

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, June 17, 2015
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: June 5, 2015

RE: Closed Session of the Board to be held on June 17, 2015

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. MCM CONSTRUCTION, INC., 13-R1D2-3851 THROUGH 3854
2. PLASKOLITE WEST, INC., 14-R3D5-1407 AND 1408
3. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORPORATION JV,
12-R3D1-0781

PETITIONS FOR RECONSIDERATION:

1. SAM'S GARDENING, 13-R4D4-2769
2. UNITED PARCEL SERVICE, 14-R2D1-1779

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. ALCAUTER INC. dba HEMET AUTO SPA & DETAIL, 15-R3D3-9057
2. PAUL DAVIS RESTORATION, 14-R3D2-3848 AND 3849

ORDERS DISMISSING APPEAL:

1. ILM EMPLOYMENT GROUP, 14-R3D5-2996 AND 2997
2. LANCE THUESON CONSTRUCTION, INC., 15-R3D5-0247 AND 0248
3. WESTERN DIRT CORPORATION, 14-R3D2-3266 AND 3267

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)

ORDER DENYING LATE APPEAL

1. DIONYSUS DREAM INC. DBA NEWPORT MESA CARWASH & SERVICE,
15-R6D5-9087

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. A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895 (ER)
2. A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895
(DOSH)
3. B.A.R.T., 11-R2D2-3137 THROUGH 3139 (ER)
4. BENCHMARK CONTRACTORS, INC., 14-R4D1-1048
5. CHEVRON U.S.A. INC., 13-R6D3-0655 THROUGH 0662

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6. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
7. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
8. ECHO ALPHA INC. ET AL, 14-R3D1-0802 THROUGH 0804
9. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
10. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
11. McCARTHY BUILDING CO., INC., 12-R1D4-3458
12. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
13. GONZALO OLASCOAGA DBA GONZALO OLASCOAGA, 13-R6D5-2097
AND 2098
14. SIERRA FOREST PRODUCTS, 09-R2D5-3979
15. SKYLINE HOMES, INC., 15-R3D3-9035
16. TREASURE ISLAND MEDIA, INC., 11-R6D1-1093 THROUGH 1095
17. TRI-STATE STAFFING, 12-R6D2-0378
18. HERMAN WEISSKER, INC., 13-R3D1-3279

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. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
3. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)

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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)

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24. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH 3058) (3rd 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)
35. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)
36. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR, 15CV-00945 (08-R2D1-3093 ~ 3098)
37. STANISLAUS FOOD PRODUCTS CO., 34-2015-80002087 (13-R2D4-0572 ~ 0574)

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 C JR PAINTING INC. DBA FRESHCOAT PAINTERS, 14-R2D5-2363 AND 2364
2. FRANK JACK ACOSTA, 15-R2D3-1385 THROUGH 1387
3. ALUMISTAR INC. DBA ALUMINUM CASTING COMPANY, 14-R6D2-3509 THROUGH 3515
4. AMLAND CORPORATION, 15-R3D1-0379 AND 0380
5. AMY'S KITCHEN, 15-R1D5-0717 AND 0718
6. APIO, INC., 15-R4D3-0275
7. ARYSTA HOLDING IV LLC, 14-R3D1-1196 AND 1197
8. BAKERSFIELD CITY PUBLIC WORKS, 15-R4D7-0424 AND 0425
9. BAY SHIP & YACHT CO., 15-R1D4-1740
10. BLH CONSTRUCTION, 15-R3D5-0310 THROUGH 0312
11. BONG G CONSTRUCTION, 14-R4D1-3861 AND 3862
12. BRIAN POTTER CONSTRUCTION, 15-R6D5-1044
13. BROWN CONSTRUCTION INC., 15-R6D1-1153
14. BURLINGAME INDUST. INC DBA EAGLE ROOFING PRODUCTS, 15-R3D3-1050 AND 1051
15. CALIFORNIA PROFESSIONAL ENGINEERING, INC. DBA CPEE, 14-R3D2-2665
16. CARONE & COMPANY, INC. DBA DIABLO VALLEY ROCK, 14-R2D2-1523 AND 1524
17. C & D VENTURES INC. DBA GOLD COAST DAIRY, 14-R4D3-1049 AND 1050
18. CENTRAL CONCRETE SUPPLY COMPANY, INC., 15-R1D4-0838 AND 0839
19. CH2M HILL ENGINEERS, INC., 14-R1D2-1660 THROUGH 1663

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20. CHOICE LITHOGRAPHICS, 15-R3D1-0377 AND 0378
21. CINEMARK, INC., 14-R4D3-4218 AND 15-R4D3-1653
22. CIRCLE M CONTRACTORS, 14-R3D1-1175 AND 1176
23. CITY OF BURBANK PUBLIC WORKS DEPT., 15-R4D3-0219
24. CM&B, INC. DBA MAUCK SHEET METAL, 15-R6D1-1097 AND 1098
25. COASTAL HARVESTING, INC., 15-R4D3-0056
26. COLLINS ELECTRICAL COMPANY, INC., 13-R2D1-1379
27. DEMARIA ELECTRICAL MOTOR SERVICE, 15-R3D5-0401
28. DAVEY TREE SURGERY COMPANY, 15-R3D1-1128
29. DIABLO CONTRACTORS, INC., 14-R2D5-2994
30. DOT COPY INC. DBA DOT GRAPHICS, 14-R4D3-4153 THROUGH 4156
31. EL POLLO LOCO, INC, #5789, 14-R4D4-4221 AND 4222
32. EPLASTERING, INC., 14-R3D1-1220 and 01221
33. EQUITY RESIDENTIAL SERVICES LLC, 15-R1D2-0849
34. EXCLUSIVE LANDSCAPES, 15-R6D5-0128
35. FAMILY TREE SERVICE, INC., 14-R2D1-3774
36. FORTUNA UNION HIGH SCHOOL DISTRICT, 15-R2D3-0951
37. FULCRUM INDUSTRIES, INC., 15-R2D1-0269
38. FULL SERVICE SCAFFOLD, 15-R1D5-1306 AND 1307
39. FUSHIN RESTAURANT VENTURES INC. DBA DENNY'S #7237, 14-R2D1-3977
40. GARFIELD BEACH CVS LLC, 14-R3D1-2596
41. GRANITE CONSTRUCTION CO., 14-R4D3-1986
42. GREG'S PETROLEUM SERVICE, 15-R4D7-0884

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43. GUTIERREZ MANUFACTURING INC., 15-R6D2-1062 THROUGH 1066
44. HAROLD MOORE CO., INC., 14-R6D2-3864 THROUGH 3868
45. HAYWARD SISTERS HOSPITAL DBA ST. ROSE HOSPITAL, 15-R1D4-1639
46. INDOOR COMFORT SERVICES, INC., 15-R1D5-1107 THROUGH 1109
47. INGA HOVHANNESYAN DBA NOAH'S ARK CUISINE, 14-R6D5-3957
48. JACOBS FIELD SERVICES NORTH AMERICA, INC., 15-R5D2-1152
49. JUEEN'S ROOFING & CONSTRUCTION INC., DBA ALL SEASONS,
15-R4D3-0057 AND 0058
50. KAREO, 14-R3D1-3980
51. KUEBLER'S FURNITURE, INC., 15-R2D3-0727
52. LUCKY'S GLASS, LLC., 14-R3D5-1937 AND 1938
53. MALIBU LANDSCAPING, 14-R4D3-3314
54. MEZA PALLETS, 14-R3D3-2712
55. MFB ENG INC., 14-R4D1-2808 AND 2809
56. MILLCREEK CONSTRUCTION GROUP, INC., 15-R1D5-0580 AND 0581
57. MLS LABOR CONTRACTING, 14-R4D7-4036
58. MONTEREY SCULPTURE CENTER, 15-R6D1-0426 THROUGH 0431
59. NAPA WOODEN BOX CO INC., 15-R1D5-0266 THROUGH 0268
60. NOR CAL PAINTING & WATERPROOFING, INCORPORATED, 15-R1D4-1551
THROUGH 1557
61. NOR CAL ROOFING, 15-R2D3-0994
62. OCEANSIDE UNIFIED SCHOOL DISTRICT, 15-R3D2-0073 THROUGH 0075
63. OC RAMPS, INC., 14-R3D1-3761
64. OLAM SPICES AND VEGETABLES, 14-R3D2-4182 AND 4183

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65. OLD DOMINION FREIGHT LINE, INC., 14-R2D1-0249 AND 0250 AND 15-R2D1-1654
66. PAINTERS PLUS INC., 15-R2D1-0368 AND 0369
67. PAR ELECTRICAL CONTRACTORS INC., 14-R3D1-2785
68. PCC ROLLMET INC., 14-R3D1-2955
69. PHILIPPINE MEDIA, INC., 14-R4D1-1626 AND 1627
70. PHILLIPS 66 COMPANY, 15-R6D4-1060 AND 1061
71. PHOENIX TEXTILES INDUSTRIES INC., 15-R6D2-1253 THROUGH 1259
72. PLUMBERS & STEAMFITTERS LOCAL UNION NO. 159, 14-R2D2-3107
73. QUALITY CUSTOM DISTRIBUTION SERVICES, INC., 14-R4D4-1939
74. RBC TRANSPORT DYNAMICS CORP, 15-R3D1-0746 AND 0747
75. RED BLUFF AUTO CLINIC, 15-R2D3-0699
76. ROBERT MICHAEL LTD, 15-R6D2-0362 THROUGH 0364
77. SANTORI WOODWORKING INC., 15-R6D2-0410 THROUGH 0415
78. SCHENKER LOGISTICS DBA DB SCHENKER, 15-R4D4-0181
79. SECURE STAFF, 14-R4D1-2161 THROUGH 2163
80. SEAN CLINES FRAMING, INC., 14-R2D5-1647 AND 1648
81. SHANE WOODS JOHNSON CONSTRUCTION, INC., 14-R2D4-3856
82. STUART DEAN, 13-R4D1-3576 AND 3577
83. SUPERIOR DUCT FABRICATION, INC., 14-R4D4-3004
84. THE OKONITE COMPANY, 15-R4D3-1052 AND 1053
85. TJX CORPORATION DBA MARSHALLS, 14-R4D1-1834 THROUGH 1836
86. TOTAL-WESTERN, INC., DBA GENE WATSON CONSTRUCTION, 14-R4D7-2756

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87. TRANSITAMERICA SERVICES, INC., 13-R1D3-1735 THROUGH 1737
88. UNITED PARCEL SERVICE, 13-R4D1-0648
89. UPS, 15-R4D4-1465
90. VALLEY PRIDE, INC., 13-R6D5-3326
91. VALLEY SIDING INC / VSI, 15-R2D3-1384
92. VERANDA LANDSCAPING, INC., 14-R2D2-3431
93. V F CONTEMPORARY BRANDS, INC., 15-R4D1-0055
94. VILLA PARK ORCHARDS ASSOCIATION, 15-R4D3-0467
95. WB LANDSCAPE, INC., 15-R6D5-0287
96. WC STAFFING INC., DBA WEST COAST STAFFING, 13-R6D2-3522 AND 3523
97. WESTERN FOODS, LLC, 15-R2D1-0949 AND 0950
98. WORKFORCE ENTERPRISES, 14-R4D4-3043

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.