

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, July 28, 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: July 15, 2016

RE: Closed Session of the Board to be held on July 28, 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. INTERNATIONAL LINE BUILDERS, INC., 15-R4D1-0498

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. KIMCO STAFFING SERVICES, 15-R3D3-4594
2. SYNERGY TREE TRIMMING, 15-R2D1-0828

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

ORDERS DISMISSING APPEAL:

1. APLUS CONSTRUCTORS, INC., 15-R4D7-4114 AND 4115
2. LUCKY MAR'S INC. DBA STEREO PROS AND WHEELS, 15-R6D5-4743

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. 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. HERMAN WEISSKER, INC., 13-R3D1-3279
17. JD MILLER CONSTRUCTION, INC. dba M & M FRAMING, 16-R4D4-9058
18. JM ENVIRONMENTAL, INC., 15-R2D1-9232
19. KEY ENERGY SERVICES, LLC, 15-R4D7-0255 AND 0256
20. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
21. MAGNA TOOL INC., 15-R3D1-9214
22. MORROW-MEADOWS CORP., 12-R4D1-0717 THROUGH 0719
23. NOLTE SHEET METAL, INC., 14-R6D7-2777 through 2783
24. RUSSELL FABRICATION CORP. dba AMERICAN FABRICATION,
15-R6D2-9008
25. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570
26. UNITED PARCEL SERVICE, 13-R3D2-2664 and 2665
27. 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)

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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)

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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)
3. 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-1 ROOF MANAGEMENT AND CONSTRUCTION INC, 16-R1D3-0738 THROUGH 0740
2. AARON METALS HAYWARD INC., 16-R6D1-2123 THROUGH 2125
3. AG SERVICES, INC., 16-R1D2-1503 AND 1504
4. ANSAFONE CONTACT CENTERS, 16-R3D1-0608
5. APPLE VALLEY BV RESTAURANT, LLC DBA ONO HAWAIIAN BBQ, 16-R3D3-1953 THROUGH 1954
6. ARIES BUILDERS, 15-R1D3-4526 THROUGH 4528
7. AXNER EXCAVATING, INC., 16-R2D3-2011
8. BART KEEFER, 15-R3D2-3528
9. BIG 5 SPORTING GOODS, 16-R1D5-0750 AND 0751
10. BIXBY ROYAL HOME OWNER ASSOCIATION, 16-R3D5-0892
11. BUTLER AMUSEMENTS INC, 14-R2D5-1413 THROUGH 1415
12. CALIFORNIA LUXE DBA CALLUXE DBA CALIFORNIA LUXE FARM, ENT, INC., 15-R6D1-3818
13. CLOVIS TRUE VALUE HARDWARE STORE, 16-R2D5-1010
14. CORRAL CONSTRUCTION & DEVELOPMENT INC, 16-R3D5-1377 THROUGH 1380
15. COUNTRY FURNITURE MANUFACTURING COMPANY INC., 16-R6D5-1464 AND 1465
16. COUNTRYSIDE MUSHROOMS, INC., 13-R1D2-2589 THROUGH 2591
17. D 7 ROOFING SERVICES INC, 16-R1D5-0633
18. DASCO COMMERCIAL CONSTUCTION INC., 16-R6D7-1472 AND 1473
19. DEL MONTE FOODS, INC., 16-R2D4-0911 AND 0912

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20. DEPINHO ROOFING INC., 16-R3D5-1093 AND 1094
21. DT CONSTRUCTION, 15-R3D1-2911
22. E.E. HALL, INC., 15-R2D5-2231
23. EISENMANN CORPORATION, 15-R1D2-4360
24. EISENMANN CORPORATION, 16-R1D2-0150
25. ELITE PAIN MANAGEMENT, INC., 16-R3D1-1755
26. ERIC J BROMS CONSTRUCTION, INC., 15-R6D5-4427
27. ESPARZA ENTERPRISES, INC., 16-R4D7-0198
28. EVANS ROOFING CO., INC., 16-R3D1-0643 AND 0644
29. GAVILAN MACHANICAL, INC., 15-R1D2-4521 AND 4522
30. GREENONE INDUSTRIES INC. DBA GREENONE INDUSTRIES, 16-R3D2-0886
AND 0887
31. H A RIDER & SONS, 16-R1D2-1412 AND 1413
32. H & H GENERAL CONTRACTORS INC, 16-R3D3-1772 AND 1773
33. HELIX ELECTRIC. INC., 15-R1D2-4380 THROUGH 4383
34. J GINGER MASONRY LP, 15-R6D5-3771
35. J. MATT MCNICKLE GENERAL CONTRACTOR, 15-R6D7-3677
36. J & S WINDOWS CORP, 15-R6D2-4494
37. JCM ENGINEERING CORP., 16-R4D4-2149 AND 2150
38. JDI ELECTRICAL SOLUTIONS, 16-R4D4-0341 AND 0342
39. JOSH RUPPERT CONSTRUCTION, 16-R2D1-1120
40. KENYON PLASTERING OF FRESNO, INC., 15-R2D5-2144 AND 2145
41. KEVIN RAY DEMOLITION, 15-R3D1-3906 THROUGH 3908
42. LA AMAPOLA, INC., 15-R3D5-3630 THROUGH 3632

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43. LA JOLLA HILLS AUTOMOTIVE, INC. DBA CASS STREET AUTOMOTIVE, 16-R6D5-1991
44. LONGVIEW FIBRE PAPER AND PACKAGING, INC. DBA KAPSTONE CONTAINER CORPORATION, 15-R1D4-4321 AND 4322
45. M. BETTENCOURT CONSTRUCTION, 16-R2D4-1921 AND 1923
46. M CARATAN INC DBA COLUMBINE VINEYARDS, 15-R6D5-3457
47. JERRY AND SHERRY MALTBY DBA BROKEN BOX RANCH, 15-R2D1-4625
48. MARK AMAN CONSTRUCTION INC, 16-R6D7-1327 THROUGH 1330
49. MICHIGAN INVESTORS, LLC, 15-R3D2-1771 THROUGH 1773
50. MONITOR AND CRT RECYCLERS OF CALIFORNIA, 16-R6D2-0400
51. NORTHERN CALIFORNIA PAPER RECYCLERS, INC DBA BAY AREA SHREDDING, 16-R1D4-1572 THROUGH 1574
52. NU-MATIX INC, 15-R3D3-2436
53. O'BRYANT ELECTRIC, INC., 15-R4D1-2269 THROUGH 2271
54. OPENROV, INC., 16-R1D4-1616
55. PACIFIC STRUCTURES, INC., 15-R1D1-4511
56. PARKCO BUILDING COMPANY, 16-R4D1-0224 AND 0225
57. PEKING NOODLE CO., INC., 16-R4D1-0620 THROUGH 0624
58. PETROCHEM INSULATION, INC., 16-R1D2-1999
59. PLEASANT MATTRESS INCORPORATED, 15-R2D5-3557 AND 3558
60. PORTERVILLE UNIFIED SCHOOL DISTRICT, 15-R2D5-3840 AND 3841
61. PRO TRAILER REPAIR, INC, 16-R2D4-0095 AND 0096
62. RAYMOND & SUE QUARESMA DAIRY, 16-R2D4-1916
63. RICHARD IEST, 15-R2D5-3237 AND 3238

64. DARRELL ROGERS DBA ROGERS AND SON FOREST PRODUCTS, 15-R2D1-3162 THROUGH 3165
65. ROSS DISTRIBUTION CENTER, 16-R3D3-1201 AND 1202
66. RICARDO VASQUEZ SALINAS DBA AV CUSTOM CABINETS, 16-R6D5-1542 AND 1543 AND 16-R6D5-1944
67. SAFEWAY INC., 16-R1D4-0259
68. SCOTIA TOOL & MACHINE, INC., 16-R1D4-1604 THROUGH 1607
69. SGL MATERIALS, INC., 16-R2D1-0500 AND 0501
70. SHELDON SITE UTILITIES INC., 15-R3D2-4104 AND 4105
71. SHIRLETTA GANTT, 16-R4D3-0389
72. SIERRA PACIFIC INDUSTRIES, 16-R2D3-0920 THROUGH 0922
73. SIERRA STEEL ERECTORS, INC., 14-R3D2-K0475 THROUGH 0477
74. SINCLAIR CONCRETE, 15-R2D1-3218 AND 3219
75. STAIRS, INC., 16-R2D1-0567 THROUGH 0570
76. TAYLOR FARMS PACIFIC, 15-R2D4-2689
77. THEISEN STEEL INC., 15-R3D3-3810
78. THOMAS WILLIAM BRENNAN JR. DBA TOM BRENNAN PLUMBING, 16-R3D1-0429
79. TIC – THE INDUSTRIAL COMPANY DBA THE INDUSTRIAL COMPANY, 15-R7D2-1410 AND 1411
80. TWINING, INC, 16-R3D5-0937 AND 0938
81. JONATHAN TOWER DBA JONATHAN TOWER CONSTRUCTION, 16-R1D5-0311 THROUGH 0313
82. TSC STAFFING SOLUTIONS, INC., 16-R4D1-1036 THROUGH 1038
83. UNITED CONSTRUCTION, 16-R3D5-1786 AND 1787

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84. URBANA HOLDINGS, INC. DBA BEACH RETREAT & LODGE, 15-R2D1-4325
AND 4326

85. VINTAGE ROOFING AND SOLAR CO INC DBA VINTAGE ROOFING,
15-R3D3-3371 THROUGH 3373

86. WILLIAM LYON HOMES, INC., 15-R1D2-4073

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.