

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, July 10, 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: June 26, 2013

RE: Closed Session of the Board to be held on July 10, 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. ALLIANCE STAFFING RESOURCES, INC., 12-R3D3-1323
2. GOLD RUN ENTERPRISES LLC, 10-R5D1-3511 THROUGH 3517
3. MICHAEL J. GORA DBA CHEETAH CONSTRUCTION SERVICES,
11-R4D2-2685 AND 2687
4. HYPOWER INC. DBA HYPOWER ELECTRICAL SERVICES, INC., 12-R3D3-1498
5. RICHARD LOMPA, 12-R1D4-1796
6. PARK WEST LANDSCAPE MAINTENANCE, INC DBA PARK WEST
MANAGEMENT, 12-R3D2-2228

PETITIONS FOR RECONSIDERATION:

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DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 & 0097

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. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
3. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
4. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
5. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
6. 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. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186
10. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
11. C & L BLUE INC., 11-R4D1-2942 AND 11-R4D1-2943 THROUGH 2945
12. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
13. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
14. COMMERCIAL METAL FORMING, 09-R3D1-1592
15. COMMUNITY RECONSTRUCTION SOLUTIONS, INC., 11-R1D1-1484
16. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
17. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
18. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038

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19. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
20. EZ MIX, INC., 08-R4D3-1898
21. FERMA CORPORATION, 12-R2D2-1669
22. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
23. HARRIS CONSTRUCTION, 03-R2D5-3914
24. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
25. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
26. IRWIN INDUSTRIES, 08-R6D4-1454
27. JERRY'S TREE SERVICE, A PARTNERSHIP, 13-R1D5-9022
28. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
29. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
30. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
31. LION RAISINS, INC., 08-R2D5-2253 AND 2254
32. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
33. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
34. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
35. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
36. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
37. ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637
38. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
39. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
40. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026

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41. PERSONNEL PLUS, INC., 11-R3D5-1302
42. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
43. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
44. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
45. SIERRA FOREST PRODUCTS, 09-R2D5-3979
46. SMUD, 08-R2D1-4887 THROUGH 4889
47. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
48. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
49. SUNRISE GROWERES FROZ SUN FOODS, 09-R4D3-2850
50. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
51. 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. PACWEST CORP., 12-R3D3-3322

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)

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2. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
3. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
4. SMUD, 34-2010-80000723 (08-R2D1-4887)
5. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
6. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
7. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)
8. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
THROUGH 2461)
9. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
10. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039
(07-R2D3-0275)
11. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
12. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
13. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
14. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
15. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)
16. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219
AND 0220)
17. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
18. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258
(05-R2D4-2650 AND 2651)
19. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
20. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)

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21. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
22. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
23. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
24. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332
(09-R4D5-0459 & 0460)
25. A. TEICHERT & SON, DBA TEICHERT AGGREGATES, RG12 659881
(10-R5D1-3029)
26. HOME DEPOT USA, INC., BS141301 (10-3284)
27. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
28. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00628178 (10-3667)
29. THYSSENKRUPP ELEVATOR CORP., 34-2013-80001456 (11-2217 ~ 2219)
30. BIG LOTS STORES, INC., 37-2013-00045936 (11-R3D2-1929 ~ 1931)
31. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)
32. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00652023 (12-0439)
33. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00651875 (12-0440)

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. AMERIGAS PROPANE, INC., 12-R2D1-0632 THROUGH 0636
2. ASPLUNDH CONST DBA ASPLUNDH ELECTRICAL CONST, 13-R4D7-1608
3. ASPLUNDH CONST DBA ASPLUNDH ELECTRICAL CONST, 13-R4D7-1609
4. CITY OF FRESNO – CONSTRUCTION MANAGEMENT DEPT., 11-R2D5-0307
AND 0308
5. CITY OF SAN DIEGO – COMMUNITY PARKS 1 DIVISION, 13-R3D2-0948

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6. BRAD CURTICE DBA NOR CAL AUTOMOTIVE, 12-R6D7-3536 THROUGH 2538
7. DASH DREAM PLANT, INC., 13-R2D4-1513
8. DAVID PAINT & TILE, INC., 12-R4D3-2626 THROUGH 2628
9. DAVIS DEVELOPMENT COMPANY, INC., 12-R3D6-1837 THROUGH 1839
10. DIAMOND FOODS, INC., 13-R2D4-0092
11. DRIFTWOOD DAIRY, INC., DBA DRIFTWOOD DAIRY, 12-R6D2-3164
12. RAY FADICH DBA SUPERIOR CONCRETE CONTRACTORS, 12-R6D2-0758 THROUGH 0760
13. FIRST TRANSIT, 12-R3D6-3008
14. FRANZA ENTERPRISES, INC., 13-R2D1-0084
15. GORDON LABORATORY, 12-R3D5-3006 AND 3007
16. G S BROTHERS, INC., 12-R4D1-2375 AND 2376
17. HARBOR VIEW FARMS, LLC., 12-R4D3-2962 THROUGH 2964
18. HARRINGTON INDUSTRIAL PLASTICS, INC., 12-R3D6-3163
19. KLUNE INDUSTRIES, INC., 13-R4D3-0797
20. JOSE ANOTONIO LOPEZ DBA JETT HARVEST, INC., 12-R3D2-2466
21. LOVIN OVEN LLC DBA BLOOMFIELD BAKERS, 12-R3D6-2661
22. MAGNOLIA BIRD FARM, 12-R3D1-3039
23. MING INTERNATIONAL DBA CARPET SOLUTIONS, INC., 12-R3D5-3005
24. NED L. WEBSTER CONCRETE CONSTRUCTION, 12-R4D1-2669
25. NESTLE USA, 13-R6D2-1481 AND 1482
26. NORMAN, FOX AND COMPANY, 12-R3D6-2078
27. PACIFIC CRANE MAINTENANCE CO., 13-R6D2-1483

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28. PALMER TANK & CONSTRUCTION, INC., 12-R2D5-1109
29. PULIDO FARMS, 12-R4D6-2797
30. QUALITY AG, INC., 13-R4D3-0586 AND 0587
31. RAC ACCEPTANCE, 12-R2D2-3602
32. REXCO MET DBA REXCO, 12-R6D2-2008 THROUGH 2012
33. DONALD LEE ROY RHINE DBA DANDY DONS HANDYMAN, 11-R3D3-3035
AND 3036
34. RIZO-LOPEZ FOODS INC., 12-R6D1-2241 AND 2242
35. RIZO-LOPEZ FOODS INC., 12-R6D1-2243 AND 2244
36. SANTA BARBARA CENTER FOR THE PERFORMING ARTS INC., 12-R4D3-
3326 AND 3327
37. SATICOY GOLF CORPORATION, 12-R4D3-3045
38. SAV-ON PLATING INCORPORATED, 13-R4D4-0621
39. SEARS HOLDING CO., DBA KMART INC., DBA BIG K, 12-R2D2-3638
AND 3639
40. SEAVIEW REHABILITATION & WELLNESS CENTER, L.P., 12-R2D1-3419
41. SENBA USA, INC., 13-R1D4-1552 AND 1553
42. S.H.E. MANAGES PROPERTIES, INC., 13-R3D2-0409 AND 0410
43. SVC MANUFACTURING DBA PEPSICO BEVERAGES COMPANY,
13-R1D4-0822 AND 0823
44. SYGMA NETWORK, 12-R4D3-2969
45. TALTECH CONSTRUCTION, INC., 12-R4D3-2966 THROUGH 2968
46. TORO ENTERPRISES, INC., 12-R4D3-3762 AND 3763
47. UNIVAR USA INC DBA UNIVAR INC., 13-R2D5-0869 AND 0870
48. VANCE CO. DBA I D GROUP, 12-R4D1-2670

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- 49. VICTOR VALLEY COMMUNITY COLLEGE, 12-R3D3-2190
- 50. WEBCOR CONSTRUCTION, LP DBA WECOR BUILDERS, 12-R1D4-3092
- 51. WESTERN YARN DYEING, INC., 12-R6D2-2681 THROUGH 2688
- 52. WILMINGTON WOODWORKS, INC., 12-R6D2-1675

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.