

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, July 16, 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: July 3, 2008

RE: Closed Session of the Board on July 16, 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. C. P. CONSTRUCTION COMPANY, 05-R3D3-357 AND 2464
2. CARPET GUYS FLOORING, 07-R4D1-2966 THROUGH 2968
3. GOODRICH, 07-R3D2-2207 THROUGH 2208
4. KENAI DRILLING LIMITED, 06-R4D3-4065 THROUGH 4067
5. JENSEN PRECAST, 05-R2D1-2377
6. JOSE MATA TREE SERVICE, 04-R2D3-2882 AND 2883
7. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1551
8. SHEA KENNY, JV., 06-R5D3-4862
9. SHEA KENNY, JV., 06-R5D3-4863

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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. 4 S CORPORATION dba VALLEY CAR WASH, 08-R6D5-0781 THROUGH 0783
2. AIR LIQUIDE, 07-R6D3-5020 AND 5021
3. AL & ED'S AUTO SOUND, 07-R4D1-5060 AND 5061
4. ALBERTSON'S SUPERVALUE, 07-R3D5-3810
5. ALL ACCESS STAGING PRODUCTION, 08-R3D5-0386
6. ALVIZIA LANDSCAPE INC., 07-R3D3-1553 THROUGH 1557
7. AMERICAN APPAREL, 07-R4D2-1654 THROUGH 1656
8. ARTSONS MANUFACTURING, 07-R4D2-1657 AND 1658
9. ASR CONSTRUCTORS, INC., 07-R3D3-4410 AND 4411
10. ATHENS SERVICES DBA ARAKELIAN ENTERPRISES, INC., 07-R4D3-3357
11. BAY CITY FRAMERS, 07-R1D5-1009
12. BIMBO BAKERIES USA, 06-R6D2-3327
13. BOZIDAR MANDRAPA, 06-R3S2-813 THROUGH 817
14. BRCCO CONSTRUCTORS, INC., 08-R2D2-0036 THROUGH 0043
15. C & G FARMS, 07-R6D4-5022
16. CALTRON CONSTRUCTION, INC., 07-R3D1-5336 THROUGH 5340
17. CARMİ FLAVOR & FRAGRANCES COMPANY, 06-R6D2-4879 THROUGH 4890
18. CHOICE NATURAL STONE, 07-R4D2-1728 AND 1729
19. CKL CONSTRUCTION, 07-R1D4-4017 AND 4018

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20. COMMUNITY HOSPITAL OF LONG BEACH, 06-R3D5-4278 THROUGH 4283
21. CWPCC, INC. DBA COLLEGE WORKS PAINTING, 07-R3D1-5341 AND 5342
22. CYPRESS, CITY OF, CORPORATE YARD, 06-R3D5-5078 AND 5079
23. MICHAEL D'ANGELO INC., 07-R4D1-2329 AND 08-R4D1-2364
24. DARSHAN BASROAN, 06-R2D5-5154 AND 5155
25. DEL AMO MOTOR SPORTS, 07-R4D1-0195
26. DESERT DREAM CUSTOM CABINETS, 07-R6D6-5053 AND 5054
27. EAST BAY CONSERVATION CORPS, 07-R2D2-3556
28. EL PATIO, 07-R3D2-3575
29. ENVIROMENTAL EDGE CONCEPTS, 08-R3D5-0184
30. EXXON MOBIL CORP., 07-R3D5-573 AND 574
31. FODDRILL CONSTRUCTION COMPANY, 07-R3D3-2034
32. M. C. GILL CORPORATION, 07-R4D4-1811 AND 1812 AND 07-R4D4-4427
33. GORDON LABORATORIES, INC., 07-R3D5-1186 AND 1187
34. GREAT SCOTT TREE SERVICE, 06-R4D1-2617 AND 2618
35. GEORGE REED, INC., 06-R5D1-2067
36. HERTZ EQUIPMENT RENTAL, 08-R3D1-0820 AND 0821
37. HESS ELECTRIC, STEVE AND MARY HESS DBA HESS ELECTRIC, 07-R2D5-4025
38. HTA ENGINEERING & CONSTRUCTION, INC., 05-R3D2-3617 THROUGH 3620
39. HYDRAFLOW, 07-R3D1-5343
40. J. T. SEWING INC., 07-R6D2-5125 THROUGH 5127
41. JAMBOREE MANAGEMENT INC., 08-R3D2-2048

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42. JBD CONSTRUCTION, 07-R3D2-1163 AND 1164
43. JOLIE FASHIONS INC., 07-R6D2-4954 AND 4955
44. JT TILE & MARBLE, 07-R3D2-1629
45. KRUSE & SON, INC., 06-R6D2-3989 THROUGH 3994
46. LEGOLAND, 08-R3D2-0058
47. LEONARD'S SERVICES, 07-R3D2-5043
48. LOWE'S HOME IMPROVEMENT, INC., 07-R3D3-4409
49. MANPOWER, INC., 07-R4D3-5113
50. MATRIX SERVICE, INC., 07-R3D5-918
51. MCKAY ROOFING, 08R3D2-0829
52. MCKINLEY CHILDREN'S CENTER, 07-R4D4-1885
53. MECHANICAL INDUSTRIES INC., 07-R3D1-4683 AND 4684
54. MONTEREY SCREEN & DOOR CO, 07-R3D2-3576 THROUGH 3578
55. MORROW MEADOWS CORP., 07-R1D1-1105
56. NIEMANN PROPERTIES INC., 07-R4D1-5057 THROUGH 5059
57. OM CONTRACTORS, INC., 08-R6D5-1376
58. ONTARIO WROUGHT IRON WORKS, 07-R3D3-3883
59. OPTION CONSTRUCTION CO., 06-R4D1-4818 THROUGH 4820
60. PACIFIC CONSTRUCTION CO., 06-R4D1-5302 AND 5303
61. PUBLIC STORAGE, INC., 07-R4D1-5062
62. PYTHON INJECTION, INC., 07-R6D2-2768 THROUGH 2772
63. QUINTERNO'S FURNITURE INC., 07-R2D1-2906 THROUGH 2908
64. RANCHO BERNARDO COMMUNITY PRESBYTERIAN CHURCH, 08-R3D2-1222

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65. REGIONAL STEEL CORPORATION, 07-R3D3-4417 AND 4418
66. RETIREMENT HOMES, INC., DBA THE HILLCREST ROYALE, 07-R4D3-4454
67. RICHMOND PLASTERING, INC., 06-R4D4-4846 AND 4847
68. MIKE RUSTH, 07-R4D1-2432 AND 2433
69. SAN LUIS MECHANICAL, INC., 07-R4D3-1589 AND 1590
70. SARDO BUS & COACH UPHOLSTERY, 06-R4D1-3577 THROUGH 3579
71. SEARS AUTO CENTER, 07-R3D3-5051 AND 5052
72. SCOTT BROTHERS DAIRY INC., 07-R6D2-5135 THROUGH 5144
73. SHEEDY DRAYAGE CO., 06-R1D3-2657
74. SHINE LOOK INC., 07-R6D5-4988
75. SM GARMENT CORPORATION, 08-R6D5-0255 THROUGH 0257
76. SOLID STATE STAMPING INC., 07-R6D2-5128 THROUGH 5134
77. SOUTH ORANGE COUNTY WASTEWATER AUTHORITY, 07-R3D1-5344
78. STARRH & STARRH COTTON GROWERS, 07-R4D3-4573 AND 4574
79. STONE CENTER CORPORATION, 06-R3D1-502 THROUGH 504
80. TECHNOLOGY, ENGINEERING & CONSTRUCTION INC., DBA ACCUTITE, 07-R1D3-4602 THROUGH 4605
81. TEG/LVI ENVIRONMENTAL SERVICES, 07-R4D2-2118
82. TEMEKA, INC., 08-R3D3-0313 AND 0314
83. UNION FRAMING, INC., 07-R1D4-3643
84. WEBCOR CONSTRUCTION, INC., 07-R1D1-2554 AND 2555
85. WESTERN SAW MANUFACTURERS, INC., 07-R4D3-4452

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ORDERS DISMISSING APPEALS:

1. COASTAL EMPLOYERS, INC. II, 06-R3D5-4783 AND 4784
2. L. A. BEACH WEAR, INC., 07-R4D2-412
3. LEVITZ, 07-R1D4-2158
4. ZEN SPA WELLNESS CENTER DBA BODIES IN MOTION, 06-R4D2-3226

ORDERS DISMISSING LATE APPEALS:

NONE

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

NONE

ORDERS GRANTING LEAVE TO FILE LATE APPEALS:

1. PERALTA COMM. COLLEGE DIST. DBA COLLEGE OF ALAMEDA, 08-R1D4-2474
2. ROOFMASTERS/BIRD CONTROL SERVICES, 08-R2D2-2479

ORDERS DENYING LEAVE TO REOPEN APPEALS:

NONE.

ORDERS GRANTING APPEALS:

1. CALIFORNIA WIRE CLOTH INC. 05-R2D5-443 AND 444

STIPULATIONS:

1. ASPLUNDH TREE EXPERT CO. 04-R1D3-2629
2. 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. AMERICAN WASTE INDUSTRIES, 06-R4D3-3943- AND 3944

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2. CADILLAC PAINTING, 08-R4D3-9169
3. EMPIRE PRO-TECH INDUSTRIES, 07-R3D2-2837
4. KENYON PLASTERING, INC., 08-R2D5-9178
5. TGC TRUCK REPAIR, INC., 08-R1D1-9190
6. SIMON SAYS ROOFING, 06-R1D3-3652
7. SUPERIOR LITHOGRAPHICS, INC., 07-R4D2-1879 AND 1880

DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):

1. ARTHUR J. BREWSTER CORP. DBA PRESTIGE KITCHENS, INC. 05-R3D5-1005 THOROUGH 1007
2. C. A. RASMUSSEN, INC., 06-R4D3-4837 AND 4838
3. FOUR SEASONS ROOFING, 08-R1D2-9199
4. GOLDIE ENTERPRISES INC., DBA CUSTOM PERSONNEL, 04-R2D3-4518

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

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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
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

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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. LONG BEACH CITY COLLEGE, 03-R3D5-2747
40. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
41. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA),05-R4D2-2541
42. NAUTICAL ENGINEERING, INC., 06-R6D1-4868 THROUGH 4872
43. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552 THROUGH 1554
44. O & M INDUSTRIES, 04-R1D5-1597
45. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658
46. PMR RACE CARS, 03-R3D3-1825
47. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
48. RII PLASTERING INC., 02-R3D1-2679
49. R & L BROSAMER, INC., 03-R1D5-4832
50. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
51. STACY & WITBECK INC., 05-R1D1-1142
52. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH 1692
53. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986

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54. TEICHERT AGGREGATES, 04-R5D1-2982
55. TRIO METAL, 03-R4D4-0317
56. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2556 AND 2557
57. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
58. 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)
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. BRUTOCO 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. SEQUEL CONTRACTORS CIVRS. 804265 (05-1438)
11. KHS & S CONTRACTORS, 00107284

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APPELLATE COURT:

1. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
(IDEPSCA, Institution de Education Popular Del Sur de California, Centro Legal de la Raza)

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.