

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
PUBLIC MEETING AGENDA

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

November 21, 2006
10:00 a.m.

ROLL CALL:

Candice A. Traeger, Chairwoman
Marcy V. Saunders, Board Member
Robert Pacheco, Board Member

MINUTES OF NOVEMBER 8, 2006

ADMINISTRATIVE MATTERS

(Information regarding the general administration of cases pending before the Appeals Board.)

1. CALENDARING/CASELOAD

NEW BUSINESS

(The Appeals Board hears and discusses new reports presented by staff.)

OLD BUSINESS

(The Appeals Board hears and/or discusses matters on a follow-up basis.)

1. 2007 LEGISLATION
(Review and discuss legislation introduced that impacts the Appeals Board.)
2. 2006/07 BUDGET
(Review and discuss budget issues for this fiscal year.)
3. REGULATORY REVIEW PROPOSALS
(Review of the Appeals Board's Rules of Policy and Procedure)

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CHAIRWOMAN'S REPORT

(Hear report from the Chair on issues affecting the Appeals Board.)

BOARD MEMBERS' REPORTS

(Hear reports from Board Members on issues affecting the Appeals Board.)

EXECUTIVE OFFICER'S REPORT

(Report regarding administrative matters and news from the Department and Appeals Board.)

STAFF REPORTS

(Reports from the Presiding ALJs and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

Any matter not completed at this meeting may be continued to subsequent meetings.

PUBLIC COMMENT

(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)

Recess to Closed Session to discuss matters pursuant to Government Code § 11126 (a), (c) (3), and (e) and Labor Code sections 6609 and 6620.

The next Public Meeting/Closed Session is scheduled
Wednesday, December 6, 2006
Cal/ OSHA Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

NOTICE TO PARTIES: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district Office or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

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Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

For Further Information

Contact

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<http://www.dir.ca.gov/oshappeals/>

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State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
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Government Code § 11126 (a), (c)(3), and (e)
for
Tuesday, November 21, 2006
10:00 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: November 9, 2006

RE: Closed Session of the Board on November 21, 2006

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

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. ABIGAIL ABBOTT STAFFING SERVICES, INC., 05-R3D1-792
2. ALBERTSON INC., 05-R1D4-4519
3. B & W PIPELINE, 05-R4D3-2253
4. CONCO CEMENT COMPANY, 05-R1D2-181
5. ENGINEERED GLASS WALL, INC., 05-R1D2-1852
6. GSE CONSTRUCTORS COMPANY INC., 05-R2D2-012
7. HARRIS ELECTRIC, 05-R1D4-3256

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8. HELPMATES STAFFING SERVICES, 05-R3D3-2239
9. LATITUDES INTERNATIONAL, 04-R4D2-1009 THROUGH 1012
10. LOWNY ASSOCIATES, 05-R1D4-2614
11. URIEL SOKOLOV, 05-R3D1-4403
12. WIEGART CONSTRUCTION, 06-R3D1-934

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. ADLEN FAMILY LTD. PARTNERSHIP dba U PICK PARTS, 05-R4D2-1363 AND 1519 AND 1520
2. A DREAM TEAM STAFFING, 06-R2D4-402
3. ALL AMERICAN SERVICE & SUPPLIES, 06-R3D3-3163 THROUGH 3165
4. ANRAK CORPORATION, 05-R2D1-872
5. APPLE TRIM, INC., dba VANILLA BLACK LAB, 06-R4D1-1613 THROUGH 1616
6. AYALA BORING INC., 04-R5D2-3428 AND 3429
7. B & B RESTAURANT VENTURES, 05-R3D5-1953
8. B & B ROOF PREPARATION, INC., 06-R4D4-1665 AND 1666
9. BIMBO BAKERIES, INC., 04-R1D3-514
10. C.A.S. CONSTRUCTION, 05-R4D4-470
11. CBC FRAMING, INC., 06-R1D2-1736
12. CGI SILVERCOTE, INC., 06-R2D4-1403
13. CJS PLUMBING, INC., 06-R2D1-1760

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14. CABINETS 2000, 06-R4D4-1661 THROUGH 1664
15. CACIQUE CHEESE COMPANY, 04-R6D2-1283 THROUGH 1287
16. CACIQUE CHEESE COMPANY, 04-R6D2-1288 THROUGH 1291
17. CALIFORNIA FURNITURE SUPPLY, INC., 06-R3D3-1836 AND 1837
18. CANADAY & COMPANY, 05-R3D3-1608
19. CAZA DRILLING (CALIFORNIA) INC., 03-R4D3-2793 AND 2794
20. CHUX TRUX INC., 05-R3D3-1784 THROUGH 1786
21. CITY OF HOPE NATIONAL MEDICAL CENTER, 06-R4D4-1892
22. CITY PARK, 05-R1D1-2371
23. COASTAL COACHWORKS, 06-R6D2-694 AND 695
24. COOKSON ELECTRONICS dba POLYCLAD LAMINATES, 06-R2D1-1755
25. CONSOLIDATED DISPOSAL SERVICES, 03-R4D1-3592
26. CRANSTON STEEL STRUCTURES, 06-R1D4-229
27. CUSTOM ELECTRICAL CONTRACTORS, INC., 04-R2D1-3464
28. SERGIO DURAZO, 04-R3D2-2189
29. ECO SHELL, INC., 06-R3D3-1767 THROUGH 1769
30. EDGE MANUFACTURING, INC., 06-R6D2-1224 THROUGH 1231
31. ENDPACK PACKAGING, INC., 06-R4D4-1667 THROUGH 1670
32. ERICKSON CARPENTRY CONTRACTING, LTD., 05-R2D1-4337
33. FOUNDATION AND EARTH RETAINING SYSTEMS, 06-R2D2-1531
THROUGH 1533
34. GALLEHER LUMBER COMPANY, 06-R4D4-646 AND 647
35. GEO-ENVIRONMENTAL, INC., 05-R5D2-3639 AND 3640
36. GOTTSCHALK'S DEPT STORE, 03-R4D5-1867

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37. HIRED GUN EXTERMINATING, INC., 05-R4D4-145
38. INTER-CON SECURITY SYSTEMS INC., 03-R4D3-4961
39. JIT MANUFACTURING, 05-R4D3-1803
40. KINGS CROWN PACKING, INC., 06-R2D4-1783 AND 1784
41. LABOR READY SOUTHWEST, INC., 05-R2D1-1760
42. MAAS HANSEN STEEL CORP., 05-R3D3-3676
43. MARUCHAN, INC., 04-R3D1-2346 THROUGH 2350
44. MILLENNIUM CLASSIC DESIGN, INC., 06-R4D2-1880
45. MODESTO CITY SCHOOLS, MODESTO HIGH SCHOOL, 06-R2D4-1786
46. NEW FOCUS FASHION, 06-R4D1-1864
47. ORCHARD SUPPLY HARDWARE STORES CORPORATION, 05-R2D4-4087
48. OUT OF THE BLUE, INC., 05-R4D1-1472 THROUGH 1475
49. PACIFIC AWARD METALS CORP., 03-R4D4-4966 THROUGH 4974
50. PAN PACIFIC METALS, INC., 06-R6D2-1002 AND 1003
51. PARCO, INC., 05-R3D3-3954 AND 3955
52. PARTS R US DISMANTLERS, 04-R2D3-470
53. PLACEMENT PROS, 06-R2D5-1815 AND 1816
54. PREMIER HOMES, INC., 06-R2D1-1757 AND 1758
55. PW STEPHENS, INC., 02-R4D3-4121 AND 4122
56. QUALITY PLASTERING COMPANY, 04-R3D1-833
57. RAIN FOR RENT, 03-R2D5-5045
58. R. DILWORTH VINEYARDS, 04-R1D5-1517
59. RENAISSANCE PARC 55 HOTEL, 04-R1D1-299 THROUGH 302

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60. RICHARDS ROOFING, 05-R1D4-1554
61. RON WILLIS LATHING, INC., 05-R4D3-1196 AND 1197
62. SAN DIEGO GAS & ELECTRIC, 05-R3D2-4413
63. SAN MARINO ROOF COMPANY, INC., 06-R3D7-1856
64. SERVICE ROOFING COMPANY, 03-R4D4-4256 THROUGH 4258
65. SHOCKLEY HOMES, 03-R1D3-4720
66. SPEEDLING, INC., 04-R4D3-2946
67. TA AEROSPACE, 06-R4D3-2358 THROUGH 2360
68. TANGLEWOOD CONSTRUCTION, 06-R1D2-217
69. TARGET CORP., 05-R4D3-1202 AND 1203
70. THE BOEING COMPANY, 04-R3D1-2890
71. THE BOEING COMPANY, 04-R3D1-3035
72. USA TANK SALES & ERECTION CO., INC., 04-R2D1-1416
73. VAN-G LOGISTICS SERVICES, 04-R2D5-860 AND 861
74. VENTURA COUNTY MEDICAL CENTER, 02-R4D3-2832 AND 2833
75. VOLT SERVICES GROUP, 03-R2D5-4659
76. WAL-MART, 05-R2D2-2642
77. WARNER BROTHERS STUDIO FACILITIES, 06-R4D1-1625 AND 1626
78. WEST COAST PLASTICS, 06-R4D4-1895 AND 1896
79. WHITTIER UNION HIGH SCHOOL DISTRICT/FRONTIER HIGH SCHOOL, 06-R4D4-648
80. W.L. RUBOTTOM CO., 05-R4D3-1712
81. WORKFORCE OUTSOURCING, 06-R4D3-348

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82. YARDLEY ZARETSKY CO., 05-R3D3-1783

ORDERS DISMISSING APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. SAM ABUATIEH & ED ABUATIEH dba STEREO 1, 04-R4D4-2441 AND 2442
2. AMERI-STAFF CONSULTING, INC., 04-R3D3-026
3. CHANOA CONST. CO., 05-R4D3-2258
4. CHIEF PROTECTIVE SERVICES, 04-R4D2-2121
5. JBR PLUMBING, INC., 05-R6D1-1492 AND 1493
6. KOOSHAREN CORP. dba SELECT PERSONNEL SERVICES, 04-R1D4-855 AND 856
7. LA CITY ANIMAL REGULATION, 04-R4D3-2940
8. L & J AUTO, TRUCKING, TOWING, REPAIR, SALES & WRECKING, 04-R3D2-2362 AND 2379
9. PERFORMANCE TEAR OFF & CO., 04-R3D1-2081
10. REMCON c/o MOUNTAIN VALLEY CONSTRUCTORS, 03-R5D1-2807
11. SYNEX INFORMATION TECHNOLOGIES, 04-R1D4-1410 AND 1411
12. VENTURA OPTICAL INDUSTRIES, 04-R4D5-4206
13. WSS WATER SYSTEMS & SUPPLIES, 04-R3D5-553 THROUGH 556
14. WEST RIDGE GOLF, 03-R3D1-5057

ORDERS DISMISSING CITATIONS:

(Written order issued by an Administrative Law Judge disposing of Division's citations.)

1. CLAREMONT WELDING, 05-R3D3-2330

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. ADECCO EMPLOYMENT SERVICES, 06-R3D3-9160

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2. J & S VILLARREAL, 06-R4D2-9174
3. SUPERCUTS, 06-R2D5-9179
4. VERNON & ASSOCIATES, INC., 06-R4D3-9171

ORDERS DENYING LEAVE TO REOPEN APPEAL:

1. CRANE AEROSPACE AND ELECTRONICS (P.L. PORTER), 300829983
2. HILLSIDE REPAIR & DRILLING INC., 125951467
3. LAKESIDE GOLF CLUB, 300831849
4. BRODIE B. WATT dba WATT CONSTRUCTION CO., 300828506

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. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
2. O & M INDUSTRIES, 04-R1D5-1597
3. X-ACT FINISH & TRIM, INC., 06-R3D1-9114

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. BROTHERS DELI, 04-R1D3-1068
2. PATTERSON, INC., dba M. PATTERSON, INC., 03-R2D1-4834 AND 4835

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DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
ACTION: Returned from November 8, 2006 Board meeting for further discussion and review.
2. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
ACTION: Returned from November 8, 2006 Board meeting for discussion and review.
3. AC FRAMERS INC., 03-R2D3-3475
4. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
5. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
6. BLUE DIAMOND MATERIALS, 02-R5D2-1268
7. BRYDENSCOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
8. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
9. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
10. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
11. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
12. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
13. GLASS PAK, 03-R2D2-0750 AND 0751
14. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
15. HUSSMAN CORPORATION, 03-R3D1-2939
16. ILH CONSTRUCTION, 02-R1D1-4171 & 4172
17. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
18. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323

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19. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
20. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
21. LONG BEACH CITY COLLEGE, 03-R3D5-2747
22. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
23. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
24. McDONALDS #10660, 03-R1D3-4116 & 4117
25. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
26. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
27. PMR RACE CARS, 03-R3D3-1824 & 1825
28. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
29. RII PLASTERING INC., 02-R3D1-2679
30. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH
1656
31. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
32. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
33. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
34. THE GENE SCHICK COMPANY, 05-R1D4-0937
35. TRIO METAL, 03-R4D4-0316 & 0317
36. UNITED AIRLINES, 00-R1D5-2844
37. WESTERN DOOR, 01-R3D1-2827
38. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

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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. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. MOUNTAIN CASCADE, 03CS01655 (01-3561)
3. PACIFIC RESOURCE RECOVERY, 04CS00695 (00-1108)
4. BLF FRAMING, INC., 04CS01618 (02-1837/38)
5. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

APPELLATE COURT:

1. C. OVERAA & CO., CO51245 (04CS00570) 01-3560
2. THE HERRICK CORP., CO51506 (01CS00438) 97-1373

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.