

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
AMENDED CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, August 11, 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: July 28, 2016

RE: Closed Session of the Board to be held on August 11, 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. BLUE DIAMOND GROWERS, 15-R2D1-1196 AND 1197

2. PARAMOUNT CITRUS PACKING COMPANY LLC, 15-R4D7-2213 THROUGH 2215

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. CALIFORNIA CONSTRUCTION CONSULTANTS, INC., 13-R4D1-2122 AND 2123

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. KIMCO STAFFING SERVICES, 15-R3D3-4594

ORDERS DISMISSING APPEAL:

1. UNITED AG PERSONNEL MANAGEMENT, INC., 16-R4D7-1591 AND 1592
2. MASTER RECYCLING INC., 16-R6D2-1049 THROUGH 1051

ORDER DENYING LEAVE TO FILE LATE APPEAL

1. UNITED PARCEL SERVICE, INC., 16-R4D7-9109

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 TO Z TREE NURSERY, INC. dba A TO Z SPECIMEN TREE MOVERS, 15-R6D1-2277 through 2279
2. ATKINSON CONSTRUCTION, LP, 14-R3D1-4111
3. BARRETT BUSINESS SERVICES, INC., 12-R3D1-1204 THROUGH 1206
4. BIGGE CRANE & RIGGING CO., 14-R1D2-1798
5. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
6. COAST WASTE MGNMT OF CA, INC., 11-R3D2-2385 & 2386
7. COMPASS CONTAINER GROUP, INC., 16-R1D4-9014
8. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
9. DAVEY TREE SURGERY CO., 13-R3D3-1018 THROUGH 1021

10. DYNAMIC CONSTRUCTION SERVICES, INC., 15-R4D1-1471 AND 1472
11. FEDEX FREIGHT, INC., 14-R2D1-0144
12. FIRST PRIORITY DESIGN & CONSTRUCTION, 16-R3D5-9073
13. FOUNDATION BUILDING MATERIALS LLC, 14-R1D2-3533 THROUGH 3535
14. GATEWAY PACIFIC CONTRACTORS, INC., 10-R2D3-1502 THROUGH 1508
15. GIBRALTAR PARTNERSHIP LP, 15-R3D2-4782 THROUGH 4785
16. JD MILLER CONSTRUCTION, INC. dba M & M FRAMING, 16-R4D4-9058
17. JM ENVIRONMENTAL, INC., 15-R2D1-9232
18. KEY ENERGY SERVICES, LLC, 15-R4D7-0255 AND 0256
19. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
20. MAGNA TOOL INC., 15-R3D1-9214
21. NOLTE SHEET METAL, INC., 14-R6D7-2777 through 2783
22. RUSSELL FABRICATION CORP. dba AMERICAN FABRICATION,
15-R6D2-9008
23. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570
24. SYNERGY TREE TRIMMING, 15-R2D1-0828
25. UNITED PARCEL SERVICE, 13-R3D2-2664 and 2665
26. WALT OXLEY ENTERPRISES INC. dba CIARRA CONSTRUCTION,
16-R1D2-9075

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)

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
33. MCM CONSTRUCTION, INC., 34-2016-80002312 (13-R1D2-3851 ~ 3854)
34. SOLARCITY CORP., 14-R3D2-3707, 34-2016-80002345
35. BURTECH PIPELINE, INC., 13-R3D2-0830 and 0831, 37-2016-00013806

APPELLATE COURT:

1. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
1. 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)
5. KEY ENERGY SERVICES, INC., F073567, S-1500-CV-283958-LHB

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.J. FISTES CORPORATION, 16-R1D3-0309 AND 0310
2. AERO PORT SERVICES, INC., 15-R4D1-4650
3. ALLIANCE ENVIRONMENTAL GROUP INC DBA ALLIANCE
ENVIRONMENTAL GROUP, 15-R3D2-4307
4. ANTELOPE VALLEY HEALTHCARE DISTRICT ANTELOPE VALLEY
HOSPITAL DBA ANTELOPE VALLEY HOSPITAL, 16-R4D3-0817
5. ARROW DISPOSAL SERVICES INC DBA ARROW SERVICES, INC.,
16-R6D2-1864
6. MEASE BUTHAN DBA A B T ELECTRIC, 14-R1D2-0821 AND 0822
7. C C POOL CONSTRUCTION CO., INC., 16-R6D5-1341 AND 1342
8. CABINETS 2000, INC., 16-R3D1-1020 THROUGH 1022
9. CAL COAST STUCCO, INC., 16-R3D1-1080
10. CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
CALIFORNIA STATE PRISON LOS ANGELES COUNTY, 16-R4D3-1304
11. CAMINO REAL FOODS INC. DBA CAMINO REAL KITCHEN, 16-R4D1-
1189 AND 1190
12. CAMPBELL DRY INC DBA PEGASUS REFINISHING, 16-R6D7-1159
THROUGH 1161
13. CENTRAL PRO TILE, 16-R2D5-K0318

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14. CITY OF STOCKTON MUNICIPAL UTILITY DIST., 16-R7D1-1939 THROUGH 1943
15. COMMERCIAL SCAFFOLDING OF CALIFORNIA, INC., 16-R2D3-1128
16. CROWN NURSERY LLC, 16-R2D3-2102 THROUGH 2105
17. DELTA AIR LINES, INC., 16-R4D1-0939
18. DOUBLE "D" DAIRY, LLC, 15-R2D5-1389
19. ECOPET PLASTICS, INC., 14-R4D4-4125 AND 4126
20. ENCINO CONSTRUCTION INC., 16-R6D7-1325 AND 1326
21. EVANS ROOFING CO., INC., 16-R3D1-0846 AND 0847
22. VICTOR FERNANDEZ DBA FERNANDEZ BROTHERS, 16-R6D7-1466 THROUGH 1468
23. FIGUEROA AUTO EXPRESS, 16-R6D5-1198
24. FOSTER PLANING MILL CO., 16-R6D2-0531 THROUGH 0533
25. GRIMMIUS CATTLE COMPANY, INC., 16-R2D5-1144 AND 1145
26. GOLDEN CUTTING & SEWING SUPPLIES, 15-R4D1-2918 AND 2919
27. HARRIS REBAR, 15-R4D4-1200 THROUGH 1202
28. ADRIAN LOPEZ INIGUEZ DBA TOP AUTO REPAIR, 16-R6D7-1156 THROUGH 1158
29. J & D HARVESTING INC., 15-R4D3-3900
30. JESUS H TORRES FLC INC, 16-R4D7-1835
31. K & R SERVICES, 16-R3D1-1023 THROUGH 1026
32. KWAN WO IRONWORKS, INC., 14-R1D1-3424 THROUGH 3430
33. LA COUNTY FIRE, 15-R4D1-1397
34. LAMAR BROTHERS TIRE SERVICE, INC, 15-R1D2-4519 AND 4520

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35. LEGACY SPECIALTIES, INC., 15-R2D5-1126 AND 1127
36. LESLIE'S POOLMART, INC., 16-R2D4-1512 AND 1513

37. LOS ANGELES COUNTY DEPARTMENT OF MENTAL HEALTH,
16-R4D3-0940

38. MADSEN ROOFING & WATERPROOFING INC., 16-R2D1-1626 AND 1627

39. MRC ROCK AND SAND, LLC., 15-R4D3-3895

40. JATINDER AND AMANDEEP NAGRA DBA SUBWAY, #27084, 15-R4D3-3576

41. NORMAN'S NURSERY, INC, 16-R2D4-0510 THROUGH 0513

42. O'CONNELL LANDSCAPE MAINTENANCE, 16-R3D3-1701 AND 1702

43. PACIFIC MDF PRODUCTS INCORPORATED, 15-R6D1-3858 AND 3859

44. PACKAGEONE, INC., 16-R2D1-0953 AND 0954

45. PLEASANTON GARBAGE SERVICE INC, 16-R6D1-1017 AND 1018

46. PRESTIGE MOTORCOACH CORPORATION, 16-R3D5-1374 THROUGH 1376

47. QUALITY SHUTTERS, INC., 15-R6D2-4025 THROUGH 4030

48. RAMIREZ PALLETS INC, 16-R6D2-1975 THROUGH 1978

49. RED CHAMBER CO. DBA HL FOOD SERVICE INC, 16-R4D1-1547 THROUGH
1550

50. REID PRODUCTS, INC., 16-R3D3-1286 AND 1287

51. RIDGID DESIGN AND CONSTRUCTION, INC., 16-R4D3-0941

52. SCOTT SHERMAN DBA SHERMAN BROTHERS CONSTRUCTION &
ROOFING, 15-R2D1-2891 AND 2892

53. STAKT CONSTRUCTION CORP, 16-R6D5-1401

54. SUNSWEET DRYERS, 16-R2D1-0878 THROUGH 0880

55. SUNTECH CONSULTING & ROOFING, 16-R3D3-1256 AND 1257

56. TAFT ELECTRIC COMPANY, 16-R4D3-0041 AND 0042

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57. TULARE COUNTY AG COMMISSIONERS OFFICE, 16-R2D5-1500
58. TWO TIMES TWO INCORPORATED, 16-R6D5-2211 AND 2212

59. US RUBBER RECYCLING INC, 16-R3D3-1764 THROUGH 1766

60. USA CORP DBA WILCOX & WILCOX, 16-R4D3-0185

61. WEBER DISTRIBUTION, LLC, 16-R2D4-1918

62. WEST ISLAND COTTON GROWERS, INC., 15-R2D5-1764

63. X-ACT FINISH & TRIM INC, 16-R4D3-0120 AND 0121

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.