

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION  
Held on March 5, 2014  
Sacramento, California**

**PRESENT:**

Art Carter, Chairperson  
Ed Lowry, Member  
Judith Freyman, Member  
Ursula Clemons, Presiding Administrative Law Judge  
Martin Fassler, Presiding Administrative Law Judge  
Kari Johnson, Executive Officer  
Jeff Mojcher, Chief Counsel  
Autumn Gonzalez, Industrial Relations Counsel  
Lee Berlin, Executive Secretary

**MINUTES OF FEBRUARY 19, 2014 MEETING:**

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

ACTION: Member Lowry moved that the Board approve the draft minutes of the February 19, 2014 Board Meeting. Member Freyman seconded. The Board voted to approve the draft minutes of the February 19, 2014 Board meeting.

**ADMINISTRATIVE MATTERS:**

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

**EXPEDITED PROCEEDINGS:**

*(Report on general administration of expedited proceedings)*

ACTION: The Board reviewed a report showing the progress of Expedited cases on a chart prepared by Staff Services Analyst Mary Christian. The chart will be posted to the website and updated each month.

**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.)*

**DOCUMENT RETENTION POLICY PROJECT:**

ACTION: Staff Services Analyst Theresa McKeever reviewed her progress on rewriting the Board document retention policy. She will submit for review a proposed timeframe for destruction of documents after three years.

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She explained that her first priority is to reduce the volume of stored Orders and Decisions, then she will work with each department to review the policy with regard to other documents stored in the office.

**POSTING DECISIONS TO THE WEBSITE PILOT PROJECT:**

**ACTION:** Staff Services Manager Judy Whitall-Lee reported to the Board that she is working with the DIR web posting team to create a new page to hold the Decisions of the Administrative Law Judges. They will be posted under a disclaimer that they are not precedential, and will be organized by month and year.

**LEGISLATION:**

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

**ACTION:** The Board briefly discussed AB 332, which addresses safety concerns within the adult film industry. Member Freyman added that there is also a new pending bill concerning abatement.

**CHAIRPERSON'S REPORT:**

**ACTION:** Chair Carter reported that he and Kari Johnson will be attending the Senior Management Meeting on March 25 in Oakland.

**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)*

**OASIS PROJECT:**

**ACTION:** The staff is reviewing the Vendor Familiarization Report with the vendor, RTC, to make sure it has correctly captured our business processes. The detailed report must be correct so that our requirements are accurately described to the companies who will bid to construct our new system. RTC also talked with the staff about some possible software solutions.

**STAFF REPORTS:**

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

**ALJ TRAINING AGENDA:**

**ACTION:** The Board discussed the possibility of a third-party vendor conducting a session at the ALJ training in late March. The members also

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discussed the agenda and possible topics for their own sessions with the judges.

**WEST COVINA REMODEL:**

**ACTION:** PALJ Ursula Clemons reported that the building manager had not yet conveyed the final completion schedule, but several pieces of the remodel are now in place.

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.)*

**ACTION:** No report.

The Board recessed to its Closed Session.

**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

**CORREA PALLET, INC., 12-R2D5-2157 AND 2158**

**ACTION:** Member Lowry moved that the Board approve this Decision of an Administrative Law Judge as amended. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge as amended.

**PETITIONS FOR RECONSIDERATION:**

**BROWNSTONE UPHOLSTERY CORPORATION, INC., 13-R6D5-1090-1094**

**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.

**GEO PLASTICS, 2013-R6D2-0810**

**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.

**HHS CONSTRUCTION, 12-R3D2-0492-0497**

**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.

JOHN BEAN TECHNOLOGIES CORP DBA JBT FOOD TECH, 2013-R2D5-1632-1633  
KELLY SERVICES, INC., 2013-R2D5-1519  
POM WONDERFUL, LLC, 2013-R2D5-1515-1516

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

JIM PARKER, 2014-R4D1-9009

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.

TREASURE ISLAND MEDIA, INC., 2010-R6D1-1093 through 1095

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.

SILHOUETTE, LLC, 2010-R4D1-0662 THROUGH 0663  
TWIN SPRINGS, LLC, 2010-R4D1-0664 THROUGH 0666

ACTION: These Petitions for Reconsideration were withdrawn by the Employers.

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

DEVCON CONSTRUCTION, INC., 12-R1D2-2062 THROUGH 2064

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

**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.)*

AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786  
BELLINGHAM MARINE INDUSTRIES, 2012-R2D2-3144 THROUGH 3146  
BRAD STONER PAINTING, INC., 13-R3D2-9200  
BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239  
THROUGH 2241  
BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563  
CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186

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CHEVRON PRODUCTS COMPANY, 13-R6D4-3506 AND 3507  
CHEVRON PRODUCTS CO., 13-R6D4-0905  
CHEVRON PRODUCTS COMPANY, R6D4-2715 AND 2716  
CHEVRON PRODUCTS COMPANY, 13-R6D4-1353 THROUGH 1355  
CHEVRON U.S.A., 13-R6D4-1536  
CHEVRON USA, 13-R6D4-2566  
CHEVRON U.S.A., INC, 13-R6D4-1537 THROUGH 1544  
CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282  
COFFMAN SPECIALTIES, INC., 10-R3D3-3532  
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  
DISH NETWORK CAL. SVC. CORP., 12-R4D3-0455  
FERMA CORPORATION, 12-R2D2-1669  
GMAC ELECTRIC, INC., 13-R6D5-9138  
HARRIS CONSTRUCTION, 03-R2D5-3914  
IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272  
KELLY GLOBAL LOGISTICS, INC., 12-R3D5-0014  
K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375  
LABOR READY, 13-R3D2-0164  
LA VALENCIA HOTEL, 2013-R3D2-9199  
L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822  
M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223  
MARIA DE LOS ANGELES COLUNGA DBA MERCED FARM LABOR,  
08-R2D1-3093 THROUGH 3098  
MARCO RUFO DBA MARCO RUFO, 13-R6D5-9217  
McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406  
MCCARTHY BUILDING CO., INC., 12-R1D4-3458  
MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298  
MORROW MEADOWS CORP., 09-R3D3-2295  
NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791  
NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186  
O.C. JONES AND SONS, INC. 13-R2D2-0310  
ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637  
OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022  
PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864

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

PERSONNEL PLUS, INC., 11-R3D5-1302  
ROEBBELEN CONTRACTING, INC., 12-R2D2-3248

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ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048  
JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710  
SIERRA FOREST PRODUCTS, 09-R2D5-3979  
SONIC DRIVE-IN, 12-R2D5-2734  
STAFFCHEX, 10-R4D3-2456 THROUGH 2458  
STARBUCKS DBA STARBUCK'S COFFEE #5867, 12-R3D2-3675 THROUGH 3678  
SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850

ACTION: The Board discussed this matter.

TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443  
TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310  
TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 AND 0097  
VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674

**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.)*

**ORDERS DISMISSING APPEAL:**

KIM AHN FASHION, 13-R6D5-2435  
PACIFIC HARBOR LINE, 13-R3D5-1839

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

**ORDERS GRANTING LEAVE TO FILE LATE APPEAL:**

5A5 STEAK LOUNGE, 14-R1D1-0423  
MICHELS CORPORATION DBA MICHEL POWER, 14-R3D2-0401

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

**ORDER DENYING LEAVE TO FILE LATE APPEAL:**

HASSAN ABDIRAHMAN DBA UNIVERSITY TRANSMISSION, 14-R6D5-9014

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.

**LEGISLATION:**

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**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. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
2. SMUD, 34-2010-80000723 (08-R2D1-4887)
3. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-8000820 (03-R1D1-5170)
4. MASCON, INC., 34-2011-80000819 (08-R2D1-4278 AND 4279)
5. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)
6. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459 THROUGH 2461)
7. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
8. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
9. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
10. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
11. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
12. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
13. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
14. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
15. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
16. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
17. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)

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18. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
19. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
20. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
21. A. TEICHERT & SON, DBA TEICHERT AGGREGATES, RG12 659881 (10-R5D1-3029)
22. HOME DEPOT USA, INC., BS141301 (10-3284)
23. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
24. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00628178 (10-3667)
25. THYSSENKRUPP ELEVATOR CORP., 34-2013-80001456 (11-2217 ~ 2219)
26. BIG LOTS STORES, INC., 37-2013-00045936 (11-R3D2-1929 ~ 1931)
27. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)
28. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00652023 (12-0439)
29. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00651875 (12-0440)
30. AC TRANSIT, RG13687314 (08-R1D4-0135)
31. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
32. BAY AREA RAPID TRANSIT DISTRICT, RG13689346 (09-R2D2-1219 & 1221)
33. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)
34. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
35. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
36. SHIMMICK-OBAYASHI, 34-2014-80001750 (2008-R3D3-5023 THROUGH 5025)
37. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)

**APPELLATE COURT:**

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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. SHERWOOD MECHANICAL, INC., D065322, 37-2012-00101466 (08-R3D2-4690 ~ 4693)

**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.)*

GUILLERMO & ROSARIO AMEZOLA DBA AMEZOLA FLC, 13-R2D1-2603  
A-PLUS TREE SERVICE INCORPORATED, 114-R2D2-0176 AND 14-R2D2-0426  
ARIES BUILDERS, 13-R2D2-3069  
BAY RAM COLLISION CENTER, INC., 13-R1D4-1624  
BOSKOVICH FARMS, INC., 13-R4D3-2524 AND 2525 \*  
BRANNON, INC., DBA SMITH ELECTRIC SERVICE, 13-R4D3-2702 \*  
BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC, 12-R3D6-3272  
CA TRANSPORTATION, 13-R2D1-2918  
CENTRAL TRANSPORT INTERNATIONAL, 13-R3D2-2144 AND 2115  
CERRO PACIFIC LUMBER INC., 13-R2D1-2281 THROUGH 2283  
CITEK TAPE DRIVE REPAIRS SPECIALISTS DBA INTEGRITY, 13-R3D1-0129  
AND 0130  
CREATIVE COMMUNICATION TECHNOLOGIES, INC., 13-R3D2-2087  
E & K VINTAGE WOOD, 13-R3D5-1940  
EXIDE TECHNOLOGIES, INC., 13-R3D5-1529  
FAIRBANKS FAMILY TRUST DBA RONALD FAIRBANKS, 13-R4D3-2558 \*  
FEDEX GROUND PACKAGE SYSTEMS, INC., 13-R2D1-1953  
FOREST WOOD FIBER PRODUCTS, INC., 14-R3D3-0131 THROUGH 0133  
G & F HORSE TRAILER AND REPAIR, 14-R3D3-0087 AND 0088  
GEORGE WEIR ASPHALT CONSTRUCTION, INC., 13-R3D2-1180 AND 1181  
GIRL SCOUTS SAN DIEGO, 13-R3D2-3855 AND 3856  
HUMBOLDT BAY FOREST PRODUCTS, INC., 13-R2D3-0750  
ILLUMINA, INC., 13-R3D2-3892  
ILLUMINA, INC., 13-R3D2-3893  
INTERMOUNTAIN DISPOSAL, INC., 13-R2D1-1217  
IPG-USA INC. DBA WESTERN INDUSPAC PACKAGING GROUP,  
13-R1D4-2833 AND 2834  
J F CONSTRUCTION CORPORATION, 13-R6D5-0190 AND 0192 \*  
KAB ENGINEERING, LLC., 12-R4D7-3511  
KONO & SONS, INC., 13-R4D3-3955 THROUGH 3957  
LA WEB INC., 13-R4D4-3186 THROUGH 3189

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LONG BEACH MEMORIAL MEDICAL CENTER, INC., 13-R3D5-1408  
MYERS POWER PRODUCTS, INC., 13-R4D3-2838 THROUGH 2842  
NOWLIN FENCE, INC., 13-R6D2-2563 AND 2564 \*  
ON TIME STAFFING, LLC., 13-R6D2-1349  
PACIFIC BELL TELEPHONE CO. DBA AT&T, 13-R2D2-1385  
PACIFIC RIM INTERNATIONAL WEST, INC., 13-R4D4-1064  
PACKARD HOSPITALITY GROUP, LLC., 13-R4D1-1409  
KALPESH PATEL DBA HOLT & GROVE AIRPORT WASH, 13-R4D4-0977  
AND 0978  
PURE PACIFIC ORGANIC LLC., 13-R1D2-3801  
PYRO-COMM SYSTEMS, INC., 13-R4D7-27272 AND 2728 \*  
REGENT AEROSPACE CORP, 13-R6D2-2667 AND 2668  
RJP FRAMING, INC., 13-R1D4-3208  
SAFEWAY, INC., 13-R2D4-2920  
SAN LUIS PUMP COMPANY, 13-R2D4-3695 THROUGH 3698  
STRATEGIC OPERATIONS, INC., 13-R3D2-2116 THROUGH 2119  
SUPERIOR PAPER & PLASTIC, INC., 13-R3D5-1403 AND 1404  
TACO BELL, 13-R2D1-3347  
TWENTIETH CENTURY FOX FILM CORPORATION, 13-R4D1-0585  
UC LOS ANGELES FACILITIES MANAGEMENT, 12-R4D1-3012 AND 3013  
VENTURA FOODS, LLC., 13-R4D4-1459 AND 1460  
VERTICAL FRAMING, INC., 13-R2D1-3023 AND 3024  
WHEEL COSMO INC., DBA ALLOY WHEEL REPAIR SPECIALISTS,  
12-R3D6-2591 AND 2592

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: The Board discussed personnel matters. Chair Carter announced that the Board has been given permission to hire an additional staff attorney and that a candidate has been selected. He also reported that Phyllis Eldredge has received a promotion to Associate Government Personnel Analyst.

The Closed Session was adjourned at 12:54 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 12:55 p.m.