

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, May 28, 2014
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: May 16, 2014

RE: Closed Session of the Board to be held on May 28, 2014

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 matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

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. SCHINDLER ELEVATOR CORPORATION, 12-R3D2-2916 AND 2917

PETITIONS FOR RECONSIDERATION:

1. HONEYBAKED HAMS, 13-R3D1-0941
2. ROSENDIN ELECTRIC, INC., 12-R2D1-3028
3. SPRECKLES SUGAR CO., INC., 13-R3D2-0945 THROUGH 0947

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. BHC FREMONT HOSPITAL, INC., 13-R1D2-0204
2. FRANK M BOOTH, INC., 12-R2D3-0601

3. IRWIN INDUSTRIES, 12-R4D3-3276 AND 3277

4. OC TURF AND PUTTING GREENS, 13-R3D2-1751

ORDERS DISMISSING APPEAL:

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

1. STAMOULES PRODUCE COMPANY, 14-R2D5-1524 AND 1525

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

AMENDED ORDER:

1. HENKEL CORPORATION, 13-R2D2-1386 AND 1387

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.)

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. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786

2. JAMES BALDWIN DBA LYON'S MUFFLER & BRAKE, 14-R6D5-9019

3. BELLINGHAM MARINE INDUSTRIES, 2012-R2D2-3144 THROUGH 3146

4. BRAD STONER PAINTING, INC., 13-R3D2-9200

5. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563

6. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186

7. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For MAY 28, 2014

Page 3

8. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
9. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
10. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
11. DISH NETWORK CAL. SVC. CORP., 12-R4D3-0455
12. FERMA CORPORATION, 12-R2D2-1669
13. GMAC ELECTRIC, INC., 13-R6D5-9138
14. HARRIS CONSTRUCTION, 03-R2D5-3914
15. HHS CONSTRUCTION, 12-R3D2-0492-0497
16. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
17. KELLY GLOBAL LOGISTICS, INC., 12-R3D5-0014
18. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
19. LABOR READY, 13-R3D2-0164
20. LA VALENCIA HOTEL, 2013-R3D2-9199
21. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
22. LYON'S MUFFER & BRAKE, 14-R6D5-9019
23. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
24. MARIA DE LOS ANGELES COLUNGA DBA MERCED FARM LABOR,
08-R2D1-3093 THROUGH 3098
25. MARCO RUFO DBA MARCO RUFO, 13-R6D5-9217
26. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
27. MCCARTHY BUILDING CO., INC., 12-R1D4-3458
28. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
29. MORROW MEADOWS CORP., 09-R3D3-2295

30. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
31. NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186
32. O.C. JONES AND SONS, INC. 13-R2D2-0310
33. ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637
34. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
35. JIM PARKER, 2014-R4D1-9009
36. PERSONNEL PLUS, INC., 11-R3D5-1302
37. ROEBBELEN CONTRACTING, INC., 12-R2D2-3248
38. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
39. ROSENDIN ELECTRIC, INC., 12-R2D1-3028 (Board Order of Recon)
40. SIERRA FOREST PRODUCTS, 09-R2D5-3979
41. SONIC DRIVE-IN, 12-R2D5-2734
42. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
43. STARBUCKS DBA STARBUCK'S COFFEE #5867, 12-R3D2-3675
THROUGH 3678
44. TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310
45. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 AND 0097
46. TREASURE ISLAND MEDIA, INC., 2010-R6D1-1093 THROUGH 1095
47. VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674

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. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
2. SMUD, 34-2010-80000723 (08-R2D1-4887)
3. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-8000820 (03-R1D1-5170)
4. MASCON, INC., 34-2011-80000819 (08-R2D1-4278 AND 4279)
5. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)
6. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459 THROUGH 2461)
7. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
8. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
9. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
10. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
11. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
12. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
13. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
14. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
15. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
16. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
17. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
18. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

For MAY 28, 2014

Page 6

19. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
20. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
21. HOME DEPOT USA, INC., BS141301 (10-3284)
22. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
23. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00628178 (10-3667)
24. THYSSENKRUPP ELEVATOR CORP., 34-2013-80001456 (11-2217 ~ 2219)
25. BIG LOTS STORES, INC., 37-2013-00045936 (11-R3D2-1929 ~ 1931)
26. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)
27. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00652023 (12-0439)
28. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00651875 (12-0440)
29. AC TRANSIT, RG13687314 (08-R1D4-0135)
30. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
31. BAY AREA RAPID TRANSIT DISTRICT, RG13689346 (09-R2D2-1219 & 1221)
32. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)
33. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
34. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
35. SHIMMICK-OBAYASHI, 34-2014-80001750 (2008-R3D3-5023 THROUGH 5025)
36. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
37. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056 THROUGH 3058) (DOSH)
38. LAND O'LAKES PURINA FEED, LLC, RG14715717 (08-R2D4-1843 AND 1844) (DOSH)

39. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH 3058) (3rd Party)
40. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)

APPELLATE COURT:

1. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, C075477, 34- 2011-80000640 (08-R2D1-0027 THROUGH 0030)
2. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
3. SHERWOOD MECHANICAL, INC., D065322, 37-2012-00101466 (08-R3D2-4690 ~ 4693)

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. ABC STUDIOS AKA CASTLE/ABC STUDIOS, 13-R4D1-2290 AND 2291
2. A.B.P. / ALL BAY PLUMBING, INC., 14-R2D4-0560 AND 0561
3. ADECCO STAFFING, 14-R2D4-0940
4. ADVANCED FRAMING STRUCTURES, INC., 14-R3D3-0212 THROUGH 0214
5. AGRO-JAL COOLING, INC., 13-R6D5-3498
6. ALARCON CUSTOM PAINTING, 13-R3D3-3428 AND 3429
7. ALL METALS PROCESSING OF ORANGE COUNTY INC., 13-R3D1-1028 AND 1029
8. AMERICAN CONTRACTING & PAINTING, 13-R3D3-2486 AND 2487
9. MARTIN GARCIA AVALOS DBA MARTIN FARMS, 13-R3D3-2939 THROUGH 2941
10. BARRAGON BROTHERS COMMISSARY DBA EL RANCHERO

COMMISSARY, 14-R2D2-1571 AND 1572

11. BC BLASTING INC., 13-R2D1-2930 AND 2931
12. BIG SLEEP FUTON, INC., 14-R6D2-0631 THROUGH 0633
13. BODEGA LATINA DBA EL SUPER, 13-R3D5-3323
14. BURKE ROOFING INC., 13-R2D3-3642 AND 3643
15. CA CORRECTIONS – CORCORAN, 13-R2D5-2724
16. CA CORRECTIONS & REHAB IRONWOOD STATE PRISON, 13-R3D3-2635
17. CA CORRECTIONS – PLEASANT VALLEY STATE PRISON, 14-R2D5-0334
18. CALIFORNIA THEAMING INC., 14-R6D2-0825 THROUGH 0834
19. CERTIFIED CONCRETE INC – CCI, 13-R3D2-2662 AND 2663
20. CEVA LOGISTICS, INC., 13-R3D5-2045
21. COCA COLA REFRESHMENTS, 13-R3D1-3085
22. CORONA NORCO USD MCKINLEY ELEMENTARY SCHOOL, 14-R3D3-1315
23. COUNTY OF LA DEPT OF AUDITOR CONTROLLER, 13-R3D5-2088
24. COUNTY OF LOS ANGELES SANITATION DISTRICT, 13-R3D5-2046
AND 2047
25. COUNTY OF SAN BERNARDINO SHERIFF DEPT., 14-R3D3-0375
26. CUNDIFF STEEL FABRICATING & ERECTING, 13-R3D1-2659 THROUGH 2661
27. DIANA'S MEXICAN FOOD PRODUCTS, INC., 13-R4D4-1925
28. DLS INTERNATIONAL SERVICE, LLC., 13-R6D5-3456 AND 3457
29. DON LEE FARMS, 13-R4D1-1410 THROUGH 1412
30. DYK INCORPORATED DBA D N TANKS, 13-R1D4-2535
31. DUPONT DISPLAYS, INC., 13-R4D3-3715 AND 3716

32. EAST NORTH FARMS, LLC., 14-R4D7-0786 THROUGH 0789
33. ENOPLASTIC USA, INC., 14-R2D2-1525 AND 1526
34. EXETER-IVANHOE CITRUS ASSOCIATION, 14-R6D1-0042 THROUGH 0045
35. FISHER TRUCKING, INC., 13-R3D1-2113
36. FLEXCO INC., 14-R6D2-0820 THROUGH 0824
37. FRYMER DEVELOPMENT, INC., 12-R4D1-3720
38. FUTURE FOAM INC., DBA FOAM CRAFT, INC., 13-R3D1-3121
THROUGH 3123
39. GKN AEROSPACE TRANSPARENCY SYSTEMS, INC., 13-R3D1-3162
THROUGH 3170
40. HARIK CONSTRUCTION, INC., 13-R4D4-0141
41. HELIO POWER, 14-R3D3-0872 AND 0873
42. HENKEL CORPORATION, 13-R2D2-1386 AND 1387
43. INCAST ASSET MANAGMENET, INC., DBA ONMIDUCT SYSTEMS,
14-R3D1-0276 AND 0277
44. JAMES G. GARCIA, INC., 13-R3D3-2196
45. JELLO CONTAINER INC., 13-R3D1-0937 THROUGH 0939
46. KOCHHENBAGNER BREWING CO. DBA STONE BREWING CO.,
14-R3D2-0424 THROUGH 0425
47. KS INDUSTRIES, LP, 13-R4D7-3883 THROUGH 3885
48. LACCD EAST LOS ANGELES COLLEGE, 13-R4D1-3147 THROUGH 3149
49. L.A. CITY FIRE, 13-R4D1-1142
50. LA FOLLETTE ENTERPRISES, 14-R2D4-0965
51. LAIRD MFG., 13-R2D4-3070

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For MAY 28, 2014

Page 10

52. RENE P LEON DBA MD AUTO BODY & REPAIR, 14-R6D7-1151
THROUGH 1153
53. MANITOWOC BEVERAGE SYSTEMS DBA KYEES ALUMINUM,
14-R6D2-1228
54. MATRIX H G INC., 13-R1D4-2312 AND 2313
55. MCM CONSTRUCTION, INC., 13-R3D5-1650
56. MERCED UNION HIGH SCHOOL DIST DBA MERCED HIGH SCHOOL,
14-R2D4-1219
57. MONDRIAN HOTEL, 13-R4D1-1841
58. NAUME'S INC., 12-R2D1-3026 AND 3027
59. NISSIN FOODS (USA) CO., INC., 13-R3D5-2553
60. NOR-CAL SCAFFOLDING, INC., 13-R1D1-2500 AND 2501
61. NORDBY WINE CAVES, 14-R5D1-1324
62. OFFICE CHAIRS INC., DBA OCI/SITWELL, 13-R4D4-0619 AND 0620
63. PAR ELECTRICAL CONTRACTORS, INC., 13-R3D2-1224
64. PARKER PALM SPRINGS, 13-R3D3-3682
65. PATRIOT ENVIRONMENTAL SERVICES, INC., 13-R3D3-1225
66. PHILLIPS 66 COMPANY DBA: PHILLIPS 66, 13-R6D4-2090
67. REFRIGERATION HARDWARE SUPPLY CORP, 14-R6D2-0583 THROUGH 0585
68. ROBERT CLAPPER CONSTRUCTION SERVICES, 13-R3D5-1912 AND 1913
69. BRIAN P SAETERN DBA BT FARMS, 13-R6D7-2517
70. SAFEWAY SERVICES LP., 13-R4D1-3053
71. SARONI FOOD SERVICE DBA SARONI FOOD SERVICES, 14-R6D1-0441
AND 0442

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD

CLOSED SESSION MEMORANDUM

For MAY 28, 2014

Page 11

72. OLEN & SANDY SELF DBA OASIS SALOON & GRILL, 13-R6D7-0388
73. S & R FARM LABOR CONTRACTOR, 11-R3D3-0020 AND 0021
74. SUN PACIFIC FARMING COOPERATIVE, INC., 13-R4D7-3753 THROUGH 3755
75. STRONG, INC., 13-R4D1-3806
76. SILHOUETTE CLOTHING INC., DBA LOVE D SHOES, 14-R3D1-0562
AND 0563
77. TANIMURA & ANTLE FRESH FOODS, INC., 13-R1D2-3889
78. TERRA NOVA RANCH, 12-R2D5-3492 AND 3493
79. THE BOEING COMPANY, 14-R3D5-1036
80. TIKI LODGE, 14-R2D4-1154 THROUGH 1158
81. TONY PARKER GENERAL BUILDERS, INC., 13-R6D5-2432 THROUGH 2434
82. TRANSFIELD SERVICES AMERICA RESOURCES & ENERGY, 13-R6D3-3041
AND 3042
83. TRI-STAR DYEING AND FINISHING, INC., 13-R4D4-1226 AND 1227
84. UTC AEROSPACE SYSTEMS DBA ROHR, INC., 14-R3D3-1250 AND 1251
85. WALKER FOODS, INC., 12-R4D1-3435
86. WALKER FOODS, 12-R4D1-3436
87. WALLBOARD TOOL CO., INC., 14-R6D2-1129 THROUGH 1133
88. WIRE TECH, INC., 13-R6D2-1159 AND 1160
89. WISE ELECTRIC & COMMUNICATIONS, INC., 13-R4D7-3240
90. WORLD KITCHEN LLC., 13-R3D3-3904 AND 3905

PERSONNEL: (Issues regarding staff.)

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.