

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, June 6, 2012
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: May 25, 2012

RE: Closed Session of the Board to be held on June 6, 2012

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. A. TEICHERT & SON INC. DBA TEICHERT AGGREGATES, 10-R5D1-2790
2. CALIFORNIA HIGHWAY PATROL, 09-R2D1-3762
3. OVERHILL FARMS, 11-R6D2-1134 AND 1135
4. SHIMMICK CONSTRUCTION CO. INC., 09-R2D3-0399

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.)

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1. ADVANCED UNIFORM DUST CONTROL & LINEN, LLC, 12-R2D4-0705
2. ALADDIN ENTERTAINMENT GROUP [CITED AS PHARAOH'S LOST KINGDOM], 10-R3D3-1330 THROUGH 1332
3. ALAMEDA COUNTY GENERAL SERVICES AGENCY, 11-R1D4-3165 THROUGH 3169
4. AMERICAN TIRE DISTRIBUTORS, 12-R2D5-0363
5. APEX PAINTING, INC., 10-R1D4-3808
6. ATLANTIC EXPRESS OF CALIFORNIA INC., DBA ATLANTIC EX, 11-R3D5-1937
7. ATLAS SHEET METAL, 11-R3D6-3181 AND 3182
8. AUTO ZONE, 12-R3D6-0092 AND 0093
9. AVP & H, A CALIFORNIA CORPORATION, 12-R2D4-0746
10. AYALA CORPORATION, 11-R2D5-2737
11. BELL PLASTAICS, 10-R1D4-3501 AND 3502
12. B & E VENTURES LLC., 11-R1D4-0696
13. BIMBO BAKERIES USA, INC., 10-R6D1-2340 THROUGH 2344
14. BLUE DOT CAFÉ AND COFFEE BAR, 11-R1D4-0523
15. BLH CONSTRUCTION COMPANY, 11-R2D2-0578 AND 0579
16. CA TREE & LANDSCAPE, 11-R2D5-3141 THROUGH 3143
17. CBS OUTDOOR, INC., 11-R1D1-0133
18. CHASE CONTRACTORS, INC., DBA QUALITY AIR SERVICES, 10-R1D4-3175
19. CIRCLE G RANCH, 10-R2D1-2220 THROUGH 2222
20. CITY COLLEGE OF SAN FRANCISCO, 11-R1D1-1290 AND 1291
21. CITY OF BENICIA, 12-R2D2-0206
22. CITY OF OAKLAND FIRE DEPARTMENT, 10-R1D4-1385

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23. CITY OF PALM DESERT, 12-R3D3-1030
24. CITY OF WATSONVILLE, 10-R1D2-3611 AND 3612
25. CONCORD IRON WORKS, INC., 11-R2D2-1104
26. CONOCO PHILLIPS COMPANY, 11-R6D4-1245 AND 1246 & 11-R6D4-1247
AND 1248
27. CON-WAY FREIGHT, 11-R1D2-0727
28. CSK, AUTO, INC. DBA O'REILLY AUTO PARTS, 11-R1D4-1441 AND 1442
29. CUPERTINO ELECTRIC, 10-R1D3-1660 THROUGH 1662
30. CYPRESS SCHOOL DISTRICT, 11-R3D1-1879
31. D'ARRIGO BROS. CO. OF CALIFORNIA, INC., 10-R6D7-1410
32. RUTH G. DIAZ DBA PALO ALTO FARM LABOR SERVICE, 11-R6D7-1720
33. DMS WINDOW CLEANING & METAL CARE SERVICES INC., 11-R4D1-0423
THROUGH 0425
34. DOCTOR R, LLC DBA GROSVENOR SUITES, 11-R1D1-3020
35. ELEVATOR DYNAMICS, 11-R4D1-2039
36. ENNIS PAINT INC., 12-R2D5-0569
37. FAMILY PATHS, INC., 10-R1D4-4006 AND 4007
38. FINNMAX LLC, 11-R4D1-2974
39. FRESNO PROTEIN PROCESSORS, INC., 10-R2D5-1056 AND 1057
40. FRYER FLOORING CO INC., 10-R2D5-1488 THROUGH 1490
41. G4S SECURE SOLUTIONS (USA) INC., DBA G4S WACKENHUT,
11-R4D2-0749 AND 0750
42. THE G.B. GROUP, INC., 12-R154-0975
43. GC HARVESTING, INC., 11-R1D2-3132
44. GHULAN/HASHIM MOJADDIDI DBA DEPOT AUTO WRECKERS,

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11-R6D7-0722 AND 0723

45. GLOBAL TV INC., 11-R3D1-2032
46. ALI HEIDARI, DDS DBA SERENTIY DENTAL GROUP, 11-R1D2-2087
AND 2088
47. JFC CONSTRUCTION, INC., 11-R2D2-0698 THROUGH 0700
48. JIM'S SUPPLY CO., INC., 10-R2D5-3138
49. JOSH GENERAL ENGINEERING, INC., 11-R4D3-2801 AND 2802
50. KACHALLOWEEN SALES INC., DBA SPIRIT HALLOWEEN, 09-R2D5-3881
51. KAISER FOUNDATION HOSPITALS, 11-R1D1-3077
52. AMARJIT S KANDOLA & BIRKAM S KANDOLA DBA KANAOLA B,
11-R2D4-2221 AND 2222
53. KEMPER SPORTS MANAGEMENT, INC. [CITED AS CHINO HILLS LAND
WEST LLC/DBA VELLANO COUNTRY CLUB], 12-R3D3-0208 AND 0209
54. KIRBY CONSTRUCTION, INC., 11-R2D2-0576 AND 0577
55. LEWIS C. NELSON AND SONS, INC., 11-R2D4-2559
56. LUCKY 7 SUPERMARKET, 11-R1D2-2021
57. LUCKY BRAND DUNGAREES STORES, INC., DBA LUCKY BRAND,
11-R3D5-1938 AND 1939
58. MACY'S, 11-R3D6-2831
59. MARIANI ORCHARDS INC., 10-R1D2-3577 AND 3578
60. MARK TWAIN CONVALESCENT HOSPITAL, 12-R2D4-0745
61. OILWIZE, 12-R2D5-0270
62. PACIFIC COAST CONTAINER, INC., DBA PCC LOGISTICS, 10-R1D4-3809
63. PACIFIC STEEL CASTING COMPANY, 11-R1D4-2838
64. PACPIZZA, LLC DBA PIZZA HUT, 11-R1D4-0651

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65. P R CONSTRUCTION, INC., 11-R4D1-2574
66. R & D STEEL, INC., 11-R4D3-3315
67. RIVER RANCH FRESH FOODS, LLC, 10-R1D2-3316 THROUGH 3318
68. ROADWAY ENGINEERING WORKS, INC., 11-R6D1-0589
69. RUBEN CAMACHO CONSTRUCTION CO., 11-R4D1-1121 THROUGH 1124
70. R. YOUNG ENTERPRISE, INC., 11-R3D6-3155 AND 3156
71. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
72. SAN FRANCISCO FIRE DEPARTMENT, 11-R1D1-3128 THROUGH 3131
73. SANTA CLARA COUNTY VECTOR CONTROL DISTRICT, 12-R1D2-0769
74. STOCKTON RECYCLING, INC., 11-R2D4-2359
75. SUNRISE FARM LABOR, INC., 11-R2D5-2462
76. SUTTER HOME WINERY INC., 10-R1D5-0395 AND 0396
77. TZIMBAL CONSTRUCTION, 10-R1D2-3315
78. VALLEY CREST COMPANIES, 11-R4D1-2683 AND 2684
79. VALLEY PRIDE, INC., 11-R1D2-1835
80. WASHINGTON DYEING AND FINISHING, INC., 11-R6D2-1791 AND 1792
81. WEGIS RANCH, 11-R4D3-3243 THROUGH 3245
82. W.O.R.M. AG INC., 11-R2D4-2377

ORDERs DISMISSING APPEAL:

1. EAGLE ROOFING, INC., 10-R1D4-0941 THROUGH 0945
2. GOD BLESS TIRE SHOP INC., 11-R6D7-0972 AND 0973
3. MEDINA HALAL FOODS, INC., 11-R1D4-2817 AND 2818

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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. MAC PLASTERING, INC., 11-R3D2-0547 THROUGH 0550
2. SIERRA FOREST PRODUCTS, 09-R2D5-3979

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. WILLIAMS JANITORIAL, 12-R2D5-9047

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. A-CO TEMPORARY POWER, 10-R4D1-3110 AND 11-R4D1-9206
3. ALLIED SALES & DISTRIBUTION, INC., 11-R6D2-0480
4. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
5. AC TRANSIT, 08-R1D4-0135
6. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
7. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
8. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN,
INDIVIDUALLY DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
9. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
10. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
11. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
12. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241

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13. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
AND 3448
14. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
15. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
16. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
17. CENTRAL VALLEY ENGINEERING & ASPHALT, INC.
08-R2D1 5001 AND 5002
18. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
19. COMMERCIAL METAL FORMING, 09-R3D1-1592
20. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
21. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
22. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
23. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
24. DELTA TRANSPORTATION, INC., 08-R2D1-4999
25. DENIO'S ROSEVILLE FARMERS MARKET & AUCTION INC. 11-R2D1-2431
26. DESIGN BUILDERS, INC., 08-R4D4-1901
27. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896
28. DUKE PACIFIC, INC., 08-R3D3-574
29. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
30. EZ MIX, INC., 08-R4D3-1898
31. FDO INC. DBA GRAND AMERICAN DOORS, 10-R6D2-1215 THROUGH 1219
32. FORTUNA IRON WORKS 06-R2D3-4222
33. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687

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34. HOLLINGER CONSTRUCTION INC., 11-R4D1-0891
35. HOME DEPOT, 10-R3D6-3284
36. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
37. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
38. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
39. LION RAISINS, INC., 08-R2D5-2253 AND 2254
40. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
41. MARINE TERMINALS, 08-R6D2-1920
42. McPHERSON ENTERPRISES, INC., 10-R2D5-0995
43. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
44. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
45. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
46. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
47. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667
48. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
49. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
50. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
51. POUK & STEINLE, INC., 09-R3D3-0491
52. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
53. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
54. SDCCD – CONTINUING EDUCATION N C CENTER, 11-R3D2-1196
55. SDUSD – PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297
56. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055

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57. SHERWOOD MECHANICAL, INC., 08-R3D2-4690 THROUGH 4693
58. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
59. SMUD, 08-R2D1-4887 THROUGH 4889
60. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR,
08-R2D1-3414 THROUGH 3418
61. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
62. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
63. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
64. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION,
05-R2D4-2650 AND 2651
65. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 09-R4D5-0459
AND 0460
66. THAYER CONSTRUCTION, INC., 09-R3D3-4206 THROUGH 4208
67. VIC ROSS'S MASONRY, INC., 11-R3D2-0708 AND 0709

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. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB)
(00-440)
2. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
3. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
4. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
5. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430

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- (09- 9280/9281)
6. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047 (07-R5D1-3611)
 7. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
 8. SMUD, 34-2010-80000723 (08-R2D1-4887)
 9. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
 10. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
 11. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)
 12. GUILLAUME GRAPEVINE NURSERY, INC., 34-2011-800001010 (08-R2D1-3273)
 13. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459 THROUGH 2461)
 14. FLATIRON CONSTRUCTION CORP, 34-2012-800001029 (10-R4D1-2789)
 15. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)
 16. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039 (07-R2D3-0275)
 17. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
 18. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
 19. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
 20. DUININCK BROS., INC., 34-2012-80001129 (06-2871)

COURT OF APPEAL:

1. JERLANE, INC., D060844 (2007-00056381) (01-4344 and 4345)

PERSONNEL *(Issues regarding staff.)*

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