

**BEFORE THE  
STATE OF CALIFORNIA  
OCCUPATIONAL SAFETY AND HEALTH  
APPEALS BOARD**

In the Matter of the Appeal of:

ETTER & SONS CONSTRUCTION, INC.  
5980 Stoneridge Drive  
Pleasanton, CA 94588

Employer

Docket No. 03-R1D5-3131

**DECISION AFTER  
RECONSIDERATION**

The Occupational Safety and Health Appeals Board (Board), acting pursuant to authority vested in it by the California Labor Code and having taken the petition for reconsideration filed in this matter by Etter & Sons Construction, Inc. (Employer) under submission and after reviewing the entire record, renders the following decision after reconsideration.

**DECISION AFTER RECONSIDERATION**

Before the Appeals Board is a decision dated August 30, 2005, by an administrative law judge (ALJ) of the Board, denying Employer's appeal from a general violation of section 1671.2(a)(1) [controlled access zone] and a serious violation of section 1620(d) [place wooden guard rails on side of post affording greatest strength and protection].

On September 29, 2005, Employer filed a petition for reconsideration regarding only the 1620(d) violation. On November 3, 2005, the Division of Occupational Safety and Health (Division) filed an opposition to the petition for reconsideration. On October 13, 2005 the Board took the petition under submission and stayed the decision of the ALJ pending a decision on the petition by the Board.

**BACKGROUND**

Employer is a construction contractor engaged in the business of installing exterior sheetrock and siding on new, multi-story, residential buildings. The Division cited Employer for failure to install guardrails in compliance with section 1620(d).

## **FINDINGS AND REASONS FOR DECISION AFTER RECONSIDERATION**

The ALJ fully considered the contentions raised by Employer in its petition. The Appeals Board has considered the decision of the ALJ and the record in light of Employer's petition for reconsideration and affirms the ALJ's summary of evidence, rulings, findings, and conclusions and **adopts** the **decision** in its entirety. Accordingly, the ALJ's decision is attached and incorporated herein by reference.

## **DECISION AFTER RECONSIDERATION**

The decision of the ALJ dated August 30, 2005, denying Employer's appeal and imposing a civil penalty, is reinstated and affirmed.

CANDICE A. TRAEGER, Chairwoman  
ART R. CARTER, Board Member

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
FILED ON: JUNE 10, 2010