

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), and (e)**  
**for**  
**Wednesday, April 1, 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: March 20, 2009**

**RE: Closed Session of the Board on April 1, 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.

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**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. AVCA FIXTURE SYSTEMS DBA WHITTIER MILLWORK, 08-R6D2-2430 THROUGH 2433
2. CANNON CONSTRUCTORS, INC., 07-R1D1-2377 AND 2378
3. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
4. SPARK ART, INC. DBA SPARK CONSTRUCTION, 07-R1D1-1991 THROUGH 1993

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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. A & A READY MIXED CONCRETE, INC., 08-R4D1-4434 THROUGH 4437
2. ABACA CLEANERS, INC., 07-R2D3-5301 AND 5302
3. AIR PRODUCTS & CHEMICALS, INC., 08-R6D3-3869
4. AIS CONSTRUCTION, 08-R2D3-0388
5. STEVEN ALLEN individual DBA ALLEN PAINTING, 08-R2D3-0396 THROUGH 0398
6. ALTIMA CONTRACTING LIMITED, I NC., 08-R1D4-0880 THROUGH 0882
7. AMERASIA FURNITURE COMPONENTS MFG. & IMPORTS, INC., 08-R6D2-3554 THROUGH 3558
8. ARB, INC., 05-R5D3-1723 THROUGH 1726
9. ARMSTRONG GARDEN CENTERS, 08-R4D2-4266
10. ATE ENVIRONMENTAL, INC., 08-R3D5-1884 AND 1885
11. AZTLAN COLD STORAGE, 08-R4D2-2945 AND 08-R4D2-2739
12. BARR ENGINEERING, INC., 08-R3D1-1971 AND 1972
13. BAUPTISTA FARMS FLC., 07-R2D4-5319 THROUGH 5321
14. BEE WIRE & CABLE, INC., 08-R6D2-3314 THROUGH 3316
15. BHL INDUSTRIES, INC., 06-R4D2-2846 AND 2847
16. JOHN BONADELLE, JR. DBA BONADELLE HOMES, INC., 07-R2D5-5329 THROUGH 5332
17. BROWN PACIFIC, INC., 08-R6D2-3944
18. BUBS, 08-R2D1-5092 AND 5093

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19. BUILDERS CHOICE, INC., 07-R2D4-1150
20. BYCOR GENERAL CONTRACTORS, INC., 08-R6D5-3946
21. BYRNES & KIEFER CO., 08-R6D2-4307 THROUGH 4309
22. CA DEPARTMENT OF CORRECTIONS AND REHABILITATION, 07-R2D4-3661
23. CALIFORNIA SUN HARVESTING CO., LLC, 07-R2D1-4826 THROUGH 4828
24. CALOP BUSINESS SYSTEMS, INC. DBA CALOP AEROGROUND SERVICES, 08-R4D1-4370 AND 4371
25. JOHNNY CARDOZA CONSTRUCTION, 08-R2D5-1590 AND 1591
26. CARSON MECHANICAL, INC., 07-R2D1-5025
27. ROGER CARUSO ENTERPRISES, INC. DBA CENTURY PALLETS, 08-R6D2-3162 THROUGH 3167
28. MICHAEL EUGENE CASEY DBA MC EXCAVATING, INC., 08-R4D2-4527
29. CEDAR AVENUE RECYCLING AND TRANSFER STATION, 07-R2D5-3954 THROUGH 3956
30. CHICO PRODUCE, INC. DBA DURHAM-PENTZ TRUCK CENTER DBA PRO PACIFIC FRESH, 07-R2D3-4227
31. CHOCOLATES A LA CARTE, INC., 08-R4D3-1014 AND 09-R4D3-0794 and 0795
32. CIVITAF CONSTRUCTION AND DEVELOPMENT, 08-R1D2-1563 AND 1564
33. COMMERCIAL OPENINGS, INC., 08-R3D2-3509 AND 3510
34. CONDOMINIUM CONSTRUCTION SERVICES, INC., DBA CCS, 08-R4D2-1630 AND 1631
35. CONSUMNES COMMUNITY SERVICES DISTRICT, 08-R2D1-0387
36. CONTRACTORS WARDROBE, 08-R4D3-1359 THROUGH 1361
37. CROWN DISPOSAL CO., INC., 08-R6D2-2995
38. DAVIS WIRE CORPORATION, 08-R4D4-2054

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39. DOLE PACKAGED FROZEN FOOD, INC., 07-R2D4-0492
40. ELLIOTT AIR SYSTEMS, INC., 08-R1D4-0965
41. WILBUR ELLIS, INC. DBA HUGHSON CHEMICAL COMPANY, 07-R2D4-4664 THROUGH 4668
42. ENGEL HOLDINGS, INC., DBA CABRILLO HOIST, 03-R1D1-4811 AND 4812
43. ENGINEERED FRAMING SYSTEMS, INC DBA EFS, INC., 08-R4D4-1910
44. ENXCO, 08-R2D5-0814
45. ESPARZA ENTERPRISES, INC., 07-R2D5-1540
46. FAMILY TREE FARMS, 08-R6D3-4855 THROUGH 4858
47. FOODS CO., 08-R2D5-0296 AND 0297
48. FORTUNE FASHIONS INDUSTRIES, 08-R4D2-3988
49. FRESNO VALVE & CASTING, 07-R2D5-5327
50. FUJITECH AMERICA, INC., 08-R4D1-1420
51. G & I ISLAS INDUSTRIES, INC., 08-R6D2-3848
52. LARRY BARTH GORMAN DBA FLASH FLOOD WATER TRUCKS, 07-R3D3-1052 THROUGH 1054
53. GRAND BUILDERS, 08-R4D3-1635 AND 1636
54. JOE HEIDRICK ENTERPRISES, INC., 07-R2D3-3656
55. HEMET UNIFIED SCHOOL DISTRICT, 08-R3D3-1875
56. HNR FRAMING DBA SELECT BUILD, 08-R3D2-3696
57. HOYT-SHEPSTON, INC., 08-R1D4-1297
58. HUFFMAN WEST CONSTRUCTION – CALIFORNIA, INC., 08-R1D4-3688
59. INVESTMENT IN ACTION, INC. DBA HUB CITY PALLET CO., 08-R6D2-2457 THROUGH 2463

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60. J. & T. TREE COMPANY, 08-R4D1-4795
61. KAISER PERMANENTE CAPITOL PROJECTS, 08-R4D1-4629 AND 4630
62. KELLEY BUILDING CO., INC., 08-R6D2-3968 THROUGH 3972
63. KEY ENERGY SERVICES, 08-R6D4-2815
64. KIEWIT PACIFIC COMPANY, 08-R5D1-1243 AND 1244
65. KIEWIT PACIFIC COMPANY, 08-R5D1-1770 AND 1771
66. KIEWIT PACIFIC COMPANY, 08-R5D1-2341
67. CHARLES KING CO., 08-R3D5-1883 AND 08-R3D5-2583
68. KULHANEK CONSTRUCTION, 08-R4D1-4526
69. LA CITY SOLID RESOURCES PROCESSING & CONST. DIV., 08-R4D3-2809  
THROUGH 2812
70. LANDWIN MANAGEMENT, INC., 08-R4D2-3434 AND 3435
71. LAVOIE & SONS CONSTRUCTION, 08-R2D1-0389
72. A. LEFEVRE GENERAL CONTRACTOR, 09-R2D3-0905
73. LOS ANGELES WORLD AIRPORTS, 09-R4D1-0453
74. MADRID SANTA FE TRADING, INC., 07-R2D1-5000 THROUGH 5002
75. MANN PACKING CO., INC., 08-R1D2-1565 AND 1566
76. MATRIX ENVIRONMENTAL, INC., 08-R4D1-4524 AND 4525
77. MESA CONTRACTING CORPORATION, 08-R3D3-0742 AND 0743
78. MONTEREY BAY MARINE, 08-R1D2-1567 THROUGH 1570
79. MORGAN TIRE AND AUTO, INC. DBA TIRES PLUS, INC., 07-R2D1-4331 AND  
4332
80. MOUNTAIN POWER CONSTRUCTION, 06-R1D5-1511
81. NATIONAL GYPSUM COMPANY, 08-R3D5-1617 AND 1618

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82. NATIONAL STEEL & SHIPBUILDING COMPANY, 08-R6D2-1673
83. NATIONAL STEEL & SHIPBUILDING COMPANY, 08-R6D2-2726
84. NATURE QUALITY, 07-R1D2-548
85. NONG SHIM HOLDINGS USA DBA NONG SHIM FOODS, INC., 08-R6D2-4336 THROUGH 4339
86. OAK HARBOR FREIGHT LINES, INC. TERMINAL #025, 08-R2D1-0031 AND 0032
87. JOHN F. OTTO, INC., 08-R2D1-1135
88. PACIFIC ETHANOL, INC., 08-R6D3-1679 AND 1680
89. PACIFIC MATERIAL HANDLING SOLUTIONS, INC., 08-R1D4-1699 AND 1700
90. PACIFIC MOLDING, INC., 08-R6D2-3364 THROUGH 3367
91. PACIFIC SCIENTIFIC ENERGETIC MATERIALS COMPANY, 08-R6D3-1796
92. PCL CONSTRUCTION SERVICES, INC., 08-R3D2-3507 AND 3508
93. PROFESSIONAL TREE SERVICES, 07-R2D3-4082
94. RAYMOND, JAMES & THERESA TALBOTT individually DBA TALBOTT SHEEP CO., 08-R2D3-0289
95. R D CONSTRUCTION DBA C R D GENERAL CONSTRUCTION, 08-R4D1-3903 THROUGH 3906
96. R D E CO., INC., 08-R6D5-3116 THROUGH 3119
97. REDLANDS, UNIVERSITY OF, 08-R3D3-5181
98. REY-CREST ROOFING & WATERPROOFING CO., 08-R4D2-4438 AND 4439
99. SCENIC DRIVE-IN, 08-R6D5-2902
100. STEVE SCHMITZ individual DBA A GENERAL ENGINEERING, 08-R2D3-0552
101. SEA LEVEL BUILDERS, 08-R3D2-1868 THROUGH 1870
102. S.S.K. PRODUCE, INC., 08-R4D1-4330 THROUGH 4332

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103. S. STAMOULES, INC. DBA STAMOULES PRODUCE CO., INC. 08-R6D5-3462

104. STANDARD STRUCTURES, INC., 08-R1D5-1573 THROUGH 1575

105. TABER CONSTRUCTION, INC., 08-R1D4-1697 AND 1698

106. TAPIA FARM LABOR SERVICE, 08-R6D5-2971 AND 2972

107. TAYLOR FARMS, INC., 08-R1D2-0366 THROUGH 0368

108. TEST LABORATORIES, INC., DBA BREWSTER FOODS, 08-R6D2-4402  
THROUGH 4408

109. UNGER CONSTRUCTION CO., 07-R2D1-3547 THROUGH 3549

110. UNITED AIRLINES, 07-R1D3-2884

111. UNIVERSAL CINEMA SERVICES, INC., 08-R2D2-4942 AND 4943

112. VACA VALLEY ROOFING DBA OLD COUNTRY ROOFING, 08-R2D2-0897

113. VIGNOLO FARMS, 08-R6D2-3231

114. VISTA UNIFIED SCHOOL DISTRICT, 08-R3D2-3695

115. VISTAR CORPORATION DBA VISTAR OF ONTARIO, 08-R3D2-2385

116. WALARD ENTERPRISES, INC. DBA B W ENTERPRISES, 08-R6D2-3868

117. WASTE MANAGEMENT OF CALIFORNIA, INC., 08-R4D1-4559

118. WESTERN ENGINEERING CONTRACTORS, INC., 08-R2D1-5102

119. WHILLOCK CONTRACTING, INC., 08-R3D2-3511 AND 3512

120. WHISPERING MEADOWS, 08-R2D5-0294 AND 0295

**ORDERS DISMISSING APPEALS:**

1. ALAMITOS ASSOCIATES, LLC, 08-R3D5-9466

2. BYONG SEOK CHOI DBA ALLSTATE WATERPROOFING, 08-R4D2-9467

3. GENERAL ELECTRIC OSMONICS., INC., 08-R3D2-9465

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4. PHIL LONG PLASTERING, INC., 08-R6D5-9470
5. NAHID YOUSSEF ZAILEA DBA STAR CAR WASH, 08-R6D5-9468
6. PLEASANT CARE CORPORATION DBA CYPRESS ACRES CONVALESCENT HOSPITAL, 07-R2D3-4085
7. REAL EQUITY DEVELOPMENT, INC., 07-R2D4-4129 AND 4130
8. ROSS PALLETS, INC., 08-R6D5-9469
9. ZORIA FARMS, 05-R2D5-2810

**ORDERS GRANTING APPEALS**

1. DAVID VENTURA CONCRETE AND MASONRY, 08-R3D1-2952 THROUGH 2954

**STIPULATIONS**

1. COMMERCE CASINO, 06-R4D2-4977 AND 5089
2. NAUTICAL ENGINEERING, INC., 06-R6D1-4869

**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. AC TRANSIT, 08-R1D4-0135
2. VERNON MELVIN ANTONSEN AND COLLEEN K. ANTONSEN, individually and DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272 AND 1273
3. JERLANE, INC. DBA COMMERCIAL BOX & PALLET, 08-R3D2-1733
4. KINDER MORGAN ENERGY PARTNERS, L.P., 05-R5D1-2013 AND 2014
5. NIBBI BROTHERS ASSOCIATION, INC., 07-R1D1-2494
6. PCC LOGISTICS, 09-R1D4-9059
7. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655

**DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS)**

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1. BIMBO BAKERIES, U.S.A., 05-R6D2-0856 AND 0857
2. PARKCO CONSTRUCTION, INC., 07-R4D2-1730 AND 1731
3. KIEWIT/FCI/MANSON (KFM), A JOINT VENTURE, 06-R1D4 2452 AND 2453
4. SCIENCE APPLICATIONS INTERNATIONAL CORPORATION (SAIC), 03-R3D2-2201

**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. AC FRAMERS INC., 03-R2D3-3475
3. AMERICAN REMEDIAL TECHNOLOGIES, 08-R4D2-3154 THROUGH 3156
4. AMISH COUNTY GAZEBOS, INC., 08-R6D2-227
5. ASC PROFILES, INC., 06-R2D1-1181
6. ANNING-JOHNSON COMPANY, 06-R1D3-1976
7. BART, 03-R1D1-5170
8. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
9. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
10. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
11. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
12. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
13. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
14. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
15. CALIFORNIA FRESH FARMS, 06-R2D4-4127

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16. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
17. COLES CARBIDE CORPORATION, 08-R4D3-2012 THROUGH 2014
18. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
19. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
20. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
21. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
22. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
23. DUKE PACIFIC, INC., 08-R3D3-574
24. DYNALECTRIC, 03-R1D1-4101
25. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
26. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
27. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
28. FORTUNA IRON WORKS 06-R2D3-4222
29. G.T. ALDERMAN, INC., 05-R4D3-3513
30. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
31. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
32. GLASS PAK, 03-R2D2-750 AND 751
33. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
34. HELPMATES STAFFING SERVICES, 05-R3D3-2239
35. THE HERRICK CORP., 07-R3D1-495
36. HUSSMAN CORPORATION, 03-R3D1-2939
37. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
38. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456

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39. JENSEN PRECAST, 05-R2D1-2377
40. JOHN LAING HOMES, 04-R3D1-194 AND 195
41. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
42. KELLY SERVICES, INC., 06-R1D2-1024
43. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
44. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
45. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
46. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
47. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
48. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552  
THROUGH 1554
49. O & M INDUSTRIES, 04-R1D5-1597
50. PMR RACE CARS, 03-R3D3-1825
51. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
52. R & L BROSAMER, INC., 03-R1D5-4832
53. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
54. STACY & WITBECK, INC., 05-R1D1-1142
55. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688  
THROUGH 1692
56. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
57. A. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT  
AGGREGATES, 04-R5D2-850 AND 851
58. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650  
AND 2651
56. A. TEICHERT AGGREGATES, 04-R5D1-2982

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57. TRIO METAL, 03-R4D4-317
58. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
59. UNITED AIRLINES DBA UNITED AIRLINES SFO SYC, 00-R1D3-2844
60. UNITED PARCEL SERVICE, 07-R3D3-3322
61. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
62. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

**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. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
2. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
3. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
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. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (06-2759)
8. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
9. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)

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10. MENDOTA UNIFIED SCHOOL DISTRICT, 08-CE CG 04 324 (07-3572)
11. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
12. INTERNATIONAL TRANSPORTATION SERVICE (07-3824)
13. UNITED AIRLINES, 07CS00331 (00-2844)
14. SOUTHERN CALIFORNIA EDISON COMPANY v CALIFORNIA  
OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD, BS 119297, LOS  
ANGELES SUPERIOR COURT (08-9062)

**APPELLATE COURT:**

1. MURRAY COMPANY, BS112469
2. HARRIS CONSTRUCTION COMPANY, INC. 07CS00518 (02-3914)

**PERSONNEL (*Issues regarding staff.*)**

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