

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION  
Held on February 18, 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

**MINUTES OF FEBRUARY 4, 2015 MEETING:**

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

ACTION: Member Lowry moved that the Board approve the draft minutes of the February 4, 2015 Board meeting. Member Freyman seconded. The Board voted to approve the draft minutes of the February 4, 2015 Board meeting.

**ADMINISTRATIVE MATTERS:**

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

**APPEALS VOLUME REPORT:**

*(Appeals volume statistics for prior month and year to date)*

ACTION: The Board reviewed the report for the month of January, 2015. The Board docketed 284 appeals in January; in January 2014 the Board docketed 272 appeals.

**EXPEDITED PROCEEDINGS:**

*(Report on general administration of expedited proceedings)*

ACTION: The report now has an additional column to show "Hearings Held Timely," which reflects cases that have not yet been disposed, but a hearing was held within the correct timeframe. For these cases, either decisions are yet to be issued, or additional hearing days have been calendared.

**HEARING CALENDAR REPORT:**

*(Review and discuss statistical information)*

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ACTION: The report covers the past 13 months of hearings scheduled and held. During the period, OSHAB calendared more than 1200 hearings and held 62.

**NEW BUSINESS:**

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

ACTION: The Board will hold a stakeholder meeting on March 5 to discuss the proposed regulation package. Chair Carter strongly urged stakeholders to be in attendance, send written comments to the Board and/or discuss the new regulations with the Executive Officer or Counsel Gonzalez.

The Board also made a small change to its meeting calendar for the year, rescheduling the April 1 meeting to April 8, and the April 15 meeting to April 22. The meeting schedule is posted on the Board's website at [www.dir.ca.gov/OSHAB/meetings.htm#current](http://www.dir.ca.gov/OSHAB/meetings.htm#current)

**OLD BUSINESS:**

OASIS PROJECT:

ACTION: Chair Carter requested a project schedule showing milestones for the duration of the OASIS project. Business Lead Neil Robinson reported that the Feasibility Study Report (FSR) is nearly complete and that it is likely the Request For Proposal (RPF) document will now be completed by DIR's Information Services staff.

RULEMAKING:

ACTION: The Board reviewed the current draft of the proposed regulation package and made suggestions for clarifying language to be added prior to resending the package out to stakeholders before the stakeholder meeting on March 5.

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

**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: No report

**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.)*

The Board recessed to its Closed Session.

**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

CHEVRON U.S.A. INC., 13-R6D3-0655 THROUGH 0662

ACTION: Chief Counsel Mojcher excused himself during discussion of this case because of his past history with this employer. Member Lowry moved that the Board vote to reconsider this matter on its own motion. Member Freyman seconded. The Board voted to reconsider this matter on its own motion.

INTERNATIONAL PAPER COMPANY, 14-R2D5-1189 THROUGH 1191

ACTION: Member Lowry moved that the Board vote to reconsider this matter on its own motion. Member Freyman seconded. The Board voted to reconsider this matter on its own motion.

GONZALO OLASCOAGA DBA GONZALO OLASCOAGA, 13-R6D5-2097 AND 2098

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.

STANISLAUS FOOD PRODUCTS COMPANY, 13-R2D4-0572 THROUGH 0574

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:**

ORANGE COUNTY SANITATION DISTRICT (EMPLOYER), 13-R3D1-0287

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):**

**ORDER AFTER SECOND REMAND:**

GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687

ACTION: Member Lowry moved that the Board approve this Order After Second Remand from an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Order After Second Remand from an Administrative Law Judge.

**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)*

BROADWAY STYLE, INC., 14-R6D5-1909 THROUGH 1911

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.

ELECTRIC STARS, 14-R3D1-2142

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.

TESORO REFINING & MARKETING CO., LLC., 14-R6D3-9015

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

1. A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895 (ER)
2. A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895 (DOSH)
3. B.A.R.T., 11-R2D2-3137 THROUGH 3139 (ER)
4. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1218 THROUGH 1221 (DOSH)
5. RANDALL JOHN BILLINGTON, 2014-R3D3-9170
6. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
7. LANGER FARMS, LLC, 13-R4D7-231 THROUGH 0233
8. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
9. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
10. McCARTHY BUILDING CO., INC., 12-R1D4-3458
11. NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186
12. ORANGE COUNTY SANITATION DISTRICT, 2013-R3D1-0287
13. ROEBBELEN CONTRACTING, INC., 12-R2D2-3248
14. SIERRA FOREST PRODUCTS, 09-R2D5-3979
15. TREASURE ISLAND MEDIA, INC., 10-R6D1-1093 THROUGH 1095
16. VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674

**LEGISLATION:**

**PENDING LITIGATION:**

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*(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)
18. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
19. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)

ACTION: The Board discussed this matter

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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. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)
23. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
24. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
25. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
26. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056 THROUGH 3058) (DOSH)
27. LAND O'LAKES PURINA FEED, LLC, RG14715717 (08-R2D4-1843 AND 1844) (DOSH)
28. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH 3058) (3<sup>rd</sup> Party)
29. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
30. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
31. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
32. BHC FREMONT HOSPITAL INC, RG13731145 (13-R1D2-0204)
33. IRWIN INDUSTRIES, BS14-9634 (12-R4D3-3276 & 3277)
34. TL PAVLICH CONSTRUCTION, INC., BS14-9660 (11-R3D6-1303 THROUGH 1310)
35. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)
36. MORROW MEADOWS CORP., BS151385 (09-R3D3-2295)
37. 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.)*

1. ABM SECURITY SERVICES, INC., 14-R1D4-2627
2. AEMETIS ADVANCED FUELS KEYES, INC., 14-R2D4-2537
3. ALL COUNTY ENVIRONMENTAL & RESTORATION, INC., 14-R6D5-1276 THROUGH 1278
4. ANITA'S MEXICAN FOODS CORP., 14-R3D3-4032 THROUGH 4034
5. ARTOIS FEED, INC., 14-R2D3-2784
6. AURORA CASTING AND ENGINEERING INC., 14-R6D2-2182 THROUGH 2188
7. BARNARD IMPREGGIO HEALY JV, 14-R5D1-0856 THROUGH 0858
8. BENICIA FOUNDRY & IRON WORKS, 14-R2D2-3340
9. BIGGE CRANE & RIGGING CO., 14-R4D1-1994 AND 1995
10. CAPITAL DRUM, INC., 13-R3D3-3563
11. CARMAX AUTO SUPERSTORES WEST COAST INC., 14-R4D3-2258
12. DINA CASTRO DBA DRESS TO IMPRESS CLEANERS, 14-R4D4-2671
13. CISCO BROTHERS CORP., 14-R6D2-3482 THROUGH 3485
14. CITY OF FOUNTAIN VALLEY, 14-R3D1-2894 THROUGH 2898

15. COMMERICAL SEATING SPECIALISTS, INC., 14-R6D1-2828 THROUGH 2836
16. CRAIG ROOF COMPANY, INC., 14-R4D3-1114 AND 1115
17. CROWN ENERGY SERVICES, INC. DBA ABLE ENGINEERING SERVICES,  
14-R1D1-1815 THROUGH 1816
18. C R & R INCORPORATED, 15-R3D3-0167
19. DAVIS DEVELOPMENT COMPANY, INC., 14-R1D2-3180
20. DAY-GLO COLOR CORP, 14-R3D5-2871
21. DEL SOL FARM LABOR SERVICES, INC., 14-R2D4-2630
22. DESIGN SHAPES IN STEEL INC., 14-R6D2-3788 THROUGH 3789
23. ROBERT DOLAN, 14-R1D1-2547 THROUGH 2551
24. DONALDSON CO. INC., DBA WESTERN FILTER CO. INC., 14-R4D3-3637  
AND 3638
25. ENVIRONMENTAL CONCEPTS LANDSCAPE MANAGEMENT, INC.,  
14-R3D3-2252
26. ETCHEGARAY FARMS, LLC., 14-R4D7-3992
27. FOSTER DAIRY FARMS, INC., 14-R2D4-2708
28. FRAMING BY SUPERIOR, INC., 14-R3D3-1358 AND 1359
29. GORMAN ROOFING SERVICES, INC., 14-R4D4-2560
30. AURELIANO PINDARO HURTADO DBA UNIVERSAL PALLETS,  
14-R2D4-3890 THROUGH 3894
31. INNOVATIVE STAMPING, INC., 14-R3D5-3778 THROUGH 3780
32. JSD AUTO DETAIL, INC. DBA THE CAR SPA, 15-R6D5-0063
33. KLOECKNER METALS CORPORATION, 14-R4D4-3733 AND 3735
34. LA MICHOACANA MEAT MARKET, 14-R4D3-2255 THROUGH 2257
35. MANNY'S AUTO CARE, INC., 14-R6D5-2005 THROUGH 2008

36. MICHAEL MURPHY DBA SUPER CUTS TREE SERVICE, 13-R4D1-1328
37. MILLIE & SEVERSON INC., 14-R4D1-2116
38. MOWERY THOMASON, INC., 14-R3D1-1527
39. NICRO, INC., 14-R2D4-2709
40. OSR ENTERPRISES, INC., 14-R4D3-2216 THROUGH 2218
41. OWENS BROCKWAY GLASS CONTAINER, INC., 14-R1D4-1799 AND 1800
42. EDUARDO SANTI PACHECO DBA PACHECO FARM LABOR, 14-R2D4-2620
43. PACIFIC MOLDING INC., 14-R6D2-1543 THROUGH 1545
44. PACIFIC LOGISTICS, 14-R4D4-2811
45. JEFF PENROSE DBA PENROSE CONSTRUCTION, 14-R6D7-2892 AND 2893
46. PLANTEL NURSERIES, INC., 14-R4D3-2214 AND 2215
47. PRE-CON PRODUCTS, INC., 14-R4D3-1293
48. RANCHO HARVEST, INC., 13-R6D5-2967
49. ROMALV GROUP, LLC DBA PELUSO CHEESE, 14-R2D4-2617 THROUGH 2619
50. SAN FRANCISCO A-1 ROOFING & MAINTENANCE CO, INC., 14-R1D1-1409  
AND 1410
51. SMA BUILDERS, INC., 14-R4D1-2178
52. S. STAMOULES, INC., DBA STAMOULES PRODUCE CO., 14-R2D5-1534  
AND 1535
53. STANISLAUS COUNTY DEPT OF PUBLIC WORKS, 14-R2D4-2574
54. BRUCE THOMPSON DBA THOMCO, 14-R6D1-3061 THROUGH 3062
55. TOM DELANY, 14-R6D5-3563 THROUGH 3565 AND 14-R6D5-4004
56. VILLAGE WOODCRAFT INC., 14-R6D2-3853
57. VINO FARMS, LLC, 14-R1D5-2157

58. VISTA METALS CORP., 15-R3D3-0025
59. VIVA PRINT, LLC, 14-R4D1-2068 THROUGH 2070
60. VOLT INFORMATION SERVICES, INC., 14-R4D3-3347
61. WESLAR INC., 14-R4D3-2440 AND 2441
62. WEST COAST PNEUMATICS, INC., 14-R2D1-1817
63. OTTO L. WOLTKE AND EDNA B. ARGUETA, A PARTNERSHIP DBA  
WOLTKE & ARGUETA CONSTRUCTION, 14-R6D7-3046
64. ZAFIRO PRODUCE, INC., 14-R6D5-2153

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 1:36 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 1:37 p.m.