

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 25, 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: August 12, 2016

RE: Closed Session of the Board to be held on August 25, 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. ACTIVAR CONSTRUCTION PRODUCTS GROUP, 15-R4D1-0878 AND 0879

2. KEY ENERGY SERVICES, LLC, 14-R4D7-4157

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. MOORE'S PUMPKINS AND CHRISTMAS TREES, 15-R1D4-1504

2. HOME DEPOT, U.S.A., INC., 15-R3D3-4516 THROUGH 4518

3. W.A. RASIC CONSTRUCTION CO., INC., 13-R4D1-1422

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

ORDERS DISMISSING APPEAL:

1. QUANTUM ENERGY STORAGE CORPORATION, 16-R3D2-0007 THROUGH
0013

ORDER DENYING LEAVE TO FILE LATE APPEAL

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. BARRETT BUSINESS SERVICES, INC., 12-R3D1-1204 THROUGH 1206

4. BIGGE CRANE & RIGGING CO., 14-R1D2-1798

5. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999

6. COAST WASTE MGNMT OF CA, INC., 11-R3D2-2385 & 2386

7. COMPASS CONTAINER GROUP, INC., 16-R1D4-9014

8. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364

9. DAVEY TREE SURGERY CO., 13-R3D3-1018 THROUGH 1021
10. DYNAMIC CONSTRUCTION SERVICES, INC., 15-R4D1-1471 AND 1472
11. FEDEX FREIGHT, INC., 14-R2D1-0144
12. FIRST PRIORITY DESIGN & CONSTRUCTION, 16-R3D5-9073
13. FOUNDATION BUILDING MATERIALS LLC, 14-R1D2-3533 THROUGH 3535
14. GATEWAY PACIFIC CONTRACTORS, INC., 10-R2D3-1502 THROUGH 1508
15. GIBRALTAR PARTNERSHIP LP, 15-R3D2-4782 THROUGH 4785
16. JD MILLER CONSTRUCTION, INC. dba M & M FRAMING, 16-R4D4-9058
17. KEY ENERGY SERVICES, LLC, 15-R4D7-0255 AND 0256
18. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
19. NOLTE SHEET METAL, INC., 14-R6D7-2777 through 2783
20. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570
21. SYNERGY TREE TRIMMING, 15-R2D1-0828
22. UNITED PARCEL SERVICE, 13-R3D2-2664 and 2665
23. 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)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 25, 2016
Page 5

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

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. A & I DESIGNS INC., 16-R6D5-1689
2. A & M LATH & PLASTERING INC., 16-R1D4-0655 THROUGH 0658
3. ADECCO STAFFING, 16-R2D4-1920
4. ALCOA FASTENING SYSTEMS, 15-R3D5-3100 THROUGH 3103
5. ALL ABOUT PAINT, 16-R4D1-1335
6. ALLIANCE RESIDENTIAL BUILDERS II GP, INC. DBA ALLIANCE RESIDENTIAL COMPANY, 15-R3D2-4219 THROUGH 4221
7. APARTMENTS HIGHLAND MEADOWS, LLP, 14-R3D3-2821 THROUGH 2823
8. ARTISTIC ENDEAVORS, INC., 16-R2D3-2427
9. AUTO RAMP SERVICES, INC., 16-R1D2-1493 AND 1494
10. B & A INTERNATIONAL FARM LABOR SERVICES INC, 16-R2D5-1577
11. BO DEAN COMPANY, INC., 16-R5D1-1011 AND 1012
12. BRADSHAW INTERNATIONAL, 16-R4D4-2571
13. RICHARD ANTHONY BRAMON DBA R.B. MASONRY, 16-R6D5-1339 AND 1340
14. C & H SUGAR COMPANY, 16-R6D1-0075 AND 0076
15. CALIDAD, INC., 15-R6D2-4677 THROUGH 4680
16. CAMERON RAZAVI DBA BELFORT MANAGEMENT, INC., 16-R1D1-2245 AND 2246
17. CEJA-REYES, INC., 16-R2D1-0603

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For August 25, 2016

Page 7

18. CEJA-REYES INC, 16-R2D1-0957 AND 0958
19. CHAMPION INDUSTRIAL CONTRACTORS, INC., 15-R2D4-4635
20. CMI MASONRY, INC., 16-R4D1-1965
21. COIN WRAP, INC., 16-R1D4-1258 AND 1259
22. COLLEDGEWOOD INC, 16-R2D1-0499
23. FRED COOKE DBA COOKE CUSTOM CABINETS, 16-R6D5-1400 AND
16-R6D5-1477
24. CORNERSTONE PROPERTIES FAMILY LP DBA BHATTI FARMS, 16-R6D7
0766 THROUGH 0771
25. CPC INTERIORS, INC., DBA RESIDENTIAL WALL SYSTEMS, 15-R1D2-3982
26. CURTIS BERESFORD DBA FULL SERVICE SCAFFOLD, 16-R1D1-0304
AND 0305
27. DANTOR MARTINEZ CONSTRUCTION, 16-R6D5-2400 AND 2401
28. DIRT CHEAP DEMOLITION, INC., 16-R3D2-2171 AND 2172
29. DRIFTWOOD DAIRY INC, 15-R4D4-4298 AND 4299
30. E & J TRUCKING, 16-R3D5-2184
31. EAST BAY LOGISTICS, INC., 16-R1D4-1567 THROUGH 1571
32. FABCO STEEL FABRICATION INC, 16-R3D3-0970
33. FACTOR SYSTEMS, INC. DBA BILL TRUST, 15-R2D1-3344 AND 3345
34. FAIRWAY STAFFING SERVICES, INC., 15-R3D1-1984 AND 1985
35. FARMERS RANCH MARKET, LLC DBA FRESH CHOICE MARKETPLACE,
15-R3D1-4399 THROUGH 4402
36. FENCE MENDERS INC, 16-R6D2-0470 THROUGH 0472
37. FOWLER PACKING COMPANY, 16-R2D5-2115
38. FRED LEEDS PROPERTIES, 16-R3D5-0116

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 25, 2016
Page 8

39. GARDNER TRUCKING INC, 15-R2D5-2451
40. GEOPHONICS, INC., 16-R2D5-2021
41. GLENNWOOD MOUNTAIN HOMES, INC., 16-R2D1-0754
42. HENKEL CORPORATION, 13-R2D2-3010 THROUGH 3016
43. HPS MECHANICAL, INC., 15-R3D2-2357 THROUGH 2359
44. ISLANDS RESTAURANT, L.P., 16-R6D7-2432
45. JANAK MEHTANI, MD DBA FAIR OAKS PSYCHIATRIC ASSOCIATES,
16-R2D1-0637 AND 0638
46. JAVIER RODRIGUEZ FARM LABOR CONTRACTING, INC., 16-R4D7-0465
47. JUMP FOR FUN INC, 16-R3D5-0648
48. KING PLACE RESTAURANT, LLC, 16-R6D7-0842
49. KRISHLANI MULIA DBA KRIS CONSTRUCITON, 16-R6D7-0376
50. LA CITY PUBLIC WORKS, 16-R4D1-1381
51. LAUSD, 16-R4D3-1385
52. LAZ PARKING CALIFORNIA, LLC., 16-R4D1-1964
53. LILY HUEY, 16-R1D1-2276
54. RAMIRO MENDEZ LOPEZ DBA NEW WORLD REMODELING, 15-R4D1-4194
AND 4195
55. LOS 3 AMIGOS TORTILLERIA INC. DBA LA PIEDAD TORTILLA FACTORY,
16-R2D4-2017 AND 2018
56. MNM MANUFACTURING, 16-R6D2-1390
57. MNM MFG, 16-R3D5-1372 AND 1373
58. MAGIC PLASTIC, INC., 15-R4D3-2745 AND 2746
59. MCCARTHY FRAMING CONSTRUCTION INC, 16-R3D5-0647
60. MINAMI GREENHOUSE INC, 16-R6D1-0641 AND 0642

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

For August 25, 2016

Page 9

61. MYERS & SONS CONSTRUCTION AND J. BANICKI CONSTRUCTION INC. DBA MYERS-BANICKI A STERLING CONSTRUCTION COMPANY JOINT VENTURE, 15-R4D1-2657
62. N.M.N. CONSTRUCTION, INC., 15-R4D1-2780
63. PACIFIC AMERICAN FISH CO., 15-R3D1-2912
64. PACIFIC COAST TREE EXPERTS, 15-R4D3-4310
65. PADENA HOLDINGS, INC. MIDAS, PADENA HOLDINGS INC. SAN JUN PARK, 15-R3D1-1242 AND 1243
66. PETERSON-DEAN INC DBA PETERSONDEAN, 16-R2D4-1131
67. WILLEM POSTMA DBA WILLIAM POSTMA DAIRY FARM, 16-R2D4-0315 AND 0316
68. PRECISION FINISHING, 16-R3D2-1182
69. PROGRESSIVE DRYWALL, INC., 16-R2D3-0507
70. FRANCISCO JAVIER ROMO RAMIREZ DBA ROMO'S FRAMING, 16-R6D5 2216 THROUGH 2219
71. RAMOS WOODWORKS, INC., 16-R6D7-1075 THROUGH 1078
72. RODOLFO LOYA CONTRACTOR INC, 16-R3D5-0936
73. RSI INSTALLATIONS, INC., 15-R4D3-3251
74. RTL EQUIPMENT RENTAL INC DBA RTL, 16-R3D2-1364
75. SAFEWAY, INC., 16-R2D4-0099
76. SAN JOAQUIN HARVESTING DBA SAN JOAQUIN HARVESTING, 16-R2D5-2020
77. JOSE SANCHEZ DBA SANCHEZ CONCRETE, 16-R6D7-1646 AND 1647
78. SCL GROUP, INC. DBA CENTURY WINDOW CLEANING, 15-R1D1-2459 THROUGH 2461
79. SERVICE CONNECTION, INC., 16-R4D4-1828
80. SSA PACIFIC INC, 16-R3D5-1091 AND 1092

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 25, 2016
Page 10

81. STUART JAMES CONSTRUCTION INC, 15-R2D3-2640
82. TAYLOR FARMS PACIFIC, INC., 15-R2D4-0135 AND 0136
83. TEHRAN SANAAT INC DBA CALIFORNIA STEEL SERVICES, 16-R3D3-1767
THROUGH 1771
84. THE BOEING COMPANY, 16-R3D1-1524
85. THERMALAIR INC, 15-R3D5-4642 AND 4643
86. TLK INDUSTRIESK, INC. DBA THOMAS CNC MACHINING, 16-R3D1-1081
87. TRACH VAN TRAN DBA AUTO ELECTRIC BUILDERS, 16-R6D5-2405
THROUGH 2411
88. TRAPAC, INC., 13-R1D4-3412 AND 3413
89. TURNER CONSTRUCTION COMPANY, 15-R2D1-3516
90. VALLEY ADULT DAY HEALTH CARE CENTER, INC., 16-R2D5-0916
91. WESTSIDE BRAKE & TIRES, INC., 16-R6D5-2207 THROUGH 2209
92. WHELAN SECURITY OF CALIFORNIA, INC. 15-R3D3-3202
93. ZARMINA WAHID & ZARGHONA YOSOFI, A PARTNERSHIP DBA ZALLA
AFGHAN GRILL, 16-R6D7-0722 AND 0723

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.