

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 26, 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 13, 2016

RE: Closed Session of the Board to be held on May 26, 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. EVANS BROTHERS INC, 15-R5D1-0182

PETITIONS FOR RECONSIDERATION:

1. A TO Z TREE NURSERY, INC. dba A TO Z SPECIMEN TREE MOVERS, 15-R6D1-2277 ~ 2279
2. BIG Q AUTO REPAIR LLC, 16-R6D5-9060
3. JD MILLER CONSTUCTION, INC. dba M & M FRAMING, 16-R4D4-9058
4. UPS GROUND FREIGHT, INC. dba UPS FREIGHT, 16-R1D2-9043

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. ISM VUZEM USA INC., 16-R1D2-9047
2. PAN-PACIFIC PLUMBING CO., 14-R3D3-1020 THROUGH 1022

ORDERS DISMISSING APPEAL:

1. BEAR CREEK PARTNERS LLC DBA BEAR CREEK GOLF CLUB, 15-R3D3-0396 AND 0397
2. GIBRALTAR PARTNERSHIP LP, 15-R3D2-4782 THROUGH 4785
3. OVERHILL FARMS, 15-R6D4-4501 AND 4502

ORDER DENYING LEAVE TO FILE LATE APPEAL

1. ALISAM HANPORT OPERATING INC DBA WATERDROPS EXPRESS CAR WASH, 16-R6D5-9087
2. VINCENT CONSTRUCTION INC., 16-R3D1-9086

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. ATKINSON CONSTRUCTION, LP, 14-R3D1-4111
2. BIGGE CRANE & RIGGING CO., 14-R1D2-1798
3. CALSTRIP STEEL CORPORATION, 12-R3D6-1998 & 1999
4. COAST WASTE MGNMT OF CA, INC., 11-R3D2-2385 & 2386
5. COMPASS CONTAINER GROUP, INC., 16-R1D4-9014
6. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364

7. DAVEY TREE SURGERY CO., 13-R3D3-1018 THROUGH 1021
8. FEDEX FREIGHT, INC., 14-R2D1-0144
9. FIRST PRIORITY DESIGN & CONSTRUCTION, 16-R3D5-9073
10. GATEWAY PACIFIC CONTRACTORS, INC., 10-R2D3-1502 THROUGH 1508
11. HERMAN WEISSKER, INC., 13-R3D1-3279
12. JM ENVIRONMENTAL, INC., 15-R2D1-9232
13. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
14. MAGNA TOOL INC., 15-R3D1-9214
15. MASTER CARE WINDOW WASHING, 15-R1D4-9230
16. MORROW-MEADOWS CORP., 12-R4D1-0717 THROUGH 0719
17. NOLTE SHEET METAL, INC., 14-R6D7-2777 through 2783
18. RUSSELL FABRICATION CORP. dba AMERICAN FABRICATION,
15-R6D2-90
19. SHIMMICK CONSTRUCTION CO., INC/OBAYASHI CORP., 11-R3D1-2562
THROUGH 2570
20. 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)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

For May 26, 2016

Page 4

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)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

For May 26, 2016

Page 5

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,
a. 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 & A DEVELOPMENT CORP DBA HEMET AUTO SPA & DETAIL, 15-R3D3-4060
2. ABE NURSERY, INC., 15-R6D2-4668
3. ADVANTAGE MEDIA SERVICES DBA AMS FULLFILLMENT, INC., 16-R4D3-0289
4. ALVARADO MANUFACTURING CO INC, 15-R6D2-3452 THROUGH 3456
5. AMERICAN INTERNATIONAL INC., 16-R4D1-0855 AND 0856
6. AMPCO CONTRACTING, INC., 15-R4D1-0877
7. ANDERSON BREMER PAPER CO. DBA THE ANDWIN CORPORATION, 15-R4D3-3210 AND 3211
8. MARIA ELENA ANDRADE DBA JESUS C. ANDRADE FLC, 15-R2D4-4365 AND 4366
9. ASSOCIATED READY MIXED CONCRETE, INC., 15-R3D1-2903 THROUGH 2905
10. AUTOTECH INTERNATIONAL, INC. DBA RAFI AUTOTECH, 16-R6D5-0983
11. AVITIA ARMANDO HERRERA DBA AVITIA FRAMING, 16-R6D5-1052 AND 1053
12. AYLIZ GUCLU DBA POUL'S BAKERY, 16-R6D5-1255
13. BAY PACIFIC PIPELINE, INC., 16-R1D2-0699 THROUGH 0701
14. BAYCORR PACKAGING, INC. DBA HERITAGE PAPER, 16-R1D4-1114
15. BEST AMERICAN HOSPITALITY DBA CHURCH'S CHICKEN, 16-R3D3-0851 THROUGH 0853
16. B H M CONSTRUCTION, INC, 15-R1D1-3828
17. BRISTOLITE DAYLIGHTING SYSTEMS, 15-R3D1-4218
18. BROWN STRAUSS INC DBA BROWN-STRAUSS STEEL, 15-R3D3-4764 AND 4765

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For May 26, 2016

Page 7

19. CALIFORNIA CONTRACTING, 15-R6D5-4132 THROUGH 4134
20. CASEWORX INC, 16-R3D3-0322 THROUGH 0325
21. CATALINA DELGADO DBA J & N AUTO GLASS, 15-R6D5-3399
THROUGH 3401
22. CATALINA SPRING COMPANY, 15-R3D5-3965 THROUGH 3967
23. CEVA LOGISTICS, INC., 15-R3D5-3053 THROUGH 3056
24. CHEVRON U.S.A., INC., 16-R7D1-0881 THROUGH 0885
25. CITY OF BELL, 16-R3D5-1035
26. CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER,
15-R4D3- 1088 AND 1089
27. CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER,
15-R4D3-3475
28. CLP RESOURCES INC., 13-R4D7-3195 THROUGH 3200
29. COPPA WOODWORKING, INC., 15-R6D2-2339 THROUGH 2341
30. COVERT IRON WORKS, 16-R6D2-0580 THROUGH 0584
31. COVI CONCRETE CONSTRUCTION, INC., 16-R3D1-0275
32. CUNHA ORCHARDS, 16-R2D5-1171 AND 1172
33. CUSTOM PIPE & COUPLING CO. INC., 15-R3D1-2797 AND 2798
34. CW CONSTRUCTION, INC., 15-R6D5-3671
35. D & S EXPORT PACKING LLC, 16-R6D2-1044 THROUGH 1046
36. DESERT FACILITIES SANITATION DISTRICT OF LOS ANGELES COUNTY,
VALENCIA WATER RECLAMATION PLANT, 15-R4D3-3148 AND 3149
37. DIONYSUS DREAM INC. DBA NEWPORT MESA CARWASH & SERVICES,
15-R6D5-4505
38. DON LEE FARMS, 16-R4D1-0618 AND 0619
39. E & J SHUTTERS & BLINDS INC, 16-R6D2-0129 THROUGH 0132

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For May 26, 2016

Page 8

40. FEDEX GROUND PACKAGE SYSTEMS INC., 16-R4D4-0943
41. FLEMING METAL FABRICATORS, 15-R6D2-4768 THROUGH 4771
42. FOOD FOR LIFE BAKING CO., INC. 16-R3D3-0811
43. FOOTHILL PACKING, 15-R3D2-3177
44. FOUNDATION BUILDING MATERIALS, LLC, 15-R4D3-4799 AND 4800
45. FUAD S. SWEISS DBA SAN PABLO COMMERCIAL CENTER, LLC,
16-R1D4-0090
46. GBC CONCRETE AND MASONRY CONSTRUCTION, INC., 15-R3D2-1314
47. GENERATION 819, 15-R3D1-4554 AND 4555
48. GMZ ENGINEERING, INC., 15-R3D5-4008
49. GO-STAFF, INC., 14-R3D2-2112 AND 2113
50. GO-STAFF, INC., 15-R3D2-1025
51. GREAT AMERICAN CAR WASH, 15-R4D3-3968 AND 3969
52. GRISWOLD INDUSTRIES DBA SOUNDCAST CO, 15-R3D1-3723
THROUGH 3726
53. GUSTAVO CAMOLINGS, INC. DBA MCDERMAID PAINTING,
16-R1D2-1108 AND 1109
54. HUNTINGTON BEACH FARMERS MARKET AND NASSER ABDALLAH,
15-R3D1-3561 THROUGH 3565
55. INTECH MECHANICAL COMPANY, LLC, 15-R2D1-3170
56. JANNISSE AND SONS CONSTRUCTION, 15-R1D5-3986
57. JCI JONES CHEMICALS INC – TORRANCE, 15-R7D2-4753 AND 4754
58. JUNG YI KIM AND MOON H. HAHN DBA PACIFIC COMMERCIAL
COMPANY, 16-R6D5-1343 THROUGH 1345
59. K & W CONSTRUCTION, INC., 16-R6D5-1402 AND 1403
60. KINGSPAN INSULATED PANELS, INC., 16-R2D4-1608

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For May 26, 2016

Page 9

61. LANCASTER BURNS CONSTRUCTION, INC. DBA LB CONSTRUCTION INC.,
15-R6D7-2823 AND 2824
62. LLANTERA USED TIRE EMANUEL, INC. DBA LLANTERA USED
TIRES EMANUEL, 15-R6D5-4315
63. LYON COMMUNITIES REALTY ADVISORS, INC., 15-R3D1-3198
64. M.A. MORTENSON CONSTRUCTION, 15-R2D5-2796
65. MANPOWER GROUP US, INC DBA MANPOWERGROUP, 16-R2D4-1609
66. MMP SHEETMETAL, INC., 15-R6D2-2668 THROUGH 2670
67. MONTHES PALLETS INC., 15-R6D5-3458
68. NATURES GROWERS INC, 15-R6D2-4033
69. NOVO CONSTRUCTION, INC., 16-R1D4-0629
70. PACIFIC UTILITY INSTALLATION INC., 15-R3D1-2906
71. PANDA EXPRESS DBA PANDA RESTAURANT GROUP, INC., 15-R2D5-4546
AND 4547
72. PERFECT BUILDING MAINTENANCE COMPANY INC, 16-R3D3-0813
AND 0814
73. PRECISE INDUSTRIES INC, 15-R6D2-3851 THROUGH 3854
74. PRIME ELECTRICAL SERVICES INC., 15-R3D2-3915 AND 3916
75. PROGRESS RAIL SERVICES CORPORATION, 14-R4D7-1372 AND 1373
76. RANCHO LAGUNA BUILDERS, 15-R3D1-3239 AND 3240
77. RANCHEROS VISITADORES, 15-R4D3-4657 THROUGH 4659
78. RICHARD TEAL DENNEN GENERAL BUILDING CONTRACTOR,
15-R6D5-2965 AND 2966
79. RIVERSIDE CONSTRUCTION COMPANY, INC., 16-R3D3-0812
80. RJ VALADEZ ENTERPRISES, INC., DBA REVOLVETECH, 15-R6D2-4611
THROUGH 4614

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

For May 26, 2016

Page 10

81. RODONI DAIRY FARMS LP, 15-R2D4-3468
82. ROHR INCORPORATED DBA GOODRICH AEROSPACE, A UTC COMPANY,
16-R3D3-0963 AND 0969
83. S. AGUILAR LABOR CONTRACTING SERVICES INC, 15-R2D4-3554
84. SADDLEBACK VALLEY ORNAMENTAL IRON, INC, 15-R6D2-4066
85. SAN-MAR CONSTRUCTION CO. INC., 15-R4D1-1592 AND 1593
86. SHANNON DIVERSIFIED, INC., 16-R4D4-1193
87. SIGNAL HILL PETROLEUM, 15-R7D2-2940 THROUGH 2944
88. SILVER STRAND INC., 15-R4D3-4415 AND 4416
89. SMITH INTERNATIONAL, INC., DBA OMNI SEALS, INC., 16-R4D4-0486
THROUGH 0488
90. STUART JAMES CONSTRUCTION INC, 15-R2D1-2954 AND 2955
91. SUPER EASY AUTO BODY & PAINT, INC., 16-R6D5-1199 AND 1200
92. SUPERIOR TANK COMPANY INC., 15-R3D1-3993 THROUGH 3995
93. TESORO REFINING & MARKETING COMPANY, 15-R7D2-2784
94. TOYOTA MOTOR SALES USA INC, 15-R3D5-4646
95. UNIVERSAL PROTECTION SERVICE, 15-R4D3-1269 THROUGH 1271
96. UNIX PACKAGING, INC., 15-R4D4-4302 THROUGH 4304
97. VANCE WEAVER, 14-R4D3-3948
98. WAGNER PLATE WORKS WEST, INC, 15-R3D5-4448 AND 4449
99. WESTERN ORGANICS, INC. DBA GRO-WELL BRANDS, 15-R2D4-4539
THROUGH 4542
100. WESTERN TREE NURSERY INC, 15-R6D1-3777
101. WESTLAND FLORAL CO CARPINTERIA, INC, 15-R6D2-4662 AND 4663
102. WESTLAND FLORAL CO CARPINTERIA, INC, 15-R6D2-4670 THROUGH 4674

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

For May 26, 2016

Page 11

103. WORKFORCE ENTERPRISES WFE, INC., 15-R6D2-3664 THROUGH 3666

104. ZION LANDSCAPING, INC., 16-R6D5-0627

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.