SUMMARY
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
April 16, 2015
Walnut Creek, California
(CORRECTED COPY)

I. PUBLIC MEETING

A. CALL TO ORDER AND INTRODUCTIONS

Chairman Dave Thomas called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:02 a.m., April 16, 2015, in the Council Chambers of the Walnut Creek City Hall, Walnut Creek, California.

ATTENDANCE

Board Members Present
Dave Thomas
David Harrison
Bill Jackson
Patty Quinlan
Barbara Smisko
Laura Stock

Board Member Absent

Board Staff
Mike Manieri, Principal Safety Engineer
Peter Healy, Legal Counsel
David Kernazitskas, Senior Safety Engineer
Sarah Money, Executive Assistant

Division of Occupational Safety and Health
Steve Smith, Principal Safety Engineer

Others Present
Jay A. Weir, AT&T
Ben Jauregui, Duncan Family Farms
Larry D. Williams, Hall Management Corp.
Mike Meuter, CRLA
David Shiraishi, Fed OSHA
Pat Gajdot, OSHA
Marti Fisher, CalChamber
Dan Leaco, Greenberg Traurig
Ken Clark, BB&T/ASSE-SF

Norm Groot, Monterey County Farm Bureau
Jose Jaramillo, Duncan Family Farms
Michael Musser, CA Teachers Association
Elizabeth Treanor, Phylmar Regulatory Roundtable
Joel Sherman, Grimmway Farms
Will Creger, Sagui Law Group
Matt Antonucci, CSATF
Mr. Thomas presented Hank McDermott with a plaque on behalf of the Board and staff to recognize and thank him for his time and dedication during his tenure as a member of the Board from June 2010 to January 2015. He stated that Mr. McDermott submitted his resignation to the Governor in January and mentioned several of the rulemaking projects that Mr. McDermott participated in during his tenure as a member of the Board.

B. OPENING COMMENTS

Mr. Thomas indicated that this portion of the Board’s meeting is open to any person who is interested in addressing the Board on any matter concerning occupational safety and health or to propose new or revised standards or the repeal of standards as permitted by Labor Code Section 142.2.

C. ADJOURNMENT

Mr. Thomas adjourned the public meeting at 10:11 a.m.

II. PUBLIC HEARING

A. PUBLIC HEARING ITEMS

Mr. Thomas called the Public Hearing of the Board to order at 10:11 a.m., April 16, 2015, in the Council Chambers of the Walnut Creek City Hall, Walnut Creek, California.

Mr. Thomas opened the Public Hearing and introduced the first item noticed for public hearing.

1. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
   Section 3437, 3441 and 3664(b)
   Agricultural Personnel Transport Carriers

Mr. Manieri summarized the history and purpose of the proposal and indicated that the proposal is ready for the Board’s consideration and the public’s comment.

**Norm Groot, Monterey County Farm Bureau,** stated that allowing employees to ride on personnel transport carriers in the fields is advantageous. He said that it will give them a brief rest break while they are being transported, which will also help to prevent heat illness. He also stated that personnel transport carriers will help to move equipment and personnel through the fields without having to use additional vehicles, thereby reducing their carbon footprint.

**Jason Resnick, Western Growers Association,** stated that this proposal takes into account the structural integrity requirements, safety mechanisms, and training requirements necessary to keep employees safe while riding on personnel transport carriers. He said that the safety record regarding personnel transport carriers is very good, and there have been no incidents on them in 25 years. However, he said that his organization feels this proposal does not go far enough because it does not allow personnel transport carriers to be used on private farm roads.
He stated that this is a mistake that is counterproductive and could jeopardize employee safety. He said that having additional vehicles on farm roads to transport employees creates a greater potential for collisions, and other forms of transportation that are used on private farm roads, such as ATV’s and riding in the back of pickup trucks, are less safe and protective than personnel transport carriers. He asked the Board to amend the proposal to allow personnel transport carriers to be used on private farm roads, in addition to the fields, or to open up additional rulemaking proposals to address this issue. Joel Sherman, Grimmway Farms, echoed Mr. Resnick’s comments.

Joel Sherman, Grimmway Farms, stated that because his organization has used personnel transport carriers, their irrigation crews have never had a heat illness episode. He said that his organization was granted an experimental variance in 2012, and over the last 3 years that they have had that variance, they have developed and implemented a program to regulate the use of personnel transport carriers that has the proper engineering, administrative controls, training, and enforcement to ensure employee safety. He said that with this program in place, there have been no injuries, accidents, incidents, or near misses when using personnel transport carriers in the fields or on farm roads.

Michael Meuter, California Rural Legal Assistance Foundation, stated that his organization supports the proposal because it only allows personnel transport carriers to be used on level, furrowed fields. His organization agrees with the Board staff’s decision noted in the Grimmway variance that equivalent safety for use of personnel transport carriers or farm roads has not been achieved and that prohibiting their use in places other than level, furrowed fields protects employees from rollover accidents and collisions. He also stated that his organization supports all of the conditions noted in paragraph I because they are necessary to protect workers.

Mr. Harrison stated that in 2011, the Division prohibited using personnel transport carriers until the Grimmway variance process is complete. He said that he would like to receive information from the Division and Board staff at next month’s meeting regarding the number of injuries, such as heat illness and injuries that have occurred due to increased traffic and collisions on farm roads, that have occurred at farms such as Grimmway since they were prohibited in 2011.

Ms. Stock stated that she was on the hearing panel for the Grimmway variance, and she is pleased to see that this proposal fits well with the conditions noted in the variance. She said that one important item from the variance conditions that is not included in this proposal is the requirement that the field be laser leveled. She asked the Board staff to explain why that item is not included in the proposal. She said that there are a lot of conditions in this proposal, and because of that, the level of enforcement is critical to ensure that all of the conditions are being met. She stated that large farms such as Grimmway may have the resources to ensure that all of the conditions are being met, but other farms may not. She also stated that she is pleased to see that this proposal does not allow personnel transport carriers to be used on farm roads. She said that the variance hearing panel had extensive discussion about this and determined that equivalent safety has not been established. She said that farm roads have more unpredictable conditions that create a significant risk, and personnel transport carriers do not have rollover protection, so it is not safe to allow them to be used on farm roads.
B. **ADJOURNMENT**

Mr. Thomas adjourned the Public Hearing at 10:35 a.m.

**III. BUSINESS MEETING**

Mr. Thomas called the Business Meeting of the Board to order at 10:35 a.m., April 16, 2015, in the Council Chambers of the Walnut Creek City Hall, Walnut Creek, California.

A. **PROPOSED VARIANCE DECISIONS FOR ADOPTION**

1. **Consent Calendar**

Mr. Healy stated that the following file numbers should be removed from the consent calendar and voted on separately because some Board Members may wish to recuse themselves from voting on those cases:

- 14-V-245M1, Santa Clara University
- 15-V-020 and 15-V-021, Kaiser Foundation Hospital
- 14-V-348, Par Electrical Contractors

With proposed decisions concerning those four variance applications voted apart from the rest, Mr. Healy saw no issues to prevent the Board from taking up the consent calendar for possible adoption.

**MOTION**

A motion was made by Mr. Harrison and seconded by Ms. Stock to separate file numbers 14-V-245M1, 15-V-020, 15-V-021, and 14-V-348 from the rest of the consent calendar and for adoption of the remainder of the consent calendar.

A roll call was taken, and all members present voted “aye.” The motion passed.

**MOTION**

A motion was made by Mr. Jackson and seconded by Mr. Harrison to adopt the proposed decision for file number 14-V-245M1.

A roll call was taken, Ms. Stock and Ms. Quinlan abstained, and all other members present voted “aye.” The motion passed.

**MOTION**

A motion was made by Mr. Harrison and seconded by Mr. Jackson to adopt the proposed
decisions for file numbers 15-V-020 and 15-V-021. A roll call was taken, Ms. Smisko abstained, and all other members present voted “aye.” The motion passed.

MOTION

A motion was made by Mr. Jackson and seconded by Ms. Stock to adopt the proposed decision for file number 14-V-348.

A roll call was taken, Mr. Harrison abstained, and all other members present voted “aye.” The motion passed.

B. OTHER

1. Executive Officer’s Report

Ms. Hart stated that the proposal for heat illness prevention has been approved by the Office of Administrative Law, filed with the Secretary of State, and will become effective on May 1, 2015. She said that the Division has posted its guidance documents for heat illness prevention online.

Ms. Hart also stated that there will be an advisory committee meeting in Sacramento on June 2 to address the topic of working alone and in isolation in construction that Mr. Harrison brought to the Board’s attention a few months ago. She said that the meeting will be led by Michael Nelmida, and the notice for the meeting will be sent out next week.

Ms. Hart stated that the proposal for sexually transmitted infections will be up for public hearing next month. She said that the notice and other related documents have been sent out and are posted online.

Mr. Thomas stated that he is glad that the proposal for sexually transmitted infections will finally be heard at next month’s meeting. He said that 5 years is way too long for a proposal like that to be delayed before it is heard.

2. Future Agenda Items

No future agenda items were mentioned.

C. ADJOURNMENT

Mr. Thomas adjourned the Business Meeting at 10:44 a.m.