

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, February 2, 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: January 20, 2011

RE: Closed Session of the Board to be held on February 2, 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. CABINETS BY CHARRON, INC., 10-R6D2-0622 THROUGH 0628
2. McCARTHY BUILDING CO., INC., 09-R1D4-0841

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. 45TH DISTRICT AGRICULTURE ASSOCIATION DBA IMPERIAL VALLEY EXPO, 10-R3D2-2331
2. ALL AMERICAN ASPHALT, 10-R4D3-2455

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3. AMERICAN PALLETS WOOD PRODUCTS, INC., 10-R6D5-0326
4. ARMSTRONG GARDEN CENTERS, INC., 10-R3D3-3751 AND 3752
5. AT&T MOBILITY SERVICES LLC, 10-R2D1-0155
6. AYALA CORPORATION, 09-R2D5-3224 THROUGH 3226
7. BAVARIAN AUTO RECYCLING, INC., 08-R2D1-3487 AND 3488
8. BMKH, INC. DBA BLACK MOUNTAIN COLLISION, 10-R6D5-1940 THROUGH 1942
9. C & S WHOLESALE GROCERS, INC., 10-R2D1-0033
10. CA SCHROEDER, INC. DBA CASCO, 10-R6D2-2083 THROUGH 2087
11. CAPEDEVILLE, INC. DBA ADVANCED AUTO BODY, 10-R6D5-2475 AND 2476
12. CAPITAL REMOVAL, 09-R2D1-2243
13. COMPLETE CONCRETE, 10-R4D1-1606
14. CVS/PHARMACY, 10-R3D1-0166 AND 0167
15. D. F. STAUFFER BISCUIT CO., INC. DBA LAGUNA COOKIE CO., 10-R6D2-2754 THROUGH 2762
16. DNC PARKS & RESORTS AT TENAYA, INC. DBA TENAYA LODGE, 09-R2D4-2684
17. FIDDLER'S GREEN FARM, INC., 09-R2D1-3479
18. FOOTHILL OAKS CARE CENTER, INC., 09-R2D1-2760 AND 2761
19. FRANCISCO MACIAS LANDSCAPING, 10-R2D1-0156
20. HALLMARK METALS, 10-R6D2-2795 THROUGH 2797
21. HANSON PIPE & PRECAST LLC, 10-R3D3-2899
22. HCRD CONTRACTORS, INC., 09-R2D3-3766
23. HENKELS & McCOY, INC., 10-R3D3-3283

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24. HESPERIA RECREATION & PARK DISTRICT, 10-R3D3-3694
25. HESS CONTRACTING INCORPORATED, 10-R6D5-3046 THROUGH 3048
26. THOMAS EMERY HYDE DBA TOM E. HYDE CONSTRUCTION CO., 10-R6D5-3127 THROUGH 3130
27. J. LAHFDANY GENERAL CONTRACTOR, INC., 10-R4D2-2950
28. JAMES KIDDER PROPERTIES, 10-R2D1-0071 THROUGH 0073
29. K.D.C., INC. DBA DYNALECTRIC, 10-R3D1-2539
30. JOHN KAUTZ DBA JOHN KAUTZ FARMS, 10-R2D1-0074
31. KELLEHER CORPORATION, 10-R3D3-2942 AND 2943
32. KIRKLAND ENTERPRISES, INC., 08-R3D3-2803
33. L. A. COUNTY SHERIFF – MEN’S CENTRAL JAIL, 10-R4D1-0620
34. LABELLA KNITS FACTORY, INC., 10-R6D5-0588 THROUGH 0590
35. LABOR READY SOUTHWEST, INC., 10-R4D1-1856
36. LEHIGH SOUTHWEST CEMENT COMPANY, 10-R5D1-1307
37. LEHIGH SOUTHWEST CEMENT COMPANY, 10-R5D1-1740 AND 1741
38. LOWE’S HIW, INC. DBA LOWE’S #1933, 09-R2D1-3610
39. JOHN MANCEBO, 09-R2D5-0064 THROUGH 0067
40. JAMES V. McGRAIL DBA McGRAIL VINEYARDS & WINERY, 09-R1D4-3701 AND 3702
41. MMP SHEET METAL, INC., 10-R6D2-1932 THROUGH 1934
42. MOBILE EQUIPMENT COMPANY, 10-R4D3-2583 AND 2584
43. NATIONAL STEEL AND SHIP BUILDING CO., 10-R6D2-2645
44. OHSON PROPERTIES, INC., 10-R3D1-1730 and 10-R3D1-2961 AND 2962
45. PACHECO FARM LABOR SERVICES, 08-R2D2-4941

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46. PACIFIC COAST LANDSCAPE MANAGEMENT, INC., 09-R2D1-3764 AND 3765
47. PATTERSON CONSTRUCTION CORPORATION, 10-R6D5-2881 THROUGH 2883
48. ANTONIO / ALEXANDER PEREZ DBA UNLIMITED COLLISION REPAIR, 10-R6D7-0327
49. PORT OF OAKLAND, 09-R1D4-4099
50. PRISCILLA OF BOSTON, INC. DBA PRISCILLA OF BOSTON, INC. #614, 10-R1D1-2660
51. RIDDIO CONSTRUCTION CO., INC., 09-R2D1-3763
52. RODRIGUEZ FARM LABOR, 08-R2D5-4033 AND 4034
53. S. J. LOUIS CONSTRUCTION, INC., 10-R4D3-1701
54. S. J. LOUIS CONSTRUCTION, INC., 10-R4D3-1702 AND 1703
55. SERPA PACKAGING SOLUTIONS, 08-R2D5-3982 AND 3983
56. SULLY-MILLER CONTRACTING CO., 10-R4D2-2680
57. TANIMURA & ANTLE FRESH FOODS, INC., 09-R6D3-2371
58. TAPIA BROTHERS, INC., 09-R2D5-3930
59. TC CONSTRUCTION, INC., 10-R3D2-3401
60. TEAM TRUCK DISMANTLING, INC., 10-R3D3-2783 AND 2784
61. TORRES PALLETS, INC., 10-R6D5-0455 AND 0456
62. VALEW QUALITY TRUCK BODIES DBA VALEW WELDING & FAB., 10-R3D3-2721
63. VENOCO, INC., 08-R2D1-5094 THROUGH 5099
64. VERIZON, 10-R4D3-2235
65. WANNA LIFT SYSTEMS, 10-R4D1-1801
66. WASHINGTON UNIFIED SCHOOL DISTRICT, 09-R2D1-4198

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67. PATRICIA & RICHARD WILLIAMS DBA P.A. WILLIAMS WHOLESALE
NURSERY, 09-R2D1-4197

ORDER DISMISSING APPEAL:

1. CELTIC SCAFFOLDING, 09-R1D1-1496

ORDER DENYING LEAVE TO FILE LATE APPEAL:

1. MAGNOLIA FOUNDATION, INC. DBA MAGNOLIA SENIOR LIVING, 11-
R3D5-9001

PETITION 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. SZEMENYEI CONSTRUCTION, INC., 10-R3D1-0008

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

If the Appeals Board votes to deny a Petition for Reconsideration, the Legal Unit drafts a letter of denial to the petitioner. The draft correspondence is then reviewed and approved for signature or not approved for signature by the Board.

1. ALZATI BUILDING CORPORATION, 10-R6D5-9257
2. GONZO CONSTRUCTION, 09-R3D1-4279
3. MASCON, INC., 08-R2D1-4278 & 4279
4. STEVE MURRAY DBA MURRAY FAMILY FARMS, 10-R3D2-9262

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. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
2. AC TRANSIT, 08-R1D4-0135
3. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
4. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272

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5. ANNING-JOHNSON COMPANY, 06-R1D3-1976
6. BART, 03-R1D1-5170
7. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
8. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
9. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
10. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
11. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
12. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
13. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
14. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
15. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
16. COMMERCIAL METAL FORMING, 09-R3D1-1592
17. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
18. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
19. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
20. DESIGN BUILDERS, INC., 08-R4D4-1901
21. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
22. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
23. DUKE PACIFIC, INC., 08-R3D3-574
24. DUININCK BROS., INC., 06-R4D3-2871
25. DYNALECTRIC, 03-R1D1-4101
26. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS, 09-
R6D2-2325 THROUGH 2332

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27. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
28. EZ MIX, INC., 08-R4D3-1898
29. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
30. FORTUNA IRON WORKS 06-R2D3-4222
31. G.T. ALDERMAN, INC., 05-R4D3-3513
32. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
33. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
34. HB PARKCO, 07-R4D2-1730 AND 1731
35. THE HERRICK CORP., 07-R3D1-495
36. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
37. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
38. JENSEN PRECAST, 05-R2D1-2377
39. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
40. KELLY SERVICES, INC., 06-R1D2-1024
41. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
42. LA MINA CANTINA, 09-R2D5-0039
43. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
44. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
45. LION RAISINS, INC., 08-R2D5-2253 AND 2254
46. L N I CUSTOM MANUFACTURING, 10-R6D2-9154
47. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
48. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
49. MARINE TERMINALS, 08-08-R6D2-1920

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50. MARTIN J. SOLIS, DBA SOLIS FARM LABOR, 08-R2D1-3415
51. MELMARC PRODUCTS, INC., 09-R3D1-2878
52. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
53. MOOREFIELD CONSTRUCTION, INC., 10-R3D5-9207
54. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
55. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
56. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
57. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
58. POUK & STEINLE, INC., 09-R3D3-0491
59. R & L BROSAMER, INC., 03-R1D5-4832
60. RAMON ARANDA dba I & R PALLETS, 10-R6D5-9053
61. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
62. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
63. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
64. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
65. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
66. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
67. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
68. SMUD, 08-R2D1-4887 THROUGH 4889 (filed by DOSH)
69. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
70. STACY & WITBECK, INC., 05-R1D1-1142
71. SUNOPTA FRUIT GROUP, 09-R3D1-9245
72. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850

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73. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
74. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
75. UKIAH FORD-LINCOLN=MERCURY, INC., 06-R1D5-2256 AND 2557
76. UNITED PARCEL SERVICE, 07-R3D3-3322
77. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
78. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
79. 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)

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10. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
11. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
12. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
13. MISSION FLAVORS AND FRAGRANCE, INC., 34-2010-80000599 (05-R6D2-
1139)
14. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
15. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-
80000640 (08-R2D1-0027 THROUGH 0030)
16. EMERSON RUSSELL MAINTENANCE CO., RG-10543219 (08-R1D4-4167)
17. SMUD, 34-2010-80000723 (08-R2D1-4887)
18. CAL ENERGY OPERATING CORP., 34-2010-80000735 (09-R3D2-3675 & 3676)

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.