

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, May 12, 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: April 29, 2016

RE: Closed Session of the Board to be held on May 12, 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. ACCU-BORE DIRECTIONAL DRILLING INC., 14-R3D3-3057
2. AVALON BAY COMMUNITIES, INC., 15-R3D2-0751
3. BARRETT BUSINESS SERVICES, INC., 12-R3D1-1204 THROUGH 1206
4. FOUNDATION BUILDING MATERIALS LLC, 14-R1D2-3533 THROUGH 3535
5. THE GILL CORPORATION, 15-R4D4-1806 THROUGH 1809

PETITIONS FOR RECONSIDERATION:

1. ATKINSON CONSTRUCTION, LP, 14-R3D1-4111

2. FIRST PRIORITY DESIGN & CONSTRUCTION, 16-R3D5-9073
3. ISM VUZEM USA INC., 16-R1D2-9047
4. PAN-PACIFIC PLUMBING CO., 14-R3D3-1020 through 1022

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

ORDERS DISMISSING APPEAL:

1. A TO Z SPECIMEN TREES AND TREE MOVERS, 15-R6D1-2277 THROUGH 2279
2. G2 SECURE STAFF. LLC, 15-R1D4-1503

ORDER DENYING LEAVE TO FILE LATE APPEAL

1. ACCURATE COMFORT SYSTEMS, INC. DBA ACTION AIR CONDITIONING,
16-R3D2-9062
2. DIAZ CABINET MANUFACTURE, 16-R6D5-9068
3. REPET, INC., 16-R4D4-9069
4. REPET, INC., 16-R4D4-9070

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. BIGGE CRANE & RIGGING CO., 14-R1D2-1798
2. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
3. COAST WASTE MGNMT OF CA, INC., 11-R3D2-2385 & 2386

4. COMPASS CONTAINER GROUP, INC., 16-R1D4-9014
5. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
6. DAVEY TREE SURGERY CO., 13-R3D3-1018 THROUGH 1021
7. FEDEX FREIGHT, INC., 14-R2D1-0144
8. GATEWAY PACIFIC CONTRACTORS, INC., 10-R2D3-1502 THROUGH 1508
9. HERMAN WEISSKER, INC., 13-R3D1-3279
10. JM ENVIRONMENTAL, INC., 15-R2D1-9232
11. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
12. MAGNA TOOL INC., 15-R3D1-9214
13. MASTER CARE WINDOW WASHING, 15-R1D4-9230
14. MORROW-MEADOWS CORP., 12-R4D1-0717 THROUGH 0719
15. NOLTE SHEET METAL, INC., 14-R6D7-2777 through 2783
16. RUSSELL FABRICATION CORP. dba AMERICAN FABRICATION,
15-R6D2-90
17. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570
18. 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)

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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)

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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)

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,
a. 34-2011-80000965, (10-R6D2-0188 THROUGH 0191)
5. KEY ENERGY SERVICES, INC., F073567, S-1500-CV-283958-LHB

ORDERS AFTER REMAND

1. NEWSTAR FRESH FOODS, LLC, 12-R6D3-3183 THROUGH 3186

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. AEROSPACE COMPOSITE PRODUCTS DBA ACP COMPOSITES INC, 16-R1D4-1165 AND 1166
2. ALCON COLORADO ENGINEERING, INC., 16-R3D3-1029
3. ALL SYSTEMS ELECTRICAL, 16-R2D1-0960
4. AMADOR COUNTY, 16-R2D4-0764
5. AMERICAN GRANDSTAND SEATING CO., INC., 16-R1D5-0351
6. AMERI-KLEEN DBA SANITATION SPECIALISTS, 16-R1D2-0149
7. ASSOCIATE MANAGEMENT RESOURCES, INC., 15-R3D5-1912
8. BALFOUR BEATTY INFRASTRUCTURE, INC., 16-R6D1-0020
9. BANGAR CONTRACTORS CORP., 15-R1D2-3929 AND 3930
10. BAY SHIP & YACHT CO., 16-R1D4-0741
11. BEST AUTO WHOLESALER, INC., 16-R3D2-0438
12. BICKEL'S MAINTENANCE & REFRIGERATION, INC., 15-R4D3-3209
13. BLUE MOUNTAIN TRADING INC., 15-R4D4-2661
14. CABRILLO ENTERPRISES, INC. DBA RW LITTLE CO, 15-R3D2-2434
15. CALMEX WHOLESALE GROWERS & SHIPPERS, INC., 15-R6D2-4031 AND 4032
16. CARAVAN TRADING COMPANY, DBA STERLING FOODS, LLC 16-R1D4-1063 THROUGH 1067
17. CARTER'S CUSTOM CABINETRY INC, 16-R2D1-0047 AND 0048

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18. CITY OF STOCKTON, 16-R2D4-0606
19. CITY OF STOCKTON FIRE DEPT, 14-R2D4-2366
20. CITY OF STOCKTON FIRE DEPT, 14-R2D4-2367
21. COLOR SPOT NURSERIES, INC., 15-R6D7-4724 THROUGH 4726
22. COLUMBIA CONTAINER LINE (LAX), INC. DBA COLUMBIA LOGISTICS, INC., 15-R3D5-4004
23. CONTRACTORS SCAFFOLD SUPPLY INC, 15-R1D1-4772
24. CORREA PALLET INC., 16-R6D5-0869 AND 0870
25. COSMEDX SCIENCE INC, 15-R3D3-2833 AND 2834
26. COTTI FOODS CORPORATION, 15-R3D1-3225
27. COTTI FOODS CORPORATION DBA TACO BELL, 15-R3D1-0532
28. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
29. C S R W, INC. DBA ALLIED CONSTRUCTION SERVICES, 15-R1D4-2887 AND 2888
30. DAVID OLSON INC DBA AIRTEC SERVICE, 15-R1D2-3714
31. DAVIS WIRE CORPORATION, 15-R4D4-2097 AND 2098
32. DINO HERRERA MASONRY, 15-R4D1-4652
33. DODDS PLUMBING, 16-R2D5-0221 THROUGH 0223
34. EASTLAND FORRESTER CORPORATION DBA VERSA STAGE, 16-R3D5-0018 AND 0019
35. ELDAV CONSTRUCTION & DEVELOPMENT, INC, 15-R4D3-4484
36. ELEAZAR PINEDA DBA RAFA'S CABINETS, 16-R6D5-0826
37. ELEMENTS OF STYLE, 16-R6D5-0302 AND 0303
38. EMI DESIGN & CONSTRUCTION INC., 15-R1D4-4343 THROUGH 4348

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39. EXPRESS SVCS, INC DBA EXPRESS EMPLOYMENT PROFESSIONALS,
DBA MODESTO STAFFING CONSULTANTS INC, 15-R6D1-0125
40. FRANKHAUSER DEVELOPMENT DBA GARY FRANKHAUSER, 15-R3D2-4053
THROUGH 4058
41. G.H. PALMER ASSOCIATES REAL ESTATE DEVELOPMENT, 15-R4D1-2581
AND 2582
42. GLIDEWELL LABORATORIES, 15-R3D1-1287
43. GOLDEN STATE BORING & PIPE JACKING, INC., 15-R5D2-1705
44. GRILL CONCEPTS INC DBA THE DAILY GRILL, 14-R4D3-4150
45. HEATHER GARCIA DBA MONARCA'S PALLETS, 15-R3D3-0395
46. HILLVIEW CATTLE & FARMS, 15-R2D5-4330
47. HI-TEMP INSULATION INC., 15-R4D3-4254 AND 4255
48. HOME DEPOT, 16-R3D5-0972
49. HORICK BUILDERS, INC., 16-R1D5-0152
50. HUBBELL, INC., 16-R4D4-0944
51. J D I ELECTRICAL SOLUTIONS, INC., 16-R3D3-1217
52. JELD-WEN INC, 15-R6D1-4196 AND 4197
53. J-MARK MANUFACTURING, INC., 15-R6D2-4422 THROUGH 4424
54. JT&O ENTERPRISES, INC. DBA PAEZ PAINTING & DECORATING,
16-R1D4-0702
55. J.W. PETERSON PAINTING, INC, 15-R1D4-4318
56. KERR CONCENTRATES, INC., 16-R4D3-0191 THROUGH 0193
57. KRACO ENTERPRISES, LLC, 15-R3D5-3633
58. K & S AIR CONDITIONING INC., 15-R4D3-4485 AND 4486
59. LA FLOR DE MEXICO, INC., 16-R4D4-0246

60. LAS CASUELAS, 15-R2D4-3142
61. LEDCOR, 16-R1D1-0413
62. LEON'S LAWN SERVICE, 15-R2D5-3470
63. LEVMAR INC. DBA CONCORD SHEET METAL, 15-R6D1-4160 THROUGH 4174
64. MARIO'S PIZZA, 16-R6D5-0980
65. MARQUES PIPELINE, INC., 15-R2D1-2729 AND 2730
66. MARTINS BROS., LLC, 15-R2D4-3350
67. MASONRY DESIGN, 14-R3D2-1037 AND 1038
68. METALCO, 15-R1D4-2210 AND 2211
69. MICROFORM PRECISION, LLC, 15-R6D1-3389
70. MIGUEL RIVADENEYRA DBA THIS OLD SHOP, 15-R6D5-3678 THROUGH 3680 AND 16-R6D5-0628
71. MILLWORK BROTHERS, INC., 15-R6D2-0396 THROUGH 0399
72. OLIVE CREST, 16-R3D3-0675 AND 0676
73. PAUL MORALES CONSTRUCTION, INC., 16-R3D3-0816
74. PERRY BUILDERS INC, 16-R2D3-0712 THROUGH 0714
75. PETCO, 15-R2D4-3987
76. PETER IRVING ELECTRIC, INC., 15-R2D4-4453
77. PETERSENDEAN ROOFING & SOLAR, 14-R3D1-2275 AND 2276
78. PORTS AMERICA, 16-R3D5-0971
79. PROBUILD COMPANY LLC DBA SAN LORENZO LUMBER & HOME CENTERS, 15-R6D1-4337 THROUGH 4342
80. R & J'S QUALITY CABINET, INC. DBA THE KITCHEN DOCTOR, 16-R6D5-0981 AND 0982

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81. ROEBBELEN CONTRACTING INC, 16-R2D1-0710
82. SALIDA UNION SCHOOL DISTRICT, 15-R2D4-4543
83. SANTA BARBARA BOTANIC GARDEN, INC., 15-R4D3-3383
84. SELECT STAFFING, 15-R3D1-3525 AND 3526
85. SEMA CONSTRUCTION INC., 14-R3D3-3651 THROUGH 3654
86. SHAMROCK FOODS COMPANY, 16-R4D3-0040
87. SONOMA TIRES INC., 16-R1D5-0587
88. SOUTHWEST PRODUCTS, LLC. DBA CIRCLE FOODS, 15-R3D2-3261
89. STEELCO CONSTRUCTION, 15-R2D5-3905
90. STELLAR GROUP INC DBA STELLAR REFRIGERATION SERVICES INC,
15-R2D4-3353
91. TELS A MOTORS, INC, 15-R1D2-1945 THROUGH 1950
92. THE PEP BOYS MANNY MOE AND JACK OF CALIFORNIA, 15-R1D4-4696
THROUGH 4699
93. TOTAL PRODUCTIVE STAFFING, INC DBA COAST PERSONNEL SERVICES,
15-R6D2-4267
94. TRAVIS NUTTER DBA GOLDEN BEAR CABINETRY, 16-R1D4-0872
THROUGH 0877
95. TUTOR PERINI CORPORATION, 15-R3D5-3755
96. TWR ENTERPRISES, INC., 15-R4D4-4016
97. UC REGENTS UC DAVIS CHEMISTRY DEPARTMENT, 15-R2D1-3422
98. UNIFIED PARKING SERVICE, INC., 15-R4D1-3850
99. UNITED STAFFING ASSOCIATES, LLC, 16-R4D3-0122 THROUGH 0124
100. VCA ANIMAL HOSPITAL, INC. DBA VCA NORTH COAST ANIMAL
HOSPITAL, 15-R3D2-2693 AND 2694
101. VIKING SIGN INSTALLATIONS, INC, 16-R2D1-1121 THROUGH 1123

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- 102. V I S E COMPANY, 16-R2D3-0757 AND 0758
- 103. VONS COMPANY, INC. DBA A SAFEWAY COMPANY, 15-R4D3-2398
AND 2399
- 104. WALSH/SHEA CORRIDOR CONSTRUCTORS, 15-R5D2-3388
- 105. WA RASIC CONSTRUCTION, 15-R3D5-1332
- 106. WASTE MANAGEMENT OF ALAMEDA COUNTY, 15-R1D4-4779
- 107. WEISS MCNAIR LLC, 16-R2D3-0961
- 108. WELCOME TRANSPORTATION, INC., 15-R2D4-4367 THROUGH 4369
- 109. WELL PICT INC. DBA WELL PICT BERRIES, 15-R4D3-3870 AND 3871 ↴
ACME, 15-R4D3-3872 THROUGH 3874 CONSOLIDATED
COAST COOLING INC., 15-R4D3-3875 THROUGH 3877 ↵
- 110. WILLIAMS-SONOMA, INC., 16-R1D5-1118 AND 1119
- 111. WILSON BUILDERS, 15-R4D3-4564 THROUGH 4566
- 112. WORKFORCE AGENCY, 14-R3D1-2664 AND 15-R3D1-2342
- 113. YAMASHITA FLOWER FARM INC., 15-R6D1-4636 THROUGH 4639
- 114. YOSEMITE MEAT COMPANY, INC, 15-R2D4-4629
- 115. YUBA RIVER MOULDING AND MILL WORK, INC., 15-R6D1-4548

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.