

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, December 15, 2009
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: December 3, 2009

RE: Closed Session of the Board to be held on December 15, 2009

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. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963 AND 4964
2. SIERRA NATIONAL CONSTRUCTION, INC., 08-R2D1-0649 THROUGH 0651

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. AMOTA PROPERTIES LLC, 09-R3D3-0539
2. ARIEL MISHROOM FARM, 07-R2D2-1483 THROUGH 1487

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3. BLT ENTERPRISES, INC. A WHOLLY OWNED SUBSIDIARY OF REPUBLIC SERVICES, INC., 09-R4D3-2026
4. BLUE STAR METAL, 08-R3D3-4549
5. BNB ENGINEERING, INC., 09-R4D4-0390 THROUGH 0393
6. BOMEL CONSTRUCTION COMPANY, INC., 08-R3D5-4432 AND 4433
7. CHULA VISTA ELECTRIC, 09-R3D2-3010 THROUGH 3012
8. D & C RAMOS CORP. DBA TORTILLERIA LA PATRIA, 09-R3D6-0817 AND 0818
9. DAVIS WIRE CORP. DBA VIKING WIRE LLC, 08-R3D3-4088 THROUGH 4090
10. DESERT HARVESTING, 09-R3D2-1910
11. DJR TARPING, 09-R3D2-1905
12. EAGLE & ROSE ESTATE, 09-R6D5-0270
13. EAST BAY REGIONAL PARK DISTRICT, 09-R2D2-2960 THROUGH 2962
14. GIMEL PROPERTIES LLC, 09-R3D3-0635 THROUGH 0637
15. GKN AEROSPACE TRANSPARENCY SYSTEMS, INC., 09-R3D1-2648
16. GLASSPOOLE MASONRY, INC., 09-R4D3-3084 AND 3085
17. GRANITE CONSTRUCTION COMPANY, 09-R5D2-1924
18. HERRON CONSTRUCTION, INC., 08-R3D3-4581 AND 4582
19. KIK AEROSOL SO. CAL. LLC DBA KIK CUSTOM PRODUCTS, 09-R6D4-2531 THROUGH 2535
20. KINCAID CONSTRUCTION, 08-R3D5-4550 AND 4551
21. LABORATORY CORPORATION OF AMERICA, 08-R3D2-5108 AND 5109
22. MANZANO'S HARVESTING, INC., 09-R6D5-0960 AND 0961
23. MITSUBISHI CEMENT CORPORATION, 08-R5D3-4712
24. MITSUBISHI CEMENT CORPORATION, 06-R5D3-4864 THROUGH 4866

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25. MYUNG CONSTRUCTION, INC., 09-R4D1-1871
26. PAZLETICH ELECTRIC & COMMUNICATIONS, INC., 09-R6D5-0760
THROUGH 0762
27. RODRIGUEZ CONTRACTORS, INC., 08-R4D4-4400 AND 4401
28. SAFEWAY INCORPORATED LOS ANGELES MILK PLANT, 09-R6D4-1848
THROUGH 1852
29. SAN JOSE CONSTRUCTION CO., INC., 08-R1D2-4190 AND 4191
30. SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, 08-R1D2-3999
31. SKANSKA CIVIL WEST CALIFORNIA DISTRICT, INC., 09-R5D2-0980
32. SMITH PACKING, INC., 09-R6D5-1697 AND 1698
33. STINGRAY DISTRIBUTING, 09-R3D2-2217
34. SUPERIOR CONSTRUCTION, INC., 08-R4D4-4302 AND 4303
35. THE LANCASHIRE GROUP DBA TLG, INC., 08-R2D2-3494
36. THE OLYMPIC CLUB, 09-R1D1-2905
37. TRIPLE PLAY COMMUNICATIONS, 09-R4D1-1977 AND 1978
38. VALLEYCREST LANDSCAPE MAINTENANCE, INC., 09-R4D4-0612 AND
0613
39. VILLAGE NURSERIES, 09-R3D2-3445
40. VISTA STEEL COMPANY, 09-R6D2-2168 AND 2169
41. WESTERN PREMIER PLUMBING, 09-R3D2-1638
42. VAUGHN WOODRUFF & JAMES NEAL DBA PRECISION DISPLAY, 09-R3D3-
1673 AND 1674

ORDERS DISMISSING APPEAL:

1. FINELINE ELECTRIC, INC., 06-R3D1-3754
2. HOME DEPOT, 08-R1D2-2751

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ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. FRANKS ROOTER & PLUMBING SERVICE, INC., 09-R4D3-9312

ORDER TO PROCESS APPEALS AS TIMELY:

1. CHAMREN TOUGH DBA P & S AUTO BODY SHOP, 09-R6D5-3698

STIPULATION:

1. SHELL OIL PRODUCTS U.S., 09-R6D3-3118 THROUGH 3120

PETITIONS FOR RECONSIDERATION:

1. BUTTON & TURKOVICH, 09-R6D1-9277
2. CHORE AUTO WRECKING, 09-R3D2-0605 AND 0606
3. DING MASTERS COLLISION CENTER, 09-R6D5-9273
4. EAST BAY GLASS COMPANY, 07-R1D4-2563
5. PEN CHANG, 08-R2D5-3102
6. SANG GIP, 08-R2D5-3654
7. WEBCOR BUILDERS, INC., 06-R1D1-3030 THROUGH 3032

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. SYED A. HUSSAIN, INDIVIDUALLY DBA AL-AZHAR MARKET, 09-R3D2-2153 THROUGH 2155
2. SUPERB AUTO REPAIR & TIRE CENTER, 09-R2D1-9263
3. WPCS INTERNATIONAL SUISUN CITY, INC., 09-R1D3-9280 AND 9281

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 LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138

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3. AC FRAMERS INC., 03-R2D3-3475
4. AC TRANSIT, 08-R1D4-0135
5. ADVANCE DISPOSAL CO. & RECYCLING CENTER DBA BESTWAY DISPOSAL, 09-R3D3-9212
6. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
7. AHERN RENTALS, INC., 08-R1D4-3031
8. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
9. ANNING-JOHNSON COMPANY, 06-R1D3-1976
10. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
11. BART, 03-R1D1-5170
12. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
13. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
14. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
15. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
16. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
17. BURTON L. SILVA FARMS, 09-R1D2-1498
18. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
19. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
20. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
21. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
22. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
23. CITY OF POWAY, DEPARTMENT OF PUBLIC WORKS, 09-R3D2-2165 AND 2166
24. CLINE CELLARS, INC., 08-R1D5-2946

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25. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
26. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
27. CORE GENERAL CONTRACTOR, INC. DBA CORE BUILDERS, 08-R1D2-1379
28. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
29. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
30. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
31. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
32. DESIGN BUILDERS, INC., 08-R4D4-1901
33. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
34. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
35. DUKE PACIFIC, INC., 08-R3D3-574
36. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
37. DUININCK BROS., INC., 06-R4D3-2871
38. DYNALECTRIC, 03-R1D1-4101
39. E C U, INC., 09-R3D5-1094 AND 1095
40. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
41. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
42. EZ MIX, INC., 08-R4D3-1898
43. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
44. FORTUNA IRON WORKS 06-R2D3-4222
45. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
46. G.T. ALDERMAN, INC., 05-R4D3-3513
47. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784

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48. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
49. GLASS PAK, 03-R2D2-750 AND 751
50. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
51. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
52. HAMMOND POWER SOLUTIONS, INC., 09-R4D2-1124 AND 1125
53. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
54. HB PARKCO, 07-R4D2-1730 AND 1731
55. HELPMATES STAFFING SERVICES, 05-R3D3-2239
56. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
57. HERITAGE OPERATING, LP DBA PRO-FLAME, 09-R3D3-1067
58. THE HERRICK CORP., 07-R3D1-495
59. HUSSMAN CORPORATION, 03-R3D1-2939
60. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
61. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
62. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
63. JENSEN PRECAST, 05-R2D1-2377
64. JOHN LAING HOMES, 04-R3D1-194 AND 195
65. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
66. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
67. KELLY SERVICES, INC., 06-R1D2-1024
68. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
69. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
70. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844

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72. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
73. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
74. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
75. MARINE TERMINALS, 08-08-R6D2-1920
76. CARLOS MEZA AND ELIZABETH MEZA DBA CARLOS ON THE RIDGE, 08-R2D3-0696
77. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
78. MILLENIUM GENERATION, INC., 08-R4D3-5047
79. MITCHELL ENVIRONMENTAL CONCRETE, 09-R4D5-0147
80. NEW CREATION BUILDERS, 09-R3D1-1460
81. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
82. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
83. O & M INDUSTRIES, 04-R1D5-1597
84. OFFICE DEPOT, INC., 09-R3D1-1718
85. OLSON AND CO. STEEL, 09-R1D4-0876
86. PARKER-HANNIFIN CORPORATION, 08-R2D4-2508
87. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
88. POWER FREIGHT SYSTEMS, 06-R1D4-3347
89. PRIME STEEL, INC., 09-R3D6-1523
90. PROAM ENTERPRISES, INC., 09-R3D5-2027
91. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
92. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
93. R & L BROSAMER, INC., 03-R1D5-4832

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94. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
95. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
96. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
97. SOUTHWEST TRADERS, INC., 08-R2D4-0710 THROUGH 0712
98. STACY & WITBECK, INC., 05-R1D1-1142
99. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
100. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
101. SUNOPTA FRUIT GROUP, 09-R3D1-9245
102. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT
AGGREGATES, 04-R5D2-850 AND 851
103. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650
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104. TEICHERT AGGREGATES, 04-R5D1-2982
105. UGO, 09-R4D1-0819
106. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
107. UNITED PARCEL SERVICE, 07-R3D3-3322
108. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
109. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
110. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710
111. WINDMILL PROPANE, 08-R2D5-1217 AND 1218

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:

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1. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
2. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-00056381-CU-WM-NC (01-4344/4345)
3. JERLANE V DIVISION OF OCCUPATIONAL SAFETY AND HEALTH, 37-2009-00059323-CU-WM-NC (08-1733)
4. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
7. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
8. SOUTHERN CALIFORNIA EDISON COMPANY, BS 119297, LOS ANGELES SUPERIOR COURT (08-9062)
9. UNITED AIRLINES (SFO), 34-2009-80000256
10. XL CONSTRUCTION, SUPERIOR COURT (34-2009-80000300), 08-R1D2-1191 THROUGH 1193
11. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
12. WEBCOR CONSTRUCTION LP dba WEBCOR BUILDERS, 34-2009-80000384 (08-R1D2-2499 AND 2500)

PERSONNEL:

(Issues regarding staff.)

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