

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, April 7, 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: March 25, 2016

RE: Closed Session of the Board to be held on April 7, 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. ATKINSON CONSTRUCTION, LP, 14-R3D1-4111
2. CITY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS BUREAU OF SANITTION, 14-R4D3-1717
3. P&L SPECIALTIES, 14-R2D1-3855

PETITIONS FOR RECONSIDERATION:

1. FEDEX FREIGHT, INC., 14-R2D1-0144
2. NOLTE SHEET METAL, INC. 14-R6D7-2777 through 2783
3. SILVERADO CONTRACTORS, INC., 14-R4D7-3044

4. TRUCK ACCESSORIES GROUP, LLC, 16-R2D1-9019
5. COAST WASTE MGNMT OF CA, INC., 11-R3D2-2385 and 2386
6. BIGGE CRANE & RIGGING CO., 14-R1D2-1798
7. COMPASS CONTAINER GROUP, INC., 16-R1D4-9014
8. GATEWAY PACIFIC CONTRACTORS, INC., 10-R2D3-1502 through 1508

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. SOLARCITY CORP., 14-R3D2-3707

ORDERS DISMISSING APPEAL:

1. EHC CONSTRUCTION, 15-R3D2-0831
2. JOSE LUIS MARTINEZ DBA GREEN AG INC., 15-R6D5-3597
3. LARRY ROCHA DBA ALL PHASE FRAMING & CONSTRUCTION CO.,
15-R6D-3712 AND 3713

ORDER DENYING LEAVE TO FILE LATE APPEAL

1. CALIENTE SANDS DBA CLOVER RANCH INVESTORS, LLC, 16-R3D3-9044
2. EVERGOOD FINE FOODS DBA EVERGOOD SAUSAGE COMPANY,
16-R6D5-9041
3. HILLPOINTE CONSTRUCTION INC., 14-R4D3-0593 AND 0594
4. THE GROWERS COMPANY INC, 16-R3D2-9045

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.)

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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. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
4. DAVEY TREE SURGERY CO., 13-R3D3-1018 THROUGH 1021
5. HERMAN WEISSKER, INC., 13-R3D1-3279
6. JM ENVIRONMENTAL, INC., 15-R2D1-9232
7. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
8. MAGNA TOOL INC., 15-R3D1-9214
9. MASTER CARE WINDOW WASHING, 15-R1D4-9230
10. MDB MANAGEMENT INC., 14-R4D1-2373 AND 2374
11. MORROW-MEADOWS CORP., 12-R4D1-0717 THROUGH 0719
12. RUSSELL FABRICATION CORP. dba AMERICAN FABRICATION,
15-R6D2-9008
13. SIERRA FOREST PRODUCTS, 09-R2D5-3979
14. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570
15. 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. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
2. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
3. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
4. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
5. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
6. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
7. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
8. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
9. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
10. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
11. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
12. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
13. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
14. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
15. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
16. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
17. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
18. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
19. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)

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20. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)
21. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL (14-R3D2-1935 & 1936)
22. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)
23. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR, 15CV-00945 (08-R2D1-3093 ~ 3098)
24. STANISLAUS FOOD PRODUCTS CO., 34-2015-80002087 (13-R2D4-0572 ~ 0574)
25. OLDCASTLE PRECAST, INC., 34-2015-80002167 (13-R3D3-0583)
26. SHIMMICK CONSTRUCTION CO., INC./OBAYASHI CORP., 34-2015-80002204 (12-R3D1-0781)
27. CHARLES PANKOW BUILDERS, LTD., 34-2015-8000221 (13-R4D1-1759)
28. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
29. TRI STATE STAFFING, 12-R6D2-0378
30. CHEVRON U.S.A., N15-2013 (13-R6D3-0655 THROUGH 0662)
31. T & R CONSTRUCTION GROUP, BS159712 (14-R4D3-4120 & 4121)
32. 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. ADECCO USA INC DBA ADECCO GROUP NORTH AMERICA, 15-R3D3-4735
2. ADVANCED TECH AUTOMOTIVE INC DBA A-TECH AUTOMOTIVE, 15-R6D5-4587 AND 4588
3. AG RAY, INC., 15-R2D4-2828 THROUGH 2830
4. ALPHA DYNO NOBEL DBA ALPHA EXPLOSIVES, 15-R5D3-0081 AND 0082
5. AMERICAN NONWOVENS, INC., 16-R4D4-0390 THROUGH 0394
6. ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT, 15-R4D3-3410 AND 3411 AND 16-R4D3-0829
7. A.OSEGUERA COMPANY, INC., 15-R6D7-4727 THROUGH 4729
8. BALFOUR BEATTY INFRASTRUCTURE, INC, 16-R2D1-0604
9. BLANK AND CABLES, INC., 15-R1D4-3336 AND 3337
10. BO DEAN CO., INC., 15-R1D5-4086 AND 4087
11. BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC DBA SPEEDCO #338, 15-R2D4-4189 AND 4190
12. BRUCAR LOCKSMITH, 15-R4D3-2781
13. BURKETT'S POOL PLASTERING, INC., 15-R1D2-2970 AND 2971
14. CALIFORNIA BOX COMPANY, 15-R4D4-2239 AND 2240
15. CALIFORNIA STEEL INDUSTRIES INC, 16-R3D3-0172 THROUGH 0174
16. CARSON ENERGY GROUP DBA CARSON ENERGY COGENERATION PLANT, 16-R7D1-0596
17. CARTEL INDUSTRIES LLC, 15-R6D2-2671 THROUGH 2673
18. CENTER POINT DEVELOPMENT, INC., 15-R4D1-3207
19. CERTAIN TEED CORPORATION, 16-R2D5-0423 AND 0424

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20. CHAN TAK CHUNG DBA LANDMARK CUSTOM LANDSCAPE, 15-R6D5-2817 THROUGH 2820
21. CITY AND COUNTY OF SAN FRANCISCO, AIRPORT COMMISSION, 14-R1D3-2353
22. CITY FIBERS, INC., 15-R4D1-1518 AND 1519
23. CLOUGHERTY PACKING COMPANY DBA FARMER JOHN, 15-R4D1-1516 AND 1517
24. CMC STEEL FABRICATORS INC DBA CMC REBAR, 15-R4D3-4798
25. COASTAL VITICULTURAL CONSULTANTS, 16-R1D5-0154 AND 0155
26. COLUMBIA ALUMINUM PRODUCTS LLC, 15-R6D2-2376 THROUGH 2381
27. COMPASS CONTAINER GROUP, INC., 15-R1D4-4080 THROUGH 4083
28. CONVERT BUILDERS INC, 15-R3D1-4460 AND 4461
29. CORRWOOD CONTAINERS, INC., 15-R2D5-2956
30. COUCHE-TARD INC DBA CIRCLE K, 15-R2D4-4097 AND 4098
31. COURTESY AUTO OF ORANGE COUNTY DBA COURTESY CHRYSLER DODGE JEEP RAM OF ORANGE COUNTY, 15-R3D1-2472 THROUGH 2474
32. D AND R ELECTRIC, 15-R3D2-3226
33. DAY-LEE FOODS, INC., 16-R1D4-0653 AND 0654
34. DENNIS HYDE CONSTRUCTION INC, 16-R4D7-0066 THROUGH 0070
35. DICK JAMES & ASSOCIATES, INC. DBA OROVILLA APARTMENTS, 16- R2D3-0420
36. DORE CONSTRUCTION OF CALIFORNIA, INC, 15-R1D4-3741 THROUGH 3743
37. DPA INVESTMENTS, INC. DBA VAGABOND INN MISSION VALLEY, 15-R3D2-4222 THROUGH 4224
38. DURACITE STONES UNLIMITED, INC., 15-R3D2-4709 AND 4710
39. EMBREE CONSTRUCTION GROUP INC, 16-R2D3-0605

40. EMPLOYER SOLUTIONS STAFFING GROUP, 15-R4D4-2922
41. FAMAND INC, DBA INDOOR ENVIRONMENTAL SERVICES, 15-R1D5-4536
42. FIRST RESTAURANT EQUIPMENT CO., INC DBA RESTAURANT VENTILATION SYSTEMS, 16-R1D4-0553 THROUGH 0555
43. FLEETWOOD ALUMINUM PRODUCTS INC, 15-R6D2-4721 THROUGH 4723
44. ARMANDO GARCIA JR DBA ARIANA SEWING AND FUSING, 16-R6D5-0045 AND 0046
45. GC INTERNATIONAL, INC. DBA A.L. JOHNSON COMPANY, 15-R4D3-2476 THROUGH 2478
46. GENE L. BONAS INC. DBA GLB, 15-R3D1-3780 AND 3781
47. GLOBAL PROTECTION INDUSTRIES, 15-R3D1-1983
48. GOLDEN STATE FC LLC DBA AMAZON.COM, 16-R2D4-0639
49. HECTOR GONZALEZ DBA CALIFORNIA CABINETS DESIGN, 16-R6D5-0406
50. GONZALEZ FIVE STAR LANDSCAPING, 16-R2D3-0274
51. GRAHAM PREWETT INC., 15-R1D2-2881 THROUGH 2884
52. H.J. HEINZ COMPANY DBA TODDS FACTORY, 15-R3D1-1618
53. HILBERS, INC 15-R6D1-2863
54. HONEY BAKED HAMS, INC, 15-R3D1-0859
55. HORIZON PAINTING CO. INC., 15-R3D1-2040 THROUGH 2042
56. IMKO ENTERPRISES, INC., DBA IMKO WORKFORCE SOLUTIONS, 15-R6D1-1297
57. J & J PROCESSING DBA CUSTOM FOODS INCORPORATED, 15-R4D4-4300 AND 4301
58. JEAN CURUTCHET, INC., 15-R1D1-3681 AND 3682
59. JIMENEZ & SON INC, 15-R2D4-2641

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60. JMC DRYWALL, INC., 15-R2D5-2691 AND 2692
61. LANZ CABINET SHOP INC, 15-R4D4-4257
62. JOON LEE/JOON ELECTRIC, 15-R4D3-1032 AND 1033
63. LESLIE'S POOL SUPPLY, 15-R3D2-3176
64. LONESTAR CONSTRUCTION, INC., 15-R4D3-1210
65. LUPE FRANCO TRUCKING, DBA GUADALUPE FRANCO DBA, LUPE FRANCO TRUCKING, 16-R3D3-0241 THROUGH 0243
66. LYB @ HOME INC DBA CERTAPRO PAINTER OF YORBA LINDA, 15-R3D1-3358 AND 3359
67. MARBORG INDUSTRIES, 15-R4D3-2539 AND 2540
68. MARZ FARMS, INC., 15-R4D3-4412 THROUGH 4414
69. MATSON LOGISTICS, 16-R1D4-0478 AND 0479
70. MORONI ELECTRIC, 15-R3D5-3262
71. NORTH COUNTY SAND AND GRAVEL, INC., 15-R5D3-3263
72. OKOTE PALLETS, INC., 15-R6D5-4034 THROUGH 4036
73. OLTMANS CONSTRUCTION COMPANY, 15-R1D5-3259
74. PACIFIC DEMOLITION INC., 13-R3D2-1039
75. PAR ENGINEERING, INC. DBA COMMERCIAL COOLING, INC., 15-R4D4-3901
76. PETERSEN DEAN INC. DBA PETERSEN DEAN ROOF & SOLAR, 15-R3D1-3200 AND 3201
77. PRESBYTERIAN INTERCOMMUNITY HOSPITAL, INC., 14-R4D4-4035
78. RINCON ISLAND LIMITED PARTNERSHIP, 15-R4D3-2481
79. ROAD MACHINERY, LLC., 15-R5D2-3944 THROUGH 3946
80. ROOF CORP OF CA., INC., 15-R4D1-3208
81. RSM PRODUCTS, INC., 15-R1D4-4186 THROUGH 4188

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82. SADDLEBACK VALLEY ORNAMENTAL IRON INC, 15-R6D2-4495 THROUGH 4500
83. SADDLEBACK VALLEY ORNAMENTAL IRON INC, 15-R6D2-4675 AND 4676
84. SAI INDUSTRIES DBA STANDARD ARMAMENT INC, 15-R6D2-2425 THROUGH 2428
85. SALSBUURY INDUSTRIES INC, 15-R3D5-4474 THROUGH 4477
86. SALVADOR VARGAS LANDSCAPE DBA NEW VISION LANDSCAPE INC, 15-R6D5-4425 AND 4426
87. SANTA PAULA MATERIALS, INC., 15-R4D3-3896 THROUGH 3899
88. SCHAMBER ELECTRIC AND SON'S, INC. DBA SCHAMBER ELECTRIC, INC., 15-R4D1-3250
89. SHASHI PAUL DBA AMORE CAFÉ & BAKERY, 15-R6D7-3008
90. SIERRA ALUMINUM CO, 16-R3D3-0615
91. SMITH PACKING, INC., 15-R6D7-4358 AND 4359
92. SOHO APPAREL GROUP, INC., 15-R4D4-2923 AND 2924
93. SOSS ENTERPRISES, INC. DBA SOS CUSTOMZ, 15-R6D5-0511 AND 0512
94. SPEC-BUILT SYSTEMS, INC., 15-R6D2-4665 THROUGH 4667
95. STATE READY MIX INC, 14-R4D3-0974 AND 0975
96. STOLT SEA FARMS, INC. DBA STERLING CAVIAR, 15-R2D1-4091 AND 4092
97. SUMMIT DCK INC., 15-R3D1-0492
98. SUNMET JUICE COMPANY LLC, 15-R2D5-4544
99. SUNRUN INSTALLATION SERVICES INC, 15-R1D5-1952 AND 1953
100. SUSANVILLE TOWING, 16-R2D3-0508
101. TAI BINH FARM, INC., 15-R6D5-4135
102. TAILGATE PRINTING, INC., 15-R3D1-3909 THROUGH 3912

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103. TAM NHUT DANG DBA PHO-EVER, 16-R6D5-0410
104. TERRACON CONSULTANTS, INC., 15-R4D4-3213
105. TESLA MOTORS, INC., 15-R4D1-3382
106. TORIBIO BONILLA DBA MODERN AUTOMOTIVE, 15-R6D5-3393
107. TOWNE PARK, 15-R1D5-1665
108. TRIUMPH ACTUATION SYSTEMS, INC., 14-R4D3-3040 THROUGH 3042
109. TRU-DUCT, INC., 15-R6D2-3922 THROUGH 3924
110. TTM TECHNOLOGIES, INC., 15-R3D1-0743
111. TYP RESTAURANT DBA TENDER GREENS, 15-R3D1-4457 THROUGH 4459
112. UNI – FAB INDUSTRIES INC., 15-R1D2-4632
113. UNIVERSITY OF CALIFORNIA, BERKELEY, 14-R1D4-3124 THROUGH 3126
114. VB MDS AUTO SERVICES INC. DBA MIDAS CONVOY, 15-R3D2-3432
115. WALMART, 15-R2D4-3770
116. WARNER BROS. ENTERTAINMENT, DBA WARNER BROS. STUDIO FACILITIES, A DIVISION OF WB STUDIO ENTERPRISES INC., 15-R4D3-2057
117. WESTERN PALLET SUPPLY & LOGISTICS, 15-R2D4-3171
118. WILSON, BRADY (PARTNER) AND WILSON, BARBARA (PARTNER) DBA SPRAYLINE MANUFACTURING, 15-R6D2-3002 THROUGH 3005
119. WONDER METALS CORPORATION, 15-R2D3-4095 AND 4096
120. WOOD DECKING, INC. DBA ADVANTAGE LUMBER, 15-R4D4-1273 AND 1274
121. WORKFORCE SOLUTIONS WFS, LLC, 15-R2D1-4700 AND 4701

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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.