

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION  
Held on May 20, 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

**MINUTES OF MAY 6, 2015 MEETING:**

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

ACTION: Member Lowry moved that the Board approve the draft minutes of the May 6, 2015 Board meeting. Member Freyman seconded. The Board voted to approve the draft minutes of the May 6, 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 appeals volume statistics, the hearing calendar and the progress of Expedited Proceedings cases.

**NEW BUSINESS:**

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

ACTION: No report.

**OLD BUSINESS:**

OASIS PROJECT:

ACTION: OASIS Business Lead Neil Robinson reported that the RFP has been issued and several vendors had questions. A DIR panel will review the proposals once they are submitted. The OASIS group is hoping to conclude a contract during this fiscal year.

**RULEMAKING:**

**ACTION:** Counsel Autumn Gonzalez reported that she has submitted the regulations package to DIR for review.

**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:** Chair Carter requested that the Board move its June 3 meeting to Thursday, June 4. The Board set the next meeting for June 4, 2015 and posted the date on the website.

**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:** PALJ Robinson reported that the Appeals Initiation unit has now eliminated a backlog in docketing some 200 appeals.

He also explained a new Board pilot project designed to assist employers in moving general and regulatory citations through the appeals process more rapidly. For those employers, a prehearing conference will not be automatically set for each new appeal. Instead, they will now receive a letter asking them if they have settled the matter through talks with their DOSH district office. If the matter is not settled after 45 days, then a pre-hearing conference will be scheduled.

The Board will receive monthly reports on the project, which will run about six months.

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:**

JESUS OLIVIA CCASA, 13-R4D4-2561

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.

EKEDAL CONCRETE, INC., 13-R3D1-0131 THROUGH 0133

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.

SAM'S GARDENING, 13-R4D4-2769

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.

UNITED PARCEL SERVICE, 14-R1D2-1779

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.

**PETITIONS FOR RECONSIDERATION:**

HERMAN WEISSKER, INC., 13-R3D1-3279

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.

PDM STEEL SERVICE CENTERS, INC., 13-R1D3-2446-2448

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.

ROBERT ONWELLER DBA PACIFIC HAULING AND DEMOLITION,  
14-R1D4-1087-1088

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.

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

**ORDERS DISMISSING APPEAL:**

**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 DENYING LATE APPEAL**

GOLDEN STATE WARRIORS, 15-R1D4-9060

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.

HOME & BODY COMPANY, 15-R3D1-9085

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.

NATIONWIDE LEGAL, LLC AND ITS SUCCESSORS, 15-R2D1-9086

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.

**AMENDED ORDERS:**

ABC NURSERY INC., 15-R6D2-0914 THROUGH 0917  
STRATEGIC OUTSOURCING INC., 14-R4D1-2164

ACTION: Member Lowry moved that the Board approve these Amended Orders of Administrative Law Judges. Member Freyman seconded. The

Board voted to approve these Amended Orders 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  
CHEVRON U.S.A. INC., 13-R6D3-0655 THROUGH 0662  
CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038  
ECHO ALPHA INC. ET AL, 14-R3D1-0802 THROUGH 0804  
INTERNATIONAL PAPER COMPANY, 14-R2D5-1189 THROUGH 1191

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

ACTION: PALJ Robinson excused himself from the meeting during this discussion. Member Lowry moved that the Board vote to approve this draft Decision After Reconsideration for signature as amended Member Freyman seconded. The Board voted to approve this draft Decision After Reconsideration for signature as amended.

GONZALO OLASCOAGA DBA GONZALO OLASCOAGA, 13-R6D5-2097 AND 2098  
ORANGE COUNTY SANITATION DISTRICT, 2013-R3D1-0287

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.

SIERRA FOREST PRODUCTS, 09-R2D5-3979  
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)
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)  
ACTION: The Board discussed this matter.
24. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH  
3058) (3<sup>rd</sup> Party)  
ACTION: The Board discussed this matter
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)  
ACTION: The Board discussed this matter
29. TL PAVLICH CONSTRUCTION, INC., BS14-9660 (11-R3D6-1303  
THROUGH 1310)  
ACTION: The Board discussed this matter
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)

35. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2492 THROUGH 2497)

**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)
4. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, C078953, 34-2011-80000965, (10-R6D2-188 THROUGH 191)

**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.)*

ADVANCE TUBE ENGINEERING CORPORATION, 14-R6D2-3910 THROUGH 3918  
ARROTIN PLASTIC MATERIALS INC. , 15-R3D3-0755 THROUGH 0758  
CA MENTAL HEALTH ATASCADERO STATE HOSPITAL, 14-R4D7-4096  
THROUGH 4100  
CHEVRON U.S.A INC., 15-R6D3-0325 THROUGH 0328  
C & F MASONRY, INC., 15-R4D7-0086  
CHURCH OF SCIENTOLOGY INTERNATIONAL, 14-R4D1-2395 THROUGH 2397  
C & L FURNITURE, 14-R3D5-3088 THROUGH 3096  
CLUBCORP SHADOW RIDGE CLUB INC., 14-R3D2-1357  
CONSOLIDATED FOUNDRIES, INC., DBA CONSOLIDATED PRECISION  
PRODUCTS – CUDAHY, 15-R6D2-0341 THROUGH 0350 \*  
COUNTY OF L.A. HARBOR UCLA MEDICAL PSYCHIATRIC UNIT,  
14-R3D5-1697 THROUGH 1699  
CULVER CITY PUBLIC WORKS DEPT. 14-R4D1-3811 AND 3812  
DA SERVICES HAULING & DUMPSTERS, 12-R2D2-0741 THROUGH 0743 \*  
DIGITAL PATH, INC., 15-R2D3-0299  
DRILL TECH DRILLING & SHORING INC., 14-R5D1-0095 AND 0096  
DOWNING CONSTRUCTION INC., 15-R3D3-0832 AND 0833  
EMPIRE BUILDING & REMODELING, INC., 15-R4D4-0192  
FMD INC., 15-R6D1-0793 AND 0794  
FOSTER FEED YARD, 14-R3D2-3367 AND 3368  
FRAMECOM, INC., 15-R6D1-1003  
GOLDEN STATE FC LLC DBA AMAZON.COM, 14-R2D4-3265  
GREEN DIAMOND RESOURCE COMPANY, 15-R2D3-0995

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GREENPATH RECOVERY WEST INC., 15-R3D3-0494 THROUGH 0496  
HOT LINE CONSTRUCTION, INC., 15-R4D7-0278  
HUNTER WOODWORKS, INC., 14-R3D5-1025 AND 1026  
INTERNATIONAL DAILY NEWS INC., 14-R4D1-3720 THROUGH 3722  
INTERNATIONAL PITA BREAD, INC., 14-R4D1-2028 THROUGH 2031  
JOE BARTH CONSTRUCTION, INC., 15-R3D1-0271 AND 0272  
J.H. FITZMAURICE, INC., 15-R1D4-0715  
KENT A LANG FARMING, 15-R2D1-1018 AND 1019  
DEMATIC CORP., 14-R2D4-3325  
CARL KRUPPA DBA KRUPPA FARMS, 14-R2D4-3374  
KRAFT FOODS GROUP, INC., 15-R2D5-0709 AND 0710  
RAMON LINAN, 15-R3D5-0302 AND 0303  
L & J FARMS, LLC, 15-R2D5-0528 THROUGH 0531  
MAXIM CRANE WORKS, LP, 14-R2D4-3308  
MATRIX SERVICE INC., 14-R3D5-2872  
NORMAN S. WRIGHT MECHANICAL EQUIPMENT, 15-R1D4-0482 AND 0483  
OAK LAND FURNITURE INC., 15-R6D2-0921 AND 0922  
OLD WORLD CLASSIC INC. AND PROVENZA FLOORS INC., DBA HARDWOOD  
FLOOR & TILE GALLERIA, 15-R6D2-0406 THROUGH 0409  
PACIFIC GAS & ELECTRIC COMPANY, 14-R2D1-3841  
PAR ENGINEERING DBA COMMERCIAL COOLING, 14-R6D2-3318 THROUGH 3321  
PDI INC., 14-R6D2-4161 THROUGH 4163  
PENHALL COMPANY, 14-R4D3-2961  
PENNYSAVER USA PRINTING LLC, 14-R3D3-1786 AND 1787  
PETER PEPPER PRODUCTS, 15-R3D5-0053 AND 0054  
PRO-A MOTORS, INC., 14-R4D1-2979 THROUGH 2982  
PROGRESS RAIL SERVICES CORP., 14-R3D5-3147 AND 3148  
RAFAEL ORSI DRYWALL, 14-R4D4-3003  
RANDSTAD HORIZONS DBA PLACEMENT PROS, 13-R2D5-1176 AND 1177  
RANGERS DIE CASTING COMPANY, 14-R6D2-4075 THROUGH 4077  
RED ROCK ASSOCIATES, INC., 14-R1D2-2613  
REVOLVE SOLAR CA, INC., DBA REVOLVE SOLAR, 15-R2D3-0131 AND 0132  
SACRAMENTO REBAR, INC., 14-R2D4-3341  
DAVID P. SHEETS DBA SHEETS ENTERPRISES, 15-R6D1-0470  
THROUGH 0475  
SISCO ENTERPRISES, INC. DBA ROUND TABLE PIZZA, 15-R2D3-1020  
JOSEPH L. SMITH, 14-R3D5-2919 AND 2920  
SOUTHERN CALIFORNIA MOUNTAINS FOUNDATION, 15-R3D3-0392  
STEVEN DOVALI CONSTRUCTION, INC., 14-R2D4-3263  
SUPERSTORE INDUSTRIES DBA SUNNYWISE FARMS, 15-R1D5-0265  
SURE SHINE MAINTENANCE, 14-R4D4-2179 THROUGH 2181  
TARGET CORPORATION, 14-R2D1-3902 AND 3903  
TC STEEL, 14-R1D1-3339  
TEAMWORK HUMAN RESOURCES INC., 15-R2D3-0159 AND 0160  
THAO TUAN NGUYEN, 15-R6D7-0925  
THE LAKES COUNTRY CLUB ASSOCIATION INC., 15-R3D3-0460 THROUGH 0462

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TK PACIFC, INC. DBA G H SLACK & SON, 14-R4D7-3178 AND 3179  
T & M SOLAR INC., 13-R3D2-3707  
TROON GOLF LLC, 15-R3D3-0910 THROUGH 0912  
TRUPRO INC. DBA DILS ROOFING, 13-R3D2-3857 AND 3858 THROUGH 3324  
TURNER NURSERY, 14-R2D5-3540 AND 3541  
ULTIMATE INSTALLZ, 14-R1D2-2990 THROUGH 2991  
VENTURA RANCH RESORT LLC, 14-R4D3-3439 THROUGH 3440  
VIMHR, 15-R2D3-0006  
WASTE MANAGEMENT OF ALAMEDA COUNTY, INC., 13-R1D4-0041  
THROUGH 0043  
WILLOWS RICE DRIER & STORAGE, 15-R2D3-0854 THROUGH 0856  
YOSEMITE VALLEY BEEF PACKING CO., INC. 14-R2D4-3365 AND 3366

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)*

The Closed Session was adjourned at 11:10 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 11:25 a.m.