

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, July 6 2011
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: June 23, 2011

RE: Closed Session of the Board to be held on July 6, 2011

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. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 10-R6D2-0188 THROUGH 0191
2. SCARR MOVING & STORAGE, INC., 10-R1D2-0001
3. SHIHO SEKI DBA MAGICAL ADVENTURES BALLOON RIDES, 11-R3D3-0477
4. JAMES SWOFFORD DBA SWOFFORD ELECTRIC, 10-R3D1-2226 THROUGH 2228
5. JOHN WAI DBA UNITED PROPERTY SERVICE, 08-R1D1-3880

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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. AGED TIMBER CO., INC., 10-R4D3-4030 THROUGH 4032
2. AMERICAN CHIMNEY SHROUD, 10-R6D2-3042 THROUGH 3045
3. AMERICAN SOCCER COMPANY, INC. DBA SCORE, 11-R3D5-0776 THROUGH 0778
4. AMERICAN THEATRICAL DRYWALL & FRAMING, INC., 10-R4D2-3370 AND 3371
5. BOB GOODMAN LANDSCAPES, 10-R4D3-2875 AND 2876
6. BRASS UNIQUE METAL PRODUCTS, INC., 10-R6D2-2528 THROUGH 2531
7. BRINDERSON ENGINEERS & CONSTRUCTORS, 10-R6D4-3089
8. BYBLOS CONSTRUCTION COMPANY, 10-R4D1-2496 AND 2497
9. CAL CENTURION CONSTRUCTION DBA RWR CONSTRUCTION, 09-R1D5-3634 AND 3635
10. CANEPA'S CAR WASH, 10-R6D7-2127
11. CHAE HWAN CHO DBA ASIA AUTO BODY, 11-R6D5-0609
12. CHRISTOPHER R. MORALES, INC., 10-R3D6-3189
13. COUNTY OF SAN BERNARDINO PUBLIC WORKS DEPT., 11-R3D3-0710
14. CUNDIFF STEEL FABRICATION & ERECTING, INC., 10-R6D2-2236 THROUGH 2243
15. VICTOR DANIEL DELGADO DBA PERFORMANCE PAINT & TOWING, 11-R6D7-0082 AND 0083
16. DS WATERS OF AMERICA, INC. DBA SPARKLETTS, 10-R4D2-3222 THROUGH 3224
17. ECO BAY SERVICES, 09-R1D4-3578

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18. ELI INDUSTRIES, INC., 10-R6D2-2312 THROUGH 2320
19. FAITH FARMING LLC, 10-R4D3-3873 AND 3874
20. FORBES STEEL, INC., 10-R6D2-3946 THROUGH 3956
21. FRESH & EASY NEIGHBORHOOD MARKET, INC., 11-R3D3-0989
22. FRESH START BAKERIES, INC. DBA GALASSO'S BAKERY, 11-R3D3-0461 THROUGH 0463
23. G. J. TE VELDE RANCH, 09-R2D5-3347 THROUGH 3349
24. HALEX CORPORATION, 10-R3D6-3285 THROUGH 3288
25. HEAT AND CONTROL, INC., 10-R1D4-1538 THROUGH 1540
26. HORIZON ENERGY SYSTEMS, 08-R1D2-4509
27. HS FASHION, INC., 11-R6D5-0131 AND 0132
28. JOHN A. HUERTA DBA JAH CONSTRUCTION CO., 09-R1D1-3213 AND 3214
29. IMPERIAL IRRIGATION DISTRICT, 11-R3D3-0888
30. J & J LLC SHARPE AUTO REPAIR, 11-R6D5-0567
31. JOSEPH HOLT PLASTERING, INC., 11-R6D5-0639
32. KEITH MONROE & COMPANY, 10-R3D2-1246 THROUGH 1250
33. KERN COUNTY WATER AGENCY, 11-R4D3-0206 AND 0207
34. KJI PLUMBING, INC., 10-R4D3-3910
35. LEO LAM, INC. DBA A & M PRINTING, 10-R1D4-1193 THROUGH 1196
36. JON J. LAMPMAN DBA QUALITEES SCREEN PRINTING, 10-R6D7-4002
37. LAST CHANCE, INC. DBA A STAR RECYCLING, 10-R4D3-3468 AND 3469
38. MAD STEEL, INC., 10-R4D3-3911
39. MALIBU WINDOW AND DOOR, 10-R6D2-2463 THROUGH 2467
40. MONTEREY PENINSULA ENGINEERING CONTRACTORS AND ENGINEERS,

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10-R1D2-1418

41. NAPA WOODEN BOX CO., INC., 10-R1D5-0329 AND 0330
42. NSA CONSTRUCTION GROUP, INC., 10-R4D1-1866 AND 1867
43. OHLINE CORPORATION, 10-R4D1-2002 AND 2003
44. ORIENT TALLY COMPANY, 11-R3D3-0551 AND 0552
45. P. G. & E. DIABLO CANYON POWER PLANT, 10-R4D3-3550 AND 3551
46. PACIFIC BELL TELEPHONE COMPANY DBA AT&T, 10-R4D3-3491
47. PACK RYT, INC., 10-R6D2-1614 THROUGH 1616
48. PACTIV, 10-R6D4-2701 AND 2702
49. PEREZ CONTRACTING LLC, 11-R4D3-0202
50. POLLY'S PIES, INC. DBA POLLY'S PIES, 11-R6D5-0608
51. PRIMECO PAINTING, INC., 10-R3D2-2137 THROUGH 2139
52. QUAD GRAPHICS DBA WORLD COLOR, 11-R3D3-0507
53. REGIONAL TRANSIT AUTHORITY, 10-R4D3-3597
54. MARTHA REYES DBA OLDIES CAR BODY SHOP, 11-R6D5-0680 THROUGH 0682
55. RUCCI, INC., 10-R4D1-2269 AND 2270
56. RUIZ FOOD PRODUCTS, INC., 08-R2D5-1858 THROUGH 1863
57. S.A. RECYCLING, 11-R3D5-0585 THROUGH 0587
58. SAFEWAY, INC. DBA THE VONS COMPANIES, INC., 10-R3D2-1994 AND 1995
59. GABRIEL GONZALEZ SANDOVAL DBA SANDOVAL'S RESTAURANT, 11-R6D7-0242 and 11-R6D7-1482
60. SDUSD-THURGOOD MARSHALL MIDDLE SCHOOL, 10-R3D2-3070
61. SECURITY AMERICA, INC., 10-R4D1-3650 AND 3651

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62. SECURITY PAVING CO., INC., 10-R4D3-1066 AND 1067
63. SNELLING STAFFING, 10-R1D4-1570
64. SPANISH INN, INC. DBA CUSTOM CONSTRUCTION, INC., 11-R6D5-0079
AND 0080
65. T. L. SCANLAN CONSTRUCTION SERVICES, 10-R3D2-2073
66. TAP MANUFACTURING DBA PRO COMP, 10-R3D2-2517 AND 2518
67. THE F. A. BARTLETT TREE EXPERT CO./BARTLETT TREE EXPERTS,
10-R2D2-2098
68. THOMAS J. HARTIGAN ENTERPRISES, INC. DBA T. H. E. SWIMWEAR, INC.,
11-R6D5-0831
69. VENTURA INVESTMENT COMPANY, 10-R4D3-3877 AND 3878
70. WESTCO CONTRACTING, INC. DBA WEST COAST PAVING, 11-R3D3-0528
AND 0529

ORDERS DISMISSING APPEALS:

1. ARCO ANAHEIM CITY CENTER CAR WASH, 10-R6D5-3259

STIPULATIONS:

1. BIMBO BAKERIES USA, INC., 10-R6D2-1102 THROUGH 1106
2. CREAM OF THE CROP AG SERVICE, INC., 09-R6D7-3036 AND 3037
3. EAGLE MARINE SERVICES LTD, 10-R6D2-1442

PETITIONS FOR RECONSIDERATION:

1. A & M AUTO DISMANTLER, 11-R6D7-9102
2. ALPINE CONCRETE & PUMPING, INC., 10-R2D3-0412
3. DEL RIO WEST PALLET, INC., 09-R2D4-2403
4. OROZCO WATERMELON, 11-R3D3-9072

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. AAA AUTO & BODY WORKS, INC., 09-R6D7-2270 AND 2271

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2. ALAN MODE, INC., 11-R6D5-9087
3. JAIME R. ORTEGA DBA ORTEGA'S AUTO BODY AND TOWING, 10-R6D5-1406 THROUGH 1408

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 & C PALLETS, 10-R6D5-1687 AND 1688
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. AC TRANSIT, 08-R1D4-0135
4. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
5. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
6. ALT'S TOOL & MACHINE, 10-R6D2-2986 AND 3266
7. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
8. ANNING-JOHNSON COMPANY, 06-R1D3-1976
9. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
10. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
11. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
12. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241
13. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
14. BURRTEC WASTE INDUSTRIES, INC., 10-R3D3-9222
15. BURTON L. SILVA FARMS, 09-R1D2-1498
16. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
17. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955

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18. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
19. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
20. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
21. SILVIA CASTRO, MIGUEL CASTRO DBA SILVIA CASTRO FLC,
09-R2D4-1900
22. CITY OF FOSTER CITY, DEPT. OF PUBLIC WORKS, 09-R1D3-4195
23. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
24. CLINE CELLARS, INC., 08-R1D5-2946
25. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR
08-R6D5-3466 AND 3467
26. COMMERCIAL METAL FORMING, 09-R3D1-1592
27. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
28. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
29. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
30. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
31. DESIGN BUILDERS, INC., 08-R4D4-1901
32. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
33. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
34. DUKE PACIFIC, INC., 08-R3D3-574
35. DUININCK BROS., INC., 06-R4D3-2871
36. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
37. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
38. EZ MIX, INC., 08-R4D3-1898
39. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477

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40. FORTUNA IRON WORKS 06-R2D3-4222
41. G.T. ALDERMAN, INC., 05-R4D3-3513
42. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
43. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
44. HB PARKCO, 07-R4D2-1730 AND 1731
45. THE HERRICK CORP., 07-R3D1-495
46. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
47. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
48. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
49. JENSEN PRECAST, 05-R2D1-2377
50. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
51. KELSO'S AUTO DISMANTLING AND AUTO SALES, 10-R2D4-0165
52. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
53. L & S CONSTRUCTION, 10-R3D2-1822
54. LA MINA CANTINA, 09-R2D5-0039
55. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
56. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
57. LION RAISINS, INC., 08-R2D5-2253 AND 2254
58. L N I CUSTOM MANUFACTURING, 10-R6D2-9154
59. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
60. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
61. MARINE TERMINALS, 08-08-R6D2-1920
62. MCM CONSTRUCTION, INC., 10-R4D3-2498 THROUGH 2500

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63. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
64. MILLENIUM GENERATION, INC., 08-R4D3-5047
65. MOOREFIELD CONSTRUCTION, INC., 10-R3D5-9207
66. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
67. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
68. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
69. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
70. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
71. POUK & STEINLE, INC., 09-R3D3-0491
72. R & L BROSAMER, INC., 03-R1D5-4832
73. RAMON ARANDA dba I & R PALLETS, 10-R6D5-9053
74. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
75. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
76. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
77. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
78. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
79. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
80. SMUD, 08-R2D1-4887 THROUGH 4889
81. MARTIN J. SOLIS, DBA SOLIS FARM LABOR, 08-R2D1-3415
82. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
83. SONORA REGIONAL MEDICAL CENTER, 10-R2D4-0162
84. STAFFCHEX, 10-R4D3-2456 THROUGH 2458

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85. SUNOPTA FRUIT GROUP, 09-R3D1-9245
86. SUNRISE GROWERES FROZ SUN FOODS, 09-R4D3-2850
87. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
88. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
89. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
90. UNITED PARCEL SERVICE, 07-R3D3-3322
91. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
92. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710
93. WINDSOR CHICO CREEK CARE AND REHABILITATION CENTER LLC, 10-R2D1-0263

LEGISLATION

(Review and discuss current legislation which may affect the Appeals Board)

1. SENATE BILL 829

REPORT ON MATTERS FINAL BY OPERATION OF LAW

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. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
2. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
4. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
5. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)

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6. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
7. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
8. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
9. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
10. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
11. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
12. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-
80000640 (08-R2D1-0027 THROUGH 0030)
13. EMERSON RUSSELL MAINTENANCE CO., RG-10543219 (08-R1D4-4167)
14. SMUD, 34-2010-80000723 (08-R2D1-4887)
15. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
16. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)

COURT OF APPEAL

1. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)
2. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)

PERSONNEL:

(Issues regarding staff)

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