

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, August 13, 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 1, 2008

RE: Closed Session of the Board on August 13, 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. ARMANDO CHAVIRA, DBA: INDUSTRIAL EQUIPMENT, 07-R3D3-2947 THROUGH 2951
2. ESTENSON LOGISTICS LLC, 05-R1D4-1755 AND 1756
3. LARRABURE FRAMING, INC., 06-R4D3-4451 AND 4452
4. TIDWELL EXCAVATION ACQUISITION CO., INC., 07-R4D3-339

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 13, 2008
Page 2

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. 6TH STREET COOLING, LLC, 08-R6D4-1414 AND 1415
2. AMERICAN WRECKING, INC., 07-R2D4-3659 AND 3660
3. ANNING-JOHNSON COMPANY. 07-R4D1-2628
4. B & L GLASS CO., 07-R1D5-3935
5. B & G EQUIPMENT RENTAL, 06-R3D3-4965 AND 4966
6. TOM BESMER CONSTRUCTION, INC., 06-R2D5-4410
7. CERTIFIED SERVICE, 08-R4D1-0196
8. CISCO BROTHERS, 07-R4D1-0867 THROUGH 0869
9. CONSTRUCTION STEEL WORKS, INC., 07-R3D3-1561
10. DOOR TO DOOR STORAGE, INC., 06-R4D4-2890 THROUGH 2893
11. FLEXSTEEL INDUSTRIES, INC., 07-R3D3-3464
12. GSE CONSTRUCTION COMPANY INC., 07-R1D4-4535 AND 4536
13. GRANITE CONSTRUCTION COMPANY, 07-R5D1-0427
14. HEATHERFIELD FOODS, INC., DBA: VILLA ROMA SAUSAGE CO.,
08-R6D2-0102 THROUGH 0106
15. HIGH VOLTAGE TECHNICAL SERVICES, INC., 07-R4D4-3499
THROUGH 3502
16. INCA PLASTICS MOULDING CO., INC., 07-R6D2-2278 THROUGH 2288
17. JURUPA VALLEY MILLWORKS, 08-R6D2-0115 THROUGH 0117

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For August 13, 2008

Page 3

18. KING MEAT, 07-R4D2-2630 AND 2631
19. LAS GOLONDRINAS MEXICAN FOOD, 07-R3D1-3792
20. LOCATELLI MOVING & STORAGE INC., 07-R1D2-4599 AND 4600
21. METROPOLITAN WATER DISTRICT SOUTHERN CAL-CSU, 07-R3D3-4691
22. NATURE'S WEST, 06-R4D3-842 THROUGH 845
23. OIL WELL SERVICE CO., 07-R4D3-3710
24. ORCO BLOCK CO., INC., BANNING, 07-R3D3-4404
25. PARAMOUNT RESOURCES RECYCLING INC., DBA E-RECYCLING,
07-R4D4-3485 THROUGH 3487
26. PROGRESS RAIL SERVICES
27. PROVEN MANAGEMENT, INC., 08-R5D1-0100
28. RATIONAL AUTOMOTIVE DESIGNS, INC., 08-R6D5-1946 AND 1947
29. RCR COMPANIES INC., 07-R3D3-5351 AND 5352
30. RSI HOLDING CORP., DBA RSI HOME PRODUCTS, 07-R3D3-4882 AND
4883
31. SAN PEDRO TRUCK & TRACTOR, 07-R3D5-2528
32. SHREEJI PLATING & COATING INC., 08-R3D1-0822
33. SOUTH COAST FRAMERS INC., 07-R3D3-3462 AND 3463
34. SUNLAND SHUTTERS, 07-R6D2-4764 THROUGH 4768
35. THE RATTO GROUP OF COMPANIES INC. / TIMBERLINE DISPOSAL
COMPANY INC., 07-R1D5-4206 AND 4207
36. TOM'S FASHION, 07-R1D1-4110 AND 4111
37. TOWER BAY BUILDERS, 07-R1D3-3641 AND 3642
38. UNLIMITED FLOORING, 07-R3D2-4031 THROUGH 4033
39. JOSE VALERIO, 07-R1D2-2294 THROUGH 2296

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For August 13, 2008

Page 4

40. VALLEY FORGE DEVELOPMENT, LLC, 07-R3D5-3676 THROUGH 3683
41. WALLDESIGN, INC., 08-R6D5-2465 AND 2466
42. WARNER BROS. TV – THE CLOSER, 08-R4D1-0445 THROUGH 0447
43. STEVE WILSON BUILDERS, 07-R3D5-3685 THROUGH 3693
44. CURTIS WRIGHT CONTROLS, INC., 08-R3D5-1345 AND 1346
45. WSC SERVICES, 07-R3D2-4392 AND 4393

ORDERS DISMISSING APPEALS:

1. BENCHMARK CONSTRUCTION, 08-R4D2-9194
2. CANYON REBAR, 08-R3D3-9212
3. DEPENDABLE AUTO SHIPPERS, 08-R1D4-9204
4. DICKS BAKERY INCORPORATED, 08-R6D1-9213
5. EAST WEST CONSTRUCTION, 08-R3D6-9192
6. FASTRUCKING, 08-R3D2-9209
7. FITTING LINES, INC., 08-R6D5-9208
8. JANG WON APPAREL CORPORATION, 08-R6D5-9215
9. MAYA RESTAURANT, 08-R6D5-9189
10. MJW AND ASSOCIATES, INC., 08-R3D3-9211
11. O'HARA METAL PRODUCTS, 08-R2D2-9206
12. JOHN PARKS BUILDERS, INC., 08-R2D2-9191
13. PG & E, 08-R1D2-9202
14. PURE MED SPA, 08-R4D2-9188
15. SEE'S CANDIES, INC., 08-R1D3-9203
16. SPEEDY GOURMET, 08-R6D5-9171

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 13, 2008
Page 5

17. SULFER SPRINGS CULTURED SPECIALTIES, LLC, DBA TULARE
CULTURED SPECIALTIES, 08-R6D1-9170

18. TABLETOPS UNLIMITED, INC., 08-R3D5-9186

19. WINNER CORPORATION, 07-R4D4-4460 THROUGH 4462

ORDERS DISMISSING LATE APPEALS:

NONE

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

NONE

ORDERS GRANTING LEAVE TO FILE LATE APPEALS:

NONE.

ORDERS GRANTING APPEALS:

NONE.

STIPULATIONS:

1. KINDER MORGAN ENERGY PARTNERS, LP., 05-R2D4-2013 AND 2014

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. AGUILAR CONSTRUCTION, INC., 08-R4D1-9093

2. ANITA'S MEXICAN FOODS CORP., 08-R3D3-9257

3. JACK NATHAN SHAPIRO, III, DBA JACK SHAPIRO PAINTING, 07-R1D5-2170

4. ROBS CAR WASH, 08-R6D5-9183

DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):

1. AMERICAN APPAREL, 08-R4D1-9200

2. MEINEKE CAR CARE CENTER, 08-R2D1-9234

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 13, 2008
Page 6

3. S & D CONSTRUCTION COMPANY, 08-R4D4-9235

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. ASC PROFILES, INC., 06-R2D1-1181
5. BART, 03-R1D1-5170
6. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
7. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
8. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
9. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. BLUE DIAMOND MATERIALS, 02-R5D2-1268
11. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
12. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
13. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224
14. CENTRAL CHEVROLET, 05-R1D4-2615 THROUGH 2618
15. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
16. COX COMMUNICATIONS, 03-R3D2-1942
17. DADE BEHRING, 05-R2D1-2203
18. DAKOTA COMPANIES UNLIMITED, 05-05-R4D3-392 and 393
19. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 13, 2008
Page 7

20. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
21. DYNALECTRIC, 03-R1D1-4101
22. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
23. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
24. G. T. ALDERMAN, INC., 05-R4D3-3513
25. GENERAL TRUSS CO. INC., 06-R2D1-0783 AND 0784
26. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
27. GLASS PAK, 03-R2D2-0750 AND 0751
28. GOLDEN STATE BORING & PIPE JACKING, INC., 05-R5D2-2359
29. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
30. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
31. HELPMATES STAFFING SERVICES, 05-R3D3-2239
32. H. M. CONSTRUCTION, INC., 08-R3D2-9007
33. HUSSMAN CORPORATION, 03-R3D1-2939
34. ILH CONSTRUCTION, 02-R1D1-4172
35. INDUSTRIAL MASONRY, INC., 07-R3D2-0735 AND 0736
36. JOHN LAING HOMES, 04-R3D1-194 AND-195
37. KELLY SERVICES, INC., 06-R1D2-1024
38. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
39. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
40. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA),05-R4D2-2541
41. NAUTICAL ENGINEERING, INC., 06-R6D1-4868 THROUGH 4872
42. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552 THROUGH 1554

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 13, 2008
Page 8

43. O & M INDUSTRIES, 04-R1D5-1597
44. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658
45. PMR RACE CARS, 03-R3D3-1825
46. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
47. RII PLASTERING INC., 02-R3D1-2679
48. R & L BROSAMER, INC., 03-R1D5-4832
49. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
50. STACY & WITBECK INC., 05-R1D1-1142
51. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
52. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
53. TEICHERT AGGREGATES, 04-R5D1-2982
54. TRIO METAL, 03-R4D4-0317
55. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2556 AND 2557
56. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
57. 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)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 13, 2008
Page 9

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. BRUTO CO 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

APPELLATE COURT:

NONE

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.)

NONE.

PERSONNEL: *(Issues regarding staff.)*

NONE.

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