

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, August 20, 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: August 7, 2015

RE: Closed Session of the Board to be held on August 20, 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. CRANEVEYOR CORP, 13-R3D2-1396 AND 1397
2. KENAI DRILLING LIMITED, 12-R4D3-1230 AND 1231
3. SAVANT CONSTRUCTION, INC., 14-R3D1-3018 THROUGH 3021
4. SYAR INDUSTRIES INC, 13-R5D1-1876 THROUGH 1880
5. SYAR INDUSTRIES INC, 14-R5D1-1761

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. MASTER ROOFING SYSTEMS, INC. 14-R1D1-3619
2. MCM CONSTRUCTION, INC., 13-R1D2-3851 THROUGH 3854 (Employer)
3. SECURITY PAVING COMPANY, INC., 14-R4D7-2442
4. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 12-R3D1-0781
5. SHIMMICK CONSTRUCTION CO., INC./OBAYAHSI CORPORATION, JV, 11-R3D1-2562 THROUGH 2570
6. SECURITY PAVING COMPANY, INC., 14-R4D7-2442
7. W.A. RASIC CONSTRUCTION, INC., 13-R3D1-2952

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 12-R3D1-0781

ORDERS DISMISSING APPEAL:

AMENDED ORDERS

1. AEG MANAGEMENT GARLAND, LLC, 14-R1D4-2657 THROUGH 2660

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)

ORDER DENYING LATE APPEAL

ORDER GRANTING LATE APPEAL

1. MATILDE ALVEREZ DE PEREZ DBA M A FASHION, 15-R6D5-2541 AND 2542

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. CHEVRON U.S.A. INC., 13-R6D3-0655 THROUGH 0662
5. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
6. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
7. DIONYSUS DREAM INC., DBA NEWPORT MESA CARWASH & SERVICE, 15-R6D5-9087
8. ECHO ALPHA INC. ET AL, 14-R3D1-0802 THROUGH 0804
9. EKEDAL CONCRETE, INC., 13-R3D1-0131 THROUGH 0133
10. GOLDEN STATE WARRIORS, 15-R1D4-9060
11. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
12. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
13. McCARTHY BUILDING CO., INC., 12-R1D4-3458
14. MCM CONSTRUCTION, INC., 13-R1D2-3851 THROUGH 3854
15. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
16. GONZALO OLASCOAGA DBA GONZALO OLASCOAGA, 13-R6D5-2097 AND 2098

17. SIERRA FOREST PRODUCTS, 09-R2D5-3979
18. SKYLINE HOMES, INC., 15-R3D3-9035
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)
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. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
19. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-
80001749 (2008-R2D1-3414 THROUGH 3418)
20. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
21. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
22. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817
(09-R6D2-2238 ~ 2241)
23. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
24. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
25. TL PAVLICH CONSTRUCTION, INC., BS14-9660 (11-R3D6-1303
THROUGH 1310)
26. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360
THROUGH 3362)
27. MORROW MEADOWS CORP., BS151385 (09-R3D3-2295)
28. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)
29. KEY ENERGY SERVICES, INC., S-1500-CV-283958, EB (13-R4D3-2239 ~ 2242)
30. KD TD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL
(14-R3D2-1935 & 1936)

31. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)

32. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR,
15CV-00945 (08-R2D1-3093 ~ 3098)

33. 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. ADVANCED CONSTRUCTION SOUTHWEST, INC., 14-R1D2-3960

2. A GOOD ROOFER INC., 14-R3D2-3763 AND 3764

3. AGWOOD MILL & LUMBER INC., 14-R2D1-3031 AND 3032

4. AIREHART CONSTRUCTION INC., 15-R2D3-2404 AND 2405

5. ALL AMERICAN ASPHALT, 14-R3D3-0037 AND 0038

6. ASSOCIATES, INC, 14-R2D1-3248

7. AVIATION PORT SERVICES L.L.C., 15-R1D4-0035 THROUGH 0037

8. B & M TEAR OFF, 13-R2D2-3002 THROUGH 3004

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9. CA HIGHWAY PATROL, 12-R2D3-3195
10. CAREFUSION, 15-R6D2-1834 THROUGH 1836
11. CITY OF ARCATA, 15-R2D3-2403
12. C J FOODS AMERICA DBA CJ FOODS MANUFACTURING CORPORATION, 15-R3D1-0862 AND 0863
13. COLLEGE HOSPITAL OF CERRITOS, 14-R3D5-0897 THROUGH 0900
14. COLLINGS INTERIORS, LLC, 15-R3D1-2320
15. COLOR MARBLE COMMERCIAL PROJECTS INC., 15-R3D1-0931 AND 0932
16. COMPREMED MED. GROUP INC. DBA DEL CARMEN MED. CTR., 14-R4D3-0337
17. COPPER ELECTRIC INC., 15-R3D3-0753 AND 0754
18. CORPORATE CONTRACTORS, INC., 11-R4D2-2416 THROUGH 2418
19. CUSTOM COOLER, INC., 14-R4D4-0522 AND 0523
20. DIAMOND WIPES INTERNATIONAL, INC., 15-R4D4-0784 THROUGH 0787
21. DOW AGROSCIENCES, LLC, 15-R2D1-1284 THROUGH 1286
22. EDWARD'S SHEET METAL SUPPLY INC., 15-R6D2-1883 THROUGH 1886
23. ENSIGN UNITED STATES DRILLING, INC., 13-R4D7-2444
24. EXCEL CABINETS INC., 15-R3D3-1294 THROUGH 1296
25. FDS MANUFACTURING CO., 14-R4D4-3900
26. FIRST CLASS CONSTRUCTION & DEVELOPMENT, INC., 15-R6D5-2287 AND 15-R6D5-2489
27. FRESHKO PRODUCE SERVICES, 13-R2D5-3402
28. FRESH MXN, LLC., 13-R3D2-3445 THROUGH 3447

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29. EDGAR GARZA DBA EDGAR GARZA CONSTRUCTION, 15-R4D1-1790
30. GHX INDUSTRIAL, LLC, 15-R2D4-0930
31. LEO GILARDI, JOHN GILARDI & BILL GILARDI, PARTNERS DBA GILARDI FARMS, 15-R2D4-1021
32. GLEN VILLANUEVA DBA LONG BEACH AUTO TECH, 15-R6D5-2290
33. GOODSON REAL ESTATE CO., 15-R4D1-0171 THROUGH 0174
34. G.O. LANGLOIS CONSTRUCTION, INC., 14-R3D3-4013 AND 4014
35. GRAND VIEW GERANIUM GARDENS INC., 15-R6D2-0918 THROUGH 0920
36. GUY YOCUM CONSTRUCTION, INC., 14-R2D4-3035 THROUGH 3037
37. HARPER TREE SERVICE, INC., 15-R4D1-1774 AND 1775
38. HUMANITY FOR HORSES, 15-R2D3-2356
39. INSTANT SIGNS AND BANNERS, 15-R3D1-0908 AND 0909
40. JFP CONSTRUCTION CONSULTING CO., 15-R6D5-0577
41. JIM'S GERMAN AUTO, 15-R6D5-2288
42. J R C C , INC. DBA JR CONCRETE, 15-R1D2-1735 AND 1736
43. LATHROP EQUIPMENT RENTAL & LABOR COMPANY DBA LATHROP WOODWORKS, 15-R6D1-1229 THROUGH 1234
44. LINEAGE LOGISTICS LLC, 15-R3D3-1325 AND 1326
45. MAGORIAN MINE SERVICES, 14-R5D3-2425
46. CHRIS MARTIN DBA C L MARTIN CONSTRUCTION, 15-R6D5-2289
47. MCLELLAN INDUSTRIES, INC., 14-R2D5-3595
48. MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY, 15-R6D3-1614
49. MYERS AND SONS CONSTRUCTION LP, 14-R2D1-3053 AND 3054

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50. MYRIAD FLOWERS INTERNATIONAL, 15-R6D2-1039 THROUGH 1041
51. NADY SYSTEMS, INC., 15-R1D4-1303 AND 1304
52. NH3 PLUS INC, 15-R7D1-1407 THROUGH 1409
53. OLIVEIRA FAMILY DAIRY, 15-R2D4-0729 THROUGH 0732
54. OROVILLE HOSPITAL, 15-R2D1-0313 AND 0314
55. PALISADE BUILDERS, INC., 14-R1D2-3835
56. MONICA HERNANDEZ PEREZ DBA GRAPE VALLEY CONTRACTING,
15-R4D7-0682
57. PPC ENTERPRISES INC., 14-R4D3-3954 AND 3955
58. PRECISION SPORTS INC., 14-R3D3-2355
59. PRESTIGE GOURMET, INC., DBA BERNARD'O RESTAURANT, 14-R3D2-
3876 AND 3877
60. PRINSCO, INC., 15-R1D4-0899 THROUGH 0901
61. QUALITY AG INC., 15-R4D3-0960 AND 0961
62. R G DRYWALL, INC., 15-R6D5-2390 THROUGH 2393
63. REPUBLIC FURNITURE MFG., INC., 14-R6D2-3886 THROUGH 3889
64. RSCO INC DBA RISING SUN CO., 14-R1D2-3643
65. SEARS HOLDING CORP DBA KMART, 15-R2D5-1759
66. SEARS HOLDING CORPORATION DBA SEARS, 15-R2D5-2407
67. SEWING COLLECTION, INC., 15-R4D1-0768 THROUGH 0770
68. SIERRA WES WALL SYSTEMS, INC., 14-R2D2-4050 AND 4051
69. SKYLINES ROOFING, 15-R2D4-2406
70. SOUTHEAST PERSONNEL LEASING INC, 14-R2D4-1639
71. SUFFOLK-ROEL SAN DIEGO, 13-R3D2-3426 AND 3427

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72. TIGRIS KINGS, LLC. DBA OMAR HAND CAR WASH, 15-R6D5-2241 AND 2242
73. TIM O-REILLY WOODWORKING, 14-R1D2-4046
74. TRI-VALLEY ELECTRICAL SERVICE, INC., 15-R1D2-0655 THROUGH 0659
75. TROSAK CABINETS INC., 15-R6D2-1042 AND 1043
76. TWE ENTERPRISES, 14-R2D4-3450 AND 3451
77. T-Y NURSERY, INC., 15-R3D2-0864
78. UNITY ELECTRIC LP, 15-R6D1-1545
79. WEST COAST DRYWALL & COMPANY INC., DBA WEST COAST DRYWALL AND PAINT, 15-R4D3-1988 AND 1989
80. WESTERN BUILT CONSTRUCTION, 14-R4D1-3690 AND 3691
81. WHOLESOME HARVEST BAKING INC DBA GRACE BAKING COMPANY, 15-R1D5-1741 AND 1742
82. YOGURT TIME LLC, 15-R6D1-1931

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.