

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, May 7, 2008
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: April 23, 2008

RE: Closed Session of the Board on May 7, 2008

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. BART – SF BAY AREA RAPID TRANSIT DISTRICT, 07-R1D4-3293

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. AL PAK LABOR, INC., 07-R1D2-4200
2. ALUM ALLOY COMPANY INCORPORATED, 07-R3D3-5180 THROUGH 5182
3. ATWOOD CAR WASH, 07-R2D1-2901 THROUGH 2903

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 7, 2008
Page 2

4. AUDIO/VIDEO ENTERTAINMENT, INC. 06-R4D3-282 AND 283
5. AVIONIC STRUCTURES, INC., 07-R6D2-3399 AND 3400
6. J NOBLE BINNS, 07-R2D5-2915 AND 2916
7. BRIAN CONSTRUCTION COMPANY, 07-R3D1-1627
8. ERIC BROMS CONSTRUCTION, INC., 07-R4D3-2243
9. HARRY BUNFILL, 07-R2D3-2910
10. JUNG V. CHUI dba JUNG FASHION, 07-R6D2-4786 AND 4787
11. COAST ALUMINUM AND ARCHITECTURAL, INC. 07-R1D4-2159
THROUGH 2161
12. COMPTON UNIFIED SCHOOL DISTRICT, 07-R4D2-3265 THROUGH 2368
13. ANTONIA H. CONTRERAS dba BAKERY TAQUERIA, 08-R6D5-0258 AND
0259
14. CROWN DISPOSAL CO. INC., 07-R6D2-3193 THROUGH 3198
15. CROWN POLY, INC., 06-R4D2-2348 THROUGH 2350
16. DIAMOND BACK INSTALLATIONS, INC., 06-R4D2-5087
17. DISCOVER PLASTICS, INC., 06-R3D3-2030 THROUGH 2033
18. DNM CONSTRUCTION COMPANY, INC., 06-R4D1-2833 THROUGH 2835
19. DRILL TECH DRILLING & SHORING INC., , 07-R5D1-2751
20. ELEVEN WESTERN BUILDERS, INC., 05-R4D3-1480
21. EPIC PLASTICS, INC., 06-R2D4-2179 AND 2180
22. ESPARZA ENTERPRISES, 06-R4D3-350-AND 351
23. EXPRESS SHEET METAL, 06-R4D4-1164 THROUGH 1167
24. FOOD PALACE, 07-R3D2-2209
25. FOOTHILL PACKING, 07-R1D2-4079

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 7, 2008
Page 3

26. FURIWA CHINESE SEAFOOD RESTAURANT, 07-R3D1-2112 AND 2113
27. GLENOAKS FOOD INC., 07-R6D2-2130 THROUGH 2132
28. JD HEISKELL DAIRY FEED, 07-R2D5-562
29. D. R. HORTON, 06-R2D1-4700
30. INTERNATIONAL IRON, 06-R3D2-5279 THROUGH 5281
31. INWESCO, INC., 07-R4D4-1882 THROUGH 1884
32. JACK IN THE BOX, 06-R4D2-3518 THROUGH 3520
33. JERICO PRODUCTS, INC., 07-R5D1-2452
34. JJJ & K , INC., dba ALEXANDER COMPANY, 07-R1D3-2157
35. JOSEPHINE KERNES MEMORIAL POOL, 07-R1D2-2154 AND 2155
36. JMJ MARBLE AND GRANITE, 07-R3D1-1628
37. KM INDUSTRIAL, INC., 06-R6D1-4867
38. McCLONE CONSTRUCTION COMPANY, 06-R1D2-3634 AND 3635
39. MCM CONSTRUCTION INC., 06-R5D1-4655 AND 4656
40. MECHANICAL INSULATION SUPPLY, INC., 07-R2D1-2904
41. MED CENTER MECHANICAL, 07-R4D2-2123
42. MEZ INDUSTRIES, 06R4D2-3487 THROUGH 3489
43. MILLER ENVIRONMENTAL INC., 08-R3D5-0187 AND 0188
44. MOD INDUSTRIES, INC., 07-R4D2-2234 THROUGH 2236
45. MR. CRANE, INC., 06-R4D2-4637
46. NAMAR FOODS, 05-R4D4-3999 THROUGH 4002
47. THE OLSON COMPANY, 06-R4D2-3777 THROUGH 3782
48. PACIFIC COAST STRUCTURES, INC., 06-R4D2-2343 AND 2344

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 7, 2008
Page 4

49. PARAGON BUILDING PRODUCTS, INC., 07-R4D4-1320
50. PCI dba PACIFIC COAST INTERIOR., 07-R3D3-2214 AND 2215
51. PHENOMENEX, INC., 07-R3D5-4896
52. PREMIERE HARVEST, INC., 07-R4D3-3271
53. PRO-DOCUMENT SOLUTION, 07-R4D3-3603 AND 3604
54. PW SUPERMARKETS, INC., 07-R1D2-1773
55. RAY DOUGLAS ANN & PATRICK INC. dba RPM COMPANY, 07-R3D3-2716 THROUGH 2719
56. ED REYNOLDS dba ER CONSTRUCTION, 06-R2D3-4718 THROUGH 4720
57. ROBINSON ELECTRIC, 07-R3D2-651
58. ROCKWELL INTERNATIONAL, ROCKETDYNE DIVISION, 95-R4D5-529 THROUGH 533 AND 95-R4D5-1184
59. ROXBURY PROPERTIES INC., 06-R4D1-3575 AND 3576
60. BOB RUDY CONSTRUCTION SERVICES, 07-R1D2-1774 AND 1775
61. RUIZ FLOUR TORTILLAS, 07-R6D2-5447 THROUGH 5449
62. SALINAS FARM LABOR CONTRACTOR, 06-R2D5-5157 THROUGH 5159
63. CITY OF SAN MATEO-WASTE WATER TREATMENT PLANT, 07-R1D3-4201 THROUGH 4204
64. SOFIA SANCHEZ dba, A L FASHION, 06-R4D1-2321 THOROUGH 2324
65. SINO TREASURE INDUSTRIES, INC., 06-R4D4-3462 THROUGH 3464
66. SOUTHLAND FRAMERS, INC., 07-R4D3-971 THROUGH 973
67. TEICHERT AGGREGATES INC., 06-R5D1-4861
68. TEMECULA VALLEY USD, 07-R3D3-1297
69. TEMPCO ENGINEERING, 06-R4D3-840 AND 841

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 7, 2008
Page 5

70. TOMORROW'S HEIRLOOMS, INC., dba STONE MANUFACTURING COMPANY, 06-R6D2-1940 THROUGH 1953
71. VANIR CONSTRUCTION MANAGEMENT, INC., 07-R2D1-2175
72. VEZER'S PRECISION INDUSTRIAL CONSTRUCTORS OF CALIFORNIA, 07-R5D1-2128 AND 2129
73. VISION ENVELOPE & PRINTING CO., INC. 07-R6D2-3388 THROUGH 3398
74. VOSS PLUMBING, 07-R3D2-3049
75. WASTE MANAGEMENT OF NOTH COUNTY, 07-R6D2-2762 AND 2763
76. WEATHERITE CORPORATION, 06-R3D3-5072 AND 5073
77. WEST COAST PALLET, INC., 06-R6D2-1012 THROUGH 1019
78. WOODCLIFF CORPORATION, 06-R4D4-4298 AND 4299
79. LEVON YESATAN dba A & H TRUCKING, 06-R4D2-1311 AND 1312
80. YI JENIFFER J dba, MANMI BAKERY, 07-R4D1-2117

ORDERS DISMISSING APPEALS:

NONE.

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

1. JOHN BIRDSSELL CONSTRUCTION, 08-R2D5-9160
2. ABEL MENDOZA., FLC #5804, 08-R2D4-9159
3. SDH CONSTRUCTION, 08-R2D1-9156
4. U. S. AIRWAYS, 08-R1D3-9153

ORDERS GRANTING LEAVE TO FILE LATE APPEALS:

1. DE PLAYA EXTERIORS INC., 08-R4D2-1464 THROUGH 1466
2. PHILIP SIMON DEVELOPMENT USA, INC., 08-R4D1-1158

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 7, 2008
Page 6

ORDERS DENYING LEAVE TO REOPEN APPEALS:

NONE.

ORDERS GRANTING APPEALS:

NONE.

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. DR. TIMOTHY J. ROSIO, MD dba ANEW SKIN DERMATOLOGY, 08-R2D1-9149
2. NAUTICAL ENGEINEERING, INC., 06-R6D1-4868 THROUGH 4872
3. G. W. HEINEKE CO., 06-R6D2-2522 AND 2533

DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):

1. ADAMS & SMITH, 05-R1D2-2882
2. KENYON PLASTERING, 07-R2D1-0110
3. LUIS MICHEL dba LUIS CUEVA MICHEL, 08-R2D1-9147
4. UNION DENTAL, 08-R1D4-9135

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. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
2. AC FRAMERS INC., 03-R2D3-3475
3. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
4. G. T. ALDERMAN, INC., 05-R4D3-3513

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 7, 2008
Page 7

5. ASC PROFILES, INC., 06-R2D1-1181
6. BART, 03-R1D1-5170
7. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
8. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
9. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
11. BLUE DIAMOND MATERIALS, 02-R5D2-1268
12. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
13. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
14. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224
15. CENTRAL CHEVROLET, 05-R1D4-2615 THROUGH 2618
16. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
17. COX COMMUNICATIONS, 03-R3D2-1942
18. DADE BEHRING, 05-R2D1-2203
19. DAKOTA COMPANIES UNLIMITED, 05-05-R4D3-392 and 393
20. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
21. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
22. DYNALECTRIC, 03-R1D1-4101
23. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
24. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
25. GENERAL TRUSS CO. INC., 06-R2D1-0783 AND 0784
26. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
27. GLASS PAK, 03-R2D2-0750 AND 0751

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 7, 2008
Page 8

28. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
29. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
30. HELPMATES STAFFING SERVICES, 05-R3D3-2239
31. HUSSMAN CORPORATION, 03-R3D1-2939
32. ILH CONSTRUCTION, 02-R1D1-4172
33. INDUSTRIAL MASONRY, INC., 07-R3D2-0735 AND 0736
34. JOHN LAING HOMES, 04-R3D1-194 AND-195
35. KELLY SERVICES, INC., 06-R1D2-1024
36. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
37. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
38. LONG BEACH CITY COLLEGE, 03-R3D5-2747
39. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
40. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA),05-R4D2-2541
41. O & M INDUSTRIES, 04-R1D5-1597
42. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658
43. PMR RACE CARS, 03-R3D3-1825
44. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
45. RII PLASTERING INC., 02-R3D1-2679
46. R & L BROSAMER, INC., 03-R1D5-4832
47. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
48. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 7, 2008
Page 9

49. STACY & WITBECK INC., 05-R1D1-1142
50. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH 1692
51. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
52. TEICHERT AGGREGATES, 04-R5D1-2982
53. TRIO METAL, 03-R4D4-0317
54. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2556 AND 2557
55. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
56. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
57. WESTERN DOOR, 01-R3D1-2827
58. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 AND 3018

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. WESTERN MILLING, LLC, 06 CE CG 04007 (06-9039/9040)
2. UNITED AIRLINES dba UNITED AIRLINES SFO SYC, 07CS00331 (00-2844)
3. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
4. IRBY CONSTRUCTION COMPANY, ECU03759 (03-2728)
5. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
6. J.F. SHEA CONSTRUCTION, INC (DOSH v. OSHAB) 34-2007-00882187-CU-WM-GDS, (02-801)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 7, 2008
Page 10

7. E. L. YEAGER CONSTRUCTION COMPANY, INC., (OSH v. OSHAB) 34-2007-00882192-CU-WM-GDS, (01-3261)
8. BRUTO CO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
9. MURRAY COMPANY, BS112469 (07-9190/9192)
10. KIEWIT/FCI/MANSON (KFM) A JOINT VENTURE, 08379369 (06-2452)

APPELLATE COURT:

NONE.

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.)

NONE.

PERSONNEL: *(Issues regarding staff.)*

NONE.

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