

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, June 27, 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: June 15, 2012

RE: Closed Session of the Board to be held on June 27, 2012

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.

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-R5D1-3029
2. FRAZIER MASONRY, 11-R4D1-2680 AND 2681
3. JUSTIS ENTERPRISES DBA BILL'S ROOFING, 09-R2D1-0586
4. KENYON PLASTERING, INC., 10-R1D4-2710
5. NCA ENTERTAINMENT, INC. DBA GREG'S RIDES, 11-R3D2-2740 AND 2774
6. PRESTON PIPELINES INC., 09-R6D7-3345

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

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appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. 3S NETWORK, INC., 12-R1D4-0074
2. AA-ACURATE AND ADVANCED MEDICAL BILLING CORP., 11-R1D3-1873
3. ACTION SECURITY PARKING SERVICE, 09-R2D3-0807
4. A G LABOR INC., 10-R2D1-2614, 2884 AND 2885
5. AGRITRADE LLC, 11-R3D2-2098 AND 2099
6. ALBERT D. SEENO CONSTRUCTION CO., 11-R2D2-1503
7. ALDEN PARK VINEYARDS, LP, 11-R1D5-1640
8. ARAMARK, 10-R2D1-2938 AND 2939
9. ARNAUDO BROTHERS, 11-R6D7-1678 THROUGH 1680
10. BCI COCA COLA, 11-R4D1-2777
11. BIMBO BAKERIES USA INC., 10-R6D1-3600 THROUGH 3603
12. B. RAEEN CONSTRUCTION, 11-R4D1-2798 AND 2799
13. BUTTE STEEL & FABRICATION INC., 09-R2D1-1898 AND 1899
14. CAJOLEBEN INC. DBA GALASSO'S BAKERY, 12-R3D3-0214 THROUGH 0216
15. CALIFORNIA ALPHA PAINTING & MAINTENANCE, INC., 11-R3D1-1507
AND 1508
16. CASTLE & COOKE COLD STORAGE, LLC., 11-R6D2-3054 THROUGH 3058
17. CEDAR LANE NATURAL FOODS, INC., 11-R3D5-2828 THROUGH 2830
18. CITY OF OAKLAND – OAKLAND POLICE DEPARTMENT, 10-R1D4-1382
THROUGH 1384
19. CLEAR LAM PACKAGING INC., 11-R4D2-2443 AND 2444
20. CONTEMPORARY HOUSING SOLUTIONS, LLC., 11-R2D2-0473
21. COPAC CORP., 11-R4D1-2901 AND 2902

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22. COUNTY SANITATION COMPANY, INC., 11-R4D3-2781 THROUGH 2783
23. DIRECT CHASSIS LCC, 11-R4D2-2471
24. DOCTORS MEDICAL CENTER DBA BEHAVIORAL HEALTH CNTR,
11-R2D4-2627
25. ECO BAY SERVICES, 10-R1D1-1233 THROUGH 1236
26. ENNERFAB INC. DBA E F SERVICES, INC., 11-R3D6-2301
27. ENNERFAB INC. DBA E F SERVICES, INC., 11-R3D6-2302
28. ENVIRONMENTAL PNEUMATICS INCORPORATED, 09-R2D5-4053 AND 4054
29. EXXON MOBIL, 11-R6D4-2526
30. EXXON MOBIL OIL CORPORATION, 11-R6D4-2527
31. EXXON MOBIL, 12-R6D4-0762 AND 0763
32. EXXON MOBIL, 12-R6D4-0765 THROUGH 0768
33. FLOYD JOHNSTON CONSTRUCTION CO., INC., 11-R2D4-2709
34. FOSTER POULTRY FARMS, 11-R2D4-2667
35. GEORGE SANCHEZ ELEMENTARY SCHOOL, 11-R4D2-2510 AND 2696
36. GOMEZ LANDSCAPE DESIGN DBA GOMEZ LANDSCAPE AND TREE CARE,
11-R4D1-2274
37. GP LANDSCAPE INC., 11-R2D1-0841 AND 0842
38. LORENZO GOMEZ GUDINO DBA VISALIA AUTO SALES, 11-R6D7-1479
AND 1480
39. HALIBURTON ENERGY SERVICES, INC., 09-R2D1-2678
40. HALL MANAGEMENT CORPORATION, 11-R6D7-2113
41. DAVID F. HARR DBA D F HARR CONSTRUCTION, 11-R2D2-0458
42. HATHAWAY DINWIDDIE CONSTRUCTION CO., 10-R1D3-1600
43. HILL BROTHERS CHEMICAL COMPANY, 11-R6D4-2693 AND 2694

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44. THOMAS WAYNE HORN, INDIVIDUALLY AND DBA T.T. CONSTRUCTION, 09-R2D3-1038 AND 1039
45. ROB HOUK, HOUK PROPERTY MANAGEMENT, 11-R4D1-2388 AND 2389
46. JERRY IVORY CONSTRUCTION, INC., 11-R4D1-2725 AND 2726
47. JPI SERVICES LLC, 11-R4D1-2378
48. KERRY INGREDIENTS & FLAVOURS, 10-R1D4-3325
49. K.F. HOWELL ELECTRIC, INC., 10-R1D3-1657 THROUGH 1659
50. KOHARA NURSERY, INC. 11-R6D1-1390 THROUGH 1395
51. THOMAS JON KNUDSON DBA WEST PACIFIC PLUMBING COMPANY, 11-R6D7-2393 AND 2394
52. LA COUNTY PUBLIC SOCIAL SERVICES, 11-R4D1-2778
53. LAURMAN CONSTRUCTION CO., 11-R4D1-2441
54. LAYMAN ELECTRIC INC., 11-R6D7-3019
55. LES MOEN INVESTMENTS DBA NORTHCREST TRAILER CITY & PINE GROVE MOBILE HOME & RV PARK, 09-R2D1-3875 THROUGH 3877 AND 4265
56. LOCATELLI MOVING & STORAGE, 10-R1D2-3613 AND 3614
57. ROSENDO MAYORAL DBA MAYORAL BROTHERS FLC, 11-R2D1-2336
58. M.F. MILLER COATING, INC., 11-R6D7-2590 THROUGH 2596
59. MILLAGRO RANCH, 12-R3D2-0165
60. MISFIT FARMS, INC., DBA SUNRISE PET CENTER, 09-R2D1-0804
61. MODERN METHOD ROOFING CO INC., 09-R2D1-3126
62. MODULAR RESOURCES INTERNATIONAL CORPORATION DBA MRI CORPORATION, 11-R6D2-2578
63. DEAN A. MOON DBA NATURE CARE LANDSCAPE INDUSTRIES, 09-R2D1-1105

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64. RICHARD MOYA DBA MOYA FARMS, 11-R6D7-2728
65. NORTHROP GRUMMAN, 12-R3D6-0715
66. ONE STOP CONSTRUCTION GROUP INC., 12-R1D5-0115
67. OSEGUERA VINYARDS MANAGEMENT INC., 12-R1D5-0425
68. PACIFIC GAS AND ELECTRIC COMPANY, 10-R2D2-0034
69. PACIFIC STANDARD PRESS, 10-R2D1-2385 AND 2386
70. PAC PIZZA.COM LLC, 11-R2D2-1293
71. PENINSULA FIRE DISTRICT, 11-R2D1-1373
72. PETER EASTMAN INC., DBA ONE SOURCE PROPERTY, 11-R3D1-2710
AND 2711
73. P&P AUTO BODY & PAINTING, 10-R6D7-3346 AND 3347
74. PRESICON COMPANY, INC., 11-R1D3-0520 THROUGH 0522
75. ROBERT ROBINSON, 10-R2D1-3393
76. JUAN RODRIGUEZ DBA JLR FARM LABOR, 09-R6D3-2926 AND 2927
77. ROEBBELEN CONTRACTING INC., 11-R1D4-1560
78. ROGER RODRIGUEZ SR. DBA PAYLESS TRANSMISSION & CLUTCH,
11-R6D7-3273 AND 3274
79. RORLING CONSTRUCTION INC., 11-R6D7-2183 THROUGH 2186
80. MARK RUSSO DBA COVENANT WINDOW CLEANING, 10-R1D2-3268
AND 3269
81. RUSS'S BEE REMOVAL, 11-R3D2-2036 AND 2037
82. SANTA FE AGGREGATES, INC., 11-R5D1-1132
83. SEAL METHODS, INC., 11-R3D6-2468 THROUGH 2470
84. SHADOWFAX ROOFING INC., 11-R1D2-1485
85. SMA BUILDERS, 11-R4D1-2832

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86. SUNFLOUR BAKING COMPANY, 12-R6D1-0024
87. SUNSCAPE CONSTRUCTION INC., 11-R2D1-2770
88. TANIMURA & ANTLE FRESH FOODS, INC., 10-R6D3-4098
89. TAYLOR FARMS RETAIL INC., 11-R6D3-1586 THROUGH 1591
90. THUNDER RANCH, 11-R3D2-2132 AND 2133
91. TOM & PERRY CHARTER DBA T & P FARMS, 11-R2D1-2657
92. OSCAR TORRES DBA SIERRA TIRE & WHEEL, 11-R2D1-1498
93. TRADEMARK CONSTRUCTION CO. INC., DBA JMW TRUSS & COMPONENTS, 12-R3D3-0087 AND 0088
94. JOHN CHARLES TRAVERSO DBA TRAVERSO TREE SERVICE, 11-R2D2-1338 AND 1339
95. ULTIMATE FORMULATIONS INC. DBA BEST FORMULATIONS, 11-R3D6-2631 THROUGH 2634
96. UNITED PARCEL SERVICE, 11-R2D2-3106
97. DANIEL VARGAS, MARJORIE VARGAS DBA DANIEL JANITOR, 12-R3D6-0571 AND 0572
98. VICTOR LEVERONI & SONS LLC, 12-R1D5-0480
99. VIGNOLO FARMS, 09-R2D5-0034 AND 0035
100. WALLINGFORD CONSTRUCTION COMPANY, 11-R1D3-1445
101. WEATHERTOP NURSERY, 12-R1D5-0808
102. W.L. BUTLER CONSTRUCTION, INC., 11-R1D3-0834

ORDER DISMISSING APPEAL:

1. PLACERVILLE PINES CARE CENTER, 09-R2D1-0872 AND 0873

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to

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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. BLUE DOT CAFÉ AND COFFEE BAR, 11-R1D4-0523
2. SHIMMICK CONSTRUCTION COMPANY, INC., 09-R2D3-0399

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. MAC PLASTERING, INC., 11-R3D2-0547 THROUGH 0550

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. ALLIED SALES & DISTRIBUTION, INC., 11-R6D2-0480
3. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
4. AC TRANSIT, 08-R1D4-0135
5. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
6. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
7. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN,
INDIVIDUALLY DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
8. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
9. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
10. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
11. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
12. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
AND 3448
13. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563

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14. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
15. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
16. CENTRAL VALLEY ENGINEERING & ASPHALT, INC.
08-R2D1 5001 AND 5002
17. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
18. COMMERCIAL METAL FORMING, 09-R3D1-1592
19. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
20. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
21. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
22. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
23. DELTA TRANSPORTATION, INC., 08-R2D1-4999
24. DENIO'S ROSEVILLE FARMERS MARKET & AUCTION INC. 11-R2D1-2431
25. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896
26. DUKE PACIFIC, INC., 08-R3D3-574
27. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
28. EZ MIX, INC., 08-R4D3-1898
29. FDO INC. DBA GRAND AMERICAN DOORS, 10-R6D2-1215 THROUGH 1219
30. FORTUNA IRON WORKS 06-R2D3-4222
31. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
32. HOLLINGER CONSTRUCTION INC., 11-R4D1-0891
33. HOME DEPOT, 10-R3D6-3284
34. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
35. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844

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36. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
37. LION RAISINS, INC., 08-R2D5-2253 AND 2254
38. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
39. MARINE TERMINALS, 08-R6D2-1920
40. McPHERSON ENTERPRISES, INC., 10-R2D5-0995
41. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
42. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
43. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
44. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
45. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667
46. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
47. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
48. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
49. POUK & STEINLE, INC., 09-R3D3-0491
50. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
51. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
52. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-3128 THROUGH 3131
53. SDCCD – CONTINUING EDUCATION N C CENTER, 11-R3D2-1196
54. SDUSD – PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297
55. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
56. SHERWOOD MECHANICAL, INC., 08-R3D2-4690 THROUGH 4693
57. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
58. SIERRA FOREST PRODUCTS, 09-R2D5-3979

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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 FROZ SUN 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

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. MCI WORLD COM, 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 SUI SUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
6. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)

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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.