

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, July 1, 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 19, 2015

RE: Closed Session of the Board to be held on July 1, 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. SECURITY PAVING COMPANY, INC., 14-R4D7-2442

PETITIONS FOR RECONSIDERATION:

1. GOLDEN STATE WARRIORS, 15-R1D4-9060
2. EKEDAL CONCRETE, INC, 13-R3D1-0131-0133
3. OLDCASTLE PRECAST, INC, 13-R3D3-0583

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. SAM'S GARDENING, 13-R4D4-2769

ORDERS DISMISSING APPEAL:

1. ALCAST FOUNDRY, INC., 14-R6D2-3389
2. ALLOY PROCESSING, 14-R3D5-3655
3. WEN WEI LIN DBA GLOBIA DESIGN GROUP, 15-R6D7-0553 THROUGH 0556

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)

ORDERS GRANTING LATE APPEAL

1. KI WAN TAK, 15-R4D1-2162 AND 2163

ORDERS DENYING LATE APPEAL

1. INDUSTRIAL PORTABLE SOLUTIONS, LLC DBA CONTAINER TRAILERS,
15-R2D1-9098
2. SUPERIOR FRAMING INC., 15-R3D1-9104

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
6. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038

7. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
8. DIONYSUS DREAM INC., DBA NEWPORT MESA CARWASH & SERVICE,
15-R6D5-9087
9. ECHO ALPHA INC. ET AL, 14-R3D1-0802 THROUGH 0804
10. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
11. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
12. McCARTHY BUILDING CO., INC., 12-R1D4-3458
13. MCM CONSTRUCTION, INC., 13-R1D2-3851 THROUGH 3854
14. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
15. GONZALO OLASCOAGA DBA GONZALO OLASCOAGA, 13-R6D5-2097
AND 2098
16. SIERRA FOREST PRODUCTS, 09-R2D5-3979
17. SKYLINE HOMES, INC., 15-R3D3-9035
18. TREASURE ISLAND MEDIA, INC., 11-R6D1-1093 THROUGH 1095
19. TRI-STATE STAFFING, 12-R6D2-0378
20. UNITED PARCEL SERVICE, 14-R2D1-1779
21. 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)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

For July 1, 2015

Page 4

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

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

For July 1, 2015

Page 5

22. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
23. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056 THROUGH 3058) (DOSH)
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. AGAR, INC., 15-R6D5-0551 AND 0552
2. ARIES BUILDERS, 14-R1D3-2973
3. ALL MAGIC PAINT & BODY, INC., 15-R6D5-1721 AND 1722
4. ALPHA EXPLOSIVES, INC., 14-R4D7-0729 AND 0730
5. ANDERSEN AND SONS RANCH INC., 15-R2D3-0970 AND 0971
6. ANDERSEN AND SON SHELLING INC., 15-R2D3-0967 THROUGH 0969
7. ANDREWS AND THORNLEY CONSTRUCTION INC., 15-R1D5-1437 AND 15-R1D5-2045
8. ANTAYA DEVELOPMENT CORPORATION, 15-R6D5-1367 AND 1368
9. ATLAS ORNAMENTAL IRONWORKS, 15-R6D2-0476
10. RUBEN BARAJAS DBA CENTRAL VALLEY FARMS, 15-R2D4-0007 THROUGH 0009
11. BAY AREA TRAFFIC SOLUTIONS, 15-R1D2-1279
12. BJ'S RESTAURANTS, INC., 15-R1D4-1106
13. BLACK CREEK BUILDERS, INC., 15-R1D4-1010 THROUGH 1014
14. BRAD PETERSON DBA RCI ROOFING CO., 15-R6D7-0892
15. BOB'S IRON, INC., 15-R6D1-0651 AND 0652
16. BOGH ENGINEERING, INC., 14-R3D3-1290

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

For July 1, 2015

Page 7

17. BUTTE COUNTY DEPT OF EMPLOYMENT AND SOCIAL SERVICES,
15-R2D3-1671
18. CA DEPARTMENT OF WATER RESOURCES, 14-R4D7-3317
19. CALIFORNIA CONSTRUCTION & ROOFING, INC., 15-R6D5-1370 AND 1371
20. CALIFORNIA SINGLE PLY, INC., 15-R2D3-3928
21. CAPRIATI CONSTRUCTION CORPORATION, INC., 14-R3D1-1329
22. CHECKAL CONSTRUCTION COMPANY, INC., 15-R6D5-1169 AND 1170
23. CISNEROS RESTAURANT INC. DBA QUE PASA MEXICAN CAFÉ,
15-R6D5-1249 AND 1250
24. CITY OF LOS ANGELES PUBLIC WORKS, 15-R4D1-0539
25. STEVE CHAING DBA THE BEST SERVICES, CO, INC., 15-R6D5-1175
AND 1176
26. CONSTRUCTION ELECTRIC, INC., 13-R3D3-0458 THROUGH 0460
27. CONTRA COSTA COUNTY HARVEST CHURCH, 15-R1D5-1377
28. COYLE/RENO JOINT VENTURE, 14-R1D2-2498
29. CREATIVE CONSTRUCTION, 15-R6D5-1850
30. CSA CONSTRUCTORS, INC., 14-R1D1-1483 AND 1484
31. CUHSD-WESTMONT HIGH SCHOOL, 15-R1D2-1103
32. DAVID SMITH MASONRY INC., 15-R2D1-0527
33. DEMTECH, LLC., 14-R4D7-0456 THROUGH 0458
34. D&J DOCTORS, INC., 15-R6D5-1626
35. D-KAL ENGINEERING, INC., 14-R4D7-0565 AND 0566
36. AMANDA PHUNG DUONG DBA DISCOUNT TRANSMISSION & AXLE,
15-R6D5-1412
37. EDF RENEWABLE ENERGY, 14-R1D5-3748

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For July 1, 2015

Page 8

38. EFRAIM AND ASSOCIATES, INC., 15-R3D2-0240 THROUGH 0243
39. EHREN JORDAN WINE CELLARS, LLC, 15-R1D5-0263
40. ENTERPRISE RENT-A-CAR, 14-R3D3-3058
41. ESKATON PROPERTIES, INC. DBA ESKATON CARE CENTER
GREENHAVEN, 15-R2D1-1383
42. ETIVISTA CONCRETE, INC., 14-R3D2-3108
43. FIFTH STREET FUNDING, 14-R4D1-3556 AND 3557
44. F.J. WILLERT CONTRACTING COMPANY, INC., 13-R3D2-1308 AND 1309
45. FRESNO COUNTY ASSESSOR, 15-R2D5-1756
46. FRESNO COUNTY ASSESSOR, 15-R2D5-1757
47. GALLO GLASS COMPANY, 14-R2D4-2849 THROUGH 2851
48. GARAGE DOORS INCORPORATED, 15-R6D1-0653 AND 0654
49. GARY'S MOBILE FLEET SERVICE, INC., 15-R6D5-1298 THROUGH 1301
50. GAUTHCON INC., 15-R3D2-1907
51. DANIEL JOSEPH GOMEZ, 14-R2D4-4011
52. GORILLA POLISHING CORP, 14-R3D1-3570 THROUGH 3575
53. GRAPEMAN FARMS, LP DBA LUCICH FARMS, 14-R4D7-0396 AND 0397
54. GRAPEMAN FARMS LP DBA LUCICH FARMS, 14-R4D7-2826 AND 2827
55. HAMILTON COVE ASSOCIATION, 14-R3D5-3468 THROUGH 3472
56. HEALTH CARE SERVICES GROUP INC., 14-R4D4-4127
57. HOGAN SRK INC DBA CAPISTRANO TOYOTA SCION, 14-R3D1-3161
58. HSG PROFESSIONAL WINDOW CLEANERS, INC., 13-R3D1-1303
THROUGH 1307
59. HUMAN RESOURCE SOLUTIONS INC., 15-R2D3-1198 AND 1199

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

For July 1, 2015

Page 9

60. KCI ENVIRONMENTAL, INC., 12-R4D3-1275 THROUGH 1278
61. HANS KLIMSAS DBA GERMAN AUTOWERKE, 15-R6D5-1634 AND 1635
62. KONOCTI USD – LOWER LAKE ELEMENTARY SCHOOL, 15-R2D1-1896
63. LA JOLLA PLAYHOUSE, 15-R3D2-0846 THROUGH 0848
64. LANGER JUICE COMPANY INC. DBA LANGER FARMS, LLC, 13-R4D7-1604 AND 1605
65. LEFCO, INC., 14-R1D2-3995
66. LEHIGH SOUTHWEST CEMENT COMPANY, 14-R5D1-2757
67. LIBERTY LANDSCAPING, INC., 14-R3D3-4213
68. LKQ PICK YOUR PART, 14-R3D5-4068 AND 4069
69. MADE IN NATURE LLC, 15-R2D5-0488 AND 0489
70. JOSE DE JESUS MARTINEZ DBA MARTINEZ PALLETS, 14-R2D4-3801 THROUGH 3803
71. MASTER PROPERTY IMPROVEMENT CO. INC., DBA MASTER CO, 15-R6D5-1365 AND 1366
72. MAYORGA GENERAL BUILDING, INC., 15-R6D5-1171 AND 1172
73. McCANN CONTRACTING CORPORATION, 15-R2D1-0068
74. MEADOWLARK HAY SERVICE, INC., 15-R2D1-0019 AND 0020
75. MERIT FRAMING INC., 14-R3D3-3328
76. NEW EVOLUTION CONSTRUCTION, 14-R4D1-3026
77. NEW KOOSHAREM CORPORATION DBA SELECT STAFFING, 15-R3D3-0244 AND 0245
78. NORTHGATE GONZALEZ MARKET, #46, 14-R3D2-4061 THROUGH 4063
79. NORTH STATE TRUCK EQUIPMENT INC., 15-R2D3-1752
80. N&S TRACTOR CO., 15-R2D4-0300 AND 0301

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For July 1, 2015

Page 10

81. OCEAN MIST FARMS, 14-R6D4-3138
82. PAINTED RHINO, INC., 14-R3D3-2867
83. PAPER SOURCE CONVERTING & MANUFACTURING INC DBA PAPER SOURCE CONVERTING, 14-R4D1-2998 THROUGH 3002
84. PARCO INCORPORATED, 15-R4D4-0252 AND 0253
85. PASTRIES BY EDIE, INC., 14-R4D3-0040 AND 15-R4D3-1942
86. PCT ENTERPRISES INC., DBA PRECISION CABINETS & TRIM, 14-R6D1-4160
87. PERFECT DELIVERY LOGISTICS SERVICES LLC, 15-R2D2-0486
88. POINSETTIA 2013 PARTNERS, LLC DBA JOHNNY MANANAS GRILL & TACOS, 15-R6D5-1369
89. PREMIER CUSTOM BUILDERS, INC. 15-R6D5-1413 THROUGH 1419
90. PRESTIGE GUNITE, LP, 14-R2D5-4059 AND 4060
91. PRIORITY WORKFORCE, INC., 14-R3D1-3142 THROUGH 3144
92. QUEST DIAGNOSTICS CLINICAL LABORATORIES, INC. 15-R1D5-0003
93. DAVID N RADLEIN, 15-R6D5-0813 THROUGH 0815
94. RAINBOW CONSTRUCTION & LANDSCAPING INC., 15-R6D5-1855
95. RJP FRAMING INC., 15-R1D2-0228
96. RMMH, INC DBA MAACO COLLISION REPAIR & AUTO PAINTING, 15-R6D5-1849
97. ROOFING SERVICES INTERNATIONAL, INC., DBA RSI ROOFING, 12-R3D2-1355 AND 1356
98. SOUTHERN CALIFORNIA EDISON, 15-R4D4-3387 AND 3388
99. STATE OF CALIFORNIA DEPT. OF CORRECTIONS, 15-R4D4-1275
100. STEELCO CONSTRUCTION, 15-R2D4-0161
101. STRUCTURAL SHOTCRETE SYSTEMS, INC., 13-R4D1-1330 AND 1331

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For July 1, 2015

Page 11

102. SUMMIT TREE FARM DBA SUMMIT CHRISTMAS TREE FARM,
15-R6D1-1711
103. SUNRISE APPAREL PRODUCTION, INC., 15-R6D5-0509 AND 0510
104. TOCAYO EXPRESS, 14-R1D4-3593
105. UDC CORPORATION, 15-R6D2-0337 THROUGH 0340
106. VCA GREENBACK ANIMAL HOSPITAL AND PET RESORT, 15-R2D1-0622
107. VERNON CONSTRUCTION & ROOFING INC., 14-R2D4-4110
108. OMAR AND MARTHA VEGA, A PARTNERSHIP DBA VEGA CAFFE,
15-R6D5-1173 AND 1174
109. VONS #2264, 14-R4D1-1832 AND 1833
110. BRANDON WOLFE, 14-R6D5-3566

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.