

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, August 11, 2010
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: July 29, 2010

RE: Closed Session of the Board to be held on August 11, 2010

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. A.L. GILBERT COMPANY, 08-R5D1-1646 AND 1647
2. CONWAY FREIGHT WESTERN, 08-R2D5-1854
3. DOWELL ALUMINUM FOUNDRY, 09-R6D2-2553 THROUGH 2557
4. HARRIS REBAR FRESNO, INC., 07-R2D5-3881 and 07-R2D5-3901 AND 3902
5. NEW ERA, 09-R4D2-3461 THROUGH 3465
6. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
7. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418

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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. 2 SISTERS FOOD GROUP, INC., 09-R6D2-1811 THROUGH 1813
2. ABLE ENGINEERING, 09-R3D2-2819
3. ACME CASTING, INC., 10-R6D2-0576 THROUGH 0578
4. ALPHACAST FOUNDRY, IND., 09-R6D2-3795 THROUGH 3798
5. JOHN H. ANDERSON DBA HEDGEROW FARMS, 09-R2D1-2428
6. ANDREWS INTERNATIONAL INCORPORATED, 10-R3D2-1898
7. B. MELLOR FARMS, INC., 09-R6D3-1743 AND 1744
8. BARBECUES GALORE, 09-R1D2-0963
9. BARBAGELATA FARMS, 09-R2D4-2083
10. BARSTOW UNIFIED SCHOOL DISTRICT – THOMSON SCHOOL, 10-R3D3-1800
11. BEACOM CONSTRUCTION CO., 08-R2D3-2178 THROUGH 2186
12. BEN SPARKS CONSTRUCTION, 09-R2D3-2625
13. J.G. BOSWELL, 09-R2D5-1668 THROUGH 1670
14. C. ACUNA CONSTRUCTION, 10-R2D5-0458
15. CA DEPT. OF CORRECTIONS SAN QUENTIN, 09-R1D5-1097
16. CACO PACIFIC CORPORATION, 09-R3D6-3896 AND 3897
17. CALOY COMPANY LLC, 08-R2D4-0405 THROUGH 0408
18. CERRITOS CONSTRUCTION CO., 09-R4D1-3233
19. JOSE & MARIA CHAVEZ DBA JOSE L. CHAVEZ FLC, 09-R2D1-2213
20. CLARY ROOFING, INC., 09-R3D1-3538 THROUGH 3541

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21. COASTAL LAND SOLUTIONS, INC., 09-R3D2-4015
22. COMMERCIAL WOOD PRODUCTS CO., 09-R6D2-3799 THROUGH 3804
23. COMSERCO, INC., 10-R3D3-0876 AND 0877 and 10-R3D3-0958
24. CORONA CITY PUBLIC WORKS DEPT., 10-R3D3-1293
25. DART CONTAINER CORPORATION OF CALIFORNIA, 10-R3D3-1553 AND 1554
26. DAVEY TREE SURGERY COMPANY, 08-R1D5-1571
27. DOLLAR TREE STORES, INC., 10-R4D2-0669
28. DRILL TECH DRILLING AND SHORING, INC., 09-R5D1-2167
29. EL CHICO PRODUCE MARKET, INC., 08-R1D1-3914 THROUGH 3916
30. ENGINEERED STRUCTURES, INC., 09-R3D2-3402 AND 3403
31. EVERGREEN PACKAGING, INC. DBA EVERGREEN BEVERAGE PACKAGING, 08-R2D4-4751 THROUGH 4754
32. FAMOSO NUT COMPANY LLC, 08-R2D5-1216
33. FAR WEST INDUSTRIES, 10-R3D2-0086
34. FASHION AVE., INC. DBA INTERNATIONAL GRAPHIX, 10-R4D1-0176
35. FENCEWORKS, INC., 08-R2D1-4541
36. FOODMAXX, 08-R2D5-2068 THROUGH 2070
37. FOUNTAIN VALLEY REGIONAL HOSPITAL AND MEDICAL CENTER, 10-R3D1-1734
38. FOUR W FARMS, INC., 09-R2D5-2233 THROUGH 2235
39. GHIRARDELLI ASSOCIATES, INC., 08-R1D3-3823
40. GRANITE CONSTRUCTION COMPANY, 09-R5D1-1014 AND 1015
41. GREEN EAST, INC., 09-R6D5-3750 THROUGH 3756
42. HATHAWAY DINWIDDIE, 08-R1D2-3820

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43. HOLDERS AIR CONDITIONING & HEATING, INC., 10-R4D3-0687 AND 0688
44. HOME NETWORK OF AMERICA, INC. DBA HILLTOP BUILDERS, 09-R2D3-0350
45. JAGUAR FARM LABOR CONTRACTING, INC., 09-R2D4-1135 THROUGH 1138
46. JAGUAR FARM LABOR CONTRACTING, 10-R4D3-0845
47. JAKOV P. DULCICH & SONS LLC, 09-R6D4-3176 THROUGH 3181
48. JAY'S GOURMET RESTAURANT, INC. DBA JAY'S GOURMET, 09-R6D5-4002 AND 4003
49. JETT HARVEST, 10-R3D2-0009
50. KAISER ALUMINUM, 09-R6D2-3559 THROUGH 3562
51. KAISER'S CONTRACT CLEANING SPECIALIST, INC., 08-R2D5-1091 THROUGH 1093
52. KIM'S CUSTOM, INC., 10-R6D7-0551
53. L.A. COUNTY, ANIMAL CARE & CONTROL, 10-R4D3-0685
54. LAFAYETTE CAR WASH, 09-R6D1-2520 THROUGH 2522
55. LINDSAY FOODS INTERNATIONAL, 08-R2D5-15886
56. ALEX MAIMON DBA 9274 SIERRA MAR LLC, 09-R4D1-2591 THROUGH 2595
57. MALIBOU LAKE MOUNTAIN CLUB, LTD., 09-R4D3-2387 AND 2388
58. MARINE TERMINALS CORP. DBA PORTS AMERICA, 10-R6D2-0308
59. MARQUES PIPELINE, INC., 08-R2D1-2229 THROUGH 2231
60. MAURICE CARRIE WINERY, 09-R6D2-3563
61. McINTIRE TOOL DIE & MACHINE, INC. DBA OMEGA TOOL, 10-R6D2-1068 THROUGH 1074
62. MERIDIAN FIRE PROTECTION DISTRICT, 08-R2D1-4734 THROUGH 4739
63. MOARK LLC, 10-R3D3-1767 AND 1768

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64. MS STEEL MANUFACTURING, INC., 09-R6D2-3498 THROUGH 3501
65. MSP STUCCO, INC., 09-R2D3-1134
66. JAMES MUREZ, 10-R4D1-0177 THROUGH 0179
67. NISSEN VINEYARD SERVICES, 08-R1D5-3733 THROUGH 3736
68. CHRISTIAN OLGUIN, 09-R4D3-3792 AND 3793
69. ORMCO CORPORATION, 10-R3D6-1435 THROUGH 1438
70. P. G. & E., 09-R2D5-2194 AND 2195
71. PACIFIC TELEPHONE COMPANY DBA AT&T, 08-R2D4-1390
72. PARAMOUNT FARMING COMPANY LLC, 09-R4D3-3082 AND 3083
73. PARNELL TIMBER SVS., INC., 09-R2D3-3357
74. WILLIAM, ASHLEY & ROBERT PAYNE DBA PAYNE FARMS, 08-R2D1-2673
THROUGH 2675
75. PLANES, BOATS AND AUTOMOBILES LIMITED, 09-R3D2-3934
76. PORTERMATT ELECTRIC, INC., 10-R4D3-1673
77. PRECISION CONCRETE, INC., 09-R4D5-3905 THROUGH 3907
78. PREMIER FURNITURE GALLERY, 09-R2D4-2042
79. PROGRESSIVE BUSINESS CORP. DBA PROGRESSIVE INSULAT, 10-R3D3-
1305 AND 1306
80. RESEARCH METAL INDUSTRIES, 09-R6D2-3468 THROUGH 3470
81. RIALTO-PEPPER CARWASH, INC. DBA I WASH EXPRESS, 10-R3D3-0950
82. S. G. WHOLESALE ROOFING SUPPLIES, 10-R3D1-0210
83. FRED SALA DBA ALL CARS AND TRUCKS DISMANTLERS, 08-R1D1-4157
THROUGH 4160
84. SAFEWAY, INC., 08-R2D4-2854
85. SANTA CLARA CONVENTION CENTER, 10-R1D3-1454 AND 1455

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86. SCOTT C. SHELLY DBA SCOTT C. SHELLY CONSRUCTION, 10-R6D7-0766
87. SIERRA NATIONAL CONSTRUCTION, INC., 09-R5D1-2250
88. SIERRA PACIFIC INDUSTRIES, 09-R2D3-2861
89. SILVER CREEK INDUSTRIES, INC., 10-R3D3-0967
90. SOUTHWIND CONSTRUCTION, 07-R3D2-1287 THROUGH 1291
91. STAR BUILDING SYSTEMS, 08-R2D4-3138 and 08-R2D4-3785
92. SUN-MAID GROWERS OF CA., 08-R2D5-4321 THROUGH 4323
93. TANKO WELL DRILLING, 09-R2D4-2041
94. THE RED CABOOSE, INC., 10-R6D7-1078
95. TORN & GLASSER, 10-R4D2-1257 AND 1258
96. TREE ELEMENTS, INC., 10-R3D1-0778
97. TST, INC. DBA TIMCO TANDEM, 08-R3D3-4215 THROUGH 4218
98. VALLEY FRUIT HARVESTING, 10-R2D5-1459
99. VIE-DEL COMPANY, 08-R2D5-0983 AND 0984
100. XCEL MECHANICAL SYSTEMS, 09-R4D2-4128
101. YOUNGSTOWN GRAPE DIST., INC., 09-R2D5-4207

ORDERS DISMISSING APPEALS:

1. DAVCO STEEL, INC., 08-R1D2-3852
2. JUST DO IT CONSTRUCTION, INC., 08-R1D4-4455 THROUGH 4457

ORDER DENYING THE DIVISION'S MOTION FOR REINSTATEMENT OF APPEAL:

1. CHARLES A. JONES SKILLS & BUSINESS EDUCATION CENTER, 08-R2D1-3186

ORDERS OF REMAND:

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1. ASC PROFILES, INC. DBA AEP SPAN, 10-R3D3-1165
2. SOUTH BAY LANDSCAPING, 10-R3D1-0356
3. SUPERIOR ALMOND HULLING, 09-R2D5-0771
4. VALLEY PRIDE, 09-R6D4-2375

ORDERS AFTER REMAND:

1. J.E. SNYDER ELECTRIC, INC., 09-R3D1-2995
2. OLSON AND CO. STEEL, 09-R1D4-0876

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. ADECCO, INC. BRANCH 5100, 08-R2D1-4312
2. ANOTHER PALLET CORP., 10-R6D5-9133
3. LION RAISINS, INC., 08-R2D5-2253 AND 2254
4. PACIFIC MESSENGER RECORDS STORAGE, INC., 02-R3D2-2263 & 2264
5. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
6. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
7. S & S SERVICES, 08-R2D1-2131 AND 2132
8. SUNRISE GROWERS FROZ SUN FOODS, 09-R4D3-2850
9. TERRA BELLA NURSERY, INC., 09-R3D2-3443 AND 3444
10. WEBCOR CONSTRUCTION LP, 08-R1D1-2365

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. SFUSD – E.R. TAYLOR ELEMENTARY SCHOOL, 10-R1D1-9126

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

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underlying ALJ decision.)

1. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
2. AC FRAMERS INC., 03-R2D3-3475
3. AC TRANSIT, 08-R1D4-0135
4. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
5. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
6. ANNING-JOHNSON COMPANY, 06-R1D3-1976
7. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
8. ALI AZAR DBA AMERICAN EAGLE BODY SHOP, 10-R6D7-1882
9. BART, 03-R1D1-5170
10. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
11. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
12. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
13. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
14. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
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
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. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471

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22. CLINE CELLARS, INC., 08-R1D5-2946
23. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
24. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
25. COMMERCIAL METAL FORMING, 09-R3D1-1592
26. CORE GENERAL CONTRACTOR, INC. DBA CORE BUILDERS, 08-R1D2-1379
27. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
28. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
29. DESIGN BUILDERS, INC., 08-R4D4-1901
30. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
31. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
32. DUKE PACIFIC, INC., 08-R3D3-574
33. DUININCK BROS., INC., 06-R4D3-2871
34. DYNALECTRIC, 03-R1D1-4101
35. E. C. U., INC., 09-R3D5-1094 AND 1095
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
40. FORTUNA IRON WORKS 06-R2D3-4222
41. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
42. G.T. ALDERMAN, INC., 05-R4D3-3513
43. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
44. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322

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45. GLASS PAK, 03-R2D2-750 AND 751
46. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
47. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
48. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
49. HB PARKCO, 07-R4D2-1730 AND 1731
50. HELPMATES STAFFING SERVICES, 05-R3D3-2239
51. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
52. THE HERRICK CORP., 07-R3D1-495
53. HUSSMAN CORPORATION, 03-R3D1-2939
54. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
55. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
56. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
57. JENSEN PRECAST, 05-R2D1-2377
58. JOHN LAING HOMES, 04-R3D1-194 AND 195
59. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
60. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
61. KELLY SERVICES, INC., 06-R1D2-1024
62. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
63. LA MINA CANTINA, 09-R2D5-0039
64. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
65. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
66. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
67. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540

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68. MARINE TERMINALS, 08-08-R6D2-1920
69. MELMARC PRODUCTS, INC., 09-R3D1-2878
70. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
71. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
72. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
73. O & M INDUSTRIES, 04-R1D5-1597
74. PARKER-HANNIFIN CORPORATION, 08-R2D4-2508
75. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
76. POUK & STEINLE, INC., 09-R3D3-0491
77. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
78. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
79. R & L BROSAMER, INC., 03-R1D5-4832
80. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
81. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
82. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
83. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
84. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
85. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
86. STACY & WITBECK, INC., 05-R1D1-1142
87. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
88. SUNOPTA FRUIT GROUP, 09-R3D1-9245
89. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851

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90. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
91. TEICHERT AGGREGATES, 04-R5D1-2982
92. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
93. UNITED PARCEL SERVICE, 07-R3D3-3322
94. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
95. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
96. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

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. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
5. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
6. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
7. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
8. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
9. WEBCOR CONSTRUCTION LP dba WEBCOR BUILDERS, 34-2009-80000384 (08-R1D2-2499/2500)
10. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)

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11. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
12. JC CONSTRUCTION, BS124990 (09-9265)
13. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
14. MISSION FLAVORS AND FRAGRANCE, INC., 34-2010-80000599 (05-R6D2-
1139)

COURT OF APPEAL

1. SOUTHERN CALIFORNIA EDISON, B223828 (BS 119297) (08-9062)
2. HARRIS CONSTRUCTION COMPANY, INC., C060578 (07-CS00518) (05-3914)

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.