

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Tuesday, May 15, 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: May 4, 2007

RE: Closed Session of the Board on May 15, 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.

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. AT & T WIRELESS, 05-R3D2-1597 AND 1598 (4/25/2007)
2. BILLY BRIGGS CONSTRUCTION, 05-R4D2-380 AND 381 (5/1/2007)
3. C & H CONSTRUCTION, 04-R3D1-4670 (4/30/2007)
4. DYNALECTRIC, 03-R1D1-4101 (4/30/2007)
5. INTERSCAPE CONSTRUCTION, 04-R4D1-4568 (4/25/2007)
6. J. ALVAREZ CONSTRUCTION, INC., 04-R3D2-3936 THROUGH 3938 (4/30/2007)

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7. JASWANT BAINS & SATWANT BAINS, 05-R2D3-3276 THROUGH 3278
(5/1/2007)
8. KELSEYVILLE LUMBER & SUPPLY CO., INC., 04-R1D5-119 THROUGH 122
(4/23/2007)
9. LA CONSTRUCTION, 06-R4D2-1111 THROUGH 1114 (5/2/2007)

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 & C PALLET COMPANY, INC., 06-R6D2-4658 AND 4659
2. ADEPT PAINTING & PLASTERING, INC., 04-R1D2-1650
3. ALBERTSON'S, 06-R4D3-4984 AND 4985
4. ALL METAL SUPPLY, INC., 06-R2D3-4518
5. ALTIMA CONTRACTING, LTD, 06-R1D4-2670
6. ALSCO, INC., 06-R2D1-3543
7. ANTELOPE IRON, INC., 06-R2D1-4937
8. ATASCADERO MUTUAL WATER DISTRICT, 05-R4D3-2863
9. ATE ENVIRONMENTAL, INC., 06-R3D5-4051 THROUGH 4053
10. A. TEICHERT & SON, INC., a corp. dba TEICHERT AGGREGATES, 05-R5D1-1528 AND 1529
11. ATWAL BROS FARM, 06-R2D4-4946 THROUGH 4948
12. BARNUM & CELILLO ELECTRIC, INC., 07-R1D5-365 AND 366
13. BARRETT BUSINESS SERVICES, INC., 06-R2D4-1397 THROUGH 1399
14. BOEING, 05-R3D5-2419
15. BONANZA ROLLING DOOR CO., 05-R2D3-777

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16. BURNS STAINLESS LLC, 06-R6D2-5007
17. CALIPATRIA STATE PRISON, 05-R3D2-1929
18. CASCADE COMFORT SERVICE, INC., 06-R2D3-4221
19. COLOR DESIGN PAINTING, 06-R2D4-3887 AND 3888
20. COOLING TOWER RESOURCES, 03-R6D1-4980 THROUGH 4991
21. CONOCOPHILLIPS COMPANY, 07-R2D7-392 THROUGH 394
22. WENDY CORDERO, 07-R4D4-779 THROUGH 782
23. CORNING FORD, INC., dba CORNING FORD MERCURY KIA, 06-R2D3-4220
24. CORONEL CONSTRUCTION CORPORATION, 06-R4D3-4644 THROUGH 4646
25. CRESTLINE SANITATION DIST., 06-R3D7-4150
26. C.W. DRIVER, 04-R4D2-1007, 04-R4D2-1823, 05-R4D2-1402
27. D & D WELDING, INC., 07-R3D3-744 AND 745
28. DAVID PINNI WOOD HAVEN APTS, 06-R6D2-5233
29. DESIGN MASONRY, 04-R4D3-3904
30. DR. SCOTT HASHIMOTO, DDS, INC., 06-R1D4-2130
31. DR. WALTER HASHIMOTO, DDS, 06-R1R4-2131 AND 2132
32. DUFFIELD MARINE INC, 07-R6D2-91 THROUGH 98
33. DURA STONE ART, INC., 04-R3D3-3636 THROUGH 3638
34. DYNAMIC BUILDERS, 06-R4D2-2056
35. EBERHARD, 07-R6D2-810 THROUGH 816
36. EBERHARD, 07-R6D2-817 THROUGH 823
37. ECKELBARGER & SON, INC., 06-R2D3-3369
38. ECKELBARGER & SON, INC., 06-R2D3-3370

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39. EL & EL WOOD PRODUCTS NO CAL, INC., 06-R2D1-4208 AND 4209
40. EMERALD PACKAGING, INC., 06-R1D4-4930
41. EXPRESS PERSONNEL SERVICES, 06-R2D3-4223
42. FOREST RIVER INC PLANT 19, 07-R3D3-1046
43. FOUNDATION PILE/FOUNDATION CONSTRUCTORS, 06-R1D4-4692
44. MIKE FUNK dba M-M CONSTRUCTION, 06-R3D3-4425
45. GENERAL ATOMICS AERONAUTICALS, 06-R3D2-3149
46. GIUMARRA VINEYARDS CORP., 03-R2D5-5180
47. GUINN CONSTRUCTION, 04-R4D3-1897 AND 1898
48. HADLEY DATE GARDEN, 04-R6D2-3449
49. HARBOR TRUCK SUPPLY, 06-R3D5-4044 AND 4045
50. HARVEST CONTAINER CO., INC., 06-R2D5-3895 AND 3896
51. HILLSDALE CAR WASH INC., 06-R1D3-5246
52. HOME DEPOT, 06-R3D5-2281
53. JA FOODS dba DEL TACO #792, 06-R2D3-4722
54. JOE DEL BOSQUE, FLC, 06-R2D4-1402
55. J. RANGEL CONSTRUCTION, 06-R2D5-2205
56. KERN OIL AND REFINING COMPANY, 06-R2D7-2747
57. KERN PRODUCTION SERVICE, 05-R2D5-4252
58. K-MART STORE #7625, 04-R4D1-2393 AND 2394
59. LA CNTY DEPT OF PUBLIC WORKS; FLOOD MAINT DIV, 04-R3D5-4064
60. LA FONDA DE LOS CAMPEROS, 04-R4D1-2743 AND 2744
61. LAINE-AIRE MANUFACTURING CORPORATION, 05-R3D5-3505 AND 3506

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62. LANCASTER BURNS CONSTRUCTION, INC., dba LB CONSTRUCTION, INC., 06-R2D1-4587 THROUGH 4590
63. LAS 4 MMMM'S, 04-R4D1-639 THROUGH 641
64. LAURA'S FRENCH BAKING CO., INC., 04-R6D2-3544 THROUGH 3547
65. VUE LO dba MESSINA SLAUGHTERHOUSE, 06-R2D3-2713
66. MAHAN ELECTRIC dba M & M ELECTRIC, 05-R2D3-1301
67. MARINA SHIPYARD, 06-R6D2-5391 THROUGH 5396
68. MASONITE INTERNATIONAL, 07-R3D3-1000 AND 1001
69. MATRIX SERVICE, INC., 04-R3D5-4494 THROUGH 4496
70. McCURDY'S TRUCK REPAIR, 06-R2D3-3874 THROUGH 3876
71. MEDEGEN MEDICAL MFG. SERVICES, 06-R6D2-5386 THROUGH 5390
72. MEDIA BLAST & ABRASIVES, 06-R3D7-4812 AND 4813
73. MONIERLIFETILE, 06-R1D2-3343
74. NAUMES, INC., 05-R2D3-1239
75. NESTLE WATER NORTH AMERICA, 07-R3D3-1430 AND 1431
76. NEXT STAFFING, 06-R2D4-904 AND 905
77. NORTHERN CALIFORNIA LOG HOMES, 06-R2D3-3546 THROUGH 3548
78. LEO NUNEZ FLC, 05-R2D5-1694
79. ONTRA BUILDERS, 06-R3D1-3898
80. PACIFIC RIM MECHANICAL, 07-R3D2-55 AND 56
81. PACKAGING PLUS LLC, 06-R1D2-5245
82. PAHRUMP HEIFER RANCH, 06-R2D4-4025 AND 4026
83. PAK INN CHINESE RESTAURANT, INC., 06-R3D3-2763

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84. PERSONALIZED FAMILY & COSMETIC DENTISTRY, 07-R2D2-26 AND 27
85. PLACEMENT PROS, 06-R2D4-3886
86. CALVIN PORTER dba CAL'S TRACTOR SERVICE, 04-R3D3-625
87. PREMIER RV RESORTS, 06-R2D3-2714
88. R B BROWN CONSTRUCTION COMPANY, INC., 06-R2D3-3879
89. R B SPENCER, INC., 06-R2D3-4725
90. R & R HORN, INC., 06-R2D3-4021
91. REEVE-KNIGHT CONSTRUCTION, INC., 06-R2D3-4520
92. RICH SHARP CONSTRUCTION, 05-R1D5-3257 AND 3258
93. RIDGELINE FRAMING CORPORATION, 05-R1D4-3721 THROUGH 3725
94. REYNOLDS SYSTEMS, INC., 05-R2D7-1079
95. RIVER VALLEY ENTERPRISES INC. dba BURGER KING #3441, 06-R2D3-3878
96. ROCKLAND FRAMING INC dba ROCKLAND CONSTR SVC OF CA, 07-R3D3-963 THROUGH 966
97. RONCO INVENTIONS, 04-R4D3-4098
98. RYAN ENGINEERING, INC., 05-R1D1-1562
99. SEBASTIAN MARISCAL / MS-31, 07-R3D2-737 AND 738
100. SEE'S CANDIES, 05-R6D1-4637 AND 4638
101. SHELBY FRAMING INC., 07-R3D3-1551
102. SHIMEK PROPERTIES LLC dba DIVISADERO TOUCHLESS CAR, 06-R1D1-3632
103. SHINE COMPANY, INC., 06-R6D2-5122 AND 5123
104. SKATING EDGE ICE ARENA, 06-R3D5-4373

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105. SOUTH GATE ENGINEERING LLC, 06-R3D3-5292 AND 5293
106. SPARK ART INC. dba SPARK CONSTRUCTION, 06-R1D1-5239 AND 5240
107. SPEARS CONSTRUCTION INC., 07-R3D3-1043 THROUGH 1045
108. SPECIALTY BRANDS, INC., 04-R3D7-3656 THROUGH 3658
109. STAFFING NETWORK, 06-R2D4-3111
110. STYLE LINE CONSTRUCTION, INC., 05-R2D5-4254 AND 4255
111. SUPERIOR READY MIX CONCRETE dba CANYON ROCK & ASPHALT, 06-R5D2-4175
112. SUSANVILLE PUBLIC WORKS DEPARTMENT-STREET MAINTENANCE, 06-R2D3-4723 AND 4724
113. TAILORED MASONRY OF CALIFORNIA, 06-R4D3-4061 THROUGH 4063
114. TANIMURA & ANTLE, INC., 05-R3D2-1910
115. TASTY BIRDS, INC., dba KENTUCKY FRIED CHICKEN "KFC", 04-R2D3-3282
116. TERRACON PIPELINES INC., 06-R1D5-4204 AND 4205
117. THERMAL AIR INC, 07-R3D3-997 THROUGH 999
118. THE YACHT DOCKTOR, 04-R6D2-2281 THROUGH 2283
119. TILTON PACIFIC CONSTRUCTION, INC., 05-R2D3-1302 AND 1303
120. TIPSYPY INC., 06-R4D2-610 AND 611
121. SEAN TORRES dba SEAN TORRES PAINTING, 06-R1D5-4936
122. TRIPLE Z LONGO VINEYARDS, 06-R1D5-3348 THROUGH 3353
123. UNION FRAMING, INC., 05-R2D4-1240 THROUGH 1245
124. UNIVERSAL STUDIOS HOLLYWOOD, 05-R4D1-1457
125. US CONTRACTOR SUPPLY INC dba US FREIGHT TOOLS, 07-R3D5-304 AND 305

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126. VALLEY PACIFIC FARM LABOR, 03-R2D5-4320
127. DAVID G. & BRENDA I. VELASQUEZ dba VEL PACK, 06-R3D2-4363
128. WALLACE STRUCTURES, 06-R2D3-4712 AND 4713
129. WATSON ROOFING, INC., 05-R2D3-1166 AND 1167
130. WEIGHMASTERS MURPHY, INC., 04-R3D5-3954 AND 3955
131. WENTE BROS., 06-R6D1-5324 THROUGH 5332
132. DEL WHITEHEAD, OWNER/BUILDER, 07-R1D5-475 AND 476
133. WOMACK CONSTRUCTION, 06-R2D3-3880 THROUGH 3882
134. YEAGER SKANSKA, INC., 04-R3D3-2911 AND 2912
135. YUSEN TERMINALS, INC., 07-R6D2-451
136. ZIEMAN MANUFACTURING COMPANY [LIPPERT COMPONENTS INC dba ZIEMAN MANUFACTURING COMPANY], 06-R6D1-2913 THROUGH 2916
137. ZUELLIG BOTANICALS, INC., dba BI NUTRACEUTICALS, 04-R3D5-4068 AND 4069

ORDER DISMISSING APPEAL

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. BELL BOTTOM BLUES, INC., 05-R4D2-236 AND 237

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. CAPITOL WASTE, INC., dba CAPITOL DISPOSAL, 07-R2D1-9012 THROUGH 9015
2. LA COUNTY INTERNAL SERVICES, 03-R4D3-4600
3. NICK'S LIGHTHOUSE, 05-R1D1-3086

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DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. LOS ANGELES COATING, INC., 06-R4D2-3214 THROUGH 3216

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. AC FRAMERS INC., 03-R2D3-3475
2. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
4. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
5. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
6. BLUE DIAMOND MATERIALS, 02-R5D2-1268
7. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
8. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
9. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
10. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
11. CLUB FRESH, LLC, 06-R2D1-9241 AND 9242
12. COX COMMUNICATIONS, 03-R3D2-1942
13. DADE BEHRING, 05-R2D1-2203
14. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
15. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
16. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
17. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322

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18. GLASS PAK, 03-R2D2-0750 AND 0751
19. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
20. HELPMATES STAFFING SERVICES, 05-R3D3-2239
21. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
22. HUSSMAN CORPORATION, 03-R3D1-2939
23. ILH CONSTRUCTION, 02-R1D1-4172
24. IRBY CONSTRUCTION, 03-R3D3-2728
25. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
26. JERLANE, INC. dba COMMERCIAL BOX AND PALLET, 01-R3D2-4344 THROUGH 4348
27. JOHN LAING HOMES, 04-R3D1-194 AND 195
28. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
29. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
30. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
31. LONG BEACH CITY COLLEGE, 03-R3D5-2747
32. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
33. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
34. McDONALDS #10660, 03-R1D3-4116 & 4117
35. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
36. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
37. O& M INDUSTRIES, 04-R1D5-1597
38. PMR RACE CARS, 03-R3D3-1825
39. POUK & STEINLE, INC., 03-R4D2-1495 & 1496

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40. RII PLASTERING INC., 02-R3D1-2679
41. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
42. SAFEWAY #951, 05-R1D4-1410
43. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
44. STACY & WITBECK INC., 05-R1D1-1142
45. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
46. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
47. TEICHERT AGGREGATES, 04-R5D1-2982
48. TRIO METAL, 03-R4D4-0317
49. WESTERN DOOR, 01-R3D1-2827
50. 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. BLF FRAMING, INC., 04CS01618 (02-1837/38)
3. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)
4. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LOCAL LODGE 1781; JULIA SMITH, (UNITED AIRLINES dba UNITED AIRLINES SFO SYC), 07CS00331 (00- 2844)
5. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)

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APPELLATE COURT:

1. C. OVERAA & CO., CO51245 (04CS00570) 01-3560

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 Closed Sessions.