

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, June 12, 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: May 29, 2013

RE: Closed Session of the Board to be held on June 12, 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 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. BLATTNER ENERGY INC., 12-R2D2-0911
2. FREGOSO'S CONSTRUCTION, 12-R4D1-1541 AND 1542
3. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 11-R2D1-2401
4. THE INDUSTRIAL LABOR MANAGEMENT GROUP, INC., 12-R3D3-1634

DECISIONS AFTER REMAND:

1. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR JUNE 12, 2013
Page 2**

PETITIONS FOR RECONSIDERATION:

1. BAY AREA RAPID TRANSIT (BART) DISTRICT, 09-R2D2-1219 AND 1221
2. FERMA CORPORATION, 12-R2D2-1669

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 AND 3186
2. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 12-R5D1-0337
3. ROBERT CLAPPER CONSTRUCTION SERVICES, 13-R3D5-9039

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. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
10. C & L BLUE INC., 11-R4D1-2942 AND 11-R4D1-2943 THROUGH 2945
11. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
12. COFFMAN SPECIALTIES, INC., 10-R3D3-3532

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR JUNE 12, 2013**

Page 3

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
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. JERRY'S TREE SERVICE, A PARTNERSHIP, 13-R1D5-9022
26. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
27. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
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

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR JUNE 12, 2013**

Page 4

35. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
36. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
37. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
38. PERSONNEL PLUS, INC., 11-R3D5-1302
39. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
40. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
41. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
42. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
43. SIERRA FOREST PRODUCTS, 09-R2D5-3979
44. SMUD, 08-R2D1-4887 THROUGH 4889
45. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
46. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
47. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
48. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
49. 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. CB SYSTEMS ROOFING, 12-R3D1-2691 THROUGH 2693

LEGISLATION:

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR JUNE 12, 2013**

Page 5

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. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
3. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-80006047
(07-R5D1-3611)
4. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
5. SMUD, 34-2010-80000723 (08-R2D1-4887)
6. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
7. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
8. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)
9. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
THROUGH 2461)
10. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
11. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039
(07-R2D3-0275)
12. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
13. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
14. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
15. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
16. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR JUNE 12, 2013**

Page 6

17. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
18. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
19. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
20. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
21. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
22. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
23. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
24. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
25. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
26. A. TEICHERT & SON, DBA TEICHERT AGGREGATES, RG12 659881 (10-R5D1-3029)
27. HOME DEPOT USA, INC., BS141301 (10-3284)
28. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
29. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00628178 (10-3667)
30. THYSSENKRUPP ELEVATOR CORP., 34-2013-80001456 (11-2217 ~ 2219)
31. BIG LOTS STORES, INC., 37-2013-00045936 (11-R3D2-1929 ~ 1931)
32. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)

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. ABLE BUILDING SERVICES DBA ABLE BUILDING MAINTENANCE CO.,
12-R3D2-2469 AND 2470

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR JUNE 12, 2013**

Page 7

2. A.B. TOOLS, INC., 13-R2D1-0864
3. ALL DAY HOME CARE INC., 12-R1D1-2493
4. ALTMAN SPECIALTY PLANTS, 12-R3D2-2649
5. AMERICAN APPAREL (USA) LLC., 12-R4D1-1943 THROUGH 1945
6. AMERIGAS PROPANE, INC., 12-R1D1-0632 THROUGH 0636
7. ANHEUSER-BUSCH, LLC, 12-R4D3-3695
8. ASHER DOLLE GROUP DBA BIG O TIRES #5060, 12-R2D2-2995
9. RICK BEALS DBA BEALS, 12-R6D1-2483
10. BIG LOTS, 12-R2D5-2737
11. BLUE GO AREA TRANSIT, 11-R2D1-0544
12. B M TRUCK PARTS, 12-R2D5-2646
13. DANIEL BRYSON DBA A-1 AUTO REPAIR, 13-R6D7-0193 THROUGH 0196
14. RICHARD B. BUSHONG AND DONALD B. BUSHONG DBA BRAWDUS ROOFING, 12-R1D4-2179
15. CABRAC INC., 12-R6D2-1766 THROUGH 1775
16. CA GENERAL SERVICES, 12-R2D1-1070
17. CITY OF BEVERLY HILLS DBA BEVERLY HILLS PUBLIC WORKS & WATER TREATMENT PLANT, 12-R4D1-2596
18. CITY OF NORWALK, 12-R3D6-2950 AND 2951
19. COMMERCIAL SAND BLAST CO., 11-R4D2-2511 AND 2512
20. COUNTY OF LOS ANGELES ANIMAL CARE AND CONTROL, 12-R3D6-2940
21. DBA ARCHITECTURAL GLAZING, 12-R6D2-2364 AND 2365
22. DEBRI-TECH INC., 12-R2D2-2097
23. DESERT JACK LLC DBA JACK IN THE BOX #3233, 12-R3D3-2506 AND 2507

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR JUNE 12, 2013**

Page 8

24. DIABLO LANDSCAPE, INC., 12-R1D2-3631 THROUGH 3633
25. DOLE BERRY COMPANY LLC., 12-R1D2-3520
26. DUTCH ENTERPRISE, INC. DBA CRDN-GREATER BAY AREA, 12-R6D1-0678 THROUGH 0684
27. D. WOOLEY & ASSOCIATES, 13-R3D1-0315
28. EAGLE RECYCLING, INC., 13-R1D2-1111 THROUGH 1113
29. ENER-TECH METALS, INC., 12-R3D6-2274 AND 2275
30. ENVIRONMENTAL MATERIALS, LP DBA ENVIRONMENTAL STONE WORKS, 13-R2D1-0923 AND 0924
31. EURO CABINET DESIGN & WOODWORKING CORP. DBA OLD ENG, 12-R6D2-2843 THROUGH 2849
32. FRANCO DEVELOPMENT SERVICES, INC., 12-R3D6-2938 AND 2939
33. GB GENERAL ENGINEERING CONTRACTOR, INC, 12-R2D1-1738 AND 1739
34. GEORG FISCHER HARVEL LLC., 12-R4D6-2790 THROUGH 2792
35. HARTMANN STUDIOS INCORPORATED, 12-R2D2-2895
36. HELIX ELECTRIC, INC., 12-R1D2-2347
37. INNOVATIVE PRODUCE, INC., 12-R6D7-3342 AND 3343
38. JOHNSON AUTO ELECTRIC, INC., 12-R6D7-3693 THROUGH 3697
39. L.A. DELI DISTRIBUTORS INC., 12-R6D2-2337 AND 2338
40. L.A. DELI DISTRIBUTORS INC., 12-R6D2-2410
41. LAGUNA PATHOLOGY MEDICAL GROUP, INC., 12-R3D1-2505
42. LASSEN COMMUNITY COLLEGE DISTRICT, 13-R2D1-1103
43. RICHARD LU DBA LITTLE PEKING, 13-R6D7-0435
44. MAIN STREET FARMS, INC., 13-R4D3-0059

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR JUNE 12, 2013**

Page 9

45. MANN PACKING CO. INC., 12-R1D2-3629 AND 3630
46. MARIUCHI AMERICAN CORPORATION, 12-R3D6-2658 THROUGH 2660
47. MARRIOTT NEWPORT COAST VILLAS DBA MARRIOTT VACATION,
12-D3D1-2739
48. METRO CONSTRUCTION AND RESTORATION LLC AKA METRO
CONSTRUCTION AND RESTORATION, INC., 12-R2D2-2574
49. METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA,
12-R4D3-2000 THROUGH 2002
50. MISSION HOSPITAL DBA MISSION LAGUNA BEACH, 12-R3D1-2504
51. MISSION LABOR, INC., 12-R4D3-1438 AND 1439
52. MODERUSTIC INC., 12-R3D6-2590
53. MONTGOMERY SCHOOL DISTRICT, 13-R1D5-0006
54. MOUSA LER MARKET, 12-R4D3-2786 AND 2787
55. NE-MO'S BAKERY, INC., 12-R3D2-2425
56. NESTLE DREYERS ICE CREAM COMPANY, INC., 12-R4D7-3081 AND 3082
57. NORSOL AUTOWASH INC. DBA AUTOPIA CAR WASH LIVERMORE,
12-R1D4-3025
58. NORTHERN ELECTRIC, 12-R2D5-2645
59. ORANGE COUNTY CONTAINER GROUP, 12-R3D6-2655
60. PACIFIC COAST STEEL, 11-R6D2-3162 AND 3163
61. PACIFIC COUNTRY LABOR, INC., 12-R6D5-2629 THROUGH 2631
62. PAUL BARRERA FLC, 12-R6D7-3239
63. PAUL GRAHAM DRILLING AND SERVICE COMPANY, 13-R2D2-0011
64. P.B. SOD FARMS, 11-R3D3-2463

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR JUNE 12, 2013**

Page 10

65. RAH INDUSTRIES INC., 12-R4D3-2785
66. RIO MESA FARMS LLC, 12-R4D3-2432 AND 2433
67. R.K. INDUSTRIES INC., 12-R6D2-2130 THROUGH 2137
68. ROMEO'S PIZZA, 12-R2D5-2733
69. SAFEWAY INC. DBA VONS CO. INC., 12-R3D6-2588
70. SANTOS MONTEMAYOR FLC, INC., 12-R6D5-2860 THROUGH 2864
71. SAPUTO CHEESE USA INC., 13-R2D4-1004 AND 1005
72. SEARING INDUSTRIES, 12-R6D2-2287 AND 2288
73. SECURITAS SECURITY SERVICES USA, INC., 12-R1D1-1691
74. SHADOW HOLDINGS LLC DBA BOCCHI LABORATOIRES, 12-R4D3-1821
THROUGH 1823
75. SHADOW HOLDINGS LLC DBA BOCCHI LABORATOIRES, 12-R4D3-2328
76. SHELLHAMMER CONSTRUCTION, INC., 12-R6D7-3770
77. SIMPSON STRONG-TIE COMPANY INC., 13-R2D4-1173 AND 1174
78. SINCERE ORIENT COMMERCIAL CORPORATION, 12-R3D6-2593
THROUGH 2595
79. BRIAN TABER DBA TABER GARDENING, 13-R2D1-1216
80. TAYLOR FARMS PACIFIC, INC., 12-R2D4-1862
81. TDP CONSTRUCTION SERVICES INC., 12-R2D1-2393
82. TERRA BELLA UNION ELEMENTARY SCHOOL, 12-R2D5-2541 AND 2542
83. TERRA NOVA RANCH, INC., 12-R2D5-3525
84. UNITED PARCEL SERVICE, INC., 12-R4D2-1622 AND 1623
85. U.S.T.E. INC DBA VISTA PROFESSIONAL OUTDOOR LIGHTING,
12-R6D2-2197 THROUGH 2210

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR JUNE 12, 2013**

Page 11

86. VELAZQUEZ PACKING, INC., 12-R4D3-1755 AND 1756

87. VILLEROY & BOCH USA, INC., 12-R3D1-2465

88. WILES RESTAURANTS IND DBA CARLS JR., 12-R3D1-3528

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.