

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, February 18, 2016
9:30 A.M.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: February 5, 2016

RE: Closed Session of the Board to be held on February 18, 2016

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. 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.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. BIGGE CRANE & RIGGING CO., 14-R1D2-1798
2. COAST WASTE MANAGEMENT, INC., 11-R3D2-2385 AND 2386
3. FEDEX FREIGHT, INC., 14-R2D1-0144
4. NOLTE SHEET METAL, INC., 14-R6D7-2777 THROUGH 2783
5. SILVERADO CONTRACTORS, INC., 14-R4D7-3044

PETITIONS FOR RECONSIDERATION:

1. BOTHUN TURKEY FARM, 15-R2D4-0137
2. DAVEY TREE SURGERY CO., 13-R3D3-1018 through 1021

3. DRICKS ENTERPRISES INC. dba PETS PLUS, 15-R3D1-9215
4. MASTER CARE WINDOW WASHING, 15-R1D4-9230
5. MORROW-MEADOWS CORPORATION, 12-R4D1-0717 ~ 0719
6. RAAM CONSTRUCTION, INC., 15-R1D4-0155

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. CALIFORNIA SECURITY & INVESTIGATIONS ACADEMY dba CSTA
15-R2D1-9190

ORDERS DISMISSING APPEAL:

ORDER DENYING LEAVE TO FILE LATE APPEAL

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.)

1. BURTECH PIPELINE, INC., 13-R3D2-0830 AND 0831
2. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 and 3186
3. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
4. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
5. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
6. EKEDAL CONCRETE, INC., 13-R3D1-0131 THROUGH 0133
7. HERMAN WEISSKER, INC., 13-R3D1-3279
8. JM ENVIRONMENTAL, INC., 15-R2D1-9232

9. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
10. MAGNA TOOL INC., 15-R3D1-9214
11. MCM CONSTRUCTION, INC., 13-R1D2-3851 THROUGH 3854
12. MDB MANAGEMENT INC., 14-R4D1-2373 AND 2374
13. OC COMMUNICATIONS, 14-R2D2-0120, 0166 and 0340
14. SIERRA FOREST PRODUCTS, 09-R2D5-3979
15. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570
16. UNITED PARCEL SERVICE, 13-R3D2-2664 and 2665

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.)

SUPERIOR COURT:

1. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
2. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
3. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
4. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
5. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219
AND 0220)
6. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
7. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258
(05-R2D4-2650 AND 2651)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

For February 18, 2016

Page 4

8. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
9. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
10. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
11. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
12. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
13. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
14. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
15. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
16. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
17. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
18. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
19. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
20. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
21. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
22. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
23. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)
24. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)
25. KEY ENERGY SERVICES, INC., S-1500-CV-283958, EB (13-R4D3-2239 ~ 2242)
26. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL (14-R3D2-1935 & 1936)
27. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For February 18, 2016
Page 5

28. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR, 15CV-00945 (08-R2D1-3093 ~ 3098)
29. STANISLAUS FOOD PRODUCTS CO., 34-2015-80002087 (13-R2D4-0572 ~ 0574)
30. OLDCASTLE PRECAST, INC., 34-2015-80002167 (13-R3D3-0583)
31. SHIMMICK CONSTRUCTION CO., INC./OBAYASHI CORP., 34-2015-80002204 (12-R3D1-0781)
32. CHARLES PANKOW BUILDERS, LTD., 34-2015-8000221 (13-R4D1-1759)
33. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
34. TRI STATE STAFFING, 12-R6D2-0378
35. CHEVRON U.S.A., N15-2013 (13-R6D3-0655 THROUGH 0662)
36. T & R CONSTRUCTION GROUP, BS159712 (14-R4D3-4120 & 4121)
37. ABM FACILITY SERVICES, INC. dba ABM BUILDING VALUE, 30-2016-00831661, 12-R3D6-3496 ~ 3498

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-R6D2-0188 THROUGH 0191)

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.)

1. A-CO TEMPORARY POWER, INC., 15-R4D-1799 THROUGH 1801

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For February 18, 2016

Page 6

2. ALILA FARM LABOR LLC, 15-R2D5-2257
3. ARBON EQUIPMENT CORPORATION, 15-R3D2-0641
4. A SAMBADO & SON INC, 15-R6D1-2750 AND 2752
5. AUGUSTO BROS., INC. DBA FIRST STREET AUTOMOTIVE, 15-R6D7-2822
6. BAIRD ROOFING CO., 15-R2D3-3904
7. BAXENDALE NURSERY, INC., 15-R6D2-4268
8. BOWMAN PLATING COMPANY, INC., 15-R3D5-4563
9. BRUSH RESEARCH MFG., 15-R4D4-3578
10. BUY DIRECT CABINETS & FURNITURE INC., 15-R6D7-3180 THROUGH 3183
11. CALIFORNIA CARTAGE COMPANY, LLC, 15-R3D5-4715 THROUGH 4719
12. CEDAR FAIR L.P., DBA KNOTT'S BERRY FARM, 15-R3D1-2857 AND 2858
13. CHAMPION BALLROOM ACADEMY, INC., 15-R3D2-2087
14. COAST CRANE COMPANY, 15-R2D1-3340 THROUGH 3342
15. DEVCON CONSTRUCTION INCORPORATED, 15-R1D3-3084 AND 3085
16. DKD CAR WASH INC DBA FOOTHILL CAR WASH AND DETAIL,
15-R4D4-0276
17. GHIRARDELLI CHOCOLATE COMPANY, 15-R1D4-0416 THROUGH 0418
18. ARTURO GONZALEZ DBA GONZALEZ PLASTERING, 15-R6D1 3108
THROUGH 3111
19. GRANITE CONSTRUCTION COMPANY, 14-R3D2-3252
20. HASTINGS CONSTRUCTION, INC., 15-R6D7-1494 THROUGH 1496
21. HBUILT, INC., 15-R6D7-3009
22. HERMAN WEISSKER, INC., 15-R4D3-1077
23. HOT ROD ENTERPRISE LLC DBA HEARTLAND THRIFT STORE,
15-R4D4-0277

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For February 18, 2016

Page 7

24. J.B. HUNT, 16-R2D4-0098
25. JKB ENERGY, INC., 15-R2D5-4515
26. JOHN S. MEEK COMPANY, INC., 14-R4D1-3500 THROUGH 3504
27. JPL CONSTRUCTION, INC., 15-R6D5-2604 THROUGH 2608
28. JSL FOOD, INC., 15-R4D1-3010 THROUGH 3013
29. JSL FOOD, INC., 15-R4D1-3014 THROUGH 3016
30. KENTON KNOP DBA AGELESS PLASTERING CO, 16-R1D2-0021
THROUGH 0023
31. KIEWIT INFRASTRUCTURE WEST, INC., 14-R1D3-2414
32. KR CONSTRUCTION, INC., 15-R6D7-3478 THROUGH 3480
33. LANDMARK SURVEYING SOLUTIONS, INC., 15-R4D1-3231 AND 3232
34. JOSE LARA DBA BAHAM AUTOBODY, 15-R6D5-4744 AND 4745
35. LARGO CONCRETE, INC., 15-R1D4-3186
36. LUBRICATING SPECIALTIES CO., 15-R4D1-3917 THROUGH 3921
37. MACY'S WEST STORES INC DBA MACY'S, 15-R1D2-4523 THROUGH 4525
38. MARQUEZ FARMS, 15-R2D5-3699 AND 3700
39. MATTHEWS CONSTRUCTION, 15-R3D1-3241 THROUGH 3243
40. JAMES MCCORMICK DBA YBJ CONSTRUCTION SERVICES, 15-R6D1-2991
THROUGH 2995
41. MICHAEL MCKINZIE DBA MICHAEL MCKINZIE CONSTRUCTION,
15-R6D7-2759
42. MID STATE STEEL ERECTORS, INC., 15-R1D3-0578 AND 0579
43. MID VALLEY DISPOSAL, 15-R2D5-4046
44. MIYA FARMS INC, 15-R2D5-4513 AND 4514
45. MOBILE HI TECH WHEELS, 15-R3D5-0141

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For February 18, 2016

Page 8

46. NEWSTAR FRESH FOODS, LLC, 14-R1D2-4137
47. NISSIN FOODS (USA) CO INC, 15-R3D5-3227 AND 3228
48. OZONE ROOFING, INC., 15-R3D1-3362 AND 3363
49. PATRICK WARREN CONSTRUCTIN, INC., 15-R6D7-3603 AND 3604
50. PERFECTION PET FOODS, 15-R2D5-2558 THROUGH 2560
51. PETERSENDEAN ROOFING & SOLAR, 15-R3D1-0043 AND 0044
52. PLANT CONSTRUCTION COMPANY, L.P., 15-R1D3-2246 AND 2247
53. PRO-TEC COATINGS, INC DBA PRO-TEC PAINTING & COATINGS,
15-R2D5-1758
54. Q & B FOODS INC., 15-R4D4-2925 AND 2926
55. QUALITY ALUMINUM FORGE, 15-R3D5-0218
56. RICHARD KIM CONSTRUCTION, 15-R1D2-4694
57. RICHWOOD MEAT COMPANY, 15-R2D4-1753
58. ROEM BUILDERS, INC, 15-R1D2-2049
59. RONNY'S, INC., 15-R2D4-1755
60. ROSS AND SONS REFRIGERATION AND CONSTRUCTION INC,
15-R7D1-3414 THROUGH 3417
61. SAN FRANCISCO A-1 ROOFING & MAINTENANCE COMPANY INC,
15-R1D1-2343 THROUGH 2346
62. SILVAN ENTERPRISES, INC. DBA KABAB MAHALEH, 15-R4D1-4145
THROUGH 4147
63. SUMMERFIELD FARMS, LLC, 15-R2D5-3653
64. TARAZI SPECIALTY FOODS, LLC., 15-R4D4-4152
65. TIGER ELECTRIC, INC., 14-R4D3-0999 THROUGH 1001
66. TILTON PACIFIC CONSTRUCTION, INC., 15-R1D3-0229

67. UC LOS ANGELES FACILITIES MANAGEMENT, 15-R4D1-2450
68. UCSD-SCRIPPS INSTITUTION OF OCEANOGRAPHY, 14-R3D2-3874 AND 3875
69. ULTIMATE CONSTRUCTION, INC., 15-R3D5-4408 AND 4409
70. WESTERN NATIONAL CONTRACTORS, 15-R1D3-3605 AND 3606
71. WEST HILLS CONSTRUCTION, INC., 15-R3D5-3867 THROUGH 3869
72. WOODWORKS PLUS INC., 15-R3D2-2803 AND 2804
73. YENETH GRANADOS MANZO DBA OSORNIO'S MOBILE HAND CARWASH,
16-R6D5-0206 THROUGH 0208

PERSONNEL:

(Issues regarding staff.)

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.