

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Monday, September 8, 2008
10:00 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: August 27, 2008

RE: Closed Session of the Board to be held on September 8, 2008

Pursuant to Government Code section 11126, subdivisions (a), (c) (3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

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. DUKE PACIFIC, 06-R3R3-5175 THROUGH 5177
2. HTA ENGINEERING & CONSTRUCTION INC., 05-R3D2-3617 THROUGH 3620
3. NUEVA CASTILLA IRON WORKS, 06-R1D1-4306
4. ROMERO'S FOOD PRODUCTS INC., 07-R6D2-3820 THROUGH 3823

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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. 2123 BEVERWIL DR., LLC., 08-R4D1-0078 THROUGH 0080
2. A & D PLASTERING/BARRETT BUSINESS SERVICE INC., 08-R4D1-1002
3. ALL CITY ELECTRIC, 07-R1D2-4802 AND 4803
4. ALLBEST CONSTRUCTION, INC., 08-R4D2-0455 THROUGH 0460
5. AMERICA WEST AIRLINES, 07-R1D3-1348 THROUGH 1351
6. AMERICAN CAISSON INC DBA THE MAHAFFEY COMPANIES, 08-R4D3-0087 AND 0088
7. AMERICAN PRESIDENTS LINE, 05-R6D2-3226 AND 3227
8. ARCHULETA CONSTRUCTION, 08-R4D1-0189 THROUGH 0193
9. ARISE WACO, 07-R6D4-5246 AND 5247
10. ASPLUNDH TREE EXPERT CO., 07-R2D1-1367
11. AUI CORP. DBA MEN-CAL RECYCLING, 07-R3D1-4090 AND 4091
12. B L CONSTRUCTION, INC., 08-R4D2-0452 THROUGH 0454
13. BAMBU ASIAN CUISINE, 08-R6D5-2125
14. BARDENS PEST CONTROL DBA ANTIMITE TERMITE & PEST CONTROL, 08-R3D2-1221
15. BAY INTERIORS, 03-R1D2-0083
16. BERNELL HYDRAULICS INCORPORATED, 07-R3D3-4553
17. TOM BESMER CONSTRUCTION, 06-R2D5-4609 THROUGH 4611
18. C.A.L. FRESH PULLET INC., DBA C.A.L. FRESH, 07-R6D2-2133 THROUGH 2136
19. CA DEPARTMENT OF CORRECTIONS, 08-R4D2-0450

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20. CALGON CARBON, 08-R4D4-0215 AND 0216
21. CALIFORNIA CASCADE INDUSTRIES, 07-R2D1-3305
22. CAPITAL DRYWALL LP, 08-R3D1-0988 AND 0989
23. CAPTIVE-AIRE SYSTEMS OF CALIF, INC., 07-R2D3-0852 AND 0853
24. CARLSBAD STRAWBERRY CO., INC., 08-R3D2-2889
25. CATALINA PACIFIC CONCRETE, 08-R4D1-0199 AND 0200
26. CENTRAL REINFORCING CORPORATION, 07-R4D1-4142 AND 4143
27. CLEARWATER PIPELINE INC., 08-R3D3-0306 THROUGH 0308
28. COAST REBAR SERVICES INC., 08-R4D1-0197 AND 0198
29. CUSTOM HOME DEVELOPMENT, INC., 08-R3D1-0410 AND 0411
30. CUSTOM PIPE & COUPLING INC., 08-R3D1-0565
31. CYTEC ENGINEERED MATERIALS, 07-R3D1-3448
32. ALEX DANIELS DBA A D PLASTERING CO., 08-R4D1-0074 THROUGH 0076
33. DIANA'S MEXICAN FOOD PRODUCTS INC., 07-R4D4-3898
34. DMC – DESIGNED METAL CONNECTIONS, 07-R4D1-4904 THROUGH 4906
35. D. Z. COOK COMPANY, 03-R1D4-3868 THROUGH 3871
36. EAST SIDE MANAGEMENT, 07-R2D4-0031
37. EDCO WASTE SERVICES LLC., 07-R6D2-4289 THROUGH 4292
38. ESPARZA ENTERPRISES, INC., 07-R4D3-4732
39. F & H CONSTRUCTION, 07-R2D1-0374
40. FALLAS PAREDES, 08-R4D1-0441 AND 0442
41. FREEWAY ELECTRIC, 08-R4D4-0091
42. GARCIA ROOFING, R4D3-0209

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43. GBS COMPANY, 07-R4D3-5378 AND 5379
44. GILL RANCH COMPANY LLC, 08-R6D5-2361
45. HARDWOOD CREATIONS, 07-R4D1-2116
46. HERITAGE MACHINERY MOVING, 07-R3D3-3803 AND 3804
47. JC ENGINEERING, 07-R1D1-4584
48. JET EMBROIDERY, 07-R3D3-4034
49. JUHASZ, INC., 06-R6D2-716 THROUGH 724
50. JUST FOAM BLANKS, LLC., 07-R3D2-3795 THORUGH 3797
51. KING MEAT, 07-R4D2-2852 AND 2853
52. L. A. R. G. LLC DBA TAPAS GRILL, 08-R6D5-1276 AND 1277
53. L & S CONSTRUCTION, 08-R3D1-0303 AND 0304
54. LEONARD'S ROOFING, 07-R3D1-3449 AND 3450
55. LITO AUTO BODY INC., 07-R1D5-0368 THROUGH 0371
56. LOS ANGELES COUNTY ARBORETUM & BOTANICAL GARDEN
08-R4D2-0752
57. LOVEDAY LUMBER CO., 08-R4D4-1026 THROUGH 1029
58. LUTES CABINET SHOP, 08-R3D2-0729 THROUGH 0731
59. MADISON CAR WASH, 07-R6D5-4986 AND 4987
60. MANN PACKING, 07-R1D2-0007
61. MARKET RECYCLING (CANCO), 07-R3D5-3327 AND 3328
62. MARQUEZ MARQUEZ FOOD PRODUCTS, INC., 08-R6D2-0108 THROUGH 0114
63. MILESTONES OF DEVELOPMENT INC., 07-R2D2-4645
64. MISSION LINEN SUPPLY, 07-R1D2-4808 THROUGH 4813
65. MTM CONSTRUCTION INC., 07-R4D2-324 THROUGH 327

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66. AARON MUSGRAVE CONCRETE PUMPING, 07-R4D1-0063 AND 0064
67. MYTEE PRODUCTS INC., 08-R3D2-2512 AND 2513
68. NATIONAL FIRE SYSTEMS & SERVICES, INC., 08-R4D1-0318
69. NELLSON NUTRACEUTICAL, 07-R4D4-3818 AND 3819
70. NEW HAVEN UNIFIED SCHOOL DISTRICT, 07-R1D4-4814 AND 4815
71. NEWCOMB SPRING CORPORATION, 08-R3D1-0415
72. M. L. NIELSEN CONSTRUCTION INC., 07-R1D2-2674 THROUGH 2676
73. NORTHGATE GONZALES INC., DBA NORTHDATE MARKET, 07-R4D4-4054
74. OLIPHANT GOLF INC., 08-R3D1-0416 AND 0417
75. OLSON AND CO. STEEL, 06-R1D5-5251
76. R. D. OWEN CORP., DBA OWEN MASONRY, 08-R4D4-0097 THROUGH 0099
77. PARAMOUNT SCAFFOLD INC., 07-R4D1-1726
78. PERFORMANCE TEAM, 07-R3S5-4702
79. PGP INTERNATIONAL, AN ABF INDEGREDIENTS CO., 07-R2D1-2505 AND 2506
80. PITTSBURGH STEEL, INC., 07-R3D5-0575 AND 0576
81. PROCESS FABRICATION & INSTALLATION INC., 06-R2D4-4125
82. PROFESSIONAL MECHANICAL CONTRACTORS, INC., 08-R4D1-0591
83. RAAMCO MOTORS DBA TORRANCE TOYOTA, 07-R3D5-4701
84. RB FAB INC., 07-R2D2-4223 AND 4224
85. RJ ELECTRIC, 08-R3D1-0055
86. RJ PYCZ CONSTRUCTION, 07-R4D2-5373 AND 5374
87. MICHAEL ROBERTS CONSTRUCTION INC., 07-R1D2-4801
88. ROBERTS TILE INC., 07-R2D2-4336

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89. SANTA FE FIRESTONE, LLC. 07-R4D2-4734 THROUGH 4727
90. SEARLES VALLEY MINERALS, 08-R3D3-1409
91. SEVEN-UP/RC BOTTLING CO., OF SO. CA., 03-R4D2-4382 AND 4383
92. SGS OIL GAS & CHEMICAL SERVICES, 06-R3D5-1298
93. TIM SHANNON CONSTRUCTION, INC., 08-R6D5-260
94. SHELL OIL PRODUCTS, 07-R6D4-3629 THROUGH 3633
95. SILAS INC., 08-R6D2-1777 THROUGH 1780
96. STONE FAB, INC., 08-R3D1-0724
97. STONEY POINT CAR WASH, INC., 08-R6D5-1109 THROUGH 1112
98. SUNG BHAK SA SUSHI, 07-R4D1-2531
99. SWANILLON INC. DBA THE LAND STEWARDS, 08-R3D2-1982
100. SWEETENER PRODUCTS CO., 07-R4D2-4447 THROUGH 4448
101. TC METAL COMPANY, 07-R4D2-1578 THROUGH 1582
102. TECHNO-ADVANCED, INC., 08-R4D1-0922 AND 0923
103. THERMAL STRUCTURES INC., 08-R3D3-1740 AND 1741
104. TINCO SHEET METAL CONTRACTORS, 07-R3D1-5261
105. TOPS PLUS DBA LOS ANGELES GUN CLUB, 08-R4D1-0440
106. TRAPAC, INC., 07-R6D2-1749
107. TRAVLN TOYS, INC., 07-R2D4-3311 THROUGH 3312
108. TWF CONSTRUCTION, INC., 07-R6D5-5093 THROUGH 5095
109. TYCO ELECTRONICS, 07-R1D3-2887
110. UNITED PARCEL SERVICE, DBA UPS INC., 08-R3D3-1987
111. UNITED PARCEL SERVICE SUPPLY CHAIN SOLUTIONS, 07-R3D5-1192 THROUGH 1193

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112. VFT INC., 07-R4D4-3488 THROUGH 3496
113. VINE LODGE HOTEL, 08-R4D1-2558 AND 2559
114. WAL-MART, 07-R1D2-4804 AND 4805
115. WALLDESIGN INC., 07-R4D2-5375 THROUGH 5377
116. WASTE MANAGEMENT, DBA HEALTH SANITATION SERVICES,
07-R4D1-1946 AND 1947
117. WEBCOR CONSTRUCTION, INC., 06-R1D1-4918 AND 4919
118. WESTERN NATIONAL CONTRACTORS, 07-R3D5-406
119. WESTERN TUBE & CONDUIT CORP., 07-R3D5-4703
120. WHITEHAWK CONSTRUCTION, INC., 08-R4D1-0443 AND 0444

ORDERS DISMISSING APPEALS:

1. 3 D'S FASHION, INC., 07-R6D2-4947 THROUGH 4949
2. CAMB, INC., DBA MOUNTAIN EMBROIDERY, 07-R4D2-1737 THROUGH 1740
3. COAST STATE ERECTORS, 03-R6D2-2678 THROUGH 2680
4. HUNTINGTON PARK CAR WASH, 07-R4D2-1952 AND 1953
5. JCR JEANS INC., 07-R6D2-5420 THROUGH 5424
6. JYG CONCRETE CONSTRUCTION, INC., 07-R4D4-3720 THROUGH 3722
7. NAWABI'S TIRE & AUTO CENTER #2, 07-R2D3-3767 THROUGH 3768
8. OLD PINE, INC., 07-R4D1-3340 THROUGH 3343
9. P K CONTRACTORS, INC., 03-R6D2-2673 AND 2674

ORDERS DISMISSING LATE APPEALS:

NONE.

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

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1. RENTERIA AUTO PARTS. 08-R4D2-0326 AND 0327

ORDERS GRANTING LEAVE TO FILE LATE APPEALS:

NONE

ORDERS GRANTING APPEALS:

1. QUALITY STRUCTURES, INC., 07-R3D3-3884
2. TEXAS STEEL STRUCTURES, 07-R3D3-2616 THROUGH 2621

STIPULATIONS:

1. J.W. HODSON CO., INC. 03-R1D4-4538
2. JOHN WHEELER LOGGING 07-R2D3-3949
3. KINDER MORGAN ENERGY PARTNERS, LP., 05-R2D4-2013 AND 2014
4. OUSD – WESTLAKE MIDDLE SCHOOL 07-R1D4-1509 AND 1510
5. TRENN FARMS 06-R2D5-4734 AND 4735
6. WINZLER & KELLY 07-R2D2-0272

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. BRENT GAUSDEN DBA DISCOUNT CERAMIC TILES OF RIVERSIDE, 04-R3D3-3141 THROUGH 3144
2. HOME IMPROVEMENT KING, 04-R4D3-2423
3. MAXIMUM EXHAUST CLEANING, INC., 06-R3D3-543
4. BILL NELSON GENERAL ENGINEERING CONSTRUCTION, 06-R2D5-1551
5. NEW TORRAN BUSINESS GROUP, DBA SABROSO FOOD GROUP 08-R3D3-9269
6. PACIFIC DIE CASTING, CORP. 06-R4D2-157
7. QUEMETCO, 08-R4D4-0094 AND 0095

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DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. CALIBER PAVING CO. 03-R3D1-3517 & 3518
2. JENSON PRECAST 05-R2D1-2377
3. HUNT BROS. ROOFING 07-R3D1-2324
4. STEVEN WOODLIEF LATHING & PLASTERING 07-R2D3-2909

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
2. A & C LANDSCAPING, INC., AKA A & C CONSTRUCTION, INC., 03-R4D4-4791
3. AC FRAMERS INC., 03-R2D3-3475
4. ANNING- JOHNSON COMPANY, 06-R1D2-1976
5. ASC PROFILES, INC., 06-R2D1-1181
6. BART, 03-R1D1-5170
7. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
8. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
9. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
10. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
11. BLUE DIAMOND MATERIALS, 02-R5D2-1268
12. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
13. CALIFORNIA DAIRIES, INC., 07-R6D2-2076 THROUGH 2081
14. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
15. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224

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16. CATHY'S PALLETS, 08-R6R5-9248
17. CENTRAL CHEVROLET, 05-R1D4-2615 THROUGH 2618
18. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
19. COX COMMUNICATIONS, 03-R3D2-1942
20. DADE BEHRING, 05-R2D1-2203
21. DAKOTA COMPANIES UNLIMITED, 05-05-R4D3-392 AND 393
22. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
23. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
24. DYNALECTRIC, 03-R1D1-4101
25. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
26. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
27. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
28. G. T. ALDERMAN, INC., 05-R4D3-3513
29. GENERAL TRUSS CO. INC., 06-R2D1-0783 AND 0784
30. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
31. GLASS PAK, 03-R2D2-0750 AND 0751
32. GOLDEN STATE BORING & PIPE JACKING, INC., 05-R5D2-2359
33. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
34. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
35. HELPMATES STAFFING SERVICES, 05-R3D3-2239
36. H. M. CONSTRUCTION, INC., 08-R3D2-9007
37. HUSSMAN CORPORATION, 03-R3D1-2939
38. ILH CONSTRUCTION, 02-R1D1-4172

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39. INDUSTRIAL MASONRY, INC., 07-R3D2-0735 AND 0736
40. JOHN LAING HOMES, 04-R3D1-194 AND-195
41. KELLY SERVICES, INC., 06-R1D2-1024
42. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
43. LA TOURAINNE, INC., 08-R6D2-9214
44. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
45. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA),05-R4D2-2541
46. NAUTICAL ENGINEERING, INC., 06-R6D1-4868 THROUGH 4872
47. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552 THROUGH 1554
48. O & M INDUSTRIES, 04-R1D5-1597
49. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658
50. PMR RACE CARS, 03-R3D3-1825
51. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
52. RII PLASTERING INC., 02-R3D1-2679
53. R & L BROSAMER, INC., 03-R1D5-4832
54. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
55. STACY & WITBECK INC., 05-R1D1-1142
56. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH 1692
57. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
58. TEICHERT AGGREGATES, 04-R5D1-2982
59. TRIO METAL, 03-R4D4-0317
60. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2556 AND 2557

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61. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
62. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

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. WESTERN MILLING, LLC, 06 CE CG 04007 (06-9039/9040)
2. UNITED AIRLINES dba UNITED AIRLINES SFO SYC, 07CS00331 (00-2844)
3. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
4. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
5. J. F. SHEA CONSTRUCTION, INC (DOSH v. OSHAB) 34-2007-00882187-CU-WM-GDS, (02-801)
6. E. L. YEAGER CONSTRUCTION COMPANY, INC., (DOSH v. OSHAB) 34-2007-00882192-CU-WM-GDS, (01-3261)
7. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
8. MURRAY COMPANY, BS112469 (07-9190/9192)
9. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
10. KHS & S CONTRACTORS, 00107284
11. ARTHUR J. BREWSTER CORP. DBA PRESTIGE KITCHENS, INC. 30-1008-00110573 (08-1121)

APPELLATE COURT:

NONE

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OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.