

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, June 30, 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: June 16, 2016

RE: Closed Session of the Board to be held on June 30, 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. CALIFORNIA FORESTRY AND FIRE PROTECTION DBA CAL FIRE, 13-R3D3-3561 AND 3562
2. CLARK PACIFIC CORPORATION, 15-R2D1-0484 AND 0485
3. SYNERGY TREE TRIMMING, INC., 15-R2D1-0828

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. AVALON BAY COMMUNITIES, INC., 15-R3D2-0751
2. BARRETT BUSINESS SERVICES, INC., 12-R3D1-1204 THROUGH 1206

3. FOUNDATION BUILDING MATERIALS LLC, 14-R1D2-3533 THROUGH 3535
4. GIBRALTAR PARTNERSHIP LP, 15-R3D2-4782 THROUGH 4785

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. EVERGREEN NURSERY, 15-R3D2-0083 AND 0084
2. ST. JERIES ENTERPRISES, INC. dba EXPRESS AUTO SERVICES, 16-R6D5-9083

ORDERS DISMISSING APPEAL:

1. CRANKLIN SOLUTIONS, LLC., 16-R3D1-0237 THROUGH 0240

ORDER DENYING LEAVE TO FILE LATE APPEAL

1. TUTOR PERINI CORPORATION, 16-R5D1-9088

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 though 2279
2. ATKINSON CONSTRUCTION, LP, 14-R3D1-4111
3. BIGGE CRANE & RIGGING CO., 14-R1D2-1798
4. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
5. COAST WASTE MGNMT OF CA, INC., 11-R3D2-2385 & 2386
6. COMPASS CONTAINER GROUP, INC., 16-R1D4-9014
7. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
8. DAVEY TREE SURGERY CO., 13-R3D3-1018 THROUGH 1021

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9. DYNAMIC CONSTRUCTION SERVICES, INC., 15-R4D1-1471 AND 1472
10. FEDEX FREIGHT, INC., 14-R2D1-0144
11. FIRST PRIORITY DESIGN & CONSTRUCTION, 16-R3D5-9073
12. GATEWAY PACIFIC CONTRACTORS, INC., 10-R2D3-1502 THROUGH 1508
13. HERMAN WEISSKER, INC., 13-R3D1-3279
14. 13.JD MILLER CONSTRUCTION, INC. dba M & M FRAMING, 16-R4D4-9058
15. JM ENVIRONMENTAL, INC., 15-R2D1-9232
16. KEY ENERGY SERVICES, LLC, 15-R4D7-0255 AND 0256
17. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
18. MAGNA TOOL INC., 15-R3D1-9214
19. MASTER CARE WINDOW WASHING, 15-R1D4-9230
20. MORROW-MEADOWS CORP., 12-R4D1-0717 THROUGH 0719
21. NOLTE SHEET METAL, INC., 14-R6D7-2777 through 2783
22. RUSSELL FABRICATION CORP. dba AMERICAN FABRICATION, 15-R6D2-90
23. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570
24. UNITED PARCEL SERVICE, 13-R3D2-2664 and 2665
25. 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)

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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. RAAM CONSTRUCTION, INC., RG16-810863 (15-R1D4-0155)

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)
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. AMERI STAR WINDOWS INC, 16-R6D2-0865 AND 0866
2. AVIA INDUSTRIES INC., 15-R4D3-4480 AND 4481
3. BARBOSA CABINETS INC., 15-R2D4-4042 AND 4043
4. BARNES & NOBLE BOOKSELLERS, INC., 15-R3D2-3175
5. BURRTEC WASTE INDUSTRIES, INC., 16-R4D3-0125
6. BUTTE VALLEY UNIFIED SCHOOL DISTRICT, 16-R2D3-1511
7. CAL TECH PRECISION INC., 16-R3D1-0925 AND 0926
8. CALIFORNIA ACCESS SCAFFOLD, LLC., 16-R3D5-1671
9. CAPITOL NEON, 16-R2D1-0228 AND 0229
10. CEMEX CONSTRUCTION MATERIALS PACIFIC LLC, 14-R5D3-4159
11. CRABILL & SONS, INC., 16-R3D1-1656
12. CRESCO MANUFACTURING, INC., 15-R3D1-2734 AND 2735
13. CSULB, COUNSELING & PSYCHOLOGICAL SERVICES DEPT, 14-R3D5-3419
AND 3420
14. D R HORTON BAY, INC. DBA D R HORTON AMERICA'S BUILDER,
15-R1D4-1951
15. DAMATO ASSOCIATES, INC., 16-R3D1-0804 THROUGH 0806
16. DANHYA ALVAREZ DBA DLAB DRYWALL, 16-R3D1-0609 AND 0610

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17. DE LARSHE CABINETRY, LLC DBA LG WOOD PRODUCTS, 15-R6D2-4121 THROUGH 4124
18. DEL SOL HARVESTING, INC., 15-R4D3-4654
19. DELTA DESIGN INC., 15-R3D2-4051 AND 4052
20. DIAMOND WIPES INTERNATIONAL, INC., 16-R4D4-0247 AND 0248
21. DAVID ESPINOZA DBA TRINITY PRODUCE, 15-R4D3-4685
22. FAMILY RANCH INC., 15-R2D5-4047
23. FLYING TURTLE CAST CONCRETE, 15-R2D4-4044
24. GLASSPLAX, INC., 16-R6D2-0625 AND 0626
25. GRIMMWAY ENTERPRISES INC., DBA GRIMMWAY FARMS, 15-R3D3-0393
26. HAND & NAIL HARMONY, INC., 15-R3D1-4404
27. HOLIDAY HARBOR/BRIAN RAYNER, 16-R3D1-0923 AND 0924
28. HORIZON UNDERGROUND, INC., 16-R4D7-1097
29. INLAND EMPIRE FRAMING, INC., 16-R3D3-1698 THROUGH 1700
30. IN-N-OUT BURGER, INC., 15-R4D3-4797
31. JAVIER CAMPOS AUTO ELECTRICO DBA JC AUTO ELECTRIC, 15-R3D5-2652 THROUGH 2654
32. JIANPING YANG DBA YF COMPANY, 15-R4D1-2960
33. KING'S CONSTRUCTION CO., 16-R1D4-0742 THROUGH 0748
34. LABOR READY SOUTHWEST INC., 15-R3D2-3439
35. LEADING INDUSTRY, INC DBA PINNPACK, 16-R4D3-0978 AND 0979
36. MACY'S, 16-R2D5-0640
37. MADDOX FARMS, 16-R2D5-1638
38. MARINA LANDSCAPE, INC., DBA MARINA LANDSCAPE MAINTENANCE, INC., 15-R3D1-4550

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39. MATT LUDLOW DBA MATT LUDLOW, 16-R6D5-0199
40. MOHAMMAD TAHOORI DBA M & S AUTO, 16-R1D4-1014 THROUGH 1016
41. MUSE MEDIA CENTER, INC. DBA MUSE AND COMPANY, INC, 16-R1D4-0630 THROUGH 0632
42. NAVARRO ROOFING, 15-R3D5-3512 THROUGH 3513
43. NESTLE DREYER'S ICE CREAM, 15-R2D5-3522 AND 3523
44. NMI INDUSTRIAL HOLDINGS, INC. DBA NMI INDUSTRIAL, 16-R2D4-1635
45. NORTH COAST MILL WORKS, 16-R1D5-0153
46. NZHDEH NICK VARTANIAN DBA VARTANIAN BUILDERS, 15-R4D3-4309
47. O'REILLY AUTO ENTERPRISES DBA OREILLY, 15-R2D4-4212
48. PACIFIC SALES KITCHEN AND BATH CENTERS, LLC, 16-R3D5-0450 AND 0451
49. PACTIV PACKAGING, INC., 16-R2D4-1634
50. PAINTED RHINO, 16-R3D3-1664
51. PAYLESS SHOESOURCE, INC., 16-R2D1-1506
52. PRIORITY WORKFORCE, INC., 15-R6D2-3708 THROUGH 3711 (Amended Order attached)
53. PSLQ, INC. DBA GREENBEE, 15-R3D3-0385 THROUGH 0391
54. QUENSSENCORP, INC., DBA P.B. CERTIFIED AUTO, 16-R6D5-1563
55. QUEST NUTRITION LLC, 15-R4D4-4599 THROUGH 4601
56. R.D. OLSON CONSTRUCTION INC, 15-R4D3-4796
57. RM INDUSTRIES, 15-R4D7-2003 THROUGH 2005
58. RIO FARMS, LLC, 16-R1D2-0919
59. SAFEWAY DISTRIBUTION WAREHOUSE, 16-R2D4-1498
60. SANDRA BIRD CUSTOM KITCHENS, 16-R1D5-0600 THROUGH 0602

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61. SDI INDUSTRIES, INC., 15-R4D3-3384 AND 3385
62. SEKO WORLDWIDE LLC DBA SEKO LOGISTICS, 16-R3D3-1332
THROUGH 1334
63. SENECA FOODS LLC, 16-R2D4-0354
64. SIERRA PACIFIC INDUSTRIES, 12-R2D4-3606 THROUGH 3611
65. SJ VALLEY PLATING, INC DBA FARBEN, INC., 15-R1D4-4361
66. SLINGSHOT CONNECTIONS, LLC, 15-R2D4-0133 AND 0134
67. UNIVERSAL MACHINE COMPANY INC, 15-R6D5-2934 THROUGH 2939
68. VEST INC., 16-R4D1-0726 THROUGH 0728
69. WESTERN STATES CONSTRUCTION, INC., 15-R3D1-2515 THROUGH 2517
70. WILLIAM S. HART UNION HIGH SCHOOL DISTRICT-CANYON HIGH
SCHOOL, 16-R4D3-0365 AND 0366
71. XLRS SERVICES, 15-R3D1-4556

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.