

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, May 6, 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: April 24, 2015

RE: Closed Session of the Board to be held on May 6, 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. CYBERNET ENTERTAINMENT, LLC DBA KINK.COM, 14-R6D1-0364 THROUGH 0367
2. SEAFOOD CITY SUPERMARKET, 14-R4D4-2308 AND 2309

PETITIONS FOR RECONSIDERATION:

1. ECHO ALPHA, INC., JOHN STAGLIANO, INC.; EVIL ANGEL PRODUCTIONS, AND JOHN STAGLIANO, INC. dba EVIL ANGEL VIDEO, 14-R3D1-0802 THROUGH 0804

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

ORDERS AFTER REMAND:

ORDERS DISMISSING APPEAL:

1. ALTERNATIVE ENERGY DEVELOPMENT, 14-R3D2-1330
2. KNIGHT ENTERPRISES, INC., 14-R4D7-2479

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)

1. DOLLAR TREE STORES INC., DBA DOLLAR TREE#1258, 15-R2D4-9061

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 TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895 (ER)
2. A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895 (DOSH)
3. B.A.R.T., 11-R2D2-3137 THROUGH 3139 (ER)
4. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1218 THROUGH 1221 (DOSH)
5. RANDALL JOHN BILLINGTON, 2014-R3D3-9170
6. CHEVRON U.S.A. INC., 13-R6D3-0655 THROUGH 0662
7. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
8. INTERNATIONAL PAPER COMPANY, 14-R2D5-1189 THROUGH 1191
9. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
10. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406

11. McCARTHY BUILDING CO., INC., 12-R1D4-3458
12. NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186
13. GONZALO OLASCOAGA DBA GONZALO OLASCOAGA, 13-R6D5-2097
AND 2098
14. ORANGE COUNTY SANITATION DISTRICT, 2013-R3D1-0287
15. SIERRA FOREST PRODUCTS, 09-R2D5-3979
16. TREASURE ISLAND MEDIA, INC., 10-R6D1-1093 THROUGH 1095

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)
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)

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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. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)
19. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
20. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
21. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
22. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
23. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056 THROUGH 3058) (DOSH)
24. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH 3058) (3rd Party)
25. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
26. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
27. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
28. IRWIN INDUSTRIES, BS14-9634 (12-R4D3-3276 & 3277)
29. TL PAVLICH CONSTRUCTION, INC., BS14-9660 (11-R3D6-1303 THROUGH 1310)

30. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)
31. MORROW MEADOWS CORP., BS151385 (09-R3D3-2295)
32. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)
33. KEY ENERGY SERVICES, INC., S-1500-CV-283958, EB (13-R4D3-2239 ~ 2242)
34. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL (14-R3D2-1935 & 1936)
35. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2492 THROUGH 497)

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-R6D2-188 THROUGH 191)

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. ABC NURSERY INC., 15-R6D2-0914 THROUGH 0917
2. ADECCO USA, INC., 15-R3D3-0198 AND 0199
3. AIR INDUSTRIES CO., A PCC COMPANY, 14-R3D1-2751 AND 2752
4. AMERICAN PRODUCED GARMENTS, INC., 15-R6D5-0810 THROUGH 0812
5. AMKO RESTAURANT FURNITURE INC., 14-R6D2-4101 THROUGH 4104

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6. ANDRADE FOOD INC DBA RESTAURANTE SALVADORENO EL CAFETAL, 15-R6D5-3993 AND 3994
7. BDG MAINTENANCE CALIFORNIA, 14-R3D2-4064 THROUGH 4066
8. BMC LANDSCAPE MANAGEMENT, INC., 14-R4D1-2253 THROUGH 2254
9. BUILDING MATERIALS CONSTRUCTION, 14-R3D2-2212
10. BURTCH TRUCKING, INC. DBA BURTCH CONSTRUCTION, 15-R4D7-0095 AND 0096
11. CA CORRECTIONS & REHABILITATION CALPIA CALIFORNIA PRISON INDUSTRY AUTHORITY, 14-R4D7-3658 AND 3659
12. CAGE CO., INC., 14-R3D3-0944 AND 0945
13. CLARK CONSTRUCTION GROUP CALIFORNIA, LP., 14-R3D3-1023 AND 1024
14. CLASSIC BATH DESIGNS, INC., 14-R6D2-3996 THROUGH 4000
15. COUNTY OF LA DEPT. OF CHILDREN & FAMILY SERVICES, 14-R3D5-4184 THROUGH 4186
16. COUNTY SANITATION DISTRICT OF LOS ANGELES COUNTY, 14-R3D5-3769 THROUGH 3770
17. C & R FARMS, INC., 14-R3D3-0025 THROUGH 0027
18. CUSTOM FURNITURE AND CABINETS INC., 14-R6D2-4128 THROUGH 4132
19. DAVE PARRA CONSTRUCTION, 15-R6D5-0694
20. DECCO CASTINGS INC., 14-R6D2-4037 THROUGH 4039
21. DELTAWAY OPERATION SERVICES, LLC., 14-R2D5-3249 AND 3250
22. DESERT SANDS USD-CARILLO RANCH ELEMENTARY SCHOOL, 14-R3D3-2175
23. DESSIN FOURNIR, 14-R6D2-3973 THROUGH 3976
24. DIEBOLD INC., 14-R2D1-3901
25. DON LUDY FARMING, INC., 14-R4D7-3395 THROUGH 3397

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26. EAGLE LATH AND PLASTER INC., 14-R2D4-3213 AND 3214
27. EDCO WASTE & RECYCLING SERVICES, 14-R3D2-1951 THROUGH 1953
28. ELITE GENERAL CONTRACTING, 13-R3D2-3652 THROUGH 3655
29. ELLIAS CONSTRUCTION COMPANY, INC., 15-R4D4-0145
30. EROTIQUE ENTERTAINMENT, INC., 14-R3D1-0112 AND 0113
31. ESPARZA ENTERPRISES, INC., 14-R3D3-0947
32. ESPARZA ENTERPRISES, INC., 14-R4D7-3785 AND 3786
33. EVERETT APARTMENTS, 15-R2D3-0235 AND 0236
34. FRESH AND EASY NEIGHBORHOOD MARKET, INC., 14-R3D3-2277
35. GARY FRANCO PAINTING, INC., 15-R6D5-0923
36. GARZA CONTRACTING, INC., 14-R6D5-3401 AND 3402
37. GERACI LAW FIRM, 14-R3D1-0110
38. GEROSABREN CORP., INC., 14-R4D3-3989 AND 3990
39. GOMEN FURNITURE INC., 14-R6D2-2859 THROUGH 2861
40. GRIMMWAY ENTERPRISES, INC., 14-R4D7-1652 THROUGH 1654
41. GRUMA CORPORATION DBA MISSION FOODS, 15-R1D4-1005
THROUGH 1007
42. HILL TOP RANCH, INC., 14-R2D4-4054
43. IN N OUT BURGERS, 15-R4D4-0117
44. INTER-CON SECURITY SYSTEMS, INC., 14-R3D3-3257 THROUGH 3259
45. JOSE ANTONIO GONZALZ SMOG AUTO, 15-R6D7-0988 THROUGH 0990
46. JADRA INC. DBA PLASTIC PACKAGE INC., 15-R2D1-0521 THROUGH 0523
47. JE DEVELOP CONSTRUCTION, INC., 15-R6D5-0983 THROUGH 0987

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48. J. GINGER MASONRY, LP, 13-R4D3-3604
49. J & H ASSET PROPERTY MANAGEMENT, INC., 14-R3D2-3931 AND 3932
50. JOE TINSLEY STONE & TILE, 15-R6D5-0924
51. JOHN LIST CORP DBA PROTOCAST, 14-R6D2-3444
52. JM MANUFACTURING, INC., DBA JM EAGLE, 14-R2D4-3154 AND 3155
53. J R ABBOTT CONSTRUCTION, INC., 14-R6D5-3546
54. KERN ENGINEERING & MFG. CORP, 14-R4D4-1261 THROUGH 1263
55. KNOLLS MOBILE ESTATES, LLC, 14-R3D2-3929 AND 3930
56. LA COUNTY SHERIFF – FACILITIES SERVICES BUREAU, 15-R4D1-0609
AND 0610
57. LINK STAFFING SERVICES, INC., 14-R3D3-2884
58. LONE PINE UNIFIED SCHOOL DISTRICT, 15-R2D5-0858
59. MALEKO STAFFING, INC., 15-R1D4-0260 AND 0261
60. MAMCO, INC., DBA ALABBASI, 15-R3D3-0394
61. MAR VISTA BERRY, LLC, 14-R4D7-3505
62. MGK BUILDERS, INC., 14-R4D1-4091 THROUGH 4093
63. MILCO CONSTRUCTORS, INC., 14-R3D3-0518 AND 0519
64. MOYA FARM LABOR, 14-R2D5-3309
65. MI PUEBLO FOOD CENTER, LLC., 15-R2D4-0701
66. NAU BUILDERS, INC., 15-R6D5-0836 AND 0837
67. ORANGE COUNTY SANITATION DISTRICT, 14-R3D1-1354 THROUGH 1356
68. PACIFIC DIE CASTING CORP., 14-R4D1-1226 AND 1227
69. PACIFIC STRUCTURES, INC., 14-R1D1-3532

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70. PAN-PACIFIC PLUMBING CO., [PAN-PACIFIC MECHANICAL], 14-R3D3-1020 THROUGH 0122
71. PAUL DAVIS RESTORATION OF SAN DIEGO INC., 14-R3D2-3848 AND 3849
72. PET CENTER, INC., 14-R4D1-1066 THROUGH 1068
73. PRISM TEAM SERVICES, INC., OF THE EAST BAY, 15-R1D4-0065 AND 0066
74. QUALCOMM INCORPORATED, 13-R3D2-1182 THROUGH 1184
75. RAMA FOODS MANUFACTURE CORP., 14-R4D4-3724 THROUGH 3732
76. RAMPART ENTERPRISES, INC., 15-R2D1-0129 AND 0130
77. RANCHO FOODS INC., 14-R4D1-3386
78. RENEW EXTERIORS, 15-R3D2-0642
79. R & J INC / JOY ENGINEERING, 15-R2D3-0004 AND 0005
80. RUBBER STAMP CHAMP, 15-R3D2-0748
81. SANCHEZ LANDSCAPE SERVICE, 14-R1D2-3870 AND 3871
82. SELECT PLASTERING INC., 15-R3D3-0358 AND 0359
83. S AND H MELKES INC., 14-R4D4-3175
84. SISKIYOU FOREST PRODUCTS, 15-R2D3-0102
85. SMURFIT KAPPA ORANGE COUNTY, LLC, 15-R4D4-0142 THROUGH 0144
86. SOUTHWEST SHUTTER SHAQUE, 15-R6D2-0319 THROUGH 0324
87. STATE CRANE LLC. DBA RUSSELL'S CRANE SERVICE, 14-R3D3-2666 THROUGH 2670
88. STATE OF CA TEHACHAPI PRISON, 15-R4D7-0405
89. STEVENS CREEK QUARRY INC., 13-R5D1-3614 AND 3615
90. STRATEGIC OUTSOURCING INC., 14-R4D1-2164
91. THANKS APPAREL, INC., 15-R6D5-0805 AND 0806

92. THERMASOURCE, 12-R3D2-0488 AND 0489
93. GAIL PITTS THORN DBA JP RANCHES, 15-R2D4-0843 AND 0844
94. THREE GS, INC., 15-R1D4-0146 AND 0147
95. TM GRADY BUILDERS DBA GRADY-O-GRADY CONSTRUCTION,
14-R3D1-3844 THROUGH 3847
96. TOUCHSTONE CLIMBING INC. DBA GREAT WESTERN POWER COMPANY,
14-R1D4-3815
97. TREND MANOR FURNITURE MANUFACTURING CO., 14-R6D2-3668
THROUGH 3673
98. UNITED DURALUME PRODUCTS, INC., 14-R3D1-3596 AND 3597
99. VANIMAN MANUFACTURING CO., 14-R6D2-3398 THROUGH 3400
100. WF ORCHARDS INC., 13-R2D1-3676
101. WONDERFUL FARM INC. DBA JOYFUL FARM INC., 14-R6D5-4042
AND 4043
102. ZIVKO CORP INB. DBA METAL BUILDING COMPANY, 14-R1D3-2573

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.