

State of California
Department of Industrial Relations
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, April 11, 2012
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: March 30, 2012

RE: Closed Session of the Board to be held on April 11, 2012

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. MOUNT DIABLO UNIFIED SCHOOL DISTRICT, 10-R2D2-2132 AND 2133
2. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791 AND 3792
3. THAYER CONSTRUCTION INC., 08-R3D3-4206 THROUGH 4208

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.)

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1. 1ST STREET PAINTING, 11-R3D1-1158 THROUGH 1160
2. 88 AUTO BODY, 11-R6D7-0081
3. A-1 BUDGET GLASS LLC, 11-R6D2-1396
4. ABOVE ALL ROOFING SOLUTIONS, INC., 10-R1D2-3739 AND 3740
5. ACCESS INFORMATION MANAGEMENT, 10-R2D3-1161 AND 1162
6. ALCAST FOUNDRY, INC., 10-R6D2-3716 THROUGH 3720
7. ANDERSON PACIFIC ENGINEERING CONSTRUCTION, INC., 10-R1D2-3610
8. ANNA'S MARKETPLACE BAKERY, INC., 11-R6D2-2947
9. A PLUS CONCRETE INC., 12-R3D3-0060
10. AT & T, 10-R1D5-1132
11. AUS DECKING, INC., 10-R2D1-1980
12. BAY CITY FIRE PROTECTION, 11-R4D1-1388 AND 1389
13. BEDON CONSTRUCTION, 11-R3D3-3109
14. BENITEZ CLEANING MAINTENANCE, 11-R4D3-2747
15. BLT ENTERPRISES OF SACRAMENTO, INC. DBA SACRAMENTO
RECYCLING & TRANSFER STATION, 08-R2D1-4575
16. JAMES BRANDT DBA ROYCE AUTO REPAIR & AUTO BODY, 11-R6D7-1721
17. BURRTEC WASTE INDUSTRIES INC. – BIG BEAR TS, 12-R3D3-0146
18. ALF BURTLESON CONSTRUCTION, 10-R5D1-0022
19. CALIFORNIA TROPICS, 11-R6D2-1431 THROUGH 1433
20. CASINO POKER CLUB, INC., 09-R2D1-2423
21. CA WATER RESOURCES, 10-R2D1-0366 THROUGH 0371
22. CEMCON, INC., 11-R6D7-2331

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23. CITY OF SANTA CLARA, ENTERPRISE FUND DBA SILICON VALLEY POWER, 10-R1D3-1690 THROUGH 1693
24. CLARY CORPORATION, 10-R6D2-3257
25. CONSTANTINE PAINTING, INC., 11-R3D6-2466 AND 2467
26. CONTAIN-A-WAY DBA NEXCYCLE, 11-R2D1-0497
27. CONTRA COSTA COUNTY HS & SO DEPARTMENTS, 11-R2D2-0876 AND 0878
28. CONTRACTORS WARDROBE, 11-R4D3-2903 AND 2904
29. DALY CITY POLICE, 10-R1D3-2061
30. AVI DATNER AKA 3201 HILLOCK LLC, 11-R2D1-2136 THROUGH 2140
31. DBA SWISS AMERICAN SAUSAGE COMPANY, 10-R2D4-3744 THROUGH 3748
32. DE ANZA PROPERTIES, 10-R1D3-3200
33. DELANO FARMS CO., 10-R6D3-1712 THROUGH 1720
34. DEL REAL FOODS LLC, 11-R3D3-2997
35. DEL RIO GOLF & COUNTRY CLUB, 11-R2D4-0439
36. F.A. BARTLETT TREE EXPERT COMPANY, 10-R2D2-3507
37. FRANKLIN MCKINLEY SCHOOL DISTRICT, 10-R1D2-3771
38. FRED'S GLASS & MIRROR INC., 11-R6D2-1280
39. G4S SECURE SOLUTIONS (USA), INC. 11-R2D1-3103
40. GIESBRECHT HAULING & METAL FABRICATION, 10-R2D3-0415
41. SCOTT GORDON DBA MENDOTA PIZZA FACTORY, 11-R6D7-0687
42. GRANT CONSTRUCTION, 11-R2D5-0259
43. GROUP MANUFACTURING SERVICES, INC., 11-R1D2-1630 THROUGH 1633
44. GROVER BEACH POLICE DEPARTMENT, 11-R4D3-1555

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45. ED GRUSH GENERAL CONTRACTOR INC., 11-R4D1-0780 THROUGH 0783
46. ED GRUSH GEN CONTRACTORS INC., 11-R4D1-1201 AND 1202
47. HILL BROTHERS CHEMICAL, 11-R6D4-1796 AND 1797
48. HOLLINGER CONSTRUCTION INC., 11-R4D1-0891
49. HOSPITAL SYSTEMS INCORPORATED, 11-R2D2-0996 AND 0997
50. H.S.G. PROFESSIONAL WINDOW CLEANERS, INC., 11-R3D1-2060
51. INDIGO DYE HOUSE, INC. 11-R6D2-1171 THROUGH 1175
52. INTERNATIONAL WEST, INC. DBA CONTINENTAL INDUSTRIES,
11-R6D2-1278 AND 1279
53. JASON FABRICATED GLASS INC., 11-R4D2-1551 AND 1552
54. PETE JENSON, PINNACLE CONSTRUCTION, INC. 08-R2D1-4423 AND 4424
55. LA CUMBRE MANAGEMENT COMPANY, INC., 11-R2D2-0013
56. L.A. COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES,
11-R3D6-2941
57. LASH'S GLASS, 09-R2D3-3055
58. LIEF ORGANICS, 11-R4D3-1784 THROUGH 1786
59. LOS ANGELES CITY FIRE DEPARTMENT, 11-R4D1-2071 AND 2072
60. LOS ANGELES COUNTY FIRE DEPARTMENT, 11-R4D3-0894 AND
11-R4D3-1184 THROUGH 1186
61. LUIS CUEVA MICHELE FLC, 10-R2D1-2387 AND 2388
62. JOE H. MARTINEZ DBA JH MARTINEZ CONS'T,
12-R3D3-0211 THROUGH -0213
63. METROPOLITAN STEVEDORE COMPANY, 11-R6D2-0826 THROUGH 0830
64. MIKE OWEN FABRICATION, INC. 09-R2D1-1370 AND 1371
65. MILLER BRG, LLP., 11-R4D3-1821

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66. MILLER DRILLING COMPANY, 11-R4D3-2746
67. MILLERS FAB & WELD CORPORATION, 11-R3D3-3088 THROUGH 3091
68. MONTEREY WINE COMPANY LLC, 11-R1D2-0650
69. NORTH BAY CONSTRUCTION, INC., 10-R1D5-3504
70. NORTH COUNTY FIRE AUTHORITY, 10-R1D3-2095
71. NUTRILITE PRODUCTS INC., 12-R3D3-0086
72. OC PALLETS, INC. DBA OC PALLETS, 11-R6D5-1074 THROUGH 1076
73. ORANGE COUNTY DEPARTMENT OF EDUCATION, 11-R3D1-1294
74. PACIFIC PENINSULA GROUP, 11-R1D3-3203 AND 3204
75. PACIFIC VINEYARD COMPANY, 11-R4D3-2906 AND 2907
76. PLACER COUNTY WATER AGENCY DBA BOWMAN WATER TREATMENT PLANT, 11-R6D3-2149
77. POZAS BROTHERS TRUCKING, 10-R6D2-2801 THROUGH 2803
78. PROFLEET, INC., 11-R2D4-0048 AND 0049
79. SACRAMENTO CITY FIRE DEPT., 10-R2D1-2062 AND 2063
80. SAFEWAY, INC., 11-R2D4-1155 THROUGH 1157
81. SAN JUAN WATER DISTRICT-SIDNEY PETERSON WATER TREATMENT PLANT, 11-R6D3-3266
82. SCHREIBER FOODS, INC., 11-R6D4-2102 AND 2103
83. SDC MILLWORKS INC., 11-R6D2-1958 THROUGH 1962
84. SECURITAS USA INC., 10-R2D3-0035
85. SIERRA PACIFIC INDUSTRIES, 10-R2D1-1545 AND 1546
86. SPINIELLO COMPANIES, 12-R5D3-0023
87. S & S HARDWOOD FLOOR SUPPLY OF GARDENA INC.
11-R4D1-1541 THROUGH 1545

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88. STRATEGIC OUTSOURCING INC., 10-R2D5-734 THROUGH 739
89. SUBURBAN PROPANE, 11-R6D3-3016 THROUGH 3018
90. SUNRISE FARM LABOR, INC., 11-R6D7-2079
91. SUTTER HOME WINERY, INC., DBA TRINCHERO FMLY. EST., 11-R6D3-2078
92. ERIC TAYLOR DBA INTER-PLAN WEST CONSTRUCTION, 11-R4D1-1550
93. ALAN D. TRAN, 11-R3D1-1295
94. UCI CONSTRUCTION, 11-R4D3-2688
95. UNIVERSITY OF REDLANDS, 12-R3D3-0500
98. USA SHADE & FABRIC STRUCTURES, INC., 10-R2D2-4016 THROUGH 4019
99. VANTAGE CONSTRUCTION, INC., 11-R6D7-2187
100. VALLEY FARM TRANSPORT, 10-R2D1-0344 AND 0345
101. ZIA T. XIONG AND THOR YANG XIONG, 10-R2D5-2484
102. YEAGER ENTERPRISES CORP DBA PASCO, 11-R3D1-1225 AND 1226
103. WAH FUNG NOODLES, INC., 11-R3D6-1778 AND 1779
104. WEBCOR CONSTRUCTION LP, 11-R4D1-1164
105. WEST COAST ARBORISTS, 11-R4D3-2107 AND 2108

ORDERS DISMISSING APPEALS:

1. MOUNT SHASTA HOTELS, LLC DBA STRAWBERRY VALLEY INN,
11-R2D3-0879
2. ROSAL AUTO RECYCLERS INC., DBA CONTINENTAL TOWING INC.,
10-R2D2-1050 THROUGH 1052

ORDER ON COSTS PETITION:

1. CA DEPARTMENT OF TRANSPORTATION, 08-R2D1-2173 THROUGH 2178

PETITIONS FOR RECONSIDERATION:

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(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. ARIAL TECHNOLOGIES LLC, 11-R3D2-1383 AND 1384
2. MAXIM CRANE WORKS LP, 11-R3D2-0167 AND 0168
3. METRO SHEET METAL, INC., 11-R6D2-0784 THROUGH 0793
4. RMJ CONSTRUCTION, 11-R3D3-9013
5. SOUTHERN CALIFORNIA VALVE, INC., 12-R3D6-9014

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-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592
2. A-CO TEMPORARY POWER, 10-R4D1-3110 AND 11-R4D1-9206
3. ALIKA IKAIKA ENTERPRISES INC., DBA ATTENTION TO DETAILS, INC.,
10-R1D2-1191
4. ALLIED SALES & DISTRIBUTION, INC., 11-R6D2-0480
5. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
6. AC TRANSIT, 08-R1D4-0135
7. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
8. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
9. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
10. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
11. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
12. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963

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13. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241
14. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445 AND 3448
15. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
16. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
17. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
18. CENTRAL VALLEY ENGINEERING & ASPHALT, INC. 08-R2D1 5001 AND 5002
19. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
20. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
21. COMMERCIAL METAL FORMING, 09-R3D1-1592
22. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
23. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
24. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
25. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
26. DELTA TRANSPORTATION, INC., 08-R2D1-4999
27. DENIO'S ROSEVILLE FARMERS MARKET & AUCTION INC. 11-R2D1-2431
28. DESIGN BUILDERS, INC., 08-R4D4-1901
29. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896
30. DUININCK BROS., INC., 06-R4D3-2871
31. DUKE PACIFIC, INC., 08-R3D3-574
32. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS, 09-R6D2-2325 THROUGH 2332
33. EZ MIX, INC., 08-R4D3-1898

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34. FDO INC. DBA GRAND AMERICAN DOORS, 10-R6D2-1215 THROUGH 1219
35. FORTUNA IRON WORKS 06-R2D3-4222
36. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
37. HOME DEPOT, 10-R3D6-3284
38. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
39. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
40. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
41. LION RAISINS, INC., 08-R2D5-2253 AND 2254
42. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
43. MARINE TERMINALS, 08-R6D2-1920
44. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
45. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
46. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
47. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667
48. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
49. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
50. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
51. POUK & STEINLE, INC., 09-R3D3-0491
52. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
53. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
54. SDCCD – CONTINUING EDUCATION N C CENTER, 11-R3D2-1196
55. SDUSD – PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297
56. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055

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57. SHERWOOD MECHANICAL, INC., 08-R3D2-4690 THROUGH 4693
58. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
59. SMUD, 08-R2D1-4887 THROUGH 4889
60. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR,
08-R2D1-3414 THROUGH 3418
61. McPHERSON ENTERPRISES, INC., 10-R2D5-0995
62. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
63. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
64. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
65. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION,
05-R2D4-2650 AND 2651
66. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 09-R4D5-0459
AND 0460
67. VIC ROSS'S MASONRY, INC., 11-R3D2-0708 AND 0709

LEGISLATION:

(Discussion of pending legislation which may require Board analysis pursuant to Government Code section §6254(l))

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. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSHS v. OSHAB)
(00-440)
2. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)

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3. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
4. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
5. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
6. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
7. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
8. SMUD, 34-2010-80000723 (08-R2D1-4887)
9. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
10. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
11. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)
12. GUILLAUME GRAPEVINE NURSERY, INC., 34-2011-800001010
(08-R2D1-3273)
13. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
THROUGH 2461)
14. FLATIRON CONSTRUCTION CORP, 34-2012-800001029 (10-R4D1-2789)
15. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)
16. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039
(07-0275)

COURT OF APPEAL

1. JERLANE, INC., D060844 (2007-00056381) (01-4344 and 4345)

PERSONNEL:

(Issues regarding staff)

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