

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, July 20, 2011
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 7, 2011

RE: Closed Session of the Board to be held on July 20, 2011

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, 08-R5D1-4231

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. A STEP ABOVE PAINTING, INC., 10-R2D2-0268
2. ACE ENGINEERING, INC., 11-R3D5-1009
3. ADVANCE STRUCTURAL ALLOYS LLC, 11-R4D3-0203 THROUGH 0205 and 11-R4D3-0609

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4. ADVANCED DRILLING WORKS, INC., 11-R1D3-0756 THROUGH 0758
5. AFTER COLLISION CENTER, INC., 11-R6D5-0636
6. CARLOS ALVARADO DBA ALVARADO CONTRACTING, 10-R6D5-2588 AND 2589
7. AMERICAN ENGINEERING AND ASPHALT, INC., 10-R2D1-2155
8. ARK & BAINS INCORPORATED DBA LITTLE CAESARS PIZZA, 10-R2D1-3176
9. APEX DRUM COMPANY, 11-R4D2-0813 THROUGH 0815
10. ASPLUNDH CONSTRUCTION CORP., 10-R4D3-4077 THROUGH 4079
11. BOB BAGDASARYAN DBA OPTIMUM AUTO BODY, 10-R6D5-2995 AND 2996
12. JEVAN BIHALA DBA BIHALA FARMS, 10-R2D1-2154
13. BIMBO BAKERIES USA, INC., 10-R6D1-1091 AND 1092
14. BRITZ FERTILIZERS, INC., 10-R2D5-1460 THROUGH 1462
15. BROWNING CONTRACTORS, INC., 09-R2D5-1230 THROUGH 1232
16. BURDICK PAINTING, 09-R1D4-3821
17. BUTTON & TURKOVICH, 10-R2D1-0719
18. CA. CORRECTIONS – AVENAL, 10-R2D5-1164
19. CA. CORRECTIONS – CORCORAN, 10-R2D5-1799
20. CA. TRANSPORTATION, 10-R2D3-2297
21. CALIFORNIA ERECTORS, 09-R1D3-4048
22. CENTRAL TRANSPORT LLC, 10-R2D1-2740
23. CHARGERS FOOTBALL COMPANY LLC, 10-R3D2-1631 AND 1632
24. CITY OF SAN DIEGO – STADIUM DEPARTMENT, 10-R3D2-1576
25. CITY SUDS LAUNDROMAT, 10-R2D1-0654

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26. CONOCO PHILLIPS COMPANY, 09-R6D3-3936
27. COSTCO WHOLESALE, 11-R3D3-0614
28. CVS PHARMACY (LONG'S DRUG STORES CALIFORNIA LLC),
11-R1D2-0294
29. DESIGN TODAYS, INC., 10-R6D5-4053 AND 4054
30. ROBERT X. DONG, DDS, 08-R2D1-3714 AND 3715
31. EAST LAWN, INC. DBA EAST LAWN ELK GROVE MEMORIAL PARK AND
MORTUARY, 10-R2D1-2294
32. EFT FAST QUALITY SERVICES, INC., 11-R3D1-0414
33. F.D. THOMAS, INC., 10-R2D3-1820
34. F. KORBEL & BROS. DBA VALLEY OF THE MOON WINERY & CELLARS,
09-R1D5-2050 THROUGH 2052
35. FAMOSO NUT COMPANY LLC, 10-R2D5-2971 AND 2972
36. FBD VANGUARD CONSTRUCTION, INC. DBA VANGUARD
CONSTRUCTION, 10-R4D3-3656 AND 3657
37. FISHERMAN'S WHARF BAY CRUISE DBA RED AND WHITE FLEET,
09-R1D1-2674
38. ALBERT FRANCIS, 10-R2D1-1133
39. FRANCISCO SANCHEZ FARM LABOR CONTRACTOR, 10-R2D5-2299
40. FRESH FARMS, INC., 10-R1D2-0124
41. FRITO LAY, 10-R1D4-0393 AND 0394
42. GARAGE DOORS, INC., 11-R1D2-0483
43. GEORGE HELMUTH FARMS, 09-R2D5-1197
44. GOLDEN STATE ELECTRICAL CONTRACTORS, INC., 10-R2D1-1889
45. GRIMMWAY FARMS, 10-R2D5-0674

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46. HILMAR CHEESE COMPANY, INC., 10-R2D4-1845 AND 1846
47. JATAGAN SECURITY, INC., 10-R2D1-1282
48. KLEINFELDER WEST, INC., 11-R2D5-0092 AND 0093
49. L. A. CITY DEPARTMENT OF ANIMAL SERVICES, 11-R4D2-0451
50. LARA LABOR CONTRACTORS, 10-R2D1-2738 AND 2739
51. FABIAN LAREDO INDIVIDUAL DBA LAREDO ROOFING, 10-R2D3-3136
52. LAUSMANN LUMBER & MOLDING, 10-R2D1-1819
53. MARK ANDREW LOCKWOOD DBA MARK LOCKWOOD CONSTRUCTION,
10-R6D7-3264 AND 3265
54. AURA E. LOPEZ DBA JUNIOR PALLETS, 10-R6D7-3963 THROUGH 3965
55. MARIA LOPEZ DBA LOPEZ PALLETS, 10-R6D7-3966 THROUGH 3968
56. MACHADO PALLETS, 10-R6D5-2816 THROUGH 2819
57. MAINAS FARMS LLC, 10-R3D2-3750
58. MANTELL MASONRY CONSTRUCTION, INC., 10-R6D7-3525
59. ROCQUE & APRIL MERLO DBA RE MERLO GENERAL FARMING,
10-R2D1-2156
60. MERRYFIELD PAINTING, 10-R2D1-2827
61. JUAN ARIAS MESA DBA BROTHERS MEZAS PALLETS, 10-R6D5-3607
62. MI PUEBLO FOOD CENTER, 10-R1D2-0473 THROUGH 0475
63. MONTEREY PACIFIC, INC., 10-R1D2-0725 THROUGH 0727
64. MORNINGSTAR FOODS LLC, 10-R2D4-2298
65. MV TRANSPORTATION, INC., 10-R2D1-1500 AND 1501
66. NEW UNITED MOTOR MANUFACTURING, INC., 09-R1D2-3431
67. NINE PLANET, INC. DBA NINE PLANET, 11-R6D5-0040 THROUGH 0042

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68. NOR-CAL ROOFING, INC., 10-R2D3-3062 THROUGH 3064
69. ON THE MARK CONSTRUCTION, 10-R2D1-2064 AND 2065
70. P.D. GROUP, INC. DBA SIGN-A-RAMA, INC., 09-R3D3-0536 THROUGH 0538
71. PALLET COMPANIES, INC. DBA IFCO SYSTEMS N.A., INC., 10-R6D5-3494 THROUGH 3496
72. PINNACLE EXHIBITS LLC, 10-R3D1-3631
73. PPC PROPERTY MANAGEMENT, INC. DBA SUNRISE CENTER APARTMENTS, 10-R2D1-2363 AND 2364
74. PRESTON MASONRY, INC., 10-R2D5-3067 AND 3068
75. PRODIGY ELECTRIC, INC., 10-R4D3-0898 AND 0899
76. REDDING TREE GROWERS CORPORATION, 11-R2D5-0620 AND 0621
77. RICHARD AVELAR & ASSOCIATES RECONSTRUCTION SERVICES, 10-R2D2-0265 THROUGH 0267
78. RICHARD JOSEPH & COMPANY, 10-R2D1-0604 THROUGH 0606
79. RKDM ENVIRO ENERGY SERVICES, INC., 10-R4D1-2280 THROUGH 2284
80. DOUGLAS G. ROBERTSON DBA DOUG ROBERTSON CONSTRUCTION, 10-R6D5-3919 AND 3920
81. S & S PRODUCE LLC, 10-R2D5-0947 AND 0948
82. SACRAMENTO CONTAINER CORPORATION, 10-R2D1-2130 AND 2131
83. SAFEWAY, INC. DBA VONS DIVISION #2227, 11-R3D1-0883
84. SAN DIEGO GAS & ELECTRIC, 08-R3D2-4774 THROUGH 4780
85. SANTA BARBARA SCHOOL DISTRICT – LA COLINA JR. H.S., 11-R4D3-0895
86. SGLC, INC., 10-R2D1-1205
87. SIMONIAN FRUIT CO., 08-R2D5-4892
88. SOLANO IRRIGATION DISTRICT – CHWTP, 10-R6D3-3795

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89. SUPERIOR DUCT FABRICATION, 11-R3D6-0060
90. TAMAYA, 10-R6D5-4001
91. TEHAMA COUNTY SHERIFF'S DEPARTMENT, 10-R2D1-1079 AND 1080
92. THE DOT PRINTER, 10-R3D1-2893 AND 2894
93. THE PINERY LLC, 10-R6D5-3606
94. TONY HARDY CONSTRUCTION, INC., 10-R2D1-3060 AND 3061
95. TRINITY RESCUE LLC DBA TRINITY TRANSPORT, 10-R2D1-2937
96. VALLEY CREST LANDSCAPING, 10-R2D4-3100 AND 3101
97. W. L. RUBOTTOM CO., 10-R4D3-3598 AND 3599
98. WAMC COMPANY, INC. DBA CONTINENTAL MANAGEMENT COMPANY,
10-R3D2-0211 THROUGH 0213
99. WENMAT FITNESS, INC. DBA ALHAMBRA ATHLETIC CLUB, 10-R2D1-2097
100. WVF, INC., 11-R2D5-0582 AND 0583
101. YAMANISHI FARMS, 10-R1D2-0517 THROUGH 0519

ORDERS DISMISSING APPEALS:

1. AN/BE CONTRACTORS, 10-R1D2-0866
2. DALE STICKNEY CONSTRUCTION, 10-R1D1-1232

ORDER DENYING-DISMISSING LATE APPEALS:

1. ARMEN BENYAMINYAN DBA UNITED CARS COLLISION CENTER,
11-R6D5-9221

ORDER DENYING LEAVE TO FILE LATE APPEAL:

1. FIRST CHOICE PALLETS, INC., 11-R2D5-9122

ORDER AFTER REMAND:

1. BURTON L. SILVA FARMS, 09-R1D2-1498

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2. PAPER SOURCE CONVERTING AND MFG., INC., 10-R4D2-1947 AND 1948

PETITIONS FOR RECONSIDERATION:

1. PACIFIC TELEPHONE COMPANY DBA AT&T, 06-R2D4-5052 AND 5053

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. A & M AUTO DISMANTLER, 11-R6D6-9102
2. ALPINE CONCRETE & PUMPING, INC., 10-R2D3-0412
3. DEL RIO WEST PALLET, INC., 09-R2D4-2403
4. OROZCO WATERMELON, 11-R3D3-9072

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 & C PALLETS, 10-R6D5-1687 AND 1688
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. AC TRANSIT, 08-R1D4-0135
4. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
5. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
6. ALT'S TOOL & MACHINE, 10-R6D2-2986 AND 3266
7. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
8. ANNING-JOHNSON COMPANY, 06-R1D3-1976
9. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
10. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
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. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
14. BURRTEC WASTE INDUSTRIES, INC., 10-R3D3-9222
15. BURTON L. SILVA FARMS, 09-R1D2-1498
16. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
17. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
18. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
19. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
20. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
21. SILVIA CASTRO, MIGUEL CASTRO DBA SILVIA CASTRO FLC,
09-R2D4-1900
22. CITY OF FOSTER CITY, DEPT. OF PUBLIC WORKS, 09-R1D3-4195
23. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
24. CLINE CELLARS, INC., 08-R1D5-2946
25. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR
08-R6D5-3466 AND 3467
26. COMMERCIAL METAL FORMING, 09-R3D1-1592
27. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
28. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
29. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
30. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
31. DESIGN BUILDERS, INC., 08-R4D4-1901
32. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
33. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
34. DUKE PACIFIC, INC., 08-R3D3-574

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35. DUININCK BROS., INC., 06-R4D3-2871
36. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
37. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
38. EZ MIX, INC., 08-R4D3-1898
39. FORTUNA IRON WORKS 06-R2D3-4222
40. G.T. ALDERMAN, INC., 05-R4D3-3513
41. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
42. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
43. HB PARKCO, 07-R4D2-1730 AND 1731
44. THE HERRICK CORP., 07-R3D1-495
45. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
46. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
47. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
48. JENSEN PRECAST, 05-R2D1-2377
49. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
50. KELSO'S AUTO DISMANTLING AND AUTO SALES, 10-R2D4-0165
51. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
52. L & S CONSTRUCTION, 10-R3D2-1822
53. LA MINA CANTINA, 09-R2D5-0039
54. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
55. LAST CHANCE, INC. DBA A STAR RECYCLING, 10-R4D3-3468 AND 3469
56. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
57. LION RAISINS, INC., 08-R2D5-2253 AND 2254

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58. L N I CUSTOM MANUFACTURING, 10-R6D2-9154
59. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
60. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
61. MARINE TERMINALS, 08-08-R6D2-1920
62. MCM CONSTRUCTION, INC., 10-R4D3-2498 THROUGH 2500
63. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
64. MILLENIUM GENERATION, INC., 08-R4D3-5047
65. MOOREFIELD CONSTRUCTION, INC., 10-R3D5-9207
66. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
67. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
68. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
69. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
70. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
71. POUK & STEINLE, INC., 09-R3D3-0491
72. R & L BROSAMER, INC., 03-R1D5-4832
73. RAMON ARANDA dba I & R PALLETS, 10-R6D5-9053
74. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
75. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
76. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
77. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
78. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
79. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
80. SMUD, 08-R2D1-4887 THROUGH 4889

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81. MARTIN J. SOLIS, DBA SOLIS FARM LABOR, 08-R2D1-3415
82. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR,
08-R2D1-3414 THROUGH 3418
83. SONORA REGIONAL MEDICAL CENTER, 10-R2D4-0162
84. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
85. SUNOPTA FRUIT GROUP, 09-R3D1-9245
86. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
87. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
88. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT
AGGREGATES, 04-R5D2-850 AND 851
89. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION,
05-R2D4-2650 AND 2651
90. UNITED PARCEL SERVICE, 07-R3D3-3322
91. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
92. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710
93. WINDSOR CHICO CREEK CARE AND REHABILITATION CENTER LLC,
10-R2D1-0263

LEGISLATION

(Review and discuss current legislation which may affect the Appeals Board)

1. SENATE BILL 829

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. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)

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2. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB),
34-2007-00882192-CU-WM-GDS, (01-3261)
4. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
5. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
6. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
7. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
8. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
9. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
10. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
11. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
12. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-
80000640 (08-R2D1-0027 THROUGH 0030)
13. EMERSON RUSSELL MAINTENANCE CO., RG-10543219 (08-R1D4-4167)
14. SMUD, 34-2010-80000723 (08-R2D1-4887)
15. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
16. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)

COURT OF APPEAL

1. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)
2. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)

PERSONNEL:

(Issues regarding staff)

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