

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, January 7, 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: December 24, 2015

RE: Closed Session of the Board to be held on January 7, 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. DARYL THOMAS MEDIA, 15-R4D7-0120
2. MDB MANAGEMENT INC., 14-R4D1-2373 AND 2374
3. RAAM CONSTRUCTION, INC., 15-R1D4-0155
4. UNITED PARCEL SERVICE, INC. DBA UPS, 13-R3D2-2664 AND 2665

PETITIONS FOR RECONSIDERATION:

1. CAL STRIP (EMPLOYER'S PETITION), 12-R3D6-1998 & 1999
2. OC COMMUNICATIONS, 14-R2D2-0120, 14-R2D2-0166 and 14-R2D2-0340

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. PROGRESS RAIL SERVICES CORP., 14-R4D7-1372 & 1373

ORDERS DISMISSING APPEAL:

1. MSFG INC. DBA AFFORDABLE PLUMBING, 15-R4D3-1398
2. NORTH STAR MINERALS INC. DBA ACTION CLAY QUARRIES, 15-R5D2-0501
3. STATE OF CALIFORNIA DEPT. OF PARKS & RECREATION, 14-R4D3-4015

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

1. NATIONWIDE ENTERPRISES, 15-R3D2-9206

ORDER GRANTING LATE APPEAL

1. CAVCO INDUSTRIES DBA FLEETWOOD HOMES, INC., 15-R3D3-4596
THROUGH 4598
2. LAMSON ELECTRIC DBA LAMPSON BROS. ELECTRIC, 15-R4D4-4589
THROUGH 4591
3. NZHDEH NICK VARTANIAN DBA VARTANIAN BUILDERS, 15-R4D3-4309

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. BURTECH PIPELINE, INC., 13-R3D2-0830 AND 0831
3. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
4. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
5. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
6. EKEDAL CONCRETE, INC., 13-R3D1-0131 THROUGH 0133
7. EMPLOYER SOLUTIONS STAFFING GROUP II, LLC, 12-R3D6-3207
8. FASTEMPS INC., 12-R3D6-3208
9. HERMAN WEISSKER, INC., 13-R3D1-3279
10. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
11. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
12. McCARTHY BUILDING CO., INC., 12-R1D4-3458
13. MCM CONSTRUCTION, INC., 13-R1D2-3851 THROUGH 3854
14. SIERRA FOREST PRODUCTS, 09-R2D5-3979
15. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570
16. W.A. RASIC CONSTRUCTION, INC., 13-R3D1-2952

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)

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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)
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)

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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)
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)

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)

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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. 3B WINDOWS & DOOR MFG INC., 15-R6D2-2864 THROUGH 2870
2. AIRTRONICS METAL PRODUCTS INC., 15-R6D1-2714 AND 2715
3. AMADA AMERICA, INC., 14-R3D3-3022 THROUGH 3025
4. AMERICAN PASTEURIZATION COMPANY LLC, 15-R2D1-0723
5. AMF SUPPORT SURFACES INC. DBA TRIDIEN MEDICAL, 15-R3D3-4230 THROUGH 4232
6. ARMELIM AMARAL DBA ARMELIM AMARAL DAIRY, 15-R2D4-1443
7. RUBEN BARAJAS DBA CENTRAL VALLEY FARMS, 15-R2D1-0157
8. BG FARMS, INC., 15-R2D5-0736
9. BIG E PRODUCE, 15-R4D3-2056
10. BIONDI PAVING INC., 15-R2D1-2769
11. BLAKE ROOFING, INC. DBA BLAKE ROOFING, 15-R3D3-4239 AND 4240
12. BM CAR WASH INC. DBA VENTURA WEST HAND CAR WASH, 14-R6D5-3958 AND 3959
13. BORNT FAMILY FARMS, 15-R3D2-0106
14. BOYES CONSTRUCTION, INC., 15-R3D1-2800 AND 2801
15. BRIDGESTONE AMERICAS TIRE OPERATIONS LLC DBA GCR TIRE AND SERVICES, 15-R3D3-3570
16. CALCOPAINTING, INC., 15-R6D5-4067
17. CALIFORNIA SUN INC, 15-R2D1-0270
18. CARLO SEWING & CUTTING, INC., 15-R6D5-2447 THROUGH 2449
19. CENTRAL VALLEY LABOR LLC, 15-R2D4-2856
20. ANTONIO SOLORIO CERVANTES DBA CERVANTES CONSTRUCTION, 15-R2D1-2467

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21. CITY OF LOS ANGELES DEPARTMENT OF GENERAL SERVICES, 15-R4D3-3445
22. C & J CONTRACTING, INC., 15-R1D2-2972 THROUGH 2974
23. COMMUNITY RECYCLING AND RESOURCE RECOVERY, 14-R4D3-1628
24. CONTECH CONCRETE TECHNIQUES, INC, 15-R2D5-3885
25. DBA RESIDENTIAL WALL SYSTEMS, 14-R3D2-2977 AND 2978
26. MARCUS DOUGLAS DEHART, JR. DBA DEHART ELECTRIC, 15-R6D7-2200
27. DELMAR VAN DAM DBA HIGH DESERT DAIRY, 15-R4D3-0251
28. DENHAM CONTRACTING INC, 15-R1D5-3804
29. D P R CONSTRUCTION, 15-R1D1-0477
30. EDCO, 15-R3D2-0866
31. EISLEY NURSERY, INC., 15-R2D1-2253
32. F AND J CONTRACTORS, INC., 15-R4D1-2655 AND 2656
33. FASTENAL CO DISTRIBUTION CENTER, 15-R2D4-3990
34. FASTENAL CO DISTRIBUTION CENTER, 15-R2D4-4099
35. FOOTHILL TRANSIT CONSTRUCTORS, 15-R4D4-0675
36. FORD FRAMING COMPANY INC. DBA FORD FRAMING, 15-R3D1-1391
37. GILLS ONIONS, LLC, 15-R4D3-2987
38. GOLDEN FLOWER, INC. DBA GOLDEN CORRAL, 15-R3D5-3037 AND 3038
39. GOLDTECH, INC., 15-R1D2-1737
40. HALIBURTON INTERNATIONAL FOODS, 15-R4D4-4150 AND 4151
41. HENKELS AND MCCOY, 15-R3D2-1072
42. HOLMAN DISTRIBUTION, 15-R4D4-3275 AND 3276
43. INNOVATIVE METAL INDUSTRIES INC., 15-R6D2-1991 THROUGH 1993
44. INTERPRESS TECHNOLOGIES, INC., 15-R2D1-1616 AND 1617
45. JAMBA JUICE VERNON DAVIS ENTERPRISE DBA, JAMBA JUICE, 15-R1D3-3255 THROUGH 3257

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46. JOHNSON LEATHER CORP., 15-R1D1-3975
47. J & V PROPERTIES INC DBA JD HOME RENTALS, 15-R2D5-3991 AND 3992
48. KEYES AUTOMOTIVE GROUP DBA WOODLAND HILLS HYUNDAI, 15-R4D3-0780 THROUGH 0782
49. LAWSON DRAYAGE, INC., 15-R1D2-0944 THROUGH 0948
50. LCS CONSTRUCTORS INC, 15-R5D2-0616
51. LOTUS GARDENS OUTDOOR LIVING CENTER, INC., 15-R2D5-0487
52. BENITO MARTINEZ DBA BENITO MARTINEZ FLC, 15-R2D1-0992 AND 0993
53. MEMBRANE TECHNOLOGY & RESEARCH, 12-R1D3-0731 THROUGH 0737
54. MR. GOOD VAPE, LLC DBA MR. GOOD VAPE, 15-R3D3-3435
55. M TRUST AUTOCARE, LLP. DBA SYNFAST OIL CHANGE, 15-R6D5-4316
56. NORWESCO INCORPORATED, 15-R2D5-4213
57. NTS, INC., 15-R4D7-0885
58. OG ERECTORS, 15-R3D1-1393
59. PACIFIC COAST SUPPLY LLC DBA PACIFIC SUPPLY, 15-R2D3-3553
60. PACIFIC MATERIAL HANDLING SOLUTIONS, INC., 15-R2D1-2354
61. PADILLA CONSTRUCTION COMPANY DBA GARRIS PLASTERING, 15-R3D5-4294 AND 4295
62. PAR ELECTRICAL CONTRACTORS, INC, 15-R3D1-0626
63. PETRICORP DBA PREMIER FIRE PROTECTION, 14-R3D2-3933 AND 3934
64. PIRATE STAFFING DBA SAN FERNANDO TEMPORARY STAFFING SERVICES, 15-R3D5-2024
65. PRECAST CONCRETE TECHNOLOGY UNLIMITED, LLC, 15-R2D1-2402
66. QUEST NUTRITION, LLC, 15-R3D5-3849
67. RAGSDALE TUNNELING, INC., 15-R5D1-0790 AND 0791
68. RAH INDUSTRIES INC., 15-R6D2-1359 THROUGH 1364
69. RANDSTAD STAFFING, 15-R1D4-2727

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70. RA NONINI ENTERPRISES, 15-R2D5-1582
71. R&A RESOURCES, INC. DBA MAC-CO METAL BUILDING, 15-R6D7-3402 AND 3403
72. REDDING ROOFING SUPPLY, INC., DBA R&S SUPPLY INC., 15-R2D3-3931 AND 3932
73. REITER AFFILIATED COMPANIES, LLC, 15-R4D7-4022
74. RJL LABOR SERVICES INC, 15-R2D5-0605
75. RUNYON'S TREE SERVICE, LLC, 15-R2D3-3348 AND 3349
76. SAFEWAY INC. VONS' DIVISION, 15-R4D1-1787 THROUGH 1789
77. SAMIR HANNA SAATI DBA KONA CAFÉ & DELI, 15-R6D7-1531
78. SAM'S WEST INC DBA SAM'S CLUB #6455, 15-R4D3-3707
79. ALEJANDRO E SANABRIA DBA 3 W COMMERICAL GARDENING SERVICE,
15-R6D5-3114 AND 3115
80. SAN BERNARDINO COUNTY SHERIFF, 15-R3D3-4059
81. SANTA CLARA VALLEY TRANSIT AUTHORITY, 13-R1D2-3274
82. SEQUOIA ORANGE COMPANY, 15-R4D7-0469
83. SHAHKOT GAS & MART, INC., 15-R3D1-3490 THROUGH 3492
84. SIERRA ALUMINUM CO., 15-R3D3-4291 THROUGH 4293
85. SIERRA PACIFIC INDUSTRIES, 15-R2D3-3766
86. SILVER CREEK INDUSTRIES INC., 15-R3D3-3041 AND 3042
87. SIMPLY FRESH FOODS INC., DBA FRESH FOOD CONCEPTS, 15-R3D1-2321
AND 2322
88. SKYLINE HOMES INC., 15-R3D3-3574
89. SMI ARCHITECTURAL MILLWORK INC, 15-R6D2-1603
90. SO-CAL STRUCTURAL STEEL FABRICATION, INC., 15-R4D1-2528
91. SONRAY SOLAR INC DBA SONRAY CONSTRUCTION, 15-R2D1-1747 AND 1748
92. SOUTHWEST PRODUCTS, LLC. DBA CIRCLE FOODS, 15-R3D2-1767 THROUGH 1769
93. TESEI PETROLEUM, INC, 15-R2D5-2983 AND 2984

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94. THE BOILING CRAB, 15-R4D1-3756
95. THE WINE GROUP DBA GOLDEN STATE VINTNERS LLC, 14-R1D2-1168
THROUGH 1173
96. TRICORP CONSTRUCTION INC, 15-R2D1-0525
97. TVM PRODUCTIONS, 15-R4D4-3447
98. UC DAVIS HEALTH SYSTEM DBA UC DAVIS MEDICAL CENTER, 13-R2D1-1927
99. ULTIMATE REMOVAL, INC., 15-R4D1-2055
100. VALLEY PRIDE INC., 15-R3D3-3940
101. VALUE WINDOWS & DOORS DUARTE INC., 15-R6D2-2996 THROUGH 3001
102. JESUS ERNESTO VELASQUEZ & ROSA MARIA VELASQUEZ, INDIVIDUALLY
AND JOINTLY DBA ARTISTIC ORNAMENTAL, 15-R6D5-2676 AND 2677
103. WAIT ROOFING & SEAMLESS GUTTER, INC., 15-R2D3-3880
104. WAYNE DISTRIBUTION CENTER DBA PREMIER MEAT CO., 15-R6D2-3727
THROUGH 3731
105. WHITE WAVE FOODS, 15-R4D4-4256

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.