

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

In the Matter of the Appeal of:

UNDERGROUND CONSTRUCTION CO., INC.  
5145 Industrial Way  
Benicia, CA 94510

Employer

Docket Nos. 98-R1D1-4105  
and 4106

**AMENDED DECISION**  
**AFTER RECONSIDERATION**

Pursuant to the Peremptory Writ of Mandate issued on August 3, 2005 by the Superior Court of California, County of Sacramento, Case No. 01-CS01671, the Occupational Safety and Health Appeals Board (Board) hereby reconsiders the Decision After Reconsideration issued in the above captioned matter. The Board sets aside and vacates the Decision After Reconsideration issued October 30, 2001 and reverses the decision of its Administrative Law Judge issued on December 9, 1999.

**Docket No. 98-R1D1-4105**

The Board finds that the Division of Occupational Safety and Health (the Division) did not establish, by a preponderance of the evidence that Underground Construction Co., Inc. (Employer) violated section 1154(k)(1) of Title 8, California Code of Regulations. Employer's appeal from the citation is hereby granted.

**Docket No. 98-R1D1-4106**

The Board finds that the Division did not establish, by a preponderance of the evidence, that Employer violated section 1541.1(a)(1) of Title 8, California Code of Regulations. Employer's appeal from the citation is hereby granted.

CANDICE A. TRAEGER, Chairwoman  
ROBERT PACHECO, Member

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
FILED ON: February 22, 2006