

State of California  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD CLOSED  
SESSION AGENDA

Thursday November, 17, 2016

9:30 AM

Sacramento, California

&

West Covina, California

**TO:** Members of the California Occupational Safety and Health Appeals Board  
**FROM:** J. Jeffrey Mojcher, Chief Counsel  
**DATE:** November 04, 2016  
**RE:** Closed Session of the Board to be held on November 17, 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.)*

1064349	MILAD & SONS CORPORATION DBA ZAMZAM HALAL
1107562	DAVID DARWISH
317176766	WEBCOR CONSTRUCTION LP DBA WEBCOR BUILDERS

**PETITIONS FOR RECONSIDERATIONS:**

*(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.)*

1021893	SHIMMICK-NICHOLSON CONSTRUCTION, A JOINT VENTURE
---------	--

**DENIAL OF PETITIONS FOR RECONSIDERATIONS (DRAFT):**

317201556      ROBERT A. BOTHMAN, INC.

**ORDERS DISMISSING APPEAL:**

2016-TEMP-      Transpacific Recycling, LLC

**ORDER DENYING LEAVE TO FILE LATE APPEAL:**

2016-TEMP-      DR MASON CONSTRUCTION

2016-TEMP-      Dynaelectric Company

2016-TEMP-      Pacific Plastics Inc

2016-TEMP-      PNI Construction Inc

2016-TEMP-      Juan Ortiz

2016-TEMP-      Bosman Dairy

**MATTERS PENDING RECONSIDERATION:**

SEE ATTACHED LIST - PAGE 10

**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*

**SUPERIOR COURT:**

SEE ATTACHED LIST - PAGE 11

**APPELLATE COURT:**

SEE ATTACHED LIST - PAGE 13

**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.)*

1006425	H.J. HEINZ COMPANY DBA ESCALON PREMIER BRANDS
1010117	URETECH COMMERCIAL ROOFING
1011147	UNITED FOODS INTERNATIONAL (USA), INC.
1011516	CONTRACTORS WARDROBE, INC.
1013549	HORIZON PERSONNEL SERVICES, INC.
1015109	RR DONNELLEY
1016542	ADAM BROS. FARMING, INC.
1021237	SPECIALTY PLUMBING, INC.
1021958	CENVEO
1022228	WALMART SUPERCENTER
1041852	KEY ENERGY SERVICES LLC
1049516	PROTECT SECURITY & ELECTRONICS, INC.
1049712	SOUTH VALLEY MUSHROOM FARMS, INC.
1053475	DRYCO CONSTRUCTION INC.
1056896	FRESNO COUNTY PUBLIC WORKS DEPARTMENT

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
For November 17, 2016

1064241	HERMAN WEISSKER, INC.
1065368	STRONGER BUILDING SERVICES
1067564	VAN DUYN FAMILY FARMS INC.
1069390	SAN JOAQUIN COUNTY REGIONAL SPORTS COMPLEX
1070365	BRAD KRUCK
1074222	WILLIAM LYON HOMES, INC.
1079587	EMSER TILE
1080376	PERFORMANCE CONTRACTING INC
1081951	KADIMA SECURITY SERVICES INC
1081954	RENO
1084276	WG HALL DBA AT WORK PERSONNEL SERVICES
1084600	R&J DONDERO
1084954	JAGUAR FARM LABOR CONTRACTING, INC.
1085272	PACIFIC COAST SUPPLY LLC. DBA DIAMOND PACIFIC
1085977	ANNING JOHNSON COMPANY
1086510	TMI PRODUCTS, INC.
1086981	COOLING TOWER RESOURCES INC DBA COOLING TOWER
1088883	HIRAM BUILDERS INCORPORATED
1089055	OUR PLANET RECYCLING SF LLC
1090005	AGRESERVES, INC DBA SOUTH VALLEY FARMS
1090019	MCK ENTERPRISES INC. DBA VALLEY SPUDS OF OXNARD
1090469	BRENT ENGINEERING INC
1091161	EQUILON ENTERPRISES LLC DBA SHELL OIL PRODUCTS US
1091226	RUBY QURESHI FARM
1091561	AUSONIO, INCORPORATED
1093587	CA-BALCO CONSTRUCTION CO.
1093602	JOHANSEN MASONRY, INC.
1094981	LONG BEACH CITY COLLEGE
1096755	CAL TRANS

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
For November 17, 2016

1096845	CALIFORNIA PLASTIC CONTAINERS
1097604	CAL-MART INC DBA CAL-MART SUPER
1097636	D & G CUSTOM REMODELING
1098649	DESIGN FORM INC
1100963	SETTON PISTACHIO OF TERRA BELLA, INC
1100969	FOSTER FARMS
1101143	WILLOW CREEK CONSTRUCTION
1101231	PLEASANT HOLIDAYS, LLC
1101822	BARNARD IMPREGILO HEALY JV
1102616	CONABLE TRIM INC
1103286	IMPERIAL WESTERN PRODUCTS, INC.
1103462	SABOR FARMS, LLC
1103696	RJC BUILDERS INC
1103877	REITER BERRY FARMS INC
1103882	DEL SOL HARVESTING, INC
1105362	EXCELSIOR METALS INC
1105870	BRUCE WAYNE DYE CO DBA BRUCE WAYNE CO
1106411	JUDSON ENTERPRISES, INC DBA K DESIGNERS
1107250	DWW II CO., INC DBA TOYOTA OF HUNTINGTON BEACH
1108004	SPECTRUM CONCRETE PRODUCTS, LLC
1108637	7/11 MATERIALS, INC. DBA TUOLUMNE TRANSIT MIX
1110059	BEDFORD ENTERPRISES, INC.
1110628	AMERICAN GOLF COMPANY
1111712	ANTHONY INTERNATIONAL DBA DOVER CORPORATION
1111840	ZOMMICK ENTERPRISE INC. DBA PRECISION TUNE AUTO
1112454	DAVID J. BARDEN GENERAL CONTRACTOR
1113175	HANSEN-RICE CONSTRUCTION

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
For November 17, 2016

1113603 BARRETT BUSINESS SERVICES, INC. DBA BBSI  
1113949 ROGER'S GARDEN LANDSCAPE  
1114097 SETTON PISTACHIO OF TERRA BELLA, INC  
1114259 THE SUN VALLEY GROUP INC  
1114439 WOOD ENTERTAINMENT CO.  
1115392 CA DEPT OF CORRECTIONS AND REHABILITATION  
1115862 IMPERIAL CFS, INC  
1115877 MARUCHAN INC.  
1116855 ENVIREMEDIAL SERVICES, INC. DBA ENIVIREMEDIAL  
1117113 CITY OF BERKELEY  
1117364 D'MAIZE CATERING  
1117722 J & L IRRIGATION COMPANY, INC.  
1118166 LIVERMORE VALLEY JOINT UNIFIED SCHOOL DISTRICT  
1118411 RUDOLPH FOODS COMPANY INC.  
1119044 BLUE MOUNTAIN CONSTRUCTION SERVICES, INC.  
1119353 MOLDING ACQUISITION CORPORATION DBA ROTOPLAS  
1119734 K&K MOHS CONSTRUCTION  
1119771 SAN DIEGO FUME WORKS CO., INC.  
1120142 GULFSTREAM AEROSPACE  
1120361 REBECCA DABNEY  
1120375 CG ROXANE LLC  
1120466 HIXSON METAL FINISHING  
1120836 BESTWAY RECYCLING COMPANY, INC.  
1121145 MANCINI'S SLEEPWORLD, INC.  
1121561 CEDAR AVENUE RECYCLE & TRANSFER STATION  
1121603 ABG INSTRUMENT & ENGINEERING  
1121710 MACY'S INC. DBA MACY'S  
1121919 WEST MARINE INC.  
1121955 NEWLAND ENTITIES, INC.

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
For November 17, 2016

1122243 CROSBY & OVERTON INC DBA CROSBY & OVERTON  
1122732 D. R. S. STAIRS INC.  
1122956 HELLMANN WORLDWIDE LOGISTICS  
1123447 WALSH/SHEA CORRIDOR CONSTRUCTORS  
1123927 BIG B CONSTRUCTION, INC  
1124055 GREENLEAF POWER DBA HL POWER COMPANY MANUEL  
1125971 OLIVEROS DBA TRENDS AUTO COLLISION  
1126687 P C CONSTRUCTION  
1126733 CALIFORNIA PRISON INDUSTRY AUTHORITY  
1127667 BEAR SCAFFOLD AND SERVICES  
1128172 TUTOR PERINI CORPORATION  
1128181 BENCOR GLOBAL, INC.  
1128783 CEDAR AVENUE RECYCLING AND TRANSFER STATION  
1129258 MOTIVE ENERGY TELECOMMUNICATIONS GROUP, INC.  
1129943 WILDWOOD PACKING & COOLING INC.  
1130528 SAPUTO DAIRY FOODS USA, LLC  
1130954 RADCO INCORPORATED  
1131072 BETTER BUILT TRUSS, INC.  
  
1132147 WALT DISNEY PARKS & RESORTS U.S., INC. DBA  
1132389 CENTRAL VALLEY CULTIVATORS INC.  
1132403 BILL MCANALLY RACING EAST, LLC  
1132406 DOUG AND MARIE LAZAR DBA MD CONSTRUCTION  
1132419 APRO LLC DBA UNITED PACIFIC #5666  
1132878 ANDERSON PACIFIC ENGINEERING CONSTRUCTION, INC.  
1133302 HYGIEIA BIOLOGICAL LABORATORIES  
1133462 TAQUERIA MI RANCHITO LLC DBA TAQUERIA ZAVALA  
1134134 99 CENTS ONLY STORES LLC  
1134773 A.C. FRAMERS, INC.

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
For November 17, 2016

1135363 FRANK SOUSA DBA GATEWAY AUTOMOTIVE  
1135660 WHOLESALE EQUIPMENT OF FRESNO  
1135874 LARBRU ENTERPRISES DBA THE AUTO SHOP  
1135947 TONY POTTER DBA RICK'S AUTO REPAIR  
1136638 APEX REFRIGERATION SERVICES, INC. AND ITS SUCCESSORS  
1136837 ECS Refining, LLC  
1137722 SEVERN TRENT SERVICES NORTH AMERICA  
1137803 HUMBOLDT REDWOOD COMPANY, LLC  
1139065 ETHOENERGY POWER PLANT SERVICES, LLC  
1139530 MICHELE SOUSA DBA SOUSA DYNASTY HERB NURSERY  
1141957 KERMEN CARWASH INC DBA KERMEN CARWASH  
1141968 KERS GAS & LUBE INC DBA BUGGY SHOWER CAR WASH  
1145483 CELLO & MANDRU CONSTRUCTION COMPANY INC.  
1145770 SANTA FE IMPORTERS INC DBA MARISA FOODS  
1147139 D C STEEL ERECTORS  
1148505 COSTCO WHOLESALE  
1148526 DAIRY FARMERS OF AMERICA  
1148608 ACCEL FRAMING, INC.  
1149309 HARBOR VIEW FARMS LLC  
1150058 PROGRESSIVE PRODUCE CORPORATION DBA PROGRESSIVE  
1153075 MERCER FOODS, LLC  
1153126 PIEDRAFINA MARBLE INC  
1153878 CITY OF PITTSBURG DBA PITTSBURG WATER TREATMENT  
1157248 Tree Of Life Tree Service  
1160551 FATTED CALF SF, LLC  
1162926 YACOB BROTHERS, INC. DBA CHALLENGER CAR WASH, INC.  
1164942 COVI CONCRETE CONSTRUCTION, INC.  
1171851 Hand Painted Houses  
313387938 CAMS JUNIPER CA, LLC & WCAC OPERATING CO CA, LLC

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
For November 17, 2016

316208651	DALTON TRUCKING INC
316705813	ABEL MENDOZA, INC.,
316727429	SETTON PISTACHIO OF TERRA BELLA, INC
317387421	PETERSEN DEAN INC
317434025	STANFORD FURNITURE MFG., INC.
317730547	SECURITY PAVING COMPANY INC
317785293	CA CAL-FIRE
998081	LA COUNTY MTA

**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.

**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. BIGGE CRANE & RIGGING CO., 14-R1D2-1798
3. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
4. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
5. DAVEY TREE SURGERY CO., 13-R3D3-1018 THROUGH 1021
6. DYNAMIC CONSTRUCTION SERVICES, INC., 15-R4D1-1471 AND 1472
7. FIRST PRIORITY DESIGN & CONSTRUCTION, 16-R3D5-9073
8. FOUNDATION BUILDING MATERIALS LLC, 14-R1D2-3533 THROUGH 3535
9. HOME DEPOT, U.S.A., INC., 15-R3D3-4516 THROUGH 4518
10. HOME DEPOT USA INC, 1011071
11. JD MILLER CONSTRUCTION, INC. dba M & M FRAMING, 16-R4D4-9058
12. MERCURY METALS, 1079591
13. MARK C. JACOBS DBA THE LAW OFFICE OF MARK JACOBS, 16-R2D1-9111
14. PCC ROLLMENT INC, 1076936
15. PLATE LINE FRAMERS, INC., 16-R1D3-9110
16. SAEED GHIASSI, 2016-R3D5-9115
17. SAN DIEGO GAS & ELECTRIC, 1022118
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

**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
36. AVALON BAY COMMUNITIES, INC., 30-2016-00872036 (2015-R3D2-0751)
37. W.A. RASIC COMPANY, INC., 13-R4D1-1422, 34-2016-80002454 (314863978)

**APPELLATE COURT:**

1. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
2. AC TRANSIT, A142799, RG13-687314 (08-R1D4-0135)
3. KEY ENERGY SERVICES, INC., F073567, S-1500-CV-283958-LHB
4. RAAM CONSTRUCTION, RG16810863 (2015-R1D4-0155)
5. 3H CUSTOM FARMENG, INC. 1090421
6. CAL-CITY CONSTRUCTION, INC., 1125974