

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION  
Held on April 22, 2015  
Sacramento, California**

**PRESENT:**

Art Carter, Chair  
Ed Lowry, Member  
Judith Freyman, Member  
Han Ha, Interim Executive Officer  
Jeff Mojcher, Chief Counsel  
Ursula Clemons, Presiding Administrative Law Judge  
Neil Robinson, Presiding Administrative Law Judge  
Aaron Jackson, Industrial Relations Counsel  
Autumn Gonzalez, Industrial Relations Counsel  
Lee Berlin, Executive Secretary  
Amy Martin, DOSH  
Bruce Wick, CALPASC  
Daniel Leacox, Greenberg Traurig L.L.P.  
Nichole Marquez, Worksafe  
Frances Low, California State Senate  
Robert Peterson, Robert D. Peterson Law Group  
Dave Donnell, Robert D. Peterson Law Group

**MINUTES OF APRIL 8, 2015 MEETING:**

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

ACTION: Member Lowry moved that the Board approve the draft minutes of the April 8, 2015 Board meeting. Member Freyman seconded. The Board voted to approve the draft minutes of the April 8, 2015 Board meeting.

**ADMINISTRATIVE MATTERS:**

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

APPEALS VOLUME REPORT  
EXPEDITED PROCEEDINGS  
HEARING CALENDAR REPORT

ACTION: The Board reviewed these monthly reports.

**NEW BUSINESS:**

*(The Appeals Board hears and discusses new reports presented by staff.)*

ACTION: No report.

The Board recessed to its closed session at 9:33 a.m. and resumed the business session at 10:15 a.m.

**OLD BUSINESS:**

OASIS PROJECT:

ACTION: No report.

RULEMAKING:

ACTION: Chair Carter explained that this is the fourth public meeting in which the bulk of the discussion time will be dedicated to the proposed rulemaking package. The proposed rules are intended to bring the Board into compliance with AB 1634, allow the Board to transition into its planned new computer and file management system, and to make it easier for all employers to access the Appeals Board. The Board heard from several stakeholders, including Daniel Leacox, Nicole Marquez, Amy Martin, Bruce Wick and Robert Peterson, with discussion focusing primarily on sections 361.3, 362 and 374. The Board will continue the rulemaking discussion at its next meeting on May 6.

**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.)*

ACTION: Several stakeholders commented upon the proposed rulemaking package.

**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

LARA LABOR CONTRACTORS, 13-R2D2-3608 AND 3609  
PDM STEEL SERVICE CENTERS, INC., 13-R1D3-2446 THROUGH 2448

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

NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391  
TRI-STATE STAFFING, 12-R6D2-0378

ACTION: The Board took no action on these matters.

**PETITIONS FOR RECONSIDERATION:**

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

GRACIANA TORTILLA FACTORY, 15-R4D3-9010

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.

**ORDERS AFTER REMAND:**

DOUBLE S FASHION, INC., 14-R6D5-1751 AND 1752

ACTION: Member Lowry moved that the Board approve this Order of Remand of an Administrative Law Judge. Member Freyman seconded. The Board voted to approve this Order After Remand of an Administrative Law Judge.

OWENS-ILLINOIS GLASS CONTAINER INC., 09-R1D4-2021 AND 2022

ACTION: Member Lowry moved that the Board approve this Order of Remand of an Administrative Law Judge. Member Freyman seconded. The Board voted to approve this Order After Remand of an Administrative Law Judge.

**ORDERS DISMISSING APPEAL:**

LOS ANGELES DEPARTMENT OF WATER & POWER, 15-R4D7-0080

ACTION: Member Lowry moved that the Board approve this Order Dismissing Appeal from an Administrative Law Judge. Member Freyman

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seconded. The Board voted to approve this Order Dismissing Appeal from an Administrative Law Judge.

ANGELICA MONIQUE RAMIREZ DBA AMR CONTRACTING, 14-R6D7-3192

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

**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)*

**ORDERS GRANTING LATE APPEAL:**

ABDELLATIF ENTERPRISES INC., 15-R3D1-1048 AND 1049

BURLINGAME INDUST. INC DBA EAGLE ROOFING PRODUCTS,  
15-R3D3-1050 AND 1051

PETERSEN DEAN INC., 15-R3D1-1045 THROUGH 1047

SENH LONG FARM INC., 15-R6D5-1008

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

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

J.M. CABINETS, INC., 15-R6D1-9054

ACTION: Member Lowry moved that the Board grant leave to file late appeal in this matter. Member Freyman seconded. The Board voted to grant leave to file late appeal in this matter.

A-1 ROOF MANAGEMENT & CONSTRUCTION, INC., 15-R1D4-9056

ALCAUTER INC DBA HEMET AUTO SPA & DETAIL, 15-R3D3-9057

C & R FARMS, 15-R3D3-9059

HARRIS REBAR NORTHERN CALIFORNIA, INC., 15-R1D4-9058

JEFFREY TODD KINCAID DBA KINCAID CONSTRUCTION, 15-R6D5-9053

LEO AND LILY, 15-R6D5-9055

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

CALIFORNIA DRYWALL AND PLASTER, INC. dba BEST DRYWALL,  
15-R6D5-9018

ACTION: Member Lowry moved that the Board issue an Order Rescinding its Order of Reconsideration because the matter has been settled. Member Freyman seconded. The Board voted to issue an Order Rescinding the Board Order of Reconsideration in this matter.

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

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.

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  
GONZALO OLASCOAGA, 13-R6D5-2097 AND 2098  
ORANGE COUNTY SANITATION DISTRICT, 2013-R3D1-0287  
SIERRA FOREST PRODUCTS, 09-R2D5-3979

STANISLAUS FOOD PRODUCTS CO., 13-R2D4-0572 THROUGH 0574

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.

TREASURE ISLAND MEDIA, INC., 10-R6D1-1093 THROUGH 1095

**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. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
3. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
4. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
5. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
6. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
7. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
8. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
9. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
10. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
11. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
12. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
13. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
14. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
15. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
16. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)

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17. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575  
(12-R5D1-337)
18. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)
19. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
20. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749  
(2008-R2D1-3414 THROUGH 3418)
21. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
22. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
23. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056 THROUGH  
3058) (DOSH)
24. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH  
3058) (3<sup>rd</sup> Party)
25. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817  
(09-R6D2-2238 ~ 2241)
26. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
27. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
28. IRWIN INDUSTRIES, BS14-9634 (12-R4D3-3276 & 3277)
29. TL PAVLICH CONSTRUCTION, INC., BS14-9660 (11-R3D6-1303  
THROUGH 1310)
30. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360  
THROUGH 3362)
31. MORROW MEADOWS CORP., BS151385 (09-R3D3-2295)
32. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)
33. KEY ENERGY SERVICES, INC., S-1500-CV-283958, EB (13-R4D3-2239 ~ 2242)
34. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL  
(14-R3D2-1935 & 1936)

**APPELLATE COURT:**

1. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
2. AC TRANSIT, A142799, RG13-687314 (08-R1D4-0135)
3. 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.)*

ACE COMMERCIAL PLASTERING, INC., 14-R1D3-2572  
AMERICAN ALUPACK INDUSTRIES LLC., 14-R4D3-4122 AND 4123  
ANGELUS ALUMINUM FOUNDRY CO., 14-R6D2-4018 THROUGH 4022  
BAGCRAFT PAPERCON, 14-R4D1-3456 AND 3457  
CABINETS 2000 INC., 15-R6D2-0014 THROUGH 0018  
CAL FIRE, 14-R1D2-3082  
CANYON SPRINGS ENTERPRISES DBA RSH CONSTRUCTION, 14-R3D1-0115 THROUGH 0117  
CELL PLUS AUDIO INC. DBA PACIFIC AUDIO, 15-R6D7-0365 AND 0366  
CENTRAL TRANSPORT LLC., 15-R2D1-0298  
COMMUNITY FUELS, 14-R2D4-2122  
CONCORD IRON WORKS, INC., 15-R1D1-0598 THROUGH 0600  
COOL EARTH SOLAR INC., 14-R6D1-3188  
C. RAY CONSTRUCTION, INC., 14-R6D7-4134 THROUGH 4136  
DOUBLE B DEMOLITION INC., 14-R2D1-1517 AND 1518  
D & R ELECTRIC, 14-R3D2-2554  
D.R. HORTON BAY INC., 14-R1D2-4201  
E H C CONSTRUCTION, 14-R3D2-3494 THROUGH 3497  
EQUITY LIFESTYLE PROPERTIES INC., 15-R1D5-0038 AND 0039  
EXOPACK LLC, 14-R4D4-1739 THROUGH 1741  
EXXON MOBIL, 14-R6D4-4191 THROUGH 4199  
FRAMING BY SUPERIOR, 14-R3D1-2402  
FRANKLINS FAMILY AUTO CARE INC., 15-R6D7-0367  
FRESH HARVEST, INC., 14-R6D7-3008 THROUGH 3010  
GH WOOD DESIGN LLC, 14-R6D2-3715 THROUGH 3718  
GLAZING CONCEPTS INC., 14-R3D1-3342 AND 3343  
HENKELS & MCCOY, INC., 14-R1D2-1268  
HERNANDEZ'S RELIABLE LATHING, 14-R2D5-2949 AND 2950  
HOUWELING NURSERIES OXNARD INC., 14-R4D3-3898 AND 3899  
HURLEY CONSTRUCTION, INC., 14-R1D3-3794 THROUGH 3796

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INDEPENDENT CONCRETE CUTTING INC., 14-R4D3-1485  
J.T. MASTERS CONSTRUCTION, INC., 14-R6D7-3834  
KINGDOM WORLDWIDE WEB OPERATIONS, INC., 14-R3D1-2041 AND 2042  
KOCH FILTER CORPORATION, 15-R3D3-0213 THROUGH 0215  
LOS ANGELES WATER & POWER, 14-R2D5-3017  
CHANG JIE LU DBA D'ARCHITECH INC., 14-R1D2-3773  
MARGE CARSON INC., 15-R6D2-0434 THROUGH 0437  
MITCHELL DEVELOPMENT ENTERPRISES INC., 14-R6D7-2607 AND 2608  
MONTEREY MUSHROOMS, INC., 14-R1D2-2802  
NATIONAL EXPRESS TRANSIT, INC., 14-R2D2-3702 AND 3703  
NEW WESTERN CONSTRUCTION, INC. DBA JLG LANDSCAPING,  
14-R4D3-2585 THROUGH 2590  
JOE NUNEZ DBA TRENDS DBA TRENDS CUSTOM PAINTING, 15-R6D7-0258  
AND 0259  
OPTIMUS GROUP INC., 14-R3D1-4180 AND 4181  
RASMIK OVANESIAN DBA CALIFORNIA SEISMIC CONSTRUCTION,  
14-R4-D1-2925 AND 2926  
PACIFIC COAST PRODUCERS, 15-R2D1-0966  
PARADIGM PACKAGING, 14-R4D4-3273 AND 3274  
PARAMOUNT PETROLEUM CORP., 14-R3D5-2383 AND 2384  
PORTS AMERICA, 14-R3D5-2694  
PROVEN MANAGEMENT INC., 15-R1D2-0712  
PSLQ INC. DBA GREENBEE, 14-R3D1-4031  
RDR BUILDERS, LP, 14-R1D3-3836 THROUGH 3838  
RIO TINTO MINERALS, INC., 14-R5D2-3909  
SAN JOAQUIN COUNTY SHERIFF, 14-R2D4-3379  
SCHROEDER MANAGEMENT COMPANY, INC., 14-R3D1-3432  
THROUGH 3433  
SHIMMICK CONSTRUCTION CO. INC., 14-R1D1-2610 THROUGH 2612  
SHRG ENGINEERING INC., 15-R2D4-0840 THROUGH 0842  
SIERRA PACIFIC INDUSTRIES, 14-R2D3-4145 AND 4146  
SOCAL FRAMING, INC., 13-R3D1-3369  
STEELHEAD CONSTRUCTORS INC., 14-R2D3-3839 AND 3840  
ST. FRANCIS MEDICAL CENTER, 14-R3D5-3289 AND 3290  
TAYLOR MORRISON, 14-R1D2-2801  
T & R CONSTRUCTION GROUP, 14-R6D7-3409  
TRI PRECISION SHEETMETAL, INC., 15-R6D2-0206 THROUGH 0210  
TRUGREEN LANDCARELLC, 14-R3D5-3824 THROUGH 3828  
WAWONA PACKING COMPANY, 14-R2D5-2952  
WESTERN NATIONAL CONTRACTORS, 14-R1D2-3030  
WEST POINTE HOMES INC., 14-R4D3-3587 AND 3588  
WHITE METAL PRODUCTS, INC., 14-R3D5-3822 AND 3823

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.

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**PERSONNEL:**

*(Issues regarding staff)*

ACTION: No report.

The Closed Session was adjourned at 10:05 a.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 12:48 p.m.