

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, February 4, 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: January 22, 2016

RE: Closed Session of the Board to be held on February 4, 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. SOLARCITY CORP., 14-R3D2-3707

PETITIONS FOR RECONSIDERATION:

1. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 and 3186
2. CALIFORNIA SECURITY & INVESTIGATIONS ACADEMY dba CSTA, 15-R2D1-9190
3. JM ENVIRONMENTAL, INC., 15-R2D1-9232
4. MAGNA TOOL INC., 15-R3D1-9214
5. UNITED PARCEL SERVICE, 13-R3D2-2664 & 2665

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

ORDERS DISMISSING APPEAL:

1. FRAMECO CONTRACTING, 15-R4D3-3273 AND 3274
2. TEMPO INDUSTRIES INC., 15-R6D2-1357 AND 1358

ORDER DENYING LEAVE TO FILE LATE APPEAL

1. THE NEW SENIOR RESOURCE GROUP, INC., THE VILLAGE AT NORTHRIDGE, 16-R4D3-9001
2. UNITED ROCK PRODUCTS CORP., 16-R5D2-9000

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. BURTECH PIPELINE, INC., 13-R3D2-0830 AND 0831
2. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
3. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
4. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
5. EKEDAL CONCRETE, INC., 13-R3D1-0131 THROUGH 0133
6. HERMAN WEISSKER, INC., 13-R3D1-3279
7. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
8. McCARTHY BUILDING CO., INC., 12-R1D4-3458
9. MCM CONSTRUCTION, INC., 13-R1D2-3851 THROUGH 3854

10. MDB MANAGEMENT INC., 14-R4D1-2373 AND 2374
11. OC COMMUNICATIONS, 14-R2D2-0120, 0166 and 0340
12. SIERRA FOREST PRODUCTS, 09-R2D5-3979
13. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570

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. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
3. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
4. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
5. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219
AND 0220)
6. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
7. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258
(05-R2D4-2650 AND 2651)
8. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
9. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
10. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
11. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
12. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)

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13. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332
(09-R4D5-0459 & 0460)
14. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
15. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575
(12-R5D1-337)
16. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
17. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR,
34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
18. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
19. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
20. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817
(09-R6D2-2238 ~ 2241)
21. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
22. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
23. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360
THROUGH 3362)
24. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)
25. KEY ENERGY SERVICES, INC., S-1500-CV-283958, EB (13-R4D3-2239 ~ 2242)
26. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL
(14-R3D2-1935 & 1936)
27. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)
28. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR,
15CV-00945 (08-R2D1-3093 ~ 3098)
29. STANISLAUS FOOD PRODUCTS CO., 34-2015-80002087 (13-R2D4-0572 ~ 0574)
30. OLDCASTLE PRECAST, INC., 34-2015-80002167 (13-R3D3-0583)
31. SHIMMICK CONSTRUCTION CO., INC./OBAYASHI CORP., 34-2015-80002204
(12-R3D1-0781)

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32. CHARLES PANKOW BUILDERS, LTD., 34-2015-8000221 (13-R4D1-1759)
33. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
34. TRI STATE STAFFING, 12-R6D2-0378
35. CHEVRON U.S.A., N15-2013 (13-R6D3-0655 THROUGH 0662)
36. T & R CONSTRUCTION GROUP, BS159712 (14-R4D3-4120 & 4121)

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. ACCESS SYSTEMS & SOLUTIONS, INC. DBA USA SCAFFOLD CO, 15-R1D4-1433 THROUGH 1436
2. ALBERTSONS, LLC., 15-R4D1-1920 AND 1921
3. AMADOR FIRE PROTECTION DISTRICT, 15-R2D4-3989
4. AREF AHMADIA DBA WEST END CAFÉ, 15-R6D7-2071 THROUGH 2073
5. BCJ SAND & ROCK, INC., 15-R5D1-2663 THROUGH 2665
6. CURTIS BERESFORD DBA FULL SERVICE SCAFFOLD, 14-R2D1-3127 THROUGH 3130
7. BLUE APRON INC., 15-R1D5-2766 THROUGH 2768

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8. BRANNON INC. DBA SMITH ELECTRIC SERVICE, 15-R4D3-2093 AND 2094
9. BURNETT & SONS PLANING MILL AND LUMBER CO., 15-R6D1-1818 THROUGH 1820
10. CA CORRECTIONS – CHUKAWALLA STATE PRISON, 14-R3D3-2368
11. CA CORRECTIONS & REHABILITATION, 15-R4D7-2662
12. CA DEPT. OF STATE HOSPITALS NAPA STATE HOSPITAL, 15-R1D5-0711
13. CA DEPT OF STATE HOSPITALS NAPA, 14-R1D5-4144
14. CALIFORNIA BOX COMPANY, 15-R4D4-2988
15. DOUGLAS CAMPBELL, 15-R6D7-4394 THROUGH 4397
16. CAVCO INDUSTRIES DBA FLEETWOOD HOMES, INC., 15-R3D3-4596 THROUGH 4598
17. CENTRAL BAY ROOFING AND RESTORATION, 15-R1D4-2635 THROUGH 2637
18. CHAMELEON PAINTING & DECORATING, 15-R3D1-3559 AND 3560
19. CHINO AUTOMOTIVE SERVICE, 15-R6D5-4584 AND 4585
20. CITY OF LONG BEACH POLICE DEPARTMENT, 15-R3D5-2778
21. CITY OF LONG BEACH POLICE DEPARTMENT, 15-R3D5-2779
22. CITY OF SACRAMENTO DBA UTILITIES DEPARTMENT, EA FAIRBAIRN WATER TREATMENT PLANT, 15-R7D1-3022 THROUGH 3026
23. CITY OF SANTA MONICA, 14-R4D1-3829
24. CITY OF WALNUT CREEK RECREATION DIVISION, 15-R1D5-3644
25. CLARK PACIFIC PRECAST LL; DONALD G CLARK CORP.; AND ROBERT E CLARP CORP, 15-R1D2-4317
26. COMCAST CORPORATION, 15-R1D2-2505
27. COMMERCIAL & INDUSTRIAL ROOFING COMPANY, INC. DBA COMMERCIAL & INDUSTRIAL ROOFING C/O LIEB & LIEB, 15-R6D5-4039

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28. CUSHFIELD MAINTENANCE WEST CORP, 15-R4D1-1514 AND 1515
29. DISPENSING DYNAMICS INTERNATIONAL, 15-R4D4-2810 AND 2811
30. DV CUSTOM FARMING, LLC., 15-R6D5-3674 AND 3675
31. EJS PIZZA CO DBA ROUND TABLE PIZZA, 15-R2D1-1749
32. ESTENSON LOGISTICS, 13-R4D4-3190 THROUGH 3192
33. FD CONTINUOUS PALLETS, 15-R6D5-3542 AND 3543
34. FORGED METALS INC. DBA ALCOA FASTENING SYSTEMS & RINGS,
15-R3D3-4711 THROUGH 4714
35. FRAMECON INCORPORATED DBA TITAN FRAMING, 15-R1D4-0713
AND 0714
36. FRAZIER MASONRY CORPORATION, 15-R4D3-1001
37. GHEEN BUILDERS, INC., 15-R2D3-4538
38. GOAT HILL, INC., 15-R1D1-4631
39. GUARDIAN NATIONAL, INC. DBA GUARDIAN NATIONAL SECURITY,
14-R4D4-3657
40. GUNS, FISHING AND OTHER STUFF, LLC, 15-R1D4-2248 THROUGH 2252
41. PAULO GUZMAN DBA LMR AUTO REPAIR, 15-R6D7-1179 AND 1180
42. JAY HARTMAN DBA PROPERTY MANAGEMENT CO, 15-R4D1-1141
43. J.R. SIMPLOT COMPANY, 15-R7D1-4759 THROUGH 4761
44. JOHN KAUTZ DBA KAUTZ FARMS, 15-R2D1-0720 THROUGH 0722
45. KKP, INC., 15-R6D5-0807 AND 0808
46. LA COUNTY SHERIFF FACILITIES SERVICES BUREAU, 15-R4D1-2838
AND 2839
47. LA ROCQUE BETTER ROOFS INC., 15-R3D5-3229 AND 3230
48. LAUSD HARVARD ELEMENTARY, 15-R4D1-1272

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49. LIFESTYLE CONCEPTS, INC. DBA HOLD IT, 15-R3D2-3471 THROUGH 3473
50. LOMO COLD STORAGE LLC, 15-R7D1-2292 THROUGH 2296
51. MANAGED MOBILE, INC., 15-R4D1-3441 AND 3442
52. STEVE MARDEROSIAN DBA STEVE MARDEROSIAN'S HANDMADE WOOD, 15-R3D1-2409 THROUGH 2412
53. MATCHMASTER DYEING & FINISHING INC., 15-R4D1-3104 AND 3105
54. GREGG MEKASSISIAN DBA UNIQUE CUSTOM CABINETS, 15-R6D5-4312 THROUGH 4314
55. MENZIES AVIATION, 14-R4D1-2739 THROUGH 2743
56. MORGANN HILL DESIGNS, INC., 15-R3D2-3093
57. NEW INDY OXNARD, LLC, 14-R4D3-3969 AND 3970
58. OASIS RANCH MANAGEMENT, INC., 15-R3D3-4237 AND 4238
59. OCEAN SASH & DOOR COMPANY, INC., 15-R6D1-3320 THROUGH 3330
60. OPTIMUS CONSTRUCTION INC., 15-R3D3-3369 AND 3370
61. PAAT & KIMMEL DEVELOPMENT INC., 15-R3D1-0996 THROUGH 0998
62. PANDA EXPRESS DBA PANDA RESTAURANT GROUP, INC., 15-R4D1-1792 THROUGH 1794
63. PATCH CREW, 15-R2D4-2893 THROUGH 2896
64. PATTY'S FORESTRY SERVICE, INC., 14-R2D4-1018 AND 1019
65. PEACE GENERAL BUILDING CONTRACTORS, 15-R4D3-0783
66. PHOENIX ELECTRIC COMPANY, 15-R1D1-4773
67. POINTER ENTERPRISES, INC., DBA MACDONALD'S, 15-R2D3-4757
68. POLYROCK EQUIPMENT COMPANY, INC., 15-R6D5-3390 THROUGH 3392
69. POPEYE'S CHICKEN & BISCUITS, 15-R3D1-0583 THROUGH 0584
70. OCTAVIO PORTUGAL DBA OCTAVIO'S TOWING, 15-R2D1-2845

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71. PRIDE STAFF, 15-R2D4-0104
72. RD RUBBER TECHNOLOGY CORP., 15-R4D4-1520
73. REAGENT CHEMICAL AND RESEARCH, INC. DBA WHITE FLYER TARGETS, 15-R3D3-4233 THROUGH 4236
74. REDDING DRYWALL SYSTEMS INC DBA HIGH PERFORMANCE WALL SYSTEMS, 15-R1D4-2229
75. REGAL CUSTOM MILLWORK INC., 15-R6D2-2812 THROUGH 2816
76. RUSH PERSONNEL SERVICES, INC, 15-R2D1-2510
77. RUVALCABA CONSTRUCTION, 15-R3D5-3376 AND 3377
78. SAFEWAY, INC., 15-R2D4-0857
79. PEDRO CERNA SANCHEZ DBA TORTILLERIA JALISCO, 15-R6D7-4040 AND 4041
80. SCANLON CONSTRUCTION, INC., 15-R4D1-2437
81. SEARS, ROEBUCK AND CO. DBA SEARS STORE #1518, 15-R3D5-4061
82. SEA WORLD, LLC., 15-R3D2-2129 THROUGH 2132
83. SERGE HAITAYAN DBA BELMONT CAR WASH, 15-R6D5-4579 THROUGH 4581
84. SERRATO & SON GROVE CARE, 15-R3D2-0212
85. SHAMROCK RANCH, LLC, 15-R2D1-4756
86. SOFTSCAPES THE ART OF LANDSCAPE, 15-R3D1-2259
87. SOLAR SERVICE CENTER, INC. DBA SOLAR ELECTRIC SERVICE CENTER, INC, 15-R4D4-3412 AND 3413
88. SOUTH PASADENA FIRE STATION, 15-R4D1-2986
89. SOUTHWEST PRODUCTS, LLC. DBA CIRCLE FOODS, 15-R3D2-4288 THROUGH 4290
90. STANISLAUS TOWING & RECOVERY SERVICES, INC. DBA STANISLAUS TOWING SERVICES, 15-R2D4-3936

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91. STAR ELEVATOR, INC., 15-R1D1-0965
92. STEIN INDUSTRIES INC., 15-R6D2-3305 THROUGH 3314
93. STEVE P. RADOS, INC., 15-R2D1-2050
94. SUMMIT PLASTERING, INC., 15-R3D1-3751 THROUGH 3754
95. SUPER CENTER CONCEPTS, INC. DBA SUPERIOR GROCERS, 15-R4D1-2859
AND 2860
96. THE DAVEY TREE EXPERT COMPANY DBA DAVEY RESOURCE GROUP, 15-
R3D2-1770
97. THE LAMB CO-OPERATIVE INC., 15-R3D5-2835 THROUGH 2837
98. THE LAWSON ROOFING CO. INC., 15-R1D1-1236
99. THE OIL DESIGN COMPANY, INC., 15-R6D5-4037 AND 4038
100. UNITED PARCEL SERVICE, 14-R4D4-1988
101. VINEYARD OFFICE BUILDING, 14-R1D2-2879 AND 2880
102. WEST COAST FAB, INC., 15-R6D1-3278 THROUGH 3283
103. WESTERN AGGREGATES, LLC, 15-R5D1-2861 AND 2862
104. XKT ENGINEERING, INC., 15-R1D5-4362

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.