

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), and (e)**  
**for**  
**Wednesday, October 31, 2007**  
**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: October 19, 2007**

**RE: Closed Session of the Board on October 31, 2007**

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.

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**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. BRUCE'S TRUCK STOP, 05-R2D5-1246 AND 1247 (10/11/2007)
2. CANNON CONSTRUCTORS INC., 05-R1D4-2892 AND 2893 (10/12/2007)
3. COLOR FACTORY, 05-R4D3-2139 AND 2140 (10/12/2007)
4. CONTROL AIR CONDITIONING CORP., 05-R4D2-1626 AND 1627 (10/4/2007)
5. DIAMOND TOOL & DIE, INC., 06-R1D4-2128 (10/11/2007)
6. DIVERSIFIED PRINTERS, INC., 07-R4D4-987 (10/11/2007)
7. NORTHRUP GRUMMAN, 06-R1D2-4458 (10/12/2007)
8. PECK & HILLER COMPANY, 06-R1D1-1973 (10/12/2007)

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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. A.P.E.X. CONTRACTING, INC., 06-R2D1-3074
2. ADRIENNE'S GOURMET FOODS, 07-R4D2-1067 AND 1068
3. JOSEPH J. ALBANESE, 05-R1D3-3245 AND 3246
4. ALCOA FASTENING SYSTEMS, 05-R3D1-2660
5. AMERIMAX BUILDING PRODUCTS, INC., 07-R2D1-487 AND 488
6. ANGELICA TEXTILE SERVICES, 07-R2D4-951
7. BAY FRAMING & CONCRETE dba BAY CONSTRUCTION, 05-R1D4-3539
8. BIG O TIRES, 05-R1D4-4620 THROUGH 4622
9. BULL CONSTRUCTION dba EAST BAY CONSTRUCTION, 05-R4D3-2554
10. C AND T FASHION, 05-R3D1-1924 THROUGH 1926
11. CAL COAST CONSTRUCTION, 05-R3D2-2525 THROUGH 2527
12. CALEX ENGINEERING, 05-R3D2-797
13. CA TRANSPORTATION CAL/TRANS, 07-R1D2-619
14. CLEAR CREEK COMMUNITY SERVICES DISTRICT, 07-R2D3-1849 AND 1850
15. GEORGE COURTNEY, 05-R3D1-2661 THROUGH 2663
16. CUSTOM CABINETS & COUNTER TOPS, 05-R6D1-3563 AND 3564
17. DELTA PIPELINE INC., 07-R4D3-530 THROUGH 532
18. DOUG O'NEILL RACING STABLES, 04-R4D1-3153 AND 3154
19. DURANT HARVEST, INC., 07-R4D2-923 THROUGH 925

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20. EAGLE GLOBAL LOGISTICS, LP dba THE SELECT CARRIER GROUP, 07-R2D1-0635
21. EL SOL CUTTING, 06-R3D2-4416 THROUGH 4422
22. ENVIRONMENTAL SYSTEMS OF NORTHERN CALIFORNIA, 07-R1D2-620 AND 621
23. FIRST PACIFIC DEVELOPMENT INC., 07-R4D1-2848
24. FLINTCO COMPANIES, INC. dba FLINTCO, INC., 07-R2D1-0632
25. FOSTER FARMS, 07-R2D5-953
26. FOUR STARS dba FOUR STARS CATERING, 05-R3D1-1927
27. GWS NURSERY & SUPPLIES, INC., 06-R4D4-1476 AND 1477
28. GOURMET TRADING COMPANY, 07-R4D1-2629
29. GREAT MERCURY INTERNATIONAL, INC., 04-R3D3-900 THROUGH 905
30. ISAIAH'S DRYWALL CO., 07-R3D2-1546
31. JA-CON SYSTEMS, INC., 04-R3D2-1312 THROUGH 1315
32. JOE HEIDRICK ENTERPRISES, INC., 06-R2D1-1261 THROUGH 1263
33. JOSE LUIS CHAVEZ FARM LABOR, 06-R2D3-2726
34. KFMBBP SKYWAY, 05-R1D4-4062
35. KFMBBP SKYWAY, 06-R1D4-228
36. KELLY ENGINEERING, 06-R3D2-2750
37. LA CORONA USA, INC., 07-R4D2-928 THROUGH 930
38. LAWRENCE-HOVIENER INC., 04-R4D5-3910 AND 3911
39. LYNGSO GARDEN MATERIALS INC., 07-R1D3-3530 THROUGH 3534
40. MARUCHAN, INC., 04-R6D2-3548 AND 3549
41. NORCAL BEVERAGE CO., INC., 05-R2D1-3269 AND 3270

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42. ON THE MARK CONSTRUCTION, 06-R2D1-2070
43. OWENS CORNING dba HOME EXPERT, 06-R2D1-3506, 06-R2D1-3544
44. PERFECTO STAFFING INC., 07-R3D5-1800
45. PETERSEN-DEAN INC., 06-R3D1-1195
46. PICK YOUR PART AUTO RECYCLING, 05-R3D2-2321 THROUGH 2325
47. PLANTEL NURSERIES, INC., 05-R4D3-2135 THROUGH 2138
48. POWER FASTENERS, 06-R4D2-2854 THROUGH 2857
49. PREMIER INDUSTRIAL PAINTING, 05-R4D3-4157
50. RAY'S HAND CAR WASH, 06-R4D2-5194 THROUGH 5197
51. RITE AID, 07-R4D3-3887 THROUGH 3891
52. SF-PUC-WASTE WATER ENTERPRISE, 07-R1D1-1501
53. S & S CONTRACTORS, INC., 05-R4D1-3346
54. SAN LUIS OBISPO COUNTY, LOPEZ WATER TREATMENT PLANT, 06-R3D7-2483 THROUGH 2485
55. SENATOR FORD, INC., dba SENATOR FORD, 07-R2D1-0636 AND 0637
56. JACK & JANNA STERN dba JANNA HOLDINGS, LP, 05-R4D1-3869 AND 3870
57. STRUCTURAL MATERIALS, 06-R3D2-45 AND 46
58. SUMMIT BUILDERS CONSTRUCTION COMPANY, 05-R4D3-1371
59. TOTAL WESTERN, INC., 05-R4D1-3347 AND 3348
60. USA WASTE OF CALIFORNIA, 07-R3D5-662
61. VALLEY PAVING, INC., 06-R2D3-4465
62. VALLEY RECLAMATION AND SALES INC., 06-R2D4-3884 AND 3885
63. GEORGE VISMAN dba HIGH HILL RANCH, 06-R2D1-1525
64. VITA-PAKT CITRUS PRODUCTS, 07-R6D2-2992 THROUGH 2994

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65. WASHBURN GROVE MANAGEMENT, 05-R3D3-4132
66. WEBCOR CONSTRUCTION INC., 05-R1D1-2760
67. WESTERN SUMMIT CONSTRUCTORS, INC., 06-R3D2-1071
68. WEST VALLEY FARM ENTERPRISES LLC, 06-R2D1-1517 THROUGH 1519

**ORDER GRANTING APPEAL**

1. EAST BAY MUNICIPAL UTILITIES DISTRICT (EBMUD), 05-R5D1-1818

**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. FACILITY BUILDERS & ERECTORS, INC., 07-R4D1-9306
2. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
3. JOHNNY'S AUTOMOTIVE REPAIR, 05-R2D1-4076
4. PARAMOUNT SPRING ENGINEERING, CO., INC., 05-R6D2-2641 THROUGH 3648
5. R & L BROSAMER, INC., 03-R1D5-4832

**DENIALS OF PETITIONS FOR RECONSIDERATIONS (DRAFTS):**

1. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 07-R3D1-9223
2. LUBY'S CHINESE RESTAURANT, 06-R2D5-0037
3. MURRAY COMPANY, 07-R4D2-9190 THROUGH 9192

**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.)*

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1. AC FRAMERS INC., 03-R2D3-3475
2. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. AGC COMMUNICATIONS, INC., 03-R1D4-3121
4. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
5. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
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 LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
11. BLUE DIAMOND MATERIALS, 02-R5D2-1268
12. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
13. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
14. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
15. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224
16. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
17. COX COMMUNICATIONS, 03-R3D2-1942
18. DADE BEHRING, 05-R2D1-2203
19. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
20. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
21. DAVIS ROOFING, INC., 05-R3D3-4127
22. DYNALECTRIC, 03-R1D1-4101
23. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261

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24. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
25. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
26. GLASS PAK, 03-R2D2-0750 AND 0751
27. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
28. HELPMATES STAFFING SERVICES, 05-R3D3-2239
29. HEMMINGSEN CONSTRUCTION CO., INC., 07-R2D3-9277
30. HUSSMAN CORPORATION, 03-R3D1-2939
31. ILH CONSTRUCTION, 02-R1D1-4172
32. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
33. JOHN LAING HOMES, 04-R3D1-194 AND 195
34. KELLY SERVICES, INC., 06-R1D2-1024
35. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
36. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
37. LONG BEACH CITY COLLEGE, 03-R3D5-2747
38. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
39. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
40. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
41. O& M INDUSTRIES, 04-R1D5-1597
42. PMR RACE CARS, 03-R3D3-1825
43. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
44. RII PLASTERING INC., 02-R3D1-2679
45. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH  
1656
46. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417

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47. STACY & WITBECK INC., 05-R1D1-1142
48. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
49. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
50. TEICHERT AGGREGATES, 04-R5D1-2982
51. TOAD IN THE HOLE TAVERN & GRILL, INC., dba BRITTANY'S CAFÉ, 05-R3D3-2533 AND 2534
52. TRI-COUNTY, INC., 04-R1D5-3927
53. TRIO METAL, 03-R4D4-0317
54. UKIAH FORD-LINCOLN-MERCURY, INC. 06-R1D5-2556 AND 2557
55. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
56. WESTERN DOOR, 01-R3D1-2827
57. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

**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. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)
3. UNITED ASSOCIATION LOCAL UNION 246, AFL-CIO; IDEPSCA INSTITUTO DE EDUCACION POPULAR DEL SUR DE CALIFORNIA AND CENTRO LEGAL DE LA RAZA, (HARRIS CONSTRUCTION COMPANY, INC.), 07CS00518 (02-3914)
4. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LOCAL LODGE 1781; JULIA SMITH, (UNITED AIRLINES dba UNITED AIRLINES SFO SYC), 07CS00331 (00- 2844)

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5. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)
6. IRBY CONSTRUCTION COMPANY, ECU03759 (03-2728)
7. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, 01-R3D2-4344-4348

**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.)*

**PERSONNEL** *(Issues regarding staff.)*

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