

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
AMENDED CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, June 9, 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: May 31, 2016

RE: Closed Session of the Board to be held on June 9, 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. JENSEN ENTERPRISES INC DBA JENSEN PRECAST, 15-R3D3-0047 THROUGH 0049
2. KEY ENERGY SERVICES, LLC., 15-R4D7-0255 AND 0256
3. VRAM GEVORKYAN DBA GOODFELLAS AUTO REPAIR, 15-R6D5-3116 AND 3117

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. DYNAMIC CONSTRUCTION SERVICES, INC., 15-R4D1-1471 & 1472
4. EVERGREEN NURSERY, 15-R3D2-0083 & 0084
5. ST. JERIES ENTERPRISES INC. dba EXPRESS AUTO SERVICES, 16-R6D5-9083
6. WALT OXLEY ENTERPRISES INC dba CIARRA CONSTRUCTION, 16-R1D2-9075

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. BIG Q AUTO REPAIR LLC, 16-R6D5-9060
2. UPS GROUND FREIGHT, INC. dba UPS FREIGHT, 16-R1D2-9043

ORDERS DISMISSING APPEAL:

1. AUSTIN SUNDT JOINT VENTURE, 15-R3D2-4308
2. CHARTWELL STAFFING SOLUTIONS, INC., 15-R2D4-3935

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 through 2279
2. ATKINSON CONSTRUCTION, LP, 14-R3D1-4111
3. BIGGE CRANE & RIGGING CO., 14-R1D2-1798
4. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999

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

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)

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
a. 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. 99 CENTS ONLY STORE, 16-R2D4-0763
2. ALBERTOSNS L.L.C., 16-R3D1-0319
3. ALLPOINTS ADVERTISING, INC., 16-R2D3-1444 AND 1445
4. AMARANTO INC. DBA AMARANTO GROWERS, 16-R6D2-0296 AND 0297
5. ARMSTONG GROWERS, 16-R6D2-0867 AND 0868
6. B.A.P. NURSERY, INC., 15-R6D2-4742
7. BUTTONWILLOW WAREHOUSE COMPANY, INC., 16-R4D7-0071 THROUGH
0074
8. C & J METAL PRODUCTS 15-R6D2-2336 THROUGH 2338
9. CAPITOL BUILDERS HARDWARE, INC, 15-R2D1-3192
10. CATHEDRAL CITY CAR WASH, 16-R3D3-0112 THROUGH 0114
11. CLARK PACIFIC, 16-R3D3-1546
12. COMMERCIAL NEON, INC. DBA CNI SIGNMAKERS, 16-R6D5-1301 AND 1303
13. COSTCO WHOLESALE CORPORATION DBA COSTCO #679, 16-R4D4-0821
14. CREEKVIEW HEALTH CARE, LLC, 16-R1D4-0832 AND 0833
15. CSI ELECTRICAL CONTRACTORS, INC., 14-R4D7-4158
16. DAN'S CUSTOM METAL, INC., 16-R6D2-0405

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17. DECISION HR, 15-R2D3-3767
18. E J MEYER COMPANY, 14-R3D3-4118
19. ECO ABSORBENT TECHNOLOGIES, INC., 16-R4D4-1337
20. ESPARZA ENTERPRISES, 15-R6D5-3602
21. ESTES EXPRESS LINES, INC., 15-R1D2-4774 THROUGH 4776
22. FABCO STEEL FABRICATION INC., 16-R3D3-0383 THROUGH 0385
23. FRESH EXPRESS, INC., 16-R7D1-1475
24. GALLETTO CONSTRUCTION, INC., 15-R2D1-4207 THROUGH 4209
25. GATE VIEW PAINTING CO INC, 16-R1D4-1162 THROUGH 1164
26. KEVIN GIMBL DBA NEW IMAGE PAINTING, INC., 15-R2D5-3701 AND 3702
27. HOKTO KINOKO COMPANY, 16-R6D2-1047 AND 1048
28. JD MILLER CONSTRUCTION, DBA M & M FRAMING, 14-R3D2-2476
THROUGH 2478
29. JEFF TRACY, INC. DBA LAND FORMS LANDSCAPE CONSTRUCTION,
16-R3D1-1082 AND 1083
30. JEFFREY TROTT INDUSTRIES, INC., 15-R6D2-1490 THROUGH 1493
31. JOHANNES J. BUSSJAEGER DBA SOUTHWEST SHUTTER SHAQUE,
16-R6D2-1197
32. J.R. CONSTRUCTION INC. DBA J.R. CONSTRUCTION, 15-R3D2-0749 AND
0750
33. KB HOME SOUTH BAY INC., 16-R1D2-0903
34. KERN HIGH SCHOOL DISTRICT, 16-R4D7-0489
35. KIMPTON HOTEL AND RESTAURANT GROUP, LLC. DBA GOODLAND
HOTEL OUTPOST RESTAURANT, 15-R4D3-3126 AND 3127
36. LINEAGE LOGISTICS, LLC., 16-R3D3-0815
37. LIQUID DESIGN, 16-R4D1-0525 THROUGH 0529

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38. LOS ANGELES COUNTY FIRE DEPARTMENT, 16-R4D3-0857
39. MASONITE, 16-R2D4-1450 AND 1451
40. MORLIN ASSET MANAGEMENT, 16-R4D1-0976
41. NOR-CAL BEVERAGE CO., INC., 16-R2D1-1070
42. ONESOURCE DISTRIBUTORS LLC, 16-R3D2-0776
43. PABCO CLAY PRODUCTS, LLC DBA H. C. MUDDOX, 15-R2D1-3645
AND 3646
44. PANELIZED STRUCTURES, INC., 15-R2D1-0021
45. MIKE PAPIAN DBA A TO Z WOODWORK, 16-R6D5-0143 AND 0144
46. PASADENA WINDOW SUPPLY, 16-R4D1-0118 AND 0119
47. PETE JENSON PINNACLE CONSTRUCTION INC, 15-R2D1-3425 AND 3426
48. PAULUS ENGINEERING, 15-R3D1-2776 AND 2777
49. RACKLEY COMPANY, INC., 16-R2D3-1446
50. RASMUSSEN R & R, INC., 15-R5D2-3476
51. REAL TIME STAFFING SERVICES LLC DBA SELECT STAFFING, 15-R3D5-
4005 THROUGH 4007
52. RECOLOGY GROVER ENVIRONMENTAL PRODUCTS, INC., 15-R2D4-3469
53. RELIANCE METAL RECYCLING, INC. DBA CALCO INTERNATIONAL, INC.,
16-R3D1-0540 THROUGH 0545
54. REY CON CONSTRUCTION, INC., 15-R3D1-3703 AND 3704
55. SCHULTZ STEEL COMPANY, 16-R3D5-0893
56. SEASCAPE ENTERPRISES, INC., 15-R6D5-4586
57. SIGNAL RESTORATION WEST LLC, 15-R6D5-2198
58. SPECIALTY GRANULES (IONE) LLC, 15-R5D1-4116
59. STEVE'S WROUGHT IRON, 15-R2D5-3698

60. SUPERIOR TRAILER WORKS, 16-R3D3-1288 THROUGH 1290
61. THOMAS JAMES & JENNIFER YEAGER, A PARTNERSHIP DBA CABINET EXPERTS, 16-R6D5-1404 THROUGH 1406
62. TIM N JONES CONCRETE & MASONRY, INC., 15-R3D1-2799
63. TIMEC COMPANY, INC. DBA TRANSFIELD SERVICES AMERICAS RESOURCES AND ENERGY, 16-R7D1-1474
64. TRIO MANUFACTURING, 15-R3D5-3205 AND 3206
65. UC REGENTS UC DAVIS VET MEDICINE TEACHING HOSPITAL, 15-R2D1-3343
66. WESTLAND HEATING & AIR CONDITIONING, INC., 15-R3D5-2015

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.