

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, October 2, 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: September 20, 2013

RE: Closed Session of the Board to be held on October 2, 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. ASC PROCESS SYSTEMS, INC. 12-R4D3-2673
2. D. R. HORTON, 12-R2D2-3572
3. L3 TELEMETRY WEST, 12-R3D2-3426 AND 3427
4. PASQUINI CAPITAL, INC., DBA OUTLAWS GRILL & SALOON,
12-R4D3-2329
5. SHAW PIPELINE, INC., 12-R1D3-1587 THROUGH 1588

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PETITIONS FOR RECONSIDERATION:

1. SAM HILL & SONS, INC., 2013-R4D3-9127
2. MARIA de LOS ANGELES COLUNGA dba MERCED FARM LABOR,
2008-R2D1-3093-3098

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. SF BAY AREA RAPID TRANSIT, 10-R1D1-3056-3058

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. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
5. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
6. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186
7. C.C. MYERS, INC., 08-R1D1-0952 THROUGH 0955
8. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
9. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
10. COMMERCIAL METAL FORMING, 09-R3D1-1592
11. COMMUNITY RECONSTRUCTION SOLUTIONS, INC., 11-R1D1-1484
12. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
13. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
14. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
15. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362

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16. DISH NETWORK CAL. SVC. CORP., 12-R4D3-0455
17. EZ MIX, INC., 08-R4D3-1898
18. FERMA CORPORATION, 12-R2D2-1669
19. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
20. HARRIS CONSTRUCTION, 03-R2D5-3914
21. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
22. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
23. INNOVATIVE MAINTENANCE SOLUTIONS, INC., 12-R2D2-3151 and 3152
24. JERRY'S TREE SERVICE, A PARTNERSHIP, 13-R1D5-9022
25. KELLY GLOBAL LOGISTICS, INC., 12-R3D5-0014
26. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
27. LA CITY BUILDING AND SAFETY, 13-R4D1-9110
28. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
29. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
30. LION RAISINS, INC., 08-R2D5-2253 AND 2254
31. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
32. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
33. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
34. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
35. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
36. ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637
37. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022

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38. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
39. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
40. PERSONNEL PLUS, INC., 11-R3D5-1302
41. ROEBBELEN CONTRACTING, INC., 12-R2D2-3248
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. SONIC DRIVE-IN, 12-R2D5-2734
49. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
50. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
51. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
52. TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310
53. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 & 0097

ORDERS DISMISSING APPEAL:

1. TELACU CONSTRUCTION MANAGEMENT, 12-R4D1-2276

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

NONE

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

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NONE

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.)

NONE

LEGISLATION:

NONE

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. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
3. SMUD, 34-2010-80000723 (08-R2D1-4887)
4. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
5. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
6. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)
7. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
THROUGH 2461)
8. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
9. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039
(07-R2D3-0275)

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10. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
11. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
12. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
13. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
14. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)
15. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
16. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
17. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
18. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
19. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
20. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
21. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
22. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
23. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
24. A. TEICHERT & SON, DBA TEICHERT AGGREGATES, RG12 659881 (10-R5D1-3029)
25. HOME DEPOT USA, INC., BS141301 (10-3284)
26. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
27. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00628178 (10-3667)
28. THYSSENKRUPP ELEVATOR CORP., 34-2013-80001456 (11-2217 ~ 2219)
29. BIG LOTS STORES, INC., 37-2013-00045936 (11-R3D2-1929 ~ 1931)

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30. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)
31. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00652023 (12-0439)
32. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00651875 (12-0440)
33. AC TRANSIT, RG13687314 (08-R1D4-0135)
34. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575
(12-R5D1-337)
35. BAY AREA RAPID TRANSIT DISTRICT, RG13689346 (09-R2D2-1219 & 1221)

APPELLATE COURT:

1. XL CONSTRUCTION, C074514 (2008-R1D2-1191-1193)

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. 2 FRIENDS INC., DBA: MAMA N PAPA'S PIZZA GROTTTO, 13-R3D2-2333
2. ART'S PAINTING & CLEANING SERVICES, INC., 13-R4D1-0228 AND 0229
3. ASI ELECTRIC, INC., 12-R4D3-2088 THROUGH 2090
4. AUTO NATION CORP, DBA AUTOWEST DODGE, 12-R2D1-3771
5. DAN AVILA & SON, 13-R2D4-1295 AND 1296
6. BARNHART-BALFOUR BEATTY DBA BALFOUR BEATTY CONST.,
13-R3D5-0219 AND 0220
7. BERRY'YS SAWMILL INC., 12-R6D1-2331 AND 2332
8. BODEGA LATINA CORP DBA EL SUPER, 12-R3D3-2544
9. DAN BROWN DBA SANTA CRUZ VENDING, 13-R1D2-1100
10. CAL TOP BUILDERS, 13-R4D1-0104 THROUGH 0106

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11. CARTER ELECTRIC, 13-R3D2-0786 AND 0787
12. CBS OUTDOOR, INC. 12-R3D2-1210
13. CEDAR FAIR LP DBA: KNOTT'S BERRY FARM, 12-R3D1-2694
14. CODE ENFORCEMENT DEPT. COUNTY OF RIVERSIDE, 12-R3D3-3363
15. CONNIE CHAN & BENJAMIN LEE DBA SACTOWN AUTO TECH, 13-R6D7-1202 THROUGH 1204
16. COUNTY OF RIVERSIDE ANIMAL CONTROL, 13-R3D3-0486
17. DIGNITY HEALTH DBA ST. FRANCIS MEMORIAL HOSPITAL, 13-R1D1-0262
18. DIVERSIFIED WATERSCAPES, 12-R3D1-3613
19. EMCOR GROUP DBA CONTRA COSTA ELECTRIC, INC., 13-R6D3-0478
20. EXEL INC., 13-R6D2-2305
21. EXPRESS EMPLOYMENT PROFESSIONALS, 13-R6D2-1087
22. EXTERIOR CLADDING SYSTEMS, INC., 13-R3D3-2164
23. BASSAM F. FAKHER DBA AMERICAN AUTO FINANCE, 13-R6D5-2307 THROUGH 2309
24. FAMILY ASSISTANCE MINISTRIES, 12-R3D1-2907
25. FARBEX CONSTRUCTION SERVICES, INC., 13-R1D2-1114 AND 1115
26. FILLMORE PIRU CITRUS ASSOCIATION, 13-R6D2-1896 AND 1901
27. GEN ON ENERGY, INC., 12-R2D2-1901
28. GEN ON ENERGY, INC., 12-R2D2-1902
29. GEO PLASTICS, 13-R6D2-1674
30. GFF, INC., 12-R6D2-2829 THROUGH 2842
31. GLOBAL BAKERIES, INC., 12-R6D2-0726 AND 0727
32. GOLDEN ACRE FARMS, INC., 13-R3D3-2335 AND 2336

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33. GOODWILL OF SILICON VALLEY DBA GOODWILL INDUSTRIES,
13-R6D1-1228 AND 1229
34. GREEN VALLEY FARM LABOR, 12-R3D3-3750
35. GSE CONSTRUCTION COMPANY, INC., 13-R1D2-1732
36. HARA NO SHITA DE HOLDINGS DBA UNDERBELLY, 13-R3D2-0950
AND 0951
37. ALBERT HERNANDEZ DBA ALBERT HERNANDEZ PAINTING, 12-R6D5-
2689 AND 2690
38. INTERIOR EXPERTS GENERAL BUILDERS, INC. DBA INTERIOR EXPERTS,
12-R3D1-3529
39. INTERNATIONAL DIE CASTING, 13-R3D5-0415 AND 0416
40. JALI MORGENRATH DBA VILLAGE SHOPS ,13-R1D2-0912 AND 0913
41. KENYON PLASTERING INC., 12-R2D2-3670
42. LA COUNTY DEPT OF PUBLIC WORKS, 12-R3D6-2589
43. LGC BUILDERS, 12-R3D1-2266 THROUGH 2270
44. MESA & VICTORIA IN., DBA CODY'S CAFÉ, 12-R6D5-3691 AND 3692
45. JULIE L. MULLER DBA A & A TRANSMISSION CENTER, 13-R3D3-0320
46. NAPA AUTO PARTS DBA JACKSON'S AUTO SUPPLY, 12-R3D1-3644
47. NAJARIAN FURNITURE COMPANY, 12-R3D6-3108 AND 3109
48. NB & T INDUSTRIES INC. DBA APC INDUSTRIES, 12-R4D1-3467
THROUGH 3470
49. NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186
50. PEPSI BEVERAGE SOMpany, 13-R2D5-1517 AND 1518
51. PETERSEN-DEAN, INC., DBA PETERSENDEAN, 13-R3D1-1914 THROUGH
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52. PRE-PRESS INTERNATIONAL DBA DIGITAL PRE-PRESS INC., 2008-R1D1-3255 THROUGH 3262
53. PRECISION ENGINEERING INC., 12-R1D1-3242
54. PWLC II INC., 13-R3D3-0319
55. RAMIREZ FARM LABOR CONTRACTOR, INC., 13-R4D3-0065 AND 0066
56. RENO CONTRACTING, INC., 12-R6D5-3732
57. RICHARD AND SUNS, LLC DBA ISLAND CAR WASH, 13-R3D6-0019
58. RIVERSIDE PUBLIC WORKS WASTE WATER, 12-R3D3-3394
59. ROHR, INC., DBA FOODRICH AEROSTRUCTURES, 13-R3D2-0610 THROUGH 0612
60. RUIZ FOODS, 12-R2D5-3155
61. SAINT GOBAIN SOLAR GARD, LLC., 13-R3D2-2402 THROUGH 2404
62. SCOTT ENGLISH PLUMBING, INC., 12-R3D1-3593
63. SHIN SHIN CONSTRUCTION CORP., 12-R4D3-3441
64. SHOBAHANA GANDHI M. D., INC., 13-R4D1-0294
65. SIMON CONTRACTING COMPANY, 13-R3D3-0098
66. SLATOR FLASS & MIRROR, 13-R3D6-0054
67. SMART & FINAL STORES, LLC., 12-R4D1-3273 AND 3274
68. SOCOASTMETALFIN. DBA WEST COAST METAL FINISHING INC., 12-R6D2-3292 THROUGH 3297
69. SOFIA NEW, 13-R1D1-0260 AND 0261
70. SOURCE REFRIGERATOR & HVAC. INC., 13-R4D3-0531 AND 0532
71. SOUTH STATE TOWING, INC., 12-R4D1-3168
72. SOUTHERN COUNTIES TERMINALS, INC., 12-R4D1-3211 THROUGH 3214

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73. STATE WIDE STRIPES, INC., 13-R3D2-0613 AND 0614
74. STS, INC. DBA SVA-TEK STAFFING INC., 12-R1D5-3351
75. SUNNY SPORTS, INC., 12-R3D6-3788 AND 3789
76. SYNERGY PROJECT MANAGEMENT, INC., 13-R1D1-0444
77. TAQUERIA LA BAMBA, LLC DBA AY CARAMBA ITS LA BAMBA,
13-R6D7-1110
78. TRADER JOE'S COMPANY, 12-R3D3-2406
79. PHUONG CHONG TRUONG DBA PT CATERING TRUCK, 11-R1D2-1973 AND
11-R1D2-2047
80. VISION EXPRESS/WARG-TIME TRANSPORTATION, 13-R3D5-0511 AND 0512
81. ROBERT WILLIAM CO. LLC., 13-R4D3-0425 AND 0426
82. WIN SOON, INC. DBA EPOCA, 13-R6D2-0561 THROUGH 0563
83. WNA COMET WEST, INC., 12-R3D6-3577 AND 3578

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.