-2354  
AMATEL, INC., 14-R3D5-3332  
A.M. ROCCA, INC. 14-R1D1-2570 AND 2571  
ANTAYA DEVELOPMENT, INC., 14-R3D3-3937 THROUGH 3940  
ARAMARK UNIFORM SERVICE, 12-R2D5-0890 AND 0891  
ARCHITECTURAL GLASS SYSTEMS, INC. 14-R1D3-2415  
ARGUS CONTRACTING LP, 14-R4D3-2073  
ASTRO-TEK INDUSTRIES, INC., 14-R3D1-1062 AND 1063  
B & B LAUNDRY INC., 14-R2D4-2302 THROUGH 2305  
BOSA DEVELOPMENT CALIFORNIA, INC., 14-R1D1-3445  
BUTTONWILLOW WAREHOUSE COMPANY, INC., 14-R4D7-1759 AND 1760  
CA CORRECTIONS – DEUEL VOCATIONAL INSTITUTE, 14-R2D4-2430  
CALVIN CREST CONFERENCES, 12-R2D5-0779 AND 0780  
CARGILL MEAT SOLUTIONS CORPORATION, 14-R2D5-3775  
CARSMETICS SOCIAL GROUP, LLC. DBA CARSMETICS, 14-R3D1-0447  
CREATIVE WOOD PRODUCTS, INC., 14-R1D4-4139 THROUGH 4141  
DAVID HALL MASONRY, INC., 14-R2D4-2422  
DYNAMIC AIR TECHNOLOGY, INC., 14-R6D2-3459 THROUGH 3462  
ELGORRIAGA HARVESTING INC., 14-R2D5-3873  
FLEETWASH, INC., 14-R2D1-3413  
F & S CORPORATION DBA FATHER & SON TRANSMISSION, 14-R6D5-1777  
AND 1778  
GONSALVES & SANTUCCI, INC., 14-R2D2-1350 THROUGH 1353  
GONZALEZ FOOD ENTERPRISES DBA VALLARTA SUPERMARKET,  
14-R4D3-0270 THROUGH 0272  
HALBERT CONSTRUCTION CO, INC., 14-R3D3-1472 AND 1473

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HARTMAN INDUSTRIES DBA COMMERCIAL CASTING COMPANY,  
14-R3D3-4115 THROUGH 4117  
HILBERS INC., 14-R6D7-3189 AND 3190  
HOME ENERGY SYSTEMS, 14-R3D2-2158  
JAYONE FOODS INC., 13-R6D2-3487 THROUGH 3491  
JELCO CONTAINER, INC., [PREVIOUSLY JELLO CONTAINER, INC.,]  
13-R3D1-3774 AND 3775  
JOHN BEAN TECHNOLOGIES CORP DBA JBT FOOD TECH, 13-R2D5-1632  
AND 1633  
J R C C, INC. DBA J R CONCRETE, 14-R2D1-2334 AND 2335  
JUMP OC DBA SKY ZONE, 14-R3D1-3576 THROUGH 3578  
KAISER FOUNDATION HOSPITALS, 14-R1D4-2797  
KINDNESS GENERAL CONTRACTORS, INC., 14-R4D7-1655 THROUGH 1657  
KLOECKNER METALS – FLAT ROLL DIVISION, 14-R4D4-2151  
ROBERT W. LARSEN, DPM DBA ASSOCIATES IN FOOT AND ANKLE CARE,  
14-R2D1-3616 AND 3617  
LUSIVE DÉCOR, 11-R4D2-0816 AND 0817  
LUSIVE DÉCOR, 11-R4D2-0818 AND 0819  
MACY'S CALIFORNIA, INC., 14-R3D1-2273 AND 2274  
MILLER ENVIRONMENTAL CORP, 14-R3D5-0416  
MORRIS NATIONAL INC., 14-R4D4-2876  
OLTMANS CONSTRUCTION CO., 14-R4D3-1258 AND 1259  
ONIX AUTOMOTIVE, 14-R4D4-2598  
PACIFIC CRANE MAINTENANCE COMPANY, LP., 14-R3D5-2824  
PACIFIC CRANE MAINTENANCE COMPANY, LP., 14-R3D5-3182  
PACIFIC GAS & ELECTRIC COMPANY, DBA PG&E, 14-R2D2-1040 AND 1041  
POM WONDERFUL LLC, 13-R2D5-1515 AND 1516  
PORTER BOILER SERVICE, INC., 14-R3D5-3895 THROUGH 3897  
RANCHO PICO JUNIOR HIGH SCHOOL, 14-R4D3-1322  
ROUND VALLEY RANCHES, INC., 14-R2D4-2247  
SAGARCHI ENTERPRISES, INC., 14-R1D4-1214 THROUGH 1216  
SANITATION SPECIALISTS DIV. OF AMERI-KLEEN, 14-R1D2-2154  
RUSSEL SMITH DBA AUTOMATIC TRANSMISSION OF PASO ROBLES,  
14-R6D7-1266 AND 1267  
SOUSA & SCHILBER INC, DBA ALL ABOUT KITCHENS, 14-R6D7-2985  
THROUGH 2987  
SOUTHERN CALIFORNIA BUILDERS, 14-R4D3-2148  
SOUTHERN CA SOLAR INC. DBA SOLAR ELECTRICAL SYSTEMS,  
14-R4D3-0950 AND 0951  
S'TOP HOME SERVICE ROOFING COMPANY, INC., 14-R1D1-2592 THROUGH 2594  
SUN HILLS, LLC, 14-R3D3-1732  
SUPERIOR SOURCES, INC., 14-R3D3-2088  
TESLA MOTORS INC., 14-R1D2-1562 THROUGH 1568  
THE DAVEY TREE SURGERY COMPANY, 12-R1D2-0842 THROUGH 0845  
THERMO FISHER SCIENTIFIC INC. DBA UNITY LAB SERVICES, 14-R1D3-0001  
TOLAR MANUFACTURING CO., INC., 14-R3D3-0267

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TOLAR MANUFACTURING CO., INC, 14-R3D3-3663 AND 3664  
TRANSITION PRODUCTIONS, INC., 13-R4D7-3474 THROUGH 3476  
JUAN RAMON VASQUEZ DBA JRV CONSTRUCTION, 13-R1D4-3393  
THROUGH 3396  
VEST, INC., 14-R4D1-3291 THROUGH 3293  
V & H PERFORMANCE, LLC., 13-R4D4-3193 AND 3194  
V & H PERFORMANCE, LLC., 13-R4D4-3751 AND 3752  
V & H PERFORMANCE, LLC., 14-R4D4-2082 AND 2083  
V & H PERFORMANCE, LLC., 14-R4D4-0955 AND 0956  
WAREHOUSE SHOE SALES DBA WSS, 14-R3D5-2635  
WEST COAST FOUNDRY, 14-R3D5-3391  
WESTERN PRECISION AERO, LLC., 14-R3D1-3285 THROUGH 3288  
WEST VALLEY CONSTRUCTION COMPANY INC., 13-R4D7-2510  
WINKLES ENTERPRISES INC DBA NEW LIFE PAINTING, 14-R4D3-2134

ACTION: Member Lowry moved that the Board approve these Orders of Administrative Law Judges. Member Freyman 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.