

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

**PRESENT:**

Art Carter, Chair  
Ed Lowry, Member  
Judith Freyman, Member  
Han Ha, Interim Executive Officer  
Jeff Mojcher, Chief Counsel  
Neil Robinson, Presiding Administrative Law Judge  
Aaron Jackson, Industrial Relations Counsel  
Autumn Gonzalez, Industrial Relations Counsel  
Lee Berlin, Executive Secretary

**MINUTES OF MAY 20, 2015 MEETING:**

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

ACTION: Member Lowry moved that the Board approve the draft minutes of the May 20, 2015 Board meeting. Member Freyman seconded. The Board voted to approve the draft minutes of the May 20, 2015 Board meeting.

**ADMINISTRATIVE MATTERS:**

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

ACTION: Chair Carter explained that some stakeholders have requested the Board move its meetings to Thursday mornings. The staff will research to see if any hearings are scheduled in the Board room those days, and what other events might interfere.

**NEW BUSINESS:**

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

ACTION: No report.

**OLD BUSINESS:**

OASIS PROJECT:

ACTION: Business Lead Neil Robinson reported that the Board issued an RFP for OASIS. Many vendors have responded with proposals and those will be evaluated by our OASIS working group next week. The project is currently on track with its planned schedule.

**RULEMAKING:**

**ACTION:** Counsel Autumn Gonzalez reported that the legal team met with John Cumming on the Director's staff. He provided several helpful suggestions and is continuing his review of the rulemaking package.

**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 appeared yesterday before the Senate Rules Committee as part of his confirmation process. He thanked the Board's staff for their help in his preparation for the hearing. The Committee voted unanimously to recommend the Senate to confirm his appointment.

**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:** Interim Executive Officer Han Ha reported that interviews for the Staff Services Manager I position will be scheduled for mid-June.

Posting of the Hearing Officer I position was extended for two additional weeks. Interviews for the position are expected for mid-July. The Board discussed the possibility of reclassifying the position from Hearing Officer to Administrative Law Judge. PALJ Robinson said he would research the steps required to accomplish the reclassification.

**STAFF REPORTS:**

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

**ACTION:** Chief Counsel Mojcher reported that he will represent the Board at two hearings scheduled next month. He explained that another matter under litigation has been settled by the parties.

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:**

OLDCASTLE PRECAST, INC., 13-R3D3-0583

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:**

ALCAUTER INC, DBA HEMET AUTO SPA & DETAIL, 15-R3D3-9057

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.

BENCHMARK CONTRACTORS, INC., 14-R4D1-1048

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.

CYBERNET ENTERTAINMENT, LLC DBA KINK.COM, 14-R6D1-0364  
THROUGH 0367

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.

NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391

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.

PAUL DAVIS RESTORATION, 14-R3D2-3848 THROUGH 3489

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.

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SKYLINE HOMES, INC., 15-R3D3-9035

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.

TRI-STATE STAFFING, 12-R6D2-0378

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):**

PDM STEEL SERVICE CENTERS, INC., 13-R1D3-2446 THROUGH 2448

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.

ROBERT ONWELLER dba PACIFIC HAULING AND DEMOLITION, 14-R1D3-1087  
AND 1088

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 AFTER REMAND:**

**ORDERS DISMISSING APPEAL:**

**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)*

**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:**

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

RANDALL JOHN BILLINGTON, 2014-R3D3-9170

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.

CHEVRON U.S.A. INC., 13-R6D3-0655 THROUGH 0662  
CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038  
ECHO ALPHA INC. ET AL, 14-R3D1-0802 THROUGH 0804  
L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822  
McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406  
McCARTHY BUILDING CO., INC., 12-R1D4-3458  
GONZALO OLASCOAGA DBA GONZALO OLASCOAGA, 13-R6D5-2097 AND 2098  
SIERRA FOREST PRODUCTS, 09-R2D5-3979

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

ACTION: The Board discussed this matter.

HERMAN WEISSKER, INC., 13-R3D1-3279

**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. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
3. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
4. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)

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5. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
6. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
7. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
8. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
9. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
10. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
11. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
12. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
13. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
14. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
15. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
16. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
17. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
18. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)  
ACTION: The Board discussed this matter.
19. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
20. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
21. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
22. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
23. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056 THROUGH 3058) (DOSH)

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24. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH 3058) (3<sup>rd</sup> Party)
25. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
26. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
27. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
28. IRWIN INDUSTRIES, BS14-9634 (12-R4D3-3276 & 3277)
29. TL PAVLICH CONSTRUCTION, INC., BS14-9660 (11-R3D6-1303 THROUGH 1310)
30. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)
31. MORROW MEADOWS CORP., BS151385 (09-R3D3-2295)
32. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)
33. KEY ENERGY SERVICES, INC., S-1500-CV-283958, EB (13-R4D3-2239 ~ 2242)
34. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL (14-R3D2-1935 & 1936)
35. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)

**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.)*

ACLA LLC, 15-R4D1-0179 AND 0180  
AGRX, 14-R4D3-4152  
BARNARD IMPREGILO HEALY JV, 14-R5D1-2311  
BARNARD IMPREGILO HEALY JV, 14-R5D1-3371  
BSA FRAMING, INC., 14-R3D3-1177  
REBECCA BAUTISTA & MARCO A CUEVA DBA REMAC TIRE SERVICE,  
14-R3D2-2691 THROUGH 2693  
BUCKLE INC., 15-R2D1-1207  
CALIFORNIA WEST COMMUNITIES, 13-R3D2-3950  
CHAVEZ FARM LABOR CONTRACTOR, INC, 14-R2D1-0226  
CHILDREN'S HOSPITAL & RESEARCH INSTITUTE AT OAKLAND, 15-R1D4-0297  
CIRCLE M CONTRACTORS INC., 13-R3D2-3545  
COMSTOCK SIGN COMPANY, 15-R4D7-0279 AND 0280  
CROWN EQUIPMENT CORP DBA CROWN LIFT TRUCKS, 14-R2D1-2208  
MARK DEWSNUP INDIVIDUAL DBA MARK DEWSNUP, 12-R2D3-0912 AND 0913  
DIAMOND RESORT MANAGEMENT, INC., 14-R2D1-3132  
DOLE BARRY COMPANY, 14-R6D4-1560  
DON AND SUSAN HORNOR FARMS, 15-R2D5-0624 AND 0625  
RIGOBERTO GUTIERREZ ESPARZA DBA A&R AUTO REPAIR, 15-R6D5-0288  
AND 0289  
EVERGREEN PACKAGING DBA EVERGREEN BEVERAGE PACKAGING,  
14-R2D4-3594  
FEGHALI FOODS DBA LITTLE CAESAR'S , 15-R4D7-0257  
FORMATION CREATION INC., 14-R6D2-3790 THROUGH 3793  
GM CONSTRUCTION AND DEVELOPERS, INC., 14-R2D1-1959  
GRID ALTERNATIVES, 15-R1D4-0480 AND 0481  
HDB LTD, LP [MATRIX SERCICE, INC.], 14-R4D7-4231 AND 4232  
HOLT OF CALIFORNIA, 14-R2D1-2271  
J&A FOOD SERVICE, INC, DBA BURGER KING, 15-R2D3-0726  
LOS ANGELES COUNTY OLIVE VIEW UCLA MEDICAL CENTER,  
14-R4D3-3520 THROUGH 3531  
LOVIN OVEN LLC, 14-R4D4-3586  
RICHARD LUDLAM DBA GLASS ACT PROFESSIONAL WINDOW CLEANING,  
14-R2D1-3698 THROUGH 3670  
MC RADIATORS & WELDING, INC., 15-R6D7-0290  
MICHELS CORPORATION DBA MICHELS POWER, 14-R3D2-0401  
MORALES WATERPROOFING, 15-R4D1-0115 AND 0116 \*  
MOTHER LODE PLASTICS MOLDING, INC. DBA CENTRAL PLASTICS &  
MANUFACTURING, 14-R2D4-3551 AND 3552  
NATIONAL EWP, INC., 14-R4D3-1642

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PACIFIC BELL TELEPHONE CO DBA AT&T CALIFORNIA, 15-R3D2-0024  
PALISADES CONSTRUCTION, 14-R4D1-2873 AND 2874  
PATAGONIA TRADING CO. INC., 14-R6D2-2840 THROUGH 2845  
PPPL FARM LABOR INC., 14-R2D5-3842 AND 3843  
PRO DRYWALL SYSTEMS, INC., 13-R2D5-3315  
PT WELDING, INC., 13-R2D1-2876  
RAGO AND SON, INC., 15-R1D4-0355 THROUGH 0357  
REED MANUFACTURING INC. DBA AMERICAN CASTING CO.,  
15-R6D1-0432 AND 0433  
RIKA CORP. DBA DIVERSIFIED METALWORKS, 14-R4D3-3421  
DAVID RODRIGUEZ DBA DAVID'S AUTOMOTIVE, 13-R1D2-3397  
THROUGH 3399  
SAN JOAQUIN LUMBER CO., 15-R2D4-0138  
SELECT STAFFING, 14-R4D1-2638  
SENIOR AEROSPACE SSP, 15-R4D3-0089 THROUGH 0091  
SERRES CORPORATION, 15-R1D5-0852 AND 0853  
S.M.S. BRINERS, INC., 14-R2D4-2946 AND 2947  
SOLUS INDUSTRIAL INNOVATIONS, LLC., 09-R3D1-3362 THROUGH 3367  
STATE OF CA CDCR NORTH KERN STATE PRISON, 13-R4D7-2983 AND 2984  
TESORO REFINING AND MARKETING COMPANY, 15-R6D3-0451 THROUGH 0455  
THE PORTICO COLLECTION DBA JESSIE UPHOLSTERY, 15-R6D2-0505  
THROUGH 0508  
THE SUN VALLEY GROUP, INC., 13-R2D1-2653 THROUGH 2656  
TRANSPower TESTING INC., 14-R3D2-0782 THROUGH 0785  
USF REDDAWAY DBA REDDAWAY, 12-R3D3-3257 AND 3258  
VENCO POWER SWEEPING, INC., 14-R4D3-4219 AND 4220  
WESTERN JET AVIATION, INC., 14-R4D3-2439  
WISE LIVING, INC., 14-R4D1-1985

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 11:54 a.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 11:55 a.m.