

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, August 7, 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: July 26, 2013

RE: Closed Session of the Board to be held on August 7, 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. HEE NAM CHO, INC., DBA SPIC N SPAN CLEANERS, 12-R6D2-2518 AND 2519
2. JEFF ALEXANDER FARMING DBA BIG & DEEP AG DEVELOP, 12-R2D5-1259
3. PERFORMANCE CONCRETE CONSTRUCTION INC., 12-R3D3-1028 AND 1029

PETITIONS FOR RECONSIDERATION:

1. BLATTNER ENERGY, INC., 12-R2D2-0911
2. BODEGA LATINA CORP. DBA EL SUPER #31, 13-R3D3-9075
3. DESERT VALLEY DATE, INC. DBA DESERT VALLEY DATE, 11-R6D2-2207 THROUGH 2211

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DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. FACUNDO CARRILLO DBA HAPPY'S AUTO BODY & PAINT SHOP,
13-R6D5-9065
2. XL PLASTERING, INC., 11-R4D1-2236 & 2237

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
THROUGH 2241
6. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
AND 3448
7. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
8. C & L BLUE INC., 11-R4D1-2942 and 11-R4D1-2943 THROUGH 2945
9. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186
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

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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. FERMA CORPORATION, 12-R2D2-1669
21. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
22. HARRIS CONSTRUCTION, 03-R2D5-3914
23. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
24. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
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
35. ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637
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

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39. PERSONNEL PLUS, INC., 11-R3D5-1302
40. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
41. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
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
50. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 & 0097

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.)

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. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)

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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)
21. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)

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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)

ORDER AFTER REMAND:

1. CENTRAL VALLEY ENGINEERING & ASPHALT, 08-R2D1-5001

ORDER DISMISSING CITATIONS:

1. MIKE CAMPBELL & ASSOCIATES LTD., 12-R6D2-3589

ORDERS DISMISSING APPEAL:

1. ARCHWAY PROPERTY SERVICES, LLC., 12-R1D1-3377
2. MAC PLASTERING, INC., 12-R3D2-3430 THROUGH 3432
3. REDLINE CUSTOM CONTRACTING, INC., 12-R3D2-3254 AND 3255

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ORDER GRANTING LEAVE TO FILE LATE APPEAL:

1. CHEVRON ENERGY, 13-R2D2-2184

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. ADM ASSOCIATES, INC., 13-R2D1-1555
2. ALEXANDRO INVESTMENTS, INC. DBA ANGELOS TOWING AND RECOVERY, 12-R3D2-2913 THROUGH 2915
3. AMERIGAS PROPANE, INC., 12-R2D1-3192
4. ARROWHEAD SERVICES LTD. DBA ARROWHEAD REFURB. SHOP, 12-R2D1-1310
5. ART AND CRAFTSMEN, 12-R6D2-2976
6. B & B WELL DRILLING, 12-R2D5-1829 AND 1830
7. ANTHONY BERNARDINO DBA BERNARDINO ROOFING, 12-R2D1-2151
8. BRAGG INVESTMENT CO INC. DBA BRAGG CRANE, 12-R2D3-2538
9. CELPLAN TECHNOLOGIES, INC., 12-R3D3-3683
10. CEMCO INC. DBA CEMCO CONSTRUCTION, 13-R1D5-0922
11. CEN-CAL PLASTERING, INC., 13-R1D2-0541
12. CHAVEZ FLC, INC., 12-R2D1-3247
13. CHUCK'S CUSTOM PAINTING, 12-R4D3-3534
14. CITY OF HOPE MEDICAL CENTER, 12-R3D6-3271
15. CITY OF TAFT DEPT OF PUBLIC WORKS, 13-R4D7-1958
16. CLAUSEN HOUSE, INC., 13-R1D4-2015
17. CMP-1 LLC., 13-R1D2-0259

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18. COAST LANDSCAPE MANAGEMENT, 12-R2D2-3357
19. COMPASS CONTAINER GROUP, INC., 12-R1D4-3093
20. COUNTY OF LOS ANGELES DPS DISTRICT 06, 13-R3D5-0166
21. CRAFTSMAN OFFICE FURNITURE, INC., 12-R6D2-3475 THROUGH 3477
22. CYGNET STAMPING & FABRICATING, INC., 12-R6D2-0728 THROUGH 0730
23. DE PALMA ORCHARDS INC., 12-R2D1-2993
24. DEPARTMENT OF WATER AND POWER CITY OF LOS ANGELES,
12-R4D1-3209 AND 3210
25. DURAN CONTRACTING INC., 13-R4D7-1868 AND 1869
26. DV CUSTOM FARMING, LLC, 13-R4D7-0028
27. EAGLE MARINE SERVICES, LTD., 13-R1D4-0568 AND 0569
28. EL DON FARM LABOR CONTRACTING, INC., 12-R3D2-1629
29. FACILITY SOLUTIONS GROUP DBA FSG ELECTRIC, 12-R4D3-3507
AND 3508
30. FRESH START HARVESTING, INC., 12-R4D7-3444
31. GREAT NORTHERN BUILDERS, INC., 13-R2D2-0604 THROUGH 0605
32. GREER AUTO WRECKER INC., DBA GREER AUTO WRECKER,
13-R6D7-0999
33. GTECH SVCS INC. DBA GTECH PRO STAFFING INC., 13-R4D7-1952 AND
13-R4D7-2034
34. INNOVATIVE MAINTENANCE SOLUTIONS, INC., 12-R2D2-3151 AND 3152
35. JSL FOODS, INC., 12-R6D2-3801 THROUGH 3803
36. JSL FOODS, INC., 12-R6D2-3220 THROUGH 3233
37. JWSS I, INC., 13-R6D7-0816 AND 0817
38. LANCASTER BURNS CONSTRUCTION INC., 12-R2D1-3143

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39. LARRY O. CROTHER INC., DBA ABC INSULATION & SUPPLY CO,
12-R2D1-3142
40. ALBERT EUGENE LEDOUX, JR. DBA GENE'S PAINTING, 12-R1D4-3139
AND 3140
41. LAMB'S PLAYERS THEATRE, 13-R6D2-0234 THROUGH 0239
42. LAMB'S PLAYERS THEATRE, 13-R6D2-0258
43. LION IRON WORKS, INC., 12-R4D3-3275
44. HECTOR LOPEZ, 12-R4D3-3368 THROUGH 3372
45. MAGNA LABOR SERVICES, INC., 12-R3D3-3684 THROUGH 3686
46. MAGORIAN MINE SERVICES, 13-R5D1-1875
47. MARINE TERMINALS CORP., 11-R1D4-0139 AND 0140
48. MARNELL MASONRY, INC., 12-R3D3-3753 AND 3754
49. McKENDRY DOOR SALES, INC., 12-R4D1-2480 THROUGH 2482
50. McMASTER CONSTRUCTION, INC., 12-R4D1 -2554 AND 2555
51. MEXICO MEAT MARKET INC., 13-R2D2-1557 THROUGH 1559
52. MICHELS/JAYDEE/COLUCCIO JOINT VENTURE, 13-R5D1-0115
THROUGH 0117
53. MILLER CASTINGS, INC., 12-R6D2-1912 THROUGH 1918
54. MONTICELLO FARMING LLC, 12-R2D1-3029
55. NEWELL'S BAR & RESTAURANT SUPPLY INC., 12-R2D3-2727
THROUGH 2729
56. NORTHSTAR MEMORIAL GROUP, LLC DBA CHAPEL OF CHIMES,
13-R1D4-1796 AND 1797
57. ORANGE LUTHERAN HIGH SCHOOL, 13-R3D1-0639 AND 0640
58. OSCARS TREE SERVICES, 12-R4D3-3443

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59. PCM EXCAVATION & TRUCKING, INC., 13-R1D4-2014
60. PENINSULA FIRE PROTECTION, 12-R1D1-3772 THROUGH 3775
61. PERRIS UNION HIGH SCHOOL DIST – PERRIS UNION HIGH, 13-R3D3-1836
62. PREMIUM EMPLOYMENT SERVICES INC., 12-R2D1-2722
63. PRESS FORGE COMPANY, 12-R3D5-3364
64. POINT REYES OYSTER COMPANY, INC., 12-R1D5-3416
65. RELIABLE PARTS, INC., 12-R2D1-1526 AND 1527
66. RENAISSANCE FRENCH DOORS & SASH DBA:RENAISSANCE DOORS & WINDOWS, 12-R6D2-2807 THROUGH 2814
67. REPET INC., 12-R3D6-1941 and 1942
68. RISSE CONSTRUCTION DBA RCI PLUMBING, 12 –R2D1-3056
69. ROBERT MICHAEL, LTD., 12-R6D2-3446 THROUGH 3448
70. RT WESTERN MAINT. INC., DBA RT WESTERN CONST. SVCS.,
13-R1D1-0082 AND 0083
71. SECURITAS SECURITY SERVICES USA, INC., 12-R3D5-2767
72. SHERAL'S AUTOMOTIVE, LLC., 13-R6D7-0996 THROUGH 0998
73. BAHADER SOHAL DBA SOHAL ORCHARDS, 12-R2D1-2463
74. SOLANO COMMUNITY COLLEGE, 12-R2D2-3571
75. SOUTHERN SIERRA GENERAL ENGINEERING, INC., 13-R4D7-1066
76. SRI INTERNATIONAL, 12-R1D3-3350
77. STANFORD FURNITURE MFG, INC., 12-R2D1-1480 THROUGH 1482
78. ST. FRANCIS ELECTRIC, INC., 12-R1D3-3311 AND 3312
79. SWINERTON BUILDERS, 13-R1D3-1116 THROUGH 1119
80. TORO ENGINEERING, INC., 12-R2D1-3095

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81. TORRANCE UNIFIED SCHOOL DISTRICT, 13-R3D5-0140
82. TOURNESOL SITEWORKS, LLC., 12-R1D4-2883
83. TRI-C MANUFACTURING, INC., 12-R2D1-3601
84. TRICORP CONSTRUCTION INC. DBA TRICORP/HEARN, 12-R1D5-3313
85. TRICORP CONSTRUCTION INC. DBA TRICORP/HEARN, 13-R1D5-0921
86. TURNER CONSTRUCTION CO., 12-R1D1-3306 THROUGH 3308
87. UC LOS ANGELES DEPT OF CHEMISTRY & BIOCHEMISTRY, 10-R4D1-1005
THROUGH 0117
88. VIRCO MFG CORPORATION, 12-R3D5-3068 AND 3069
89. WARD CONSTRUCTION, INC., 13-R1D4-1618 THROUGH 1620
90. WOODWORK CREATIONS, INC., 13-R6D2-0773 THROUGH 0777

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.