

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION  
Held on March 17, 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  
Aaron Jackson, Industrial Relations Counsel  
Lee Berlin, Staff Services Manager  
Janis Jonas, Management Services Technician  
Andia Farzaneh, Graduate Student Assistant

Chair Carter opened the Board meeting at 9:30am and at approximately 10:30am Chair Carter left the meeting due to illness. Member Lowry continued conducting the meeting.

**MINUTES OF March 3 , 2016 MEETING:**

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

ACTION: Member Lowry moved that the Board approve the draft minutes of the March 3, 2016 Board meeting as amended. Member Freyman seconded. The Board voted to approve the draft minutes of the March 3, 2016 Board meeting as amended.

**ADMINISTRATIVE MATTERS:**

ACTION: Conflicts with future Board Meeting dates were discussed. Several meeting dates were changed and a new calendar will be distributed and posted.

**NEW BUSINESS:**

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

ACTION: There was discussion about modifying the wording of future minutes of Board Meetings. This discussion will be continued at the next Board 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: There was a brief discussion about a new Legislation list.

**CHAIRPERSON'S REPORT:**

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

ACTION: Chair Carter thanked all involved with the OASIS Orientation held March 10, 2016 at the Sacramento Cal/OSHA Appeals Board office. Chair Carter expressed how well done the meeting was and thought that everyone involved were well prepared.

**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: Ms. Berlin reported that the office is accepting applications for a new Office Assistant. This person will assist with answering the telephones, docketing new appeals and help with the transition to the OASIS program.

Executive Director Han Ha has extended her leave of absence by at least a couple of weeks, possibly until May 1, 2016.

**STAFF REPORTS:**

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

RUGULATIONS UPDATE:

ACTION: Counsel Gonzalez reported on public comments made to the proposed regulations. The Board moved to adopt the proposed regulations

and send them to OAL for review with non-substantive changes made to Z-2015-1229-05 and Z-2015-1229-03.

**OASIS PROJECT:**

**ACTION:** Judge Robinson outlined the judges' training to be held March 21 through March 24, 2016. A large portion of the training will be on the OASIS system. The Board requested that Judge Robinson report back to the Board the outcome of the judges' training highlighting any issues that arise especially in regards to the Board.

There will be an OASIS orientation held in West Covina on March 25, 2016. This orientation is open to invited stakeholders.

**LITIGATION UPDATE:**

**ACTION:** Chief Counsel Mojcher reported that petitioner's opening brief in the Blue Diamond writ matter is due early the week of March 21, 2016

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:**

**GATEWAY PACIFIC CONTRACTORS INC, 10-R2D3-1502 THROUGH 1508**

**ACTION:** Counsel Gonzalez recused herself from this discussion. After discussion Member Freyman moved that there were no changes needed to this Decision. Member Lowry seconded. The Board voted there were no changes needed to the Decision for Gateway Pacific Contractors Inc.

**PETITIONS FOR RECONSIDERATION:**

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

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

SOLARCITY CORP., 14-R3D2-3707

ACTION: This matter was discussed.

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

KNIGHT TRANSPORTATION PORT SVC., LLC, 15-R3D5-9225

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

LOUIS TANGALASKIS dba ELIAS CONSTRUCTION, 15-R4D1-9236

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

**ORDERS DISMISSING APPEAL:**

JUAN CARLOS MORONES AND GABINO A. MORONES DBA AV AUTO  
BODY, 15-R6D5-3737 THROUGH 3739

LAMSON ELECTRIC, 15-R4D4-4589 THROUGH 4591

S.V. GENERAL CONTRACTORS, INC., 15-R4D3-3530 THROUGH 3532

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

**ORDER DENYING LEAVE TO FILE LATE APPEAL**

CEMEX, INC., 16-R5D1-9033

ACTION: Member Freyman moved that the Board approve this Order Denying Leave to File Late Appeal of an Administrative Law Judge.

Member Lowry 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.)*

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

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

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

CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999

CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364

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

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

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

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

MASTER CARE WINDOW WASHING, 15-R1D4-9230

MDB MANAGEMENT INC., 14-R4D1-2373 AND 2374

ACTION: The Board discussed this matter.

MORROW-MEADOWS CORP., 12-R4D1-0717 THROUGH 0719

OC COMMUNICATIONS, 14-R2D2-0120, 0166 and 0340

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

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

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. 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)
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)

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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. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)
22. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL  
(14-R3D2-1935 & 1936)
23. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)
24. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR,  
15CV-00945 (08-R2D1-3093 ~ 3098)
25. STANISLAUS FOOD PRODUCTS CO., 34-2015-80002087 (13-R2D4-0572 ~ 0574)
26. OLDCASTLE PRECAST, INC., 34-2015-80002167 (13-R3D3-0583)
27. SHIMMICK CONSTRUCTION CO., INC./OBAYASHI CORP., 34-2015-80002204  
(12-R3D1-0781)
28. CHARLES PANKOW BUILDERS, LTD., 34-2015-8000221 (13-R4D1-1759)
29. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
30. TRI STATE STAFFING, 12-R6D2-0378
31. CHEVRON U.S.A., N15-2013 (13-R6D3-0655 THROUGH 0662)
32. T & R CONSTRUCTION GROUP, BS159712 (14-R4D3-4120 & 4121)

33. 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.)*

AG MILLWORKS, 15-R6D2-1604 THROUGH 1613\*  
AL'S FURNITURE DESIGN, INC., 16-R3D5-0176 THROUGH 0178  
AMERICAN BUILDING SUPPLY INC, 15-R6D2-3953 THROUGH 3956  
AMERI-KLEEN INC DBA SANITATION SPECISLISTS,  
15-R4D3-2875 THROUGH 2877  
ANDREW CHEKENE ENTERPRISES INC DBA A.C. ENTERPRISES,  
15-R1D4- 0001 AND 0002  
ANGELES BLOCK COMPANY, 14-R3D1-3647 AND 3648  
ARAKELIAN ENTERPRISES INC DBA ATHENS SERIVCES,  
15-R4D3-2400 AND 2401  
BARRY'S WINDOW CLEANING, 15-R3D2-0869 AND 0870  
BEMUS LANDSCAPE, INC., 15-R3D1-2258  
BERMINGHAM CONTROLS INC., 15-R3D5-3440  
BETHLEHEM CONSTRUCTION INCORPORATED, 15-R4D7-4802  
BETTINA FLORES DE CURIEL DBA JANNAI JEANS, 15-R6D5-4272 AND 4273  
CA DEPT OF CORRECTIONS & REHABILITATION, 15-R2D4-3881  
THROUGH 3883\*  
CAPISTRANO UNIFIED SCHOOL DISTRICT, 15-R3D1-2985  
CA TRANSPORTATION, DISTRICT 6, 15-R4D7-1345  
CBC FRAMING INC., 15-R4D3-2920  
CHAMPION SCAFFOLD SERVICES, INC., 14-R1D4-4206  
CITY AND COUNTY OF SAN FRANCISCO PUC, 16-R1D1-0088

CLASSIC SALADS LLC, 15-R1D2-3715 AND 3716\*  
COBE CONSTRUCTION INC., 15-R1D2-2786  
COINER NURSERY, 15-R6D2-2284 THROUGH 2286\*  
CONDOR CONSTRUCTION, INC., 15-R1D1-0819 AND 0820  
CRICKET INC DBA HENSLEY'S AUTO, 15-R6D7-3184  
CUSTOM FABRICATED METALS LLC, 15-R6D2-3641 THROUGH 3643  
DECKERS BRANDS, 15-R4D3-3536  
DEL MONTE FOODS, INC., 15-R2D4-0040  
DISTRIBUTION ALTERNATIVES INC, 15-R3D3-4794 AND 4795  
DL FARM MANAGEMENT, 16-R4D3-0388\*  
E & J GALLO WINERY, 15-R2D5-0740 THROUGH 0742  
EXPRESS EMPLOYMENT PROFESSIONALS, 15-R6D1-1821  
FABRICATION CONCEPTS CORPORATION DBA FABCON,  
15-R3D1-3566 AND 3567  
GALLEGOS PLASTERING COMPANY, INC., 15-R3D2-2146  
GEORGE LITTLE INVESTMENTS, INC DBA COLLEGE OAK TOWING,  
15-R2D1-3466  
GIUMARRA VINEYARDS CORPORATION, 15-R4D7-0594 THROUGH 0595  
GOLDEN STATE BORING & PIPE JACKING INC., 15-R5D2-2927  
GOLDEN WEST MACHINE, INC., 15-R4D4-3736  
HALL MANAGEMENT, CORP., 15-R2D5-4214  
HCS TRANSPROTATION INC, 15-R3D3-3097  
HEARTLAND STEEL PRODUCTS WEST, LLC DBA SPACERACK DBA  
HSPW DBA HEARTLAND, 15-R6D1-1707  
HEARTLAND STEEL PRODUCTS WEST, LLC DBA SPACERACK DBA  
HSPW DBA HEARTLAND, 15-R6D1-1708  
H&E EQUIPMENT SERVICES, INC., 14-R4D1-2767  
HENSEL PHELPS, 15-R3D2-2232  
HERBERT ALLEN KELLY DBA KELLY ROOFING COMPANY,  
15-R2D1-2171 AND 2172  
HILL CRANE SERVICES INC, 15-R3D3-3096  
H.L. FOODSERVICE, INC., 15-R3D1-2649  
IMT PRECISION, INC., 15-R1D4-3483 THROUGH 3488  
INCOTEC INTEGRATED COATING AND SEED TECHNOLOGY INC.,  
16-R6D1-0031 AND 0032  
INTERACTIVE MARKETING SERVICES, INC. DBA BROADBAND  
INTERACTIVE, INC., 16-R4D7-0043 AND 0044  
INTER GLOBAL LOGISTICS, INC., 15-R1D4-4182 THROUGH 4185  
JADA, INC. DBA SIERRA WOODS, successor in interest to SIERRA  
WOODS, INC., 15-R6D1-4198  
JALLOS FOOD ENTERPRISES INC DBA VALLARTA SUPERMARKETS, #35,  
15-R4D3-3106  
J. RODRIGUEZ FARM LABOR CONTRACTOR INC., 16-R2D4-0271  
KNIGHT FARMS, 15-R2D3-4627 AND 4628  
MANHOLE BUILDERS INCORPORATED, 15-R6D2-0304

MB LANDSCAPING & NURSERY INC, 15-R3D5-4411  
MCKUIN PIPELINE INC, 15-R1D5-4084 AND 4085  
M G SIMMS PAINTING AND DECORATING, 16-R1D5-0213 AND 0214\*  
MOTIVE SYSTEMS ENGINEERING CORP DBA STROPPINI ENTERPRISES,  
15-R2D1-4623 AND 4624  
NEPTUNE SPEED, 15-R3D1-2831  
NET DEVELOPMENT COMPANY, 15-R3D1-2260  
NEW INDY OXNARD, LLC, 14-R4D3-3969 AND 3970  
NORTH COUNTY SAND AND GRAVEL, INC., 15-R3D3-2179  
NORTHGATE GONZALEZ, LLC DBA NORTHGATE MARKET #12,  
15-R3D5-3493 THROUGH 3495  
O'CONNELL LANDSCAPE MAINTENANCE, INC., 15-R3D1-4549  
OXNARD PRECISION FABRICATION, INC., 15-R4D3-2439 AND 2440  
PADILLA CONSTRUCTION COMPANY DBA GARRIS PLASTERING,  
15-R3D1-3428 AND 3429  
PASADENA CONCRETWORKS, INC., 16-R6D5-0204 AND 0205  
PCL CONSTRUCTION SERVICES, INC., DBA PCL CONSTRUCTION,  
15-R4D4-1399  
PELCO BY SCHNEIDER ELECTRIC DBA SCHNEIDER ELECTRIC,  
16-R2D5-0164 AND 0165  
PEREZ PLASTERING DESIGN, INC., 15-R4D3-3659 AND 3660  
PETERSON SHEET METAL, INC., 15-R6D1-3749 AND 3750  
PHX MANAGEMENT, INC., 15-R3D2-4702 THROUGH 4706  
QUALITY FABRICATION INC., 15-R6D2-4436 THROUGH 4443  
RACK OF GIBRALTAR DBA ATB MATERIAL HANDLING,  
15-R3D1-3360 AND 3361  
R D FABRICATORS INC, 15-R6D2-3613 THROUGH 3616  
REN LEI CONSTRUCTION CO INC., 15-R1D1-2115 THROUGH 2125  
ROBERT BRKICH CONSTRUCTION CORP., 15-R4D3-2921  
RYAN ENGINEERING INCORPORATED, 15-R1D1-1235  
SAMBRAILO PACKAGING, 15-R1D2-4074 THROUGH 4079  
SAPUTO CHEESE USA INC, 15-R2D4-0660 THROUGH 0662  
SCL GROUP INC DBA CENTURY WINDOW CLEANING, 15-R1D4-4777  
AND 4778  
SECURITAS SECURITY SERVICES USA, INC., 15-R3D5-4647\*  
SOCAL WASTE INC, 15-R4D3-2962  
SOUTHERN CALIFORNIA EDISON COMPANY, 15-R3D3-1784  
SRS DISTRIBUTION DBA ROOFLINE SUPPLY & DELIVERY, 16-R2D3-0267  
STERLING REALTY, 15-R1D4-4275 AND 4276  
SUNDANCE NATURAL FOODS CO. DBA SUNDANCE ORGANICS, 15-R3D2-  
1960 AND 1961  
SUN PACIFIC FARMING COOPERATIVE, INC., 15-R2D5-2774 AND 2775  
TARANTINO LANDSCAPE, INC., 15-R3D1-2899 THROUGH 2902  
THE BUMPER SHOP INC, 15-R3D5-4648 AND 4649  
THRIFTY PAYLESS DBA RITE AID, 15-R4D3-2961

TIM RAZZARI MOTORS, INC. DBA RAZZARI FORD & MAZADA,  
14-R2D4-4109  
TJN CONSTRUCTION, INC., 15-R4D3-2712 AND 2713  
TOTAL EQUIPMENT INC, 15-R3D5-2573\*  
TRENCH FREE INC., 16-R1D2-0089  
T-REX TRUCK PRODUCTS INC DBA T-REX GRILLES, 16-R3D3-0445  
TURNER CONSTRUCTION COMPANY DBA TURNER CONSTRUCTION,  
15-R3D2-0867 AND 0868  
UNITED PARCEL SERVICE, INC., 14-R4D3-3863  
UNIVERSITY OF REDLANDS, 15-R3D3-4734  
VINOTEMP INTERNATIONAL CORPORATION, 15-R6D2-3537  
THROUGH 3541  
WESTERLAY ORCHIDS, LP., 16-R6D2-0127 AND 0128  
WESTERN PROPANE SERVICES INC, 15-R3D1-4403  
WESTERN TREE NURSERY, INC., 15-R6D1-4118 THROUGH 4120

ACTION: ACTION: Member Freyman moved that the Board approve these Orders of Administrative Law Judges. Member Lowry 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 11:26am 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 11:27am.