

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION  
Held on May 26, 2016  
Sacramento, California**

**PRESENT:**

Ed Lowry, Member  
Judith Freyman, Member  
Han Ha, Interim Executive Officer  
Jeff Mojcher, Chief Counsel  
Ursula Clemons, Presiding Administrative Law Judge  
Aaron Jackson, Industrial Relations Counsel  
Lee Berlin, Staff Services Manager  
Janis Jonas, Management Services Technician  
Andia Farzaneh, Graduate Student Assistant

NOTE: Member Ed Lowry is acting Chairperson for today's Board meeting as Chair Art Carter is on vacation through June 6, 2016. Attached to these minutes is an authorization signed by Chair Carter delegating Member Lowry as chairperson of the Board from May 16, 2016 through June 6, 2016.

**MINUTES OF May 12, 2016 MEETING:**

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

ACTION: Member Lowry moved that the Board approve the draft minutes of the May 12, 2016 Board meeting as amended. Member Freyman seconded. The Board voted to approve the draft minutes of the May 12, 2016 Board meeting as amended.

**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.)*

ACTION: No report.

**LEGISLATION:**

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

ACTION: No report.

**CHAIRPERSON'S REPORT:**

*(Hear report from the Chairperson on 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: Member Freyman reported that she had filed her answers to the Senate Rules Committee questions. She is now awaiting meetings to be scheduled with staff and Senators from the Labor Agency and Governor's offices.

**EXECUTIVE OFFICER'S REPORT:**

*(Report regarding administrative matters)*

OPERATIONS UPDATE:

ACTION: Executive Director Han announced the Appeals Board had made two job offers for two Office Assistant positions. One person is schedule to begin work Monday June 6, 2016 and the other will start Tuesday June 7, 2016.

**STAFF REPORTS:**

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

OASIS PROJECT:

ACTION: Staff Services Manager, Lee Berlin, reported that the Board held training on the OASIS program for external users. Several Stakeholders volunteered to participate in the testing exercise which was held in Oakland. She reported that everyone had positive comments about the new system and seemed excited for its implementation.

LITIGATION UPDATE:

ACTION: Chief Counsel, Jeff Mojcher, reported that two new writs have been filed. The two companies are SolarCity and Burtech.

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: NO REPORT

The Board recessed to its closed session.

**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

EVANS BROTHERS INC, 15-R5D1-0182

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:**

*(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.)*

A TO Z TREE NURSERY, INC. dba A TO Z SPECIMEN TREE MOVERS,  
15-R6D1-2277 ~ 2279

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 and reinstate the appeal.

BIG Q AUTO REPAIR LLC, 16-R6D5-9060

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

JD MILLER CONSTUCTION, INC. dba M & M FRAMING, 16-R4D4-9058

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 and reinstate the appeal.

UPS GROUND FREIGHT, INC. dba UPS FREIGHT, 16-R1D2-9043

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

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

ISM VUZEM USA INC., 16-R1D2-9047

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

PAN-PACIFIC PLUMBING CO., 14-R3D3-1020 THROUGH 1022

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

**ORDERS DISMISSING APPEAL:**

BEAR CREEK PARTNERS LLC DBA BEAR CREEK GOLF CLUB, 15-R3D3-0396 AND 0397  
GIBRALTAR PARTNERSHIP LP, 15-R3D2-4782 THROUGH 4785  
OVERHILL FARMS, 15-R6D4-4501 AND 4502

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**

ALISAM HANPORT OPERATING INC DBA WATERDROPS EXPRESS  
CAR WASH, 16-R6D5-9087  
VINCENT CONSTRUCTION INC., 16-R3D1-9086

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.)*

ATKINSON CONSTRUCTION, LP, 14-R3D1-4111  
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

FEDEX FREIGHT, INC., 14-R2D1-0144

ACTION: Board discussed this matter.

FIRST PRIORITY DESIGN & CONSTRUCTION, 16-R3D5-9073  
GATEWAY PACIFIC CONTRACTORS, INC., 10-R2D3-1502 THROUGH 1508  
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  
MORROW-MEADOWS CORP., 12-R4D1-0717 THROUGH 0719  
NOLTE SHEET METAL, INC., 14-R6D7-2777 through 2783  
RUSSELL FABRICATION CORP. dba AMERICAN FABRICATION,  
15-R6D2-90  
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)

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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)
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 & A DEVELOPMENT CORP DBA HEMET AUTO SPA & DETAIL, 15-R3D3-4060  
ABE NURSERY, INC., 15-R6D2-4668  
ADVANTAGE MEDIA SERVICES DBA AMS FULLFILLMENT, INC., 16-R4D3-0289  
ALVARADO MANUFACTURING CO INC, 15-R6D2-3452 THROUGH 3456  
AMERICAN INTERNATIONAL INC., 16-R4D1-0855 AND 0856  
AMPCO CONTRACTING, INC., 15-R4D1-0877  
ANDERSON BREMER PAPER CO. DBA THE ANDWIN CORPORATION,  
15-R4D3-3210 AND 3211  
MARIA ELENA ANDRADE DBA JESUS C. ANDRADE FLC, 15-R2D4-4365  
AND 4366\*  
ASSOCIATED READY MIXED CONCRETE, INC., 15-R3D1-2903 THROUGH 2905  
AUTOTECH INTERNATIONAL, INC. DBA RAFI AUTOTECH, 16-R6D5-0983  
AVITIA ARMANDO HERRERA DBA AVITIA FRAMING, 16-R6D5-1052  
AND 1053  
AYLIZ GUCLU DBA POUL'S BAKERY, 16-R6D5-1255  
BAY PACIFIC PIPELINE, INC., 16-R1D2-0699 THROUGH 0701  
BAYCORR PACKAGING, INC. DBA HERITAGE PAPER, 16-R1D4-1114  
BEST AMERICAN HOSPITALITY DBA CHURCH'S CHICKEN, 16-R3D3-0851  
THROUGH 0853  
B H M CONSTRUCTION, INC, 15-R1D1-3828  
BRISTOLITE DAYLIGHTING SYSTEMS, 15-R3D1-4218  
BROWN STRAUSS INC DBA BROWN-STRAUSS STEEL, 15-R3D3-4764  
AND 4765  
CALIFORNIA CONTRACTING, 15-R6D5-4132 THROUGH 4134  
CASEWORX INC, 16-R3D3-0322 THROUGH 0325\*  
CATALINA DELGADO DBA J & N AUTO GLASS, 15-R6D5-3399  
THROUGH 3401  
CATALINA SPRING COMPANY, 15-R3D5-3965 THROUGH 3967  
CEVA LOGISTICS, INC., 15-R3D5-3053 THROUGH 3056  
CHEVRON U.S.A., INC., 16-R7D1-0881 THROUGH 0885  
CITY OF BELL, 16-R3D5-1035  
CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER,  
15-R4D3- 1088 AND 1089  
CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER,  
15-R4D3-3475  
CLP RESOURCES INC., 13-R4D7-3195 THROUGH 3200  
COPPA WOODWORKING, INC., 15-R6D2-2339 THROUGH 2341  
COVERT IRON WORKS, 16-R6D2-0580 THROUGH 0584

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COVI CONCRETE CONSTRUCTION, INC., 16-R3D1-0275  
CUNHA ORCHARDS, 16-R2D5-1171 AND 1172  
CUSTOM PIPE & COUPLING CO. INC., 15-R3D1-2797 AND 2798  
CW CONSTRUCTION, INC., 15-R6D5-3671  
D & S EXPORT PACKING LLC, 16-R6D2-1044 THROUGH 1046  
DESERT FACILITIES SANITATION DISTRICT OF LOS ANGELES  
COUNTY, VALENCIA WATER RECLAMATION PLANT,  
15-R4D3-3148 AND 3149  
DIONYSUS DREAM INC. DBA NEWPORT MESA CARWASH & SERVICES,  
15-R6D5-4505  
DON LEE FARMS, 16-R4D1-0618 AND 0619  
E & J SHUTTERS & BLINDS INC, 16-R6D2-0129 THROUGH 0132  
FEDEX GROUND PACKAGE SYSTEMS INC., 16-R4D4-0943  
FLEMING METAL FABRICATORS, 15-R6D2-4768 THROUGH 4771  
FOOD FOR LIFE BAKING CO., INC. 16-R3D3-0811  
FOOTHILL PACKING, 15-R3D2-3177  
FOUNDATION BUILDING MATERIALS, LLC, 15-R4D3-4799 AND 4800  
FUAD S. SWEISS DBA SAN PABLO COMMERCIAL CENTER, LLC,  
16-R1D4-0090  
GBC CONCRETE AND MASONRY CONSTRUCTION, INC., 15-R3D2-1314  
GENERATION 819, 15-R3D1-4554 AND 4555  
GMZ ENGINEERING, INC., 15-R3D5-4008  
GO-STAFF, INC., 14-R3D2-2112 AND 2113  
GO-STAFF, INC., 15-R3D2-1025  
GREAT AMERICAN CAR WASH, 15-R4D3-3968 AND 3969  
GRISWOLD INDUSTRIES DBA SOUNDCAST CO, 15-R3D1-3723  
THROUGH 3726  
GUSTAVO CAMOLINGS, INC. DBA MCDERMAID PAINTING,  
16-R1D2-1108 AND 1109  
HUNTINGTON BEACH FARMERS MARKET AND NASSER ABDALLAH,  
15-R3D1-3561 THROUGH 3565  
INTECH MECHANICAL COMPANY, LLC, 15-R2D1-3170  
JANNISSE AND SONS CONSTRUCTION, 15-R1D5-3986  
JCI JONES CHEMICALS INC – TORRANCE, 15-R7D2-4753 AND 4754  
JUNG YI KIM AND MOON H. HAHN DBA PACIFIC COMMERCIAL COMPANY,  
16-R6D5-1343 THROUGH 1345  
K & W CONSTRUCTION, INC., 16-R6D5-1402 AND 1403  
KINGSPAN INSULATED PANELS, INC., 16-R2D4-1608  
LANCASTER BURNS CONSTRUCTION, INC. DBA LB CONSTRUCTION INC.,  
15-R6D7-2823 AND 2824  
LLANTERA USED TIRE EMANUEL, INC. DBA LLANTERA USED  
TIRES EMANUEL, 15-R6D5-4315  
LYON COMMUNITIES REALTY ADVISORS, INC., 15-R3D1-3198  
M.A. MORTENSON CONSTRUCTION, 15-R2D5-2796

MANPOWER GROUP US, INC DBA MANPOWERGROUP, 16-R2D4-1609  
MMP SHEETMETAL, INC., 15-R6D2-2668 THROUGH 2670  
MONTHES PALLETS INC., 15-R6D5-3458  
NATURES GROWERS INC, 15-R6D2-4033  
NOVO CONSTRUCTION, INC., 16-R1D4-0629  
PACIFIC UTILITY INSTALLATION INC., 15-R3D1-2906  
PANDA EXPRESS DBA PANDA RESTAURANT GROUP, INC., 15-R2D5-4546  
AND 4547  
PERFECT BUILDING MAINTENANCE COMPANY INC, 16-R3D3-0813  
AND 0814  
PRECISE INDUSTRIES INC, 15-R6D2-3851 THROUGH 3854  
PRIME ELECTRICAL SERVICES INC., 15-R3D2-3915 AND 3916  
PROGRESS RAIL SERVICES CORPORATION, 14-R4D7-1372 AND 1373  
RANCHO LAGUNA BUILDERS, 15-R3D1-3239 AND 3240  
RANCHEROS VISITADORES, 15-R4D3-4657 THROUGH 4659  
RICHARD TEAL DENNEN GENERAL BUILDING CONTRACTOR,  
15-R6D5-2965 AND 2966  
RIVERSIDE CONSTRUCTION COMPANY, INC., 16-R3D3-0812  
RJ VALADEZ ENTERPRISES, INC., DBA REVOLVETECH, 15-R6D2-  
4611 THROUGH 4614  
RODONI DAIRY FARMS LP, 15-R2D4-3468  
ROHR INCORPORATED DBA GOODRICH AEROSPACE, A UTC COMPANY,  
16-R3D3-0963 AND 0969\*  
S. AGUILAR LABOR CONTRACTING SERVICES INC, 15-R2D4-3554  
SADDLEBACK VALLEY ORNAMENTAL IRON, INC, 15-R6D2-4066  
SAN-MAR CONSTRUCTION CO. INC., 15-R4D1-1592 AND 1593  
SHANNON DIVERSIFIED, INC., 16-R4D4-1193  
SIGNAL HILL PETROLEUM, 15-R7D2-2940 THROUGH 2944\*  
SILVER STRAND INC., 15-R4D3-4415 AND 4416  
SMITH INTERNATIONAL, INC., DBA OMNI SEALS, INC., 16-R4D4-  
0486 THROUGH 0488  
STUART JAMES CONSTRUCTION INC, 15-R2D1-2954 AND 2955\*  
SUPER EASY AUTO BODY & PAINT, INC., 16-R6D5-1199 AND 1200  
SUPERIOR TANK COMPANY INC., 15-R3D1-3993 THROUGH 3995  
TESORO REFINING & MARKETING COMPANY, 15-R7D2-2784  
TOYOTA MOTOR SALES USA INC, 15-R3D5-4646  
UNIVERSAL PROTECTION SERVICE, 15-R4D3-1269 THROUGH 1271  
UNIX PACKAGING, INC., 15-R4D4-4302 THROUGH 4304  
VANCE WEAVER, 14-R4D3-3948  
WAGNER PLATE WORKS WEST, INC, 15-R3D5-4448 AND 4449  
WESTERN ORGANICS, INC. DBA GRO-WELL BRANDS, 15-R2D4-  
4539 THROUGH 4542  
WESTERN TREE NURSERY INC, 15-R6D1-3777  
WESTLAND FLORAL CO CARPINTERIA, INC, 15-R6D2-4662 AND 4663

WESTLAND FLORAL CO CARPINTERIA, INC, 15-R6D2-4670 THROUGH 4674  
WORKFORCE ENTERPRISES WFE, INC., 15-R6D2-3664 THROUGH 3666  
ZION LANDSCAPING, INC., 16-R6D5-0627

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: Jeff Mojcher, Chief Counsel announced that DeWayne Holloway, Legal Analyst is leaving the Appeals Board effective June 24, 2016.

The Board discussed other personnel matters.

The Closed Session was adjourned at 11:19am 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 11:20am.