

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION  
Held on March 4, 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 18, 2015 MEETING:**

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

ACTION: Member Lowry moved that the Board approve the draft minutes of the February 18, 2015 Board meeting. Member Freyman seconded. The Board voted to approve the draft minutes of the February 18, 2015 Board meeting.

**ADMINISTRATIVE MATTERS:**

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

ACTION: No report.

**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 Feasibility Study Report (FSR) is approximately 70% complete and should be finalized by the end of the month. Next week he and EO Johnson will meet with the Information Services team in Oakland to discuss the procurement phase of the project.

While in Oakland, Judge Robinson and EO Johnson will also meet with the DIR Accounting team to discuss how the OASIS project will interface with Accounting, and what types of information Accounting will need from the Appeals Board in order to complete its collection of penalties.

**RULEMAKING:**

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

ACTION: The Board discussed the upcoming stakeholder meeting on March 5. Chair Carter suggested that the meeting open with a short presentation summarizing the proposed regulations and a recap of why they are necessary.

**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.)*

ACTION: No report.

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:**

**PETITIONS FOR RECONSIDERATION:**

PAUL DOMINGUEZ, BUILDING CONTRACTOR, INC., 14-R6D7-9193

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.

TESORO REFINING & MARKETING, 14-R6D3-9015

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):**

**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)*

BLH CONSTRUCTION, 15-R3D5-0310 THROUGH 0312

ACTION: Member Lowry moved that the Board approve this Order Granting Leave to File Late Appeal of an Administrative Law Judge. Member Freyman seconded. The Board voted to approve this Order Granting Leave to File Late Appeal of an Administrative Law Judge.

BEST AUTO REPAIR & SALES, LLC., 15-R6D7-9019

GRAPEMAN FARMS LP DBA LUCICH FARMS, 15-R4D7-9016

STRAYHAN INVESTMENTS INC., DBA RUBICON BREWING CO., 15-R2D1-9017

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

**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.)*

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

CHEVRON U.S.A. INC., 13-R6D3-0655 THROUGH 0662  
CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038  
INTERNATIONAL PAPER COMPANY, 14-R2D5-1189 THROUGH 1191  
LANGER FARMS, LLC, 13-R4D7-231 THROUGH 0233  
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

NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186  
ACTION: The Board discussed this matter.

ORANGE COUNTY SANITATION DISTRICT, 2013-R3D1-0287  
ROEBBELEN CONTRACTING, INC., 12-R2D2-3248  
SIERRA FOREST PRODUCTS, 09-R2D5-3979

TREASURE ISLAND MEDIA, INC., 10-R6D1-1093 THROUGH 1095  
ACTION: The Board discussed this matter.

VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674  
ACTION: Member Lowry moved that the Board vote to approve this draft Decision After Reconsideration for signature as amended. Member Freyman seconded. The Board voted to approve this draft Decision After Reconsideration for signature as amended.

### **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.)*

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)

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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)
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)

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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)
38. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL (14-R3D2-1935 & 1936)

**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.)*

ACADEMY OF ART UNIVERSITY, 14-R1D1-1797

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ADVANCED FRAMING STRUCTURES, INC., 13-R4D3-3178  
BAY MOUNTAIN AIR, INC., 14-R1D2-2084 AND 2085  
BORG PRODUCE SALES, INC., 14-R4D1-0761 AND 0762  
BRADSHAW RANCH GOLF COURSE, INC., 14-R2D1-3963 AND 3964  
BRAGG INVESTMENT CO., INC. DBA BRAGG CRANE SERVICES, 13-R3D2-3827  
CA FORESTRY & FIRE PROTECTION – NORTHERN REGION, 13-R2D1-0638  
CALAVERAS COUNTY (PUBLIC WORKS DEPT), 14-R2D4-2744 AND 2745  
CALDWELL FRESH FOODS, 14-R3D5-2369 THROUGH 2370  
CALIFORNIA ELECTRIC STEEL, 14-R6D1-2600 AND 2601  
CBR ELECTRIC, INC., 14-R3D3-2278  
CEMCON, INC., 15-R1D4-0230  
CHIMENTI'S BAKING CO., INC., 11-R4D2-3240 AND 3241  
CONDOMINIUM ASSOCIATION MANAGEMENT COMPANY DBA CAMCO,  
14-R2D1-0100 AND 0101 \*  
CROP PRODUCTION SERVICES, INC., 14-R2D5-2431  
DEL MAR FARMS, 14-R2D4-2819  
DIACON, INC., 14-R1D2-3105  
DONALD F. GALLINDO, INC., 14-R2D3-3134  
EL CAJON MOTORS AKA EL CAJON FORD, 14-R3D2-1918  
ELSINORE VALLEY MUNICIPAL WATER DISTRICT, 14-R6D4-4133  
ELUCIA, INC., DBA AMERICAN SHEET METAL, 14-R3D1-2710 AND 2711  
EPLASTERING, INC., 14-R4D3-0216 THROUGH 0220  
EVERGREEN PACKAGING INC., 14-R4D4-3231 THROUGH 3236  
EXOPACK, LLC, 13-R4D4-2364 THROUGH 2366  
FILTER FARMS INC., 14-R2D1-0055 AND 0056  
FRANCES TODD INC DBA THE WOODEN DUCK, 14-R6D1-2714 THROUGH 2716  
FRANCES TODD INC DBA THE WOODEN DUCK, 14-R6D1-2758  
FUTURE PLASTERING, INC., 15-R2D1-0158  
GARDENER POOL COMPANY, INC., 14-R6D5-1150  
DAN HEATHCOTE DBA HEATHCOTE CONSTRUCTION, 14-R2D1-0529 AND 0530  
HOF & YATES INC., DBA H & Y REBAR, 14-R3D5-1709 AND 1710  
HUBER & BURTON, INC., MASONRY CONTRACTORS, 15-R2D3-0233 AND 0234  
INTERNATIONAL ALUMINUM CORPORATION DBA INTERNATIONAL  
WINDOW NORTHERN CALIFORNIA, 14-R1D4-0981 THROUGH 0983  
JACK NEAL & SONS VINEYARD MANAGEMENT, 14-R1D5-2416  
KENYON PLASTERING INC., 14-R1D4-2139  
LA CITY WATER & POWER, 14-R4D1-3666 AND 3667  
LE GRAND CONFECTIONARY, INC., 14-R6D7-1230 & 1231 AND 14-R6D7-1243  
LONESTAR TIMBER HARVESTING INC., 15-R1D2-0097  
MEDLIN MATERIAL HANDLING EQUIPMENT INC., 14-R4D4-1513 AND 1514  
MONT KASA, 14-R1D4-2944  
MY BOTANICA, INC., 14-R6D5-2168  
NEW HORIZON CONTRACTING, INC., 14-R3D3-3880 THROUGH 3882  
OAKPORT PARTNERSHIP, LP, 14-R1D4-2135 THROUGH 2138  
OMNIA SALES INC., 14-R4D3-1701 AND 1702  
PACIFIC PERSONAL INC., 14-R6D7-4044 \*

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PERFORMANCE ALUMNIUM PRODUCTS INC., 14-R6D2-3237 THROUGH 3244  
PERFORMANCE FOOD GROUP, INC., 14-R1D4-4142 AND 4143  
PERFORMANCE FOOD GROUP, INC., 15-R1D4-0154  
PGP INTERNATIONAL, INC., 14-R2D1-3538 AND 3539  
PINNACLE PLASTERING, INC., 13-R4D3-0631 AND 0632 \*  
PRIMESKILL STAFFING SERVICES, 14-R4D7-2315  
ROLCOM, INC., 14-R4D4-3100 AND 3101  
RAYBERN FOODS, LLC., 13-R1D4-3818 AND 3819  
R WAGNER INC., DBA WAGNER ELECTRIC, 14-R2D3-3212  
SAFEWAY STORE #954, 14-R2D3-3904 \*  
SAN BERNARDINO STEEL, INC., [PREVIOUSLY HERRICK CORP DBA SAN  
BERNARDINO STEEL, INC.], 14-R3D3-2173 AND 2174  
SCHINDLER ELEVATOR CORPORATION, 14-R1D3-0158 THROUGH 0161  
SIERRA CHEMICAL CO., 15-R2D4-0085 AND 0086  
STERIS ISOMEDIX SERVICES, INC., 14-R4D4-0093 AND 0094  
TERRABELLA NURSERY, 14-R3D2-3879 \*  
TITAN FRAMING, 14-R2D4-2878  
TRI CAL, INC. 14-R2D5-4209  
UC REGENTS UC DAVIS FACILITIES MAINTENANCE DEPT., 14-R2D1-3414  
AND 3415  
UNITED BEST SHEET METAL, INC., 14-R3D1-2392 AND 2393  
USF REDDAWAY, INC., 14-R4D1-0066  
VALLEYCREST COMPANIES, 13-R3D2-3878  
VAL PRO INC., DBA VALLEY FRUIT & PRODUCE CO., 13-R4D1-2445  
VELASQUEZ PACKING INC., 14-R6D7-3831  
YOU GOT MAIL, LLC INCORRECTLY CITED AS MIKE BURNETT DBA YOU GOT  
MAIL LLC, 14-R3D2-1991 AND 1992  
ZAFIRO PRODUCE, INC., 14-R6D5-3423

**PERSONNEL:**

*(Issues regarding staff)*

ACTION: The Board discussed personnel matters.

The Closed Session was adjourned at 12:01 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 12:02 p.m.