

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION  
Held on February 1, 2012  
Sacramento, California**

**PRESENT:**

Art R. Carter, Chairperson  
Candice A. Traeger, Board Member  
Ed Lowry, Board Member  
Michael Wimberly, Executive Officer  
Jeff Mojcher, Chief Counsel  
Ursula Clemons, Presiding Administrative Law Judge  
Kari Johnson, Industrial Relations Counsel III  
Thomas Song, Industrial Relations Counsel II  
Kevin Reedy, Administrative Law Judge  
Mary Dryovage, Administrative Law Judge  
Neil Robinson, Administrative Law Judge  
Lee Berlin, Executive Secretary

**MINUTES OF JANUARY 25, 2012:**

*(Approval of minutes recording actions of previous Board meeting)*

ACTION: Member Traeger moved that the Board vote to approve the draft minutes of the January 25, 2012 Board meeting for posting. Member Lowry seconded. The Board voted to approve the draft minutes of the January 25, 2012 Board meeting for posting.

**ADMINISTRATIVE MATTERS:**

*(Review and discuss most current Board statistics)*

1. STATISTICS

*(Review and discuss most current Board statistics)*

ACTION: No report

2. YEARLY STATISTICS

ACTION: Executive Officer Wimberly reported on the Board's docketing and disposition statistics for 2011.

**NEW BUSINESS:**

*(The Appeals Board hears and/or discusses new matters brought before the members.)*

1. 2011/2012 BUDGET

*(Review and discuss budget issues for the next fiscal year)*

ACTION: Executive Officer Wimberly reported on the mid-year budget review.

2. 2012 RULEMAKING MATTERS  
(Discuss potential Board rulemaking changes)

ACTION: Counsel Johnson reported that the rulemaking package is being reviewed by the Office of Administrative Law. She also reported that proposed regulatory language for the 2012 rulemaking package will be discussed at the Advisory Committee Meeting on February 2.

**OLD BUSINESS:**

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

1. ADVISORY COMMITTEE MEETINGS

ACTION: Chairperson Carter reported that the Advisory Committee Meeting will be held on February 2, 2012 in Sacramento.

**LEGISLATION:**

ACTION: No new legislation to report.

**CHAIRPERSON'S REPORT:**

ACTION: Chairperson Carter reported that he will be attending the Cal OSHA Advisory Committee meeting on February 9, 2012, in Oakland.

**BOARD MEMBER'S REPORT:**

ACTION: Member Lowry reported that he responded to a request from Senator Elaine K. Alquist with a letter outlining important issues facing the Board.

**EXECUTIVE OFFICER'S REPORT:**

ACTION: Executive Officer Wimberly reported that phone lines for the videoconferencing equipment have been installed and tested in Sacramento. He reported that the equipment may now be used to have video conference calls with other state agencies outside of the Department of Industrial Relations as well as other public offices. The equipment in West Covina is still be configured. He also reported that last week's ALJ training was well received, and that the Board's staff is now starting to schedule hearings in Bakersfield.

**STAFF REPORTS:**

ACTION: No report.

**PUBLIC COMMENT:**

ACTION: No Report

The Board recessed to its Closed Session.

**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

ALLIED SALES & DISTRIBUTION, INC., 11-R6D2-0480

ACTION: Member Traeger moved that the Board vote to reconsider this Decision of an Administrative Law Judge on its own motion. Member Lowry seconded. The Board voted to reconsider this Decision of an Administrative Law Judge on its own motion.

ORECO DUCT SYSTEMS, INC., 11-R6D2-0281 THROUGH 0285  
ULTIMATE DEMOLITION, INC., 11-R4D3-1017

ACTION: Member Traeger moved that the Board vote to approve these Decisions of Administrative Law Judges. Member Lowry seconded. The Board voted to approve these Decisions of Administrative Law Judges.

**ORDERS OF ADMINISTRATIVE LAW JUDGES:**

AGUAYO CONTRACTING INC., 10-R6D7-2245 AND 2246  
AMAY'S BAKERY & NOODLE CO. INC., 11-R4D1-0327 THROUGH 0329  
AUSTIN CREEK MATERIALS, 11-R5D1-2575 AND 2576\*  
AYALA CORPORATION, 11-R6D5-2588  
BIG BUBBA'S BAD BBQ VISALIA INC., 11-R2D5-0602 THROUGH 0605  
COMRADIO, INC. DBA COMMERCIAL RADIO & ELECTRONICS,  
11-R2D1-0349  
CARDINAL CORPORATION, 11-R2D1-0731  
DEAN FOODS CO. DBA WHITE WAVE FOOD CO., 11-R3D6-1698 AND 1699, AND  
11-R3D6-2490  
E.E. HALL, INC., 11-R2D5-0584  
GIBSON WINE CO., 11-R2D5-0769 AND 0770  
HINERFIELD-WARD INC., 11-R4D1-0779  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO,  
11-R3D3-2939  
IVY VALERO AUTO SERVICE INC., 11-R6D7-1361  
KIRSCHENMAN ENTERPRISES INC., 10-R2D5-2779  
LA CADENA BUILDING MATERIALS, INC., 11-R3D3-2714 AND 2715  
L.A. COUNTY SANITATION DIST., 11-R4D3-1649  
LAUSD-ROSEMONT EARLY EDUCATION CENTER, 11-R4D1-2073

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

Minutes of the Public Meeting and Closed Session

February 1, 2012

Page 4

LAUSD WESTSIDE COMMUNITY ADULT, 11-R4D1-1120  
LELAND REBENS DORF, 11-R2D5-0378  
LUIS A. VALENCIA, 11-R3D6-2464 AND 2465  
MARICOPA PACKERS, LLP., 11-R4D3-1893 AND 1894  
M L ELECTRICWORKS, INC., 10-R3D2-3206 AND 3207  
NABORS WELL SERVICES, 10-R6D4-3386 AND 3387  
NATIONAL STORES, INC. DBA FALLAS PAREDES, 11-R3D6-1197 AND 1198  
NAUTILUS GROUP, 11-R4D1-1423  
NAUTILUS GROUP, 11-R4D1-1425  
NORTH COAST RESOURCE MANAGEMENT, 11-R2D1-0799  
N.T.S., INC., 11-R4D3-2239  
PARAMOUNT FARMS INTERNATIONAL, LLC., 11-R4D3-1272 AND 1273  
PEARL OF THE EAST, RTC, LP., 11-R3D6-2327  
PTE CONSTRUCTION CORPORATION, 11-R3D6-2326  
STEVE DOVALI CONSTRUCTION, INC. 11-R2D5-0527  
STEVE MURRAY DBA MURRAY FAMILY FARMS, 11-R6D5-2550 AND 2551  
STANISLAUS FOODS PRODUCTS COMPANY, 11-R2D4-0153 AND 0154  
SUMMIT ROOFING COMPANY, INC., 10-R2D1-1651 AND 1652  
TAYLOR & SYFAN CONSULTING ENGINEERS INC., 11-R4D1-1027  
THE FLAME BROILER., 11-R3D6-2440\*  
UNITED PARCEL SERVICE, INC., 11-R4D2-1028 AND 1029, AND 12-R4D2-0041  
UNIVERSAL SECURITY & FIRE, INC., 11-R2D1-0457  
US FOODSERVICE, 11-R6D4-1035 THROUGH 1037

ACTION: Member Traeger moved that the Board vote to 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.

JOAQUIN DUARTE DBE PROFESSIONAL TREE SERVICE, 09-R3D3-1111

ACTION: This order was inadvertently placed on the agenda as an Order of an Administrative Law Judge. The Order is an Order After Remand and the action taken by the Board is noted under that section of the minutes.

**ORDERS DISMISSING APPEALS:**

GONZALO ROCHA GUERRA DBA VICTORY AUTO BODY,  
10-R6D7-2532 AND 2533

ACTION: Member Traeger moved that the Board vote to approve this Order Dismissing Appeal of an Administrative Law Judge. Member Lowry seconded. The Board voted to approve this Order Dismissing Appeal of an Administrative Law Judge.

**ORDERS AFTER REMAND:**

JOAQUIN DUARTE DBE PROFESSIONAL TREE SERVICE, 09-R3D3-1111

ACTION: Member Lowry moved to approve this Order After Remand of an Administrative Law Judge. Member Traeger seconded. The Board voted to approve this Order of an Administrative Law Judge.

**ORDERS DENYING LATE APPEALS:**

ACCUTECH MFG., INC., 11-R6D2-9002

JOE PANZIERA FARM, 12-R6D5-9001

ACTION: Member Traeger moved to approve these Orders Denying Late Appeals of Administrative Law Judges. Member Lowry seconded. The Board moved to approve this Order 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.)*

ALIKA IKAIKA ENTERPRISES INC. DBA ATTENTION TO DETAILS, INC.,  
10-R1D2-1191

ACTION: Member Traeger moved that the Board vote to accept the Legal Unit's recommendation to Grant this Petition for Reconsideration, subject to verification, and to consider the matter at the next meeting of the Board. Member Lowry seconded. The Board voted to accept the Legal Unit's recommendation to Grant this Petition for Reconsideration, subject to verification, and to consider the matter at the next meeting of the Board.

ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655  
HOME DEPOT, 10-R3D6-3284

ACTION: Member Traeger moved that the Board vote to accept the Legal Unit's recommendation to Grant these Petitions for Reconsideration. Member Lowry seconded. The Board voted to accept the Legal Unit's recommendation to Grant these Petitions for Reconsideration.

SIGN DESIGNS INC., 08-R2D3-4686

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

**DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):**

SECA EQUIPMENT REMOVAL AND DISMANTLING, INC.  
2007-R2D3-0275 THROUGH 0280

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

**MATTERS PENDING RECONSIDERATION:**

AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138  
AC TRANSIT, 08-R1D4-0135  
AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786  
AGWOOD MILL & LUMBER, INC., 08-R1D5-1068  
VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272  
ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655  
BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221  
BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963  
BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445 AND 3448  
BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241  
BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563  
C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155  
C.C. MYERS, INC., 08-R1D1-952 THROUGH 955  
CA RASMUSSEN, INC., 08-R4D5-219 AND 220  
COMMERCIAL METAL FORMING, 09-R3D1-1592  
CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960  
CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387  
CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038  
DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362  
DESIGN BUILDERS, INC., 08-R4D4-1901  
DUININCK BROS., INC., 06-R4D3-2871  
DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177  
DUKE PACIFIC, INC., 08-R3D3-574  
EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS, 09-R6D2-2325 THROUGH 2332  
EZ MIX, INC., 08-R4D3-1898  
FORTUNA IRON WORKS, 06-R2D3-4222  
HB PARKCO, 07-R4D2-1730 AND 1731  
THE HERRICK CORP., 07-R3D1-0495  
HOME DEPOT, 10-R3D6-3284  
JENSEN PRECAST, 05-R2D1-2377  
JOHN M. FRANK CONSTRUCTION, 06-R4D3-968

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

Minutes of the Public Meeting and Closed Session

February 1, 2012

Page 7

L & S CONSTRUCTION, 10-R3D2-1822

ACTION: Member Traeger moved that the Board vote to approve this Order of Remand for signature. Member Lowry seconded. The Board voted to approve this Order of Remand for signature.

LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844

LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714

LION RAISINS, INC., 08-R2D5-2253 AND 2254

LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540

MARINE TERMINALS, 08-08-R6D2-1920

MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274

MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298

NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494

ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667

OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022

PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864

PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026

P G & E CORPORATION DBA PACIFIC GAS & ELECTRIC CO., 11-R4D3-9132

ACTION: Member Traeger moved that the Board vote to approve this Order of Remand for signature. Member Lowry seconded. The Board voted to approve this Order of Remand for signature.

POUK & STEINLE, INC., 09-R3D3-0491

RAMON ARANDA DBA I & R PALLETS, 10-R6D5-9053

RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730

ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048

JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710

SDCCD – CONTINUING EDUCATION N C CENTER, 11-R3D2-1196

SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055

SHERWOOD MECHANICAL, INC., 08-R3D2-4690 THROUGH 4693

SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025

SMUD, 08-R2D1-4887 THROUGH 4889

MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418

STAFFCHEX, 10-R4D3-2456 THROUGH 2458

SUNRISE GROWERES FROZ SUN FOODS, 09-R4D3-2850

A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443

TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651

A TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 09-R4D5-0459 AND 0460

UNITED PARCEL SERVICE, 07-R3D3-3322

WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095

L & S CONSTRUCTION, 10-R3D2-1822  
P G & E CORPORATION DBA PACIFIC GAS & ELECTRIC CO., 11-R4D3-9132

**LEGISLATION:**

*(Discussion of pending legislation which may affect the Board).*

**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. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)

ACTION: Chief Counsel Mojcher provided an update on this matter.

2. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB),  
34-2007-00882192-CU-WM-GDS, (01-3261)
3. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB)  
(00-440)
4. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
5. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
6. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
7. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430  
(09- 9280/9281)
8. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047 (07-  
R5D1-3611)
9. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,  
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
10. SMUD, 34-2010-80000723 (08-R2D1-4887)
11. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
12. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

Minutes of the Public Meeting and Closed Session

February 1, 2012

Page 9

13. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)
14. GUILLAUME GRAPEVINE NURSERY, INC., 34-2011-800001010 (08-R2D1-3273)
15. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459 THROUGH 2461)

**COURT OF APPEAL**

1. JERLANE, INC., D060844 (2007-00056381) (01-4344 and 4345)

**PERSONNEL:**

*(Issues regarding staff)*

ACTION: Executive Officer Wimberly reported on personnel matters.

The Closed Session adjourned at 12:23 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. With no further business, the meeting was adjourned at 12:24 P.M.