

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), and (e)**  
**For**

**Wednesday, October 29, 2008**

**10:00 AM**

**Sacramento, California**  
**&**  
**West Covina, California**

**TO: Members of the California Occupational Safety and Health Appeals Board**

**FROM: J. Jeffrey Mojcher, Chief Counsel**

**DATE: October 17, 2008**

**RE: Closed Session of the Board on October 29, 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.

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**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

*(Written decision issued by an Administrative Law Judge (ALJ). The decision summarizes the evidence received from the Division of Occupational Safety and 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. ABM INDUSTRIES INC. dba AMPCO SYSTEM PARKING, 07-R1D1-618
2. C & M FINE PACK, INC., 07-R6D2-4149 THROUGH 4155
3. JAMES, ROBERT & DON CLARK dba CLARK PACIFIC, 06-R2D1-23 AND 24
4. MGS DISPOSAL SERVICE, 07-R4D2-5370 THROUGH 5372

5. CESAR MENDOZA, 05-R4D2-3772 THROUGH 3774
6. NAPRODIS, INC., 08-R3D2-824 THROUGH 828

**ORDERS OF ADMINISTRATIVE LAW JUDGES:**

*(Written order issued by an Administrative Law Judge (ALJ) after a pre-hearing conference in which the Division of Occupational Safety and 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. A & J PAINTING INC., 08-R2D2-2100 AND 2101
2. ABBY CONSTRUCTION CO., INC., STEVEN A. GOLDSTEIN, 08-R6D5-2293
3. AC FRAMERS INC, 07-R2D3-4337
4. APL LIMITED, 07-R1D4-3300
5. AHERN RENTALS, INC., 03-R2D1-2709
6. BARRETOS PAINTING & DECORATING, 07-R2D5-4378 AND 4379
7. MATT BEGIN CONSTRUCTION, INC., 08-R3D3-746 THROUGH 747
8. JOHN BIRDSSELL CONSTRUCTION INC., 0R2D5-4865 AND 4866
9. BROTHERS BENKERT, INC., 0R1D4-3011 THROUGH 3013
10. BUILD HOUSE: BERKELEY YOUTH LIVING WITH DISABILITY, 08-R1D4-1127
11. CALIFORNIA DRIVING SCHOOL, INC., 08-R4D2-2412 THROUGH 2414
12. CARLTON FORGE WORKS, 08-R4D4-1761 AND 1762
13. CECELIA PACKING, 08-R6D5-1685 THROUGH 1687
14. CHERNE CONTRACTING CORPORATION, 07-R6D3-2661
15. CLARK CONSTRUCTION INC., 07-R2D3-1371
16. CLARK CONSTRUCTION INC. dba CCI EARTHWORK & PAVING, 07-R2D3-1488 AND 1489

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17. COMMERCIAL CRAB POTS, 07-R2D3-4648 AND 4649
18. CORNELIS DE JONG DAIRY FARMS, INC., 0R2D5-3116 THROUGH 3122
19. DATALOK, 07-R1D3-3422 AND 3423
20. DAWSON CUSTOM WORKROOM INC., 08-R6D5-1811 AND 1812
21. E-Z PAINTING INC., 07-R2D3-145
22. EDWARDS CONSTRUCTION GROUP INC., 07-R1D2-1857 AND 1860
23. ELSTON MASONRY, INC., 07-R3D2-1414 THROUGH 1420
24. EMERALD MEDICAL MANAGEMENT, INC., 07-R3D1-3787 THROUGH 3791
25. EXXON MOBIL OIL CORPORATION, 08-R6D4-2792
26. FMI INTERNATIONAL, LLC, 08-R3D3-736
27. FELD ENTERTAINMENT, 07-R1D2-5269
28. FESS PARKER'S DOUBLE TREE RESORT, 08-R4D5-1644
29. GBC CONCRETE & MASONRY CONSTRUCTION, INC., 08-R6D5-1461 AND 1462
30. GARDEN GROVE UNIFIED SCHOOL DISTRICT, 08-R3D1-3290
31. GREYHOUND LINES INC., 0R6D1-0431
32. SCOTT HABR, 07-R1D2-5270 THROUGH 5272
33. INDALEX ALUMINUM SOLUTIONS dba INDALEX, INC., 07-R4D4-4055
34. INLAND PAINTING, 08-R4D3-849
35. KENYON PLASTERING INC., 07-R2D5-47 THROUGH 49
36. LAUSD MAINTENANCE & OPERATIONS DISTRICT 4, 08-R4D1-2411
37. LABOR READY SOUTHWEST INC., 07-R1D2-4800
38. LARRY FAVOR GENERAL BUILDING CONTRACTOR INC., 07-R1D2-5267

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39. LASSEN CANYON NURSERY INC., 07-R2D3-4652 THROUGH 4654
40. MADERA ROOFING, INC., 0R2D5-4089
41. MENDEZ BROTHERS CONSRUCTION INC., 07-R1D2-5275 AND 5276
42. G J MILINDA dba VIVI FASHION, 08-R6D5-641 THROUGH 643
43. MONTEREY COUNTY PUBLIC WORKS, 06-R1D2-4459 THROUGH 4461
44. MYERS CONSTRUCTION, 07-R2D3-3869 THROUGH 3871
45. ABDALLAH NABBOUT dba ANN CONTRACTORS, 07-R4D4-4145 THROUGH  
4147
46. NIAGRA BOTTLING LLC, 08-R3D3-579 AND 580
47. ORCHARD MACHINERY CORPORATION, 07-R2D3-4655 THROUGH 4657
48. OSCCO LANDSCAPE INC., 08-R4D4-1763
49. PASCUAL ALVAREZ, 07-R2D5-4371
50. PENHALL COMPANY, 06-R1D1-2449 AND 2450
51. PERSHING MS SAN DIEGO UNIFIED SCHOOL DISTRICT, 07-R3D2-4136
52. PREFERRED FRAMING INC., 07-R4D4-4463 AND 4464
53. PRESTIGE HOMES, 07-R2D2-909
54. QUINTERNO'S FURNITURE, INC., 07-R2D1-2906 THROUGH 2908
55. RELIABLE RESOURCES, INC., 08-R4D2-2446
56. ROTODYNE PLASTICS, 08-R3D3-915 THROUGH 917
57. SAN MAR CONSTRUCTION CO., INC., 08-R3D5-749
58. EDSAL SANDUSKY, 07-R2D5-4026
59. SANTIAGO ESTATES OF MOJAVE, A CALIFORNIA LIMITED PARTNERSHIP,  
07-R2D5-4860 THROUGH 4682

60. SCULLY TRANSPORTATION SERVICES INC., 06-R1D4-3862
61. SETTER CONSTRUCTION CORPORATION, 07-R2D1-2315
62. WAYNE SMITH, 07-R2D3-4125 THROUGH 4127
63. TB PENICK AND SONS INC., 07-R3D2-4386
64. TBS IRRIGATION PRODUCTS, INC., 07-R6D2-4932 THROUGH 4934
65. TWR ENTERPRISES, INC., 08-R3D1-564
66. VALLEY POOLS PLASTERING, 07-R2D5-0493
67. VICTOR PACKING, INC., 07-R2D5-4671 AND 4672
68. WFT COMMUNICATIONS CONSTRUCTION, 08-R3D2-1070 AND 1071
69. WALLACE & SMITH, 06-R2D5-4603 AND 4604
70. WEISS-MCNAIR LLC, 07-R2D3-4646
71. WENTE BROS., dba WENTE VINEYARDS, 06-R1D4-4569
72. TOMMY WOK, 06-R1D2-4193

**ORDERS DISMISSING APPEALS:**

1. BAD AUTO, 08-R6D5-9304
2. CA MENTAL HEALTH DEPT COALINGA STATE HOSPITAL, 08-R2D5-9314
3. DAVID ALAN FLOORING, INC., 08-RR6D2-9309
4. DIVA ASTHETIC MEDICAL GROUP, INC., 07-R4D1-2426 AND 2427
5. DRUMMOND MEDICAL GROUP, 08-R2D5-9315
6. ENDLESS POSSIBILITIES, 08-R6D5-9292
7. FARTECH MANAGEMENT, INC. dba GOLDEN WHEEL AUTOBODY, 08-R6D5-9319

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8. GMC PALLET, 08-R6D5-9301
9. GARZA CONTRACTING, 08-R4D3-9300
10. SHAHNAZ BANO GORSI dba SG SERVICE, 08-R2D1-9298
11. JOE GREEN, OWNER, 07-R1D5-2502 AND 2503
12. L & M SERVICES, 08-R2D5-9312
13. JOHN MANCEBO, 08-R2D5-9313
14. P & C FINISHING, INC., 08-R1D2-9310
15. SOUTH VALLEY ALMOND COMPANY, LLC, 08-R4D3-9290
16. STEREO CONSTRUCTION, 08-R1D4-9297
17. TRIO EQUIPMENT COMPANY, 08-R3D2-9316
18. TRIPLE A AUTO & PAINT, 08-R6D5-9293
19. TUTTINI'S, 08-R4D3-9299
20. UNI-TILE & MARBLE, INC., 08-R1D4-9283
21. WARD BROTHERS, 08-R6D5-9303

**ORDER GRANTING APPEALS:**

1. NP GROUP INC dba LINCOLN AUTO SPA, 07-R3D1-5040 THROUGH 5042

**STIPULATIONS:**

1. MOUNTAIN CASCADE, INC., 07-R1D1-4264
2. KINDER MORGAN ENERGY PARTNERS, LP, 05-R2D4-2013 AND 2014

**PETITIONS FOR RECONSIDERATION:**

*(The Division of Occupational Safety and 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. DO-ABLE PRODUCTS, 06-R6D2-2998 THROUGH 3007
2. CHILDHELP, 06-R3D3-4267
3. FORTUNA IRON WORKS, 06-R2D3-4222
4. INTERNATIONAL TRANSPORTATION SERVICE, INC., 07-R6D2-3824
5. KEETON CONSTRUCTION, 08-R3D3-9055
6. SHIMMICK CONSTRUCTION CO. & OBAYASHI CORPORATION, JOINT VENTURE, 06-R5D3-1136

**DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):**

1. GALAXIE UNIVERSAL CORP. dba GAMCO INDUSTRIES, 06-R6D2-367 THROUGH 370, 06-R6D2-867
2. MENDOTA UNIFIED SCHOOL DISTRICT, 07-R2D5-3572
3. PAGE MILL PROPERTY SERVICES LLC, 08-R1D3-9275

**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. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. AC FRAMERS INC., 03-R2D3-3475
4. ASC PROFILES, INC., 06-R2D1-1181

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5. ANNING-JOHNSON COMPANY, 06-R1D3-1976
6. BART, 03-R1D1-5170
7. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
8. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
9. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. BLUE DIAMOND MATERIALS, 02-R5D2-1268
11. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
12. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
13. CALIFORNIA FRESH FARMS, LLC, 06-R2D4-4127 AND 4224
14. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
15. COX COMMUNICATIONS, 03-R3D2-1942
16. DADE BEHRING, 05-R2D1-2203
17. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
18. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
19. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
20. DYNALECTRIC, 03-R1D1-4101
21. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
22. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
23. G.T. ALDERMAN, INC., 05-R4D3-3513
24. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
25. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
26. GLASS PAK, 03-R2D2-750 AND 751

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27. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
28. HELPMATES STAFFING SERVICES, 05-R3D3-2239
29. HUSSMAN CORPORATION, 03-R3D1-2939
30. ILH CONSTRUCTION, 02-R1D1-4172
31. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
32. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
33. JENSEN PRECAST, 05-R2D1-2377
34. JOHN LAING HOMES, 04-R3D1-194 AND 195
35. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
36. KELLY SERVICES, INC., 06-R1D2-1024
37. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
38. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
39. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
40. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552  
THROUGH 1554
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 AND 1496
45. RII PLASTERING INC., 02-R3D1-2679
46. R & L BROSAMER, INC., 03-R1D5-4832
47. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
48. STACY & WITBECK, INC., 05-R1D1-1142

49. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH 1692
50. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
51. TEICHERT AGGREGATES, 04-R5D1-2982
52. THE HERRICK CORP., 07-R3D1-495
53. TRIO METAL, 03-R4D4-317
54. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
55. UNITED PARCEL SERVICE, 07-R3D3-3322
56. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
57. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

**PENDING LITIGATION:**

*(If the Division of Occupational Safety and Health or the Employer disagrees with a decision after 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. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
5. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
6. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)

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7. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
8. MURRAY COMPANY, BS112469 (07-9190/9192)
9. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
10. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (00-440)
11. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
12. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)

**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.