

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, March 3, 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 19, 2016

RE: Closed Session of the Board to be held on March 3, 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.)

PETITIONS FOR RECONSIDERATION:

1. KNIGHT TRANSPORTATION PORT SVC., LLC, 15-R3D5-9225
2. LOUIS TANGALASKIS dba ELIAS CONSTRUCTION, 15-R4D1-9236

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. BOTHUM TURKEY FARM, 15-R2D4-0137
2. RAAM CONSTRUCTION, INC., 15-R1D4-0155

ORDERS DISMISSING APPEAL:

1. HOME DEPOT USA STORE #6684, 15-R4D4-0118

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. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 and 3186
2. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
3. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
4. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
5. DAVEY TREE SURGERY CO., 13-R3D3-1018 THROUGH 1021
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. MASTER CARE WINDOW WASHING, 15-R1D4-9230
12. MDB MANAGEMENT INC., 14-R4D1-2373 AND 2374
13. MORROW-MEADOWS CORP., 12-R4D1-0717 THROUGH 0719

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14. OC COMMUNICATIONS, 14-R2D2-0120, 0166 and 0340
15. SIERRA FOREST PRODUCTS, 09-R2D5-3979
16. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570
17. 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)
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)

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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)
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)

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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. 3 PLUS LOGISTICS CO., 15-R3D5-1782
2. 99 CENTS ONLY STORES LLC, 16-R3D3-0014 THROUGH 0017
3. A & A MUFFLERS, INC. DBA MOTA AUTO REPAIR, 15-R6D5-4682 THROUGH 4684
4. ADVANCED ROOFING SERVICES, INC., 15-R1D4-1104 AND 1105
5. ALDELANO CONTRACT STAFFING SERVICES, 16-R1D4-0226 AND 0227

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6. AMES CONSTRUCTION, INC., 15-R5D2-3947
7. ANDERSON AND MIDDLETON DBA DELANO FARMS, INC., 15-R6D5-3669
AND 3670
8. ANGEL CONTRERAZ DBA CONTRERAZ SMOG & AUTO REPAIR,
15-R6D7- 1938 THROUGH 1940
9. BEE SWEET CITRUS, INC., 15-R2D5-1123 THROUGH 1125
10. BRAGG CRANE SERVICE, 15-R2D1-3166 AND 3167
11. BRETLYN, INC DBA B A E ROOFING, 15-R2D1-2509
12. BRUSH RESEARCH MANUFACTURING COMPANY, INC., 16-R4D4-0065
13. CARDINAL PAINT AND POWDER, INC., 15-R4D4-2328
14. CCL TUBE INC, 15-R3D5-0643 AND 0644
15. CEVA LOGISTICS US INC, 15-R3D3-3571 AND 3572
16. C&K MARKET, INC DBA RAYS FOOD PLACE, 15-R2D3-4363
17. COMMERCIAL DISPLAY SYSTEMS, LLC., 15-R6D2-4571 THROUGH 4573*
18. CUMMINS PACIFIC, LLC, 15-R1D4-2312 THROUGH 2315
19. COMMUNICATIONS TEST DESIGN INC, 15-R3D3-0168 THROUGH 0170
20. DAVID & ERIKA ENTERPRISES INC DBA SENTRY FIRE PROTECTION,
15-R2D3-4633
21. DAVIS WIRE CORPORATION, 15-R4D4-1521 AND 1522
22. DAY-LEE FOODS, INC., 15-R1D4-4204 THROUGH 4206
23. KEVIN DENNIS DBA DEPUE WAREHOUSE COMPANY, 15-R2D1-1115
24. DESERT RECYCLING, INC., 16-R3D3-0035 AND 0036
25. DMCE CONCRETE & ENGINEERING CONTRACTORS DBA DMCE, INC.,
15-R2D1-3688
26. DOMER PRECISION, INC., 15-R3D5-2807

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27. FISHER CONSTRUCTION, INC., 15-R3D1-1390
28. FLORICULTURA PACIFIC, INC., 16-R6D1-0104 THROUGH 0106
29. FRENCH BROTHERS CUSTOM SHUTTERS, INC., 15-R6D2-4418
THROUGH 4421
30. GERDAU-CONCO, 15-R1D2-1967
31. GJOKO KONDOVSKI DBA TIMEOUT CAFÉ, 16-R6D5-0200 AND 0201
32. GRANITE CONSTRUCTION COMPANY, 15-R1D2-0850
33. HENKELS & MCCOY, INC, 14-R4D4-3185
34. HENSEL PHELPS, 15-R3D2-1133 AND 1134
35. HONEY BAKED HAM, INC., 15-R2D1-2052
36. J.A. NETZEL CONSTRUCTION, 15-R1D2-2431
37. J-FOUR ENTERPRISES, INC. DBA MR. SPRINKLER FIRE PROTECTION,
15-R2D4-3696 AND 3697
38. KMS DESIGNS, INC., 15-R3D1-3172 THROUGH 3174
39. KOOSHAREM, LLC DBA SELECT STAFFING, 15-R2D4-2556
40. KOSAREFF FARMS, 14-R4D7-4228 THROUGH 4230
41. LA COUNTY MTA, 14-R4D1-2854
42. LANGER JUICE COMPANY INC, 15-R4D4-0092 THROUGH 0094
43. LEHIGH SOUTHWEST CEMENT COMPANY, 15-R5D1-3661 THROUGH 3663
44. MEL SERVICES INCORPORATED DBA WORKERS.COM, 15-R1D5-3687
45. MODERNICA INC, 15-R4D1-3775
46. MONOPRICE, 15-R4D4-4801
47. MARIA GUADALUPE NEGRETE DBA SUNRISE LABOR SERVICES,
15-R2D4-2230
48. MENU PRINTERS, INC., 15-R3D1-1129

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49. MENU PRINTERS, INC., 15-R3D1-1130
50. NEHEMIAH REBAR SERVICES INC, 15-R2D1-3515
51. NEW KOOSHAREM CORPORATION DBA SELECT STAFFING, 15-R3D3-4561
52. NORMAN'S NURSERY, INC., 15-R6D2-2930 THROUGH 2933
53. NORTH COAST WATERPROOFING INC, 15-R1D5-4534
54. NORTHROP GRUMMAN AEROSPACE SYSTEM, 15-R3D5-4410
55. NOVOTEC, INC., 15-R1D3-0353
56. PALISADE BUILDERS, INC., 15-R1D2-2228
57. PGMC COMPANY, INC., 15-R3D1-2513 AND 2514
58. PHILLIPS 66, 15-R7D1-3505 THROUGH 3511
59. PINNACLE CONSTRUCTION CO, 15-R2D5-0829 AND 0830
60. RAMA FOODS MANUFACTURE CORP., 15-R4D4-2181 THROUGH 2186
61. LOUIS JOSEPH RAMIREZ DBA RAMZ CO CONST., 15-R6D5-3819 AND 3820
62. RATTO BROS INC, 14-R6D7-3516
63. RJS & ASSOCIATES, 15-R1D3-3801 THROUGH 3803
64. RND CONTRACTORS, INC., 15-R4D4-1341 AND 1342
65. ROBERTSON'S READY MIX, 15-R3D2-2696 THROUGH 2698
66. ROLFE CONSTRUCTION, 15-R5D1-1081 AND 1082
67. ROYAL AIRE, 16-R2D3-0268 THROUGH 0270
68. R & R LABOR, INC DBA R & R LABOR, 15-R6D1-1990
69. SAN MARCOS GROWERS, INC. DBA SAN MARCOS GROWERS,
15-R6D2-4574 THROUGH 4578
70. SILICON VALLEY IRON WORK, INC., 15-R6D1-2161
71. SMC CONTRACTING, INC., 15-R2D1-2728

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72. SONOMA COUNTY ANIMAL SERVICES, DEPARTMENT OF HEALTH SERVICES, 15-R1D5-4537
73. STRATEGIC OUTSOURCING, INC., 15-R6D1-2495 THROUGH 2499
74. SUNNYVALLEY SMOKED MEATS, INC., 15-R2D4-4389 THROUGH 4391
75. SYNERGY PROJECT MANAGEMENT, 15-R1D1-3827
76. THE DON CHAPIN CO. INC., 16-R1D2-0151
77. THE GOLDEN 1 CREDIT UNION, 16-R2D1-0352
78. THE RECYCLE DEPOT, INC., 15-R2D5-3650 THROUGH 3652
79. THE WILLOW GROUP, INC., 15-R4D1-2840
80. TOMMY LANE PAINTING & CONSTRUCTION, 15-R1D5-3685 AND 3686
81. TRI-CITY CONCRETE, 15-R1D5-4452
82. TRINET GROUP, INC., 15-R6D1-3017 THROUGH 3021
83. UNIVERSITY OF SAN FRANCISCO, 15-R1D1-2006
84. UNIX-PACKING, INC. DBA MAMMOTH WATER, 15-R4D4-2374 AND 2375*
85. VARIAN MEDICAL SYSTEMS, INC, 15-R2D1-0526
86. WERMERS MULTI-FAMILY CORP. DBA WERMERS, 14-R5D5-1812 THROUGH 1814
87. WEST COAST ASM, 15-R1D3-3420 AND 3421
88. WIRETECH, INC., 15-R4D1-2152 THROUGH 2155
89. W.REYNEVELD CONSTRUCTION, INC, 15-R4D7-4741

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.