

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, March 20, 2013
9:30 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 8, 2013

RE: Closed Session of the Board to be held on March 20, 2013

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any item not resolved in this meeting will be continued to subsequent meetings as indicated in the minutes.

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. ANDREW M. MARTIN COMPANY, 11-R4D1-3119 THROUGH 3122
2. CRAIN WALNUT SHELLING INC., 12-R2D3-0600
3. MOROSO CONSTRUCTION, INC., 12-R6D7-1585
4. NORTH STATE GROCERY INC. DBA HOLIDAY QUALITY FOODS,
11-R2D1-0950 AND 0951

PETITIONS FOR RECONSIDERATION

1. GUARDSMARK, LLC, 12-R3D1-0056
2. MID-COAST BUILDERS SUPPLY, INC. DBA NEW MCB, INC., 2011-R4D3-2780

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DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. BIG LOTS #4038, 11-R3D2-1929 THROUGH 1931

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

1. A-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592
2. AC TRANSIT, 08-R1D4-0135
3. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
4. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
5. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
6. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241
7. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445 AND 3448
8. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
9. CALIFORNIA ERECTORS, INC., 10-R1D2-2772 THROUGH 2775
10. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
11. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
12. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
13. COMMERCIAL METAL FORMING, 09-R3D1-1592
14. COMMUNITY RECONSTRUCTION SOLUTIONS, INC., 11-R1D1-1484
15. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
16. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
17. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
18. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362

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19. EZ MIX, INC., 08-R4D3-1898
20. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
21. HARRIS CONSTRUCTION, 03-R2D5-3914
22. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
23. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
24. IRWIN INDUSTRIES, 08-R6D4-1454
25. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
26. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
27. LFP VIDEO GROUP LLC DBA HUSTLER VIDEO, 11-R6D2-0966 ~ 0968
28. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
29. LION RAISINS, INC., 08-R2D5-2253 AND 2254
30. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
31. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
32. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
33. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
34. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
35. ORANGE COUNTY FIRE AUTHORITY, 12-R3D1-0364
36. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
37. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
38. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
39. PERSONNEL PLUS, INC., 11-R3D5-1302
40. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048

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41. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
42. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
43. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
44. SIERRA FOREST PRODUCTS, 09-R2D5-3979
45. SMUD, 08-R2D1-4887 THROUGH 4889
46. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
47. SOUTHERN CALIFORNIA EDISON CO., 12-R3D3-0499
48. SOUTHLAND-TUTOR-PERINI JOINT VENTURE, 11-R5D1-3248
49. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
50. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
51. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
52. TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

ORDERS DISMISSING APPEAL:

1. JOE PURCELL DBA JOE'S TREE SERVICE, 12-R2D2-2036
2. WALLDESIGN, INC., 12-R2D1-0938 AND 0939

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

1. COUNTY OF RIVERSIDE – ANIMAL CONTROL SERVICES, 13-R3D3-0486
2. LAMPSON VILLAGE APARTMENTS, 13-R3D1-0487 THROUGH 0491
3. OAKVILLE PRODUCE PARTNERS, LLC DBA GREENLEAF, 13-R1D1-0485

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ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. CUSTOM AIR TRUCKING, INC., 13-R6D2-9023
2. NORTHWOOD DESIGN PARTNERS, INC., 13-R1D4-9021
3. JERRY'S TREE SERVICE A PARTNERSHIP, 13-R1D5-9022

LEGISLATION:

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. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
2. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
3. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
4. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-80006047 (07-R5D1-3611)
5. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
6. SMUD, 34-2010-80000723 (08-R2D1-4887)
7. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
8. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
9. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)
10. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459 THROUGH 2461)
11. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)

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12. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)
13. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039
(07-R2D3-0275)
14. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
15. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
16. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
17. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
18. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)
19. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219
AND 0220)
20. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
21. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258
(05-R2D4-2650 AND 2651)
22. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
23. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
24. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
25. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
26. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
27. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332
(09-R4D5-0459 & 0460)
28. A. TEICHERT & SON, DBA TEICHERT AGGREGATES, RG12 659881
(10-R5D1-3029)
29. HOME DEPOT USA, INC., BS141301 (10-3284)
30. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
31. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00628178 (10-3667)

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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. AMERICANA UNITED BUILDERS CORP., 12-R4D3-1610
2. ANDAZ WEST HOLLYWOOD, 11-R4D1-1512 AND 1513
3. ANDERSON ENTERPRISES, INC. DBA ROYAL MOTOR SALES, 12-R1D1-3628
4. BETTS EXPRESS, 12-R4D3-3015
5. BOBO CONSTRUCTION, INC., 12-R2D1-3708
6. BOGGS EQUIPMENT & ENGINEERING, 11-R2D3-1643 THROUGH 1645
7. BNBT BUILDERS DBA BNBUILDERS, INC., 12-R1D1-1521 AND 1522
8. BRIGGS ELECTRIC, 12-R3D6-1357 AND 1358
9. B T MANCINI, 10-R1D2-2661 AND 2664
10. CITY OF ALAMEDA POLICE DEPARTMENT, 12-R1D4-3707
11. CITY OF ALAMEDA FIRE DEPARTMENT, 12-R1D4-3706
12. CONCEPT COATING, 12-R2D4-1386 THROUGH 1389
13. EICHLEAY ENGINEERS INC. OF CALIFORNIA, 12-R5D3-1037
14. EMMETT'S EXCAVATION, INC., 11-R2D5-3086
15. ENSIGN UNITED STATES DRILLING (CALIFORNIA) INC., 12-R4D7-3798
16. ESPARZA ENTERPRISES, INC., 12-R6D5-2013
17. FOODPHARMA, 12-R6D2-2484 AND 2485
18. FOODPHARMA, 12-R6D2-2603 THROUGH 2609
19. GLANBIA NUTRITIONALS (NA), INC., 12-R3D2-1172 AND 1173

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20. JOSE THOMAS HERNANDEZ DBA THOMAS ROOFING, 11-R2D1-1192
21. HILL PHOENIX INC. DBA HILL PHOENIX WALK-INS, 12-R3D6-1572 AND 12-R3D6-1790
22. HYATT REGENCY CENTURY PLAZA, 11-R4D1-1743
23. IN-HOUSE CUSTOM DECALS, 12-R3D6-1607 AND 1608
24. JEFFREY LAY CUSTOM PAINTING, INC., 12-R4D3-1226
25. DAVID A KUTTLER DBA KUTTLER TREE SERVICE, 11-R2D1-2766 THROUGH 2769
26. LEAL VINEYARDS, INC., 12-R6D1-2245
27. MARQUEZ BROTHERS INTERNATIONAL, INC., 12-R2D5-0271 THROUGH 0273
28. MERIDIAN MANAGEMENT GROUP, 12-R1D1-1376 THROUGH 1378
29. MICHELS CORPORATION, 12-R2D2-2226
30. MID-STATE BUILDERS, INC., 12-R2D1-0854 AND 0855
31. NEW CENTURY INDUSTRIES, INC., 12-R3D6-1605 AND 1606
32. NORTH KERN WATER STORAGE DISTRICT, 12-R4D6-2407
33. NUMATECH WEST (KMP) LLC, 12-R3D6-1537 AND 1538
34. PRECAST INOVATIONS, INC., 12-R3D1-1990
35. P.W. STEPHENS ENVIRONMENTAL, INC., 12-R1D5-2147 AND 2148
36. SYNERGY PROJECT MANAGEMENT, INC., 12-R1D1-2314
37. SUNLAND WOOD PRODUCTS, 12-R6D2-2520 AND 2521
38. SUNLAND WOOD PRODUCTS, 12-R6D2-2522 THROUGH 2531

PERSONNEL: *(Issues regarding staff.)*

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