

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, November 19, 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: November 6, 2015

RE: Closed Session of the Board to be held on November 19, 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. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 AND 1999
2. OC COMMUNICATIONS, INC., 14-R2D2-0120, 14-R2D2-0166 AND 14-R2D2-0340
3. TROLLEY SECURITY, INC. DBA UNIVERSAL PROTECTION SERVICE, 12-R3D2-2908 THROUGH 2910

PETITIONS FOR RECONSIDERATION:

1. A&M ORNAMENTAL IRON, 15-R6D2-9132
2. CHER XUECHUAN MA DBA PARADISE ISLAND SPA, 15-R6D5-9160
3. ERDIS PLASTICS MFG, INC., 15-R4D1-9083

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. T&R CONSTRUCTION GROUP, 14-R4D3-4120 & 4121

ORDERS DISMISSING APPEAL:

1. MOUNTAIN MOVERS ENGINEERING, 14-R3D2-4067

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

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. ACTION METAL RECYCLING, INC., R2D2-1125 THROUGH 1126
2. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
3. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
4. ECHO ALPHA INC. ET AL, 14-R3D1-0802 THROUGH 0804
5. EKEDAL CONCRETE, INC., 13-R3D1-0131 THROUGH 0133
6. EMPLOYER SOLUTIONS STAFFING GROUP II, LLC, 12-R3D6-3207
7. FASTEMPS INC., 12-R3D6-3208
8. HERMAN WEISSKER, INC., 13-R3D1-3279
9. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822

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10. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
11. McCARTHY BUILDING CO., INC., 12-R1D4-3458
12. MCM CONSTRUCTION, INC., 13-R1D2-3851 THROUGH 3854
13. SIERRA FOREST PRODUCTS, 09-R2D5-3979
14. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
through 2570
15. UNITED PARCEL SERVICE, 14-R2D1-1779
16. W.A. RASIC CONSTRUCTION, INC., 13-R3D1-2952
17. ABM FACILITY SERVICES, INC., DBA ABM BUILDING VALUE, 12-R3D6-
3496 THROUGH 3498

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)

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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. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)

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28. KEY ENERGY SERVICES, INC., S-1500-CV-283958, EB (13-R4D3-2239 ~ 2242)
29. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL (14-R3D2-1935 & 1936)
30. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)
31. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR, 15CV-00945 (08-R2D1-3093 ~ 3098)
32. STANISLAUS FOOD PRODUCTS CO., 34-2015-80002087 (13-R2D4-0572 ~ 0574)
33. OLDCASTLE PRECAST, INC., 34-2015-80002167 (13-R3D3-0583)
34. SHIMMICK CONSTRUCTION CO., INC./OBAYASHI CORP., 34-2015-80002204 (12-R3D1-0781)
35. CHARLES PANKOW BUILDERS, LTD., 34-2015-8000221 (13-R4D1-1759)
36. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
37. TRI STATE STAFFING, 12-R6D2-0378

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. 100 PERCENT CONCRETE INC, 15-R6D7-2201 AND 2202

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2. AARON METALS COMPANY, 15-R1D4-3620 THROUGH 3622
3. AASH CONSTRUCTION, INC., 15-R4D1-2325
4. ACE DRILLING, 15-R1D1-0601 THROUGH 0603
5. ALKAPURO FULLERTON, INC., 15-R3D5-0764
6. ANNANDALE GOLF CLUB, 14-R4D1-3097
7. ASSOCIATED READY MIX CONCRETE, INC., 15-R3D1-0744
8. ASTRO ALUMINUM TREATING CO., INC., 13-R3D5-2599 AND 2602
9. BAY SHIP AND YACHT COMPANY, 15-R6D1-3284 THROUGH 3286
10. BIG 4 PARTY RENTALS, INC, 14-R1D5-2534
11. BJ'S RESTAURANTS, INC., 15-R3D1-1766
12. BRINDERSON, 15-R6D4-1166
13. BROWN CONSULTING AND CONSTRUCTION, 14-R3D1-3269 THROUGH 3272
14. BUTTONWILLOW GINNING COMPANY, 15-R4D7-2273 AND 2274
15. CALIFORNIA COMMERCIAL PROPERTIES MANAGEMENT, INC., 15-R3D1-0956
16. CARTIER CONSTRUCTION INC, 15-R4D3-1802
17. CITY OF LONG BEACH POLICE DEPT., 15-R3D5-0249
18. CRAIG MECHANICAL, INC., 15-R4D4-1402
19. IGNACIO CUEVAS DBA IGNACIO CUEVAS, 15-R6D5-3544 AND 3545
20. DEL REAL FOODS LLC, 15-R3D3-3143 THROUGH 3145
21. DIGITAL NETWORKS GROUP, INC., 15-R3D1-2832
22. DUNN EDWARDS CORP. DBA DUNN-EDWARDS PAINTS, 15-R1D2-3332 THROUGH 3335
23. DURHAM SCHOOL SERVICES LP, 15-R3D1-1445 AND 1446

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24. EXCALIBUR EXTRUSIONS, INC., 15-R3D1-0745
25. FENCE MENDERS INC., 15-R6D2-1837 THROUGH 1839
26. FRESH & EASY, LLC DBA FRESH & EASY DISTRIBUTION CENTER, 15-R7D2-3138 AND 3139
27. GDT FRAMING, INC., 15-R4D4-0060 AND 0061
28. GHILOTTI CONSTRUCTION COMPANY, INC., 14-R1D4-3447 AND 3448
29. GKN AEROSPACE, 15-R3D1-1765
30. GUARDPOWER SECURITY SERVICES, INC., 15-R4D4-3107
31. HELADOS MEXICO DBA TROPICALE FOODS, INC., 15-R4D4-2028
32. HEMINGWAY AUTO SERVICE INC DBA ONE STOP AUTO BODY AND PAINT, 15-R6D5-3394 THROUGH 3397
33. HPH CONSTRUCTION INC., 14-R4D1-2291 THROUGH 2295
34. J.J. FOODSERVICE INC., DBA FIESTA FOODSERVICE, 15-R3D2-3824 THROUGH 3826
35. JOE LINN CONSTRUCTION AND ROOFING, 15-R3D2-1685
36. JUST WINGIN IT INC., DBA WING STOP, 15-R2D4-2773
37. KIRE BUILDERS, INC., 14-R3D2-4113
38. LA VINA CONTRACTING, INC., 14-R4D7-4223 AND 4227
39. TRAIAN LUPAS DBA L.T. GENERAL CONTRACTING, INC., 15-R3D5-0936
40. ROBERTO MARQUEZ DBA ROBERTO MARQUEZ ATTORNEY AT LAW, 15-R6D7-1858
41. MEGGITT SAFETY SYSTEMS, INC., 15-R4D3-2479 AND 2480
42. MENLO LOGOSTICS INC., 15-R3D3-1642 AND 1643
43. MERCER, FRASER COMPANY, 15-R5D1-1203 AND 1204
44. M L K CORPORATION DBA FOLKS AUTO BODY, 15-R4D3-0649

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45. MOTIVE ENERGY TELECOMMUNICATIONS, 14-R3D2-3380 THROUGH 3384
46. MUTUAL FLAVORS, 15-R4D1-1919
47. PACIFIC GIS INC. DBA SULTAN ADULT DAY HEALTH CARE, 15-R3D1-2408
48. PARAMOUNT FARMING COMPANY, LLC., 14-R4D7-3787
49. JIM PARKER, 14-R4D1-2788 THROUGH 2790
50. PARKER PERSONNEL, 15-R3D1-1184 AND 1185 & 15-R3D1-1186 AND 1187
51. PEDRAM EXPERT CONSTRUCTION 1, 15-R4D1-1696
52. PIER A SSA TERMINALS (LONG BEACH) LLC DBA SSA TERMINALS (LONG BEACH) LLC, 15-R3D5-0497
53. PITMAN FAMILY FARMS, 15-R2D5-3555 AND 3556
54. POWER CONSTRUCTION, INC, 15-R1D1-3547
55. PREMIER ENCLOSURE SYSTEMS INC., 15-R6D2-1160 THROUGH 1165
56. QUEST CONSTRUCTION BLDG. CONTRACTORS, 15-R3D5-1688 THROUGH 1691
57. RAMCAR BATTERIES INC., 15-R4D1-0671 & 15-R4D1-3973 AND 3974
58. JOSE RAMIREZ DBA RAMIREZ MOBILE CAR WASH, 15-R6D5-3821 THROUGH 3823
59. REVOLUTION FOODS, INC., 15-R1D4-1501 AND 1502
60. SAMS CLUB STORE 6628, 15-R3D5-0937
61. SA RECYCLING, 14-R3D3-3582
62. SE PIPELINE CONSTRUCTION COMPANY, 15-R3D5-0246
63. SHAW PIPELINE, INC., 15-R1D1-3463
64. SOUTHWEST MOLDING, INC., 15-R4D3-2588 THROUGH 2591
65. STANDARD EXTERIORS, INC., 15-R6D5-3601
66. STATE OF CALIFORNIA DEPT OF TRANSPORTATION, 15-R4D3-0779

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67. SUNWEST FRUIT CO., INC., 15-R2D5-3355 AND 3356
68. TOP OF THE LINE CUSTOM PAINTING, 15-R2D4-2082 AND 2083
69. VALLEY PALLET INCORPORATED, 15-R6D1-1036 THROUGH 1038
70. VCI CONSTRUCTION, INC., 15-R3D5-0274
71. VIA HOME INC., 14-R4D1-4148 AND 4149
72. VISION POOL SERVICE, 14-R3D1-2650 AND 2651
73. WILBUR-ELLIS DBA RNA CORP, 15-R2D5-2690

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.