

-State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, September 22, 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: September 09, 2016

RE: Closed Session of the Board to be held on September 22, 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. KS INDUSTRIES LP, 14-R4D7-3991

2. PCC ROLLMET, INC., 15-R3D1-3654

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. SAEED GHIASSI, 2016-R3D5-9115

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. MASTER RECYCLING, INC., 16-R6D2-1049 THROUGH 1051

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

ORDERS DISMISSING APPEAL:

ORDER DENYING LEAVE TO FILE LATE APPEAL

1. BERNARD TE VELDE DBA BERNARD TE VELDE DAIRY, 16-R6D5-9137
2. CONSTRUCTION PLUS, 16-R1D1-9152

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. ATKINSON CONSTRUCTION, LP, 14-R3D1-4111
2. BARRETT BUSINESS SERVICES, INC., 12-R3D1-1204 THROUGH 1206
3. BIGGE CRANE & RIGGING CO., 14-R1D2-1798
4. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
5. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
6. DAVEY TREE SURGERY CO., 13-R3D3-1018 THROUGH 1021
7. DYNAMIC CONSTRUCTION SERVICES, INC., 15-R4D1-1471 AND 1472
8. FEDEX FREIGHT, INC., 14-R2D1-0144
9. FIRST PRIORITY DESIGN & CONSTRUCTION, 16-R3D5-9073
10. FOUNDATION BUILDING MATERIALS LLC, 14-R1D2-3533 THROUGH 3535
11. GATEWAY PACIFIC CONTRACTORS, INC., 10-R2D3-1502 THROUGH 1508
12. GIBRALTAR PARTNERSHIP LP, 15-R3D2-4782 THROUGH 4785
13. HOME DEPOT, U.S.A., INC., 15-R3D3-4516 THROUGH 4518

14. JD MILLER CONSTRUCTION, INC. dba M & M FRAMING, 16-R4D4-9058
15. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
16. NOLTE SHEET METAL, INC., 14-R6D7-2777 through 2783
17. PLATE LINE FRAMERS, INC., 16-R1D3-9110
18. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570
19. SYNERGY TREE TRIMMING, 15-R2D1-0828
20. 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)

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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)
2. AC TRANSIT, A142799, RG13-687314 (08-R1D4-0135)
3. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, C078953, 34-2011 80000965, (10-R6D2-0188 THROUGH 0191)
4. KEY ENERGY SERVICES, INC., F073567, S-1500-CV-283958-LHB
5. RAAM CONSTRUCTION, RG16810863 (2015-R1D4-0155)

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. ALBERTSON'S COMPANY DBA LA BAKERY, 16-R4D4-1537 AND 1538
2. ARCON CONSTRUCTION CORP., 16-R1D1-2925
3. STACY, FRANK, BEVERLY & CYNTHIA ARGO DBA ARGO FAMILY FARMS, 16-R2D1-2966
4. BOSKOVICH FARMS INC, 16-R7D2-1888 THROUGH 1890
5. SEPAN BOUKHANIAN DBA CALIFORNIA DETAIL SHOP, 16-R6D5-2603
6. BRIAN WILLIAMS CONSTRUCITON INC, 16-R3D5-1370 AND 1371

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7. CBS PERSONNEL SERVICES, LLC. DBA STAFFMARK, 16-R3D2-0594
8. CHARTWELL STAFFING SERVICES, INC. DBA CHARTWELL STAFFING SOLUTIONS, 16-R4D4-2064 AND 2065
9. CP OP CO., LLC DBA CLASSIC PARTY RENTALS, 15-R3D1-4640 AND 4641
10. DFL WAREHOUSE, INC. DBA LINKS WAREHOUSE, 16-R4D4-2674
11. DSW DISTRIBUTION CENTERS, INC., 16-R4D4-2380
12. EZEQUIEL HERNANDEZ DBA RICOS TACOS EL PRIMO, 16-R6D5-2697
13. FAIRWAY AUTO SPA, INC. DBA FAIRWAY GARDEN CAR WASH, 16-R4D4-0464
14. FORCE ENVIRONMENTAL, INC., 13-R3D2-1040 AND 1041
15. G BROTHERS CONSTRUCTION, INC., 16-R4D4-2564
16. GATX CORPORATION, 15-R3D3-4559 AND 4560
17. GLOBAL LINK DISTRIBUTION, INC., 16-R4D4-2892 AND 2893
18. GOYENETCHE DAIRY, 16-R4D7-1239
19. HAYWARD LUMBER COMPANY, 16-R4D3-1227
20. HORIZON PERSONNEL SERVICES, 16-R3D5-0777 THROUGH 0779
21. J T WIMSATT CONTRACTING COMPANY, 16-R4D1-2543
22. KAISERAIR, INC., 16-R1D5-2008
23. M S JEANS INC., 16-R6D5-1692 THROUGH 1694
24. MAIN STREAM AQUATICS, INC., 15-R3D3-1135 THROUGH 1138
25. MIDSTATE SHEETMETAL, INC., 16-R4D7-0860 AND 0861
26. MINT COLLECTIVE, INC., 16-R6D5-1407 THROUGH 1409
27. NEFF CONSTRUCTION INC., 15-R3D1-3244 THROUGH 3246
28. OMEGA CASE COMPANY INC, 16-R6D2-1979 THROUGH 1984

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29. PALMERI PIZZA CRUST DBA VENICE BAKERY AND VENICE BAKING COMPANY, 16-R3D5-1368 AND 1369
30. PERFECTION STAINLESS FABRICATION, INC., 16-R6D2-1248 THROUGH 1250
31. PITMAN FAMILY FARMS, 16-R2D5-0607
32. PRIETO CONSTRUCTION CO., INC, 15-R4D3-4653
33. R A PHILLIPS INDUSTRIES DBA PHILLIPS INDUSTRIES, 16-R4D4-1316 AND 1317
34. RUBEN RAMOS DBA GREEN VALLEY LABOR, 16-R6D5-0409
35. RANDSTAD US, L.P., 15-R3D3-1644 AND 1645
36. REDWOOD EMPIRE DISPOSAL INC., 15-R1D5-0823 THROUGH 0825
37. ROSIE THE ROOFER, LLC., 16-R2D3-2834
38. SAN DIEGO GAS & ELECTRIC, 15-R3D2-1908
39. SAN FRANCISCO PIPE & TUBE BENDING, INC., 15-R1D4-3088
40. SHORE WESTERN MANUFACTURING, 16-R4D4-0339 AND 0340
41. SOUTHWEST WATER COMPANY DBA SUBURBAN WATER SYSTEMS, 16-R4D4-2381
42. STAFF MARK, 16-R3D1-1361
43. STARCREST PRODUCTS OF CA, 15-R3D3-3051 AND 3052
44. RICHARD ALAN STUPIN DBA R ALAN CONSTRUCTION, 16-R6D5-1000 AND 1001
45. THREE FROGS, INC., 14-R3D2-1463 THROUGH 1471
46. UNITED STATES COLD STORAGE OF CALIFORNIA, 16-R7D1-3008 THROUGH 3011
47. VENICE BAKING CO. DBA VENICE BAKERY, 15-R3D5-4644 AND 4645
48. WELCOME MARKET, INC. DBA 99 RANCH MARKET, 16-R1D2-2462 AND 2463

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PERSONNEL:

(Issues regarding staff.)

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