

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c), (3), and (e)
for
Wednesday, July 18, 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: July 6, 2007

RE: Closed Session of the Board on July 18, 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. BUENA VISTA TREE SERVICE, 04-R1D5-4326 (6/27/2007)
2. ESCOBAR CONTRACTING INC., 04-R4D1-2748 AND 2749 (6/27/2007)
3. GRANITE CONSTRUCTION COMPANY, 03-R5D3-5101 AND 5102 (6/27/2007)
4. R.P. LACUESTA CONSTRUCTION, 05-R4D1-920 THROUGH 922 (6/29/2007)
5. RINKER MATERIALS, 05-R2D2-4625 (6/22/2007)

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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. AA PRODUCTION SERVICES, INC., 05-R2D3-3291
2. A.M.T. (ALTERNATIVE MATERIALS TECHNOLOGY), 05-R2D1-2900 AND 2901
3. ARS dba RESCUE ROOTER, INC., 06-R4D3-344 AND 345
4. ASW PAINTING & CONSTRUCTION, 06-R2D2-4583 AND 4584
5. ABSOLUTE WOODWORKS, INC., 05-R2D1-3859 AND 3860
6. ACCURATE METAL FABRICATORS, INC., 06-R3D5-1338 THROUGH 1341
7. ALEC WALKER FRAMING, 07-R3D1-1406
8. ANDERTHAL WINE CAVES, 06-R5D1-4857
9. ANGELUS BLOCK COMPANY, INC., 05-R4D3-4577 THROUGH 4580
10. ARCHBEST CONSTRUCTION dba CENTURY SCAFFOLD, 05-R1D1-1565 THROUGH 1567
11. BMN BUILDING, INC., 06-R2D5-5152 AND 5153
12. BERKELEY ASPHALT COMPANY, 04-R1D4-3242 AND 3243
13. BERKELEY READY MIX COMPANY, 04-R1D4-3241
14. BIMBO BAKERIES, INC., 04-R1D3-4231
15. BOGHOSIAN RAISIN PACKING CO., 06-R2D5-2196 THROUGH 2198
16. BOVIS LEND LEASE, 06-R1D1-5127
17. BRITO RANCH, 06-R3D3-5076 AND 5077
18. BRYANT CONSTRUCTION, 06-R2D5-4250 AND 4251
19. BURRTEC WASTE INDUSTRIES, INC., 04-R4D4-2862 AND 2863

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20. CBC FRAMING, INC., 04-R4D3-4095 THROUGH 4097
21. CA CORRECTIONS, 04-R4D3-3381 THROUGH 3383
22. CA GENERAL SERVICES-OFFICE OF STATE PRINTING, 07-R2D1-22 AND 23
23. STATE OF CALIFORNIA METROPOLITAN STATE HOSPITAL, 04-R4D4-4594 THROUGH 4604
24. CAL-PACIFIC FARM MANAGEMENT, 07-R2D5-52
25. CALSONIC KANSEI NORTH AMERICA INC., 06-R3D1-1568
26. CANNON FABRICATION, INC., 05-R3D3-1934 THOROUGH 1936
27. CARDENAS MARKET, INC., 06-R3D3-2776 AND 2777
28. CENTEX HOMES, 06-R2D5-4235 AND 4236
29. CHECKER CONSTRUCTION, INC., 07-R3D5-185 AND 186
30. CLARK ROOFING COMPANY, 07-R3D3-302 AND 303
31. COACHELLA VALLEY RANCH DEVELOPING INC., 06-R3D3-4618 THROUGH 4621
32. COLOR CONCEPTS, 05-R4D3-1373 AND 1374
33. CONTRACTORS WATCH LLC, 06-R2D2-4707 AND 4708
34. COOL FOREST [T.B. WADSWORTH], 07-R2D1-24
35. COPPEL CORPORATION, 07-R3D2-60
36. COVI CONCRETE, 04-R4D2-4498
37. DEVELOPMENT CONSULTING CONCEPTS, 06-R3D2-517 THROUGH 522
38. DINELLI PLUMBING, INC., 06-R2D5-4613
39. DYNAMIC BUILDERS, 05-R4D2-139 THROUGH 141
40. EAST WEST STAFFING LLC, 07-R3D5-577

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41. ENCORE STAFFING SERVICES, 06-R4D2-4059
42. ESTATE LANDSCAPE, 05-R3D3-3437 AND 3438
43. TONY ESTEVES & DENA ESTEVES dba ESTEVES DAIRY, 06-R2D5-3555 THOROUGH 3559
44. EXCELLENT TECHNICAL ROOFING CO., INC., 06-R1D4-3858 THROUGH 3860
45. FARMERSVILLE DEHYDRATOR [NATIONAL RAISIN COMPANY], 06-R2D5-3892 THROUGH 3894
46. FONTANA UNIFIED SCHOOL DISTRICT – A. B. MILLER H.S., 07-R3D3-1173 THROUGH 1175
47. FOUR BAR C FARMS INCORPORATED, 07-R2D5-37 THROUGH 42
48. ALBERTO FRIAS, 03-R1D3-3418
49. GAF LEATHERBACK CORP, 05-R1D2-423 THROUGH 426
50. GOLDEN CROWN FOODS, INC., 07-R3D3-177 THROUGH 181
51. GOLDEN PALACE RESTAURANT, INC., 06-R4D3-3679 AND 3680
52. GOLDEN SPECIALTY FOODS LLC, 06-R6D2-5369 THROUGH 5378
53. H S DEVELOPMENT, 07-R2D5-36
54. HAWTHORNE SCHOOL DISTRICT, 07-R4D1-1442
55. ITS, 06-R6D2-1481
56. INTERNATIONAL PAPER, 06-R2D4-4228
57. J.F. SHEA CO., INC., 06-R5D1-4445 AND 4446
58. JMI STEEL, 04-R4D3-3975
59. JUNIOR STEEL COMPANY, 04-R4D2-4094
60. JUSTIN FRAMING, INC., 05-R2D1-2378 AND 2379
61. KANSAS CITY TREE, 04-R6D2-2840 AND 2841

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62. KENNEDY ROOFING, 04-R6D2-4466 THROUGH 4471
63. KEYS SEWING, 05-R3D1-3939
64. [BENNY'S CONSTRUCTION] HOSSEIN KORDLOU, 05-R4D1-1617 THROUGH 1619
65. KRAMA, INC., 04-R1D1-2035 THROUGH 2043
66. LAUSD – BANNEKER SCHOOL, 05-R4D2-2711
67. LADD & ASSOCIATES, 06-R5D1-4858 AND 4859
68. LAKE OF THE PINES ASSOCIATION, 06-R2D1-2676
69. LAND SPAN, INC., 05-R2D1-437
70. MCGILLIVRAY CONSTRUCTION, INC., 05-R4D3-1253
71. MCP AUTO CARE dba MIDAS, 07-R2D1-25
72. MACY'S WEST, 05-R1D1-1403
73. GEORGE MARTINOVICH dba MAR VEST, 06-R3D3-4758
74. MASTER MAINTENANCE SYSTEMS, INC., 05-R2D1-3474
75. MERIDIAN RAIL SERVICES CORPORATION, INC., 06-R3D3-3913 AND 3914
76. BILLIE MINE [AMERICAN BORATE CO.], 04-R5D3-3783
77. MODTECH INC., 04-R3D3-4196
78. MUSCO OLIVE PRODUCTS, INC. dba MUSCO FAMILY OLIVE COMPANY, 04-R6D1-4503 THROUGH 4508
79. NORTRAX WEST, 05-R2D5-1774 THROUGH 1777
80. OIL WELL SERVICE COMPANY, 05-R4D3-2441
81. GLORIA PALOMINO dba PALOMINO FASHIONS, 07-R4D1-193 AND 194
82. PLACENTIA, URIEL dba U.P. LANDSCAPE, 06-R4D4-1217 THROUGH 1220

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83. POMONA BOX COMPANY, 05-R3D1-3739 AND 3740
84. PONDEROSA PLUMBING & HEATING, 07-R2D1-18
85. PREMIER HOMES, INC., 06-R2D1-2687 THROUGH 2689
86. PYRAMID CONSTRUCTION, 03-R3D2-3519 AND 3520
87. R T FRAMING, 06-R4D3-1325
88. RICHARD HANCOCK CONSTRUCTION, 04-R1D5-3249
89. RUSKIN COMPANY, 06-R3D3-1292 AND 1293
90. S D OCHS CONSTRUCTION, INC., 06-R2D1-2685
91. SEJ, INC., 05-R3D2-1324
92. SAFEWAY, INC., dba VONS, 05-R4D1-918 AND 919
93. SAMATA MANGEMENT, INC., 07-R4D3-1075
94. SAN GABRIEL VALLEY TRIBUNE, 06-R4D4-5101
95. JOHN W SCHWEITZER dba MAACO AUTO PAINTING & BODY WORKS, 07-R2D3-29
96. SHOOK & WALLER CONSTRUCTION, INC., 06-R1D5-3704 AND 3705
97. SLAKEY BROTHERS, 06-R2D1-25
98. SMART SIGN MEDIA, LLC, 06-R2D1-2686
99. SMURFIT-STONE CONTAINER, 06-R3D1-3743
100. SPAULDING BOAT WORKS, 04-R1D5-1727 AND 1728
101. STARNES & OSWALT CONSTRUCTION COMPANY, INC., 04-R3D3-3749
102. STERLING USA, INC., 06-R3D3-3432
103. STRUCTURAL MATERIALS CO., 04-R4D4-1907 AND 1908
104. SUN WEST FRUIT COMPANY, 06-R2D5-4612

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105. SUTTER CONSTRUCTORS, INC., 06-R2D3-4342
106. TARLTON & SON, INC., 06-R4D3-5092 AND 5093
107. TEVA SICOR, 06-R3D1-1562 THROUGH 1564
108. THE PRESS-ENTERPRISE dba SOCAL COMMERCIAL PRINTING, 07-R3D3-1869 THROUGH 1872
109. MOHAN THIARA, 05-R2D3-1682 AND 1683
110. THUNDERBIRD FOREST PRODUCTS, 05-R2D1-3856 AND 3857
111. TIMBERLINE HEATING & AIR CONDITIONING, 07-R2D3-30
112. TOP SHELF FIXTURES, LLC, 04-R4D4-4744 THROUGH 4750
113. WABCO PRODUCTS, 04-R3D2-3630 AND 3631
114. WATG GROUP, 07-R3D3-1427 AND 1428
115. WASHOE EQUIPMENT, INC. dba SUNOPTICS PRISMATIC SKYLIGHTS, 05-R2D1-3471 THROUGH 3473
116. WESTERN UTILITIES TRANSFORMER SERVICE, 07-R4D3-674 AND 675

ORDER DENYING LEAVE TO FILE LATE APPEAL:

1. HEMMINGSEN CONSTRUCTION CO., INC., 07-R2D3-9277

ORDERS DISMISSING APPEALS:

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

1. CALIFORNIA SPORT FISHERS, 05-R3D5-4277 THROUGH 4282
2. FABER CONSTRUCTION, 05-R1D5-609 AND 610
3. G & A FIRE PROTECTION, 06-R3D5-2614 AND 2615
4. MACKLIN CONTRACTORS, 07-R3D1-9070 AND 9071
5. MARINSHIP CONSTRUCTION SERVICES, 04-R1D4-4012

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6. OLYMPIA RESTORATION, 05-R2D2-2911
7. PACIFIC EMPLOYER ORGANIZATION, INC., 06-R3D1-2225

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. ADVANCED POLYMER TECHNOLOGY, 04-R2D4-4656
2. CALIFORNIA FRESH FARMS LLC, 06-R2D4-4127 AND 4224
3. CBMI CALIFORNIA BLDG. & MAINTENANCE IND., INC., 05-R4D1-2696
4. G & A FIRE PROTECTION, 06-R3D5-2614 AND 2615
5. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. DIAZ AND SONS, INC., 04-R1D5-3722

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

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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
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. HUSSMAN CORPORATION, 03-R3D1-2939
22. ILH CONSTRUCTION, 02-R1D1-4172
23. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
24. JERLANE, INC. dba COMMERCIAL BOX AND PALLET, 01-R3D2-4344
THROUGH 4348
25. JOHN LAING HOMES, 04-R3D1-194 AND 195
26. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
27. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
28. LONG BEACH CITY COLLEGE, 03-R3D5-2747
29. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960

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30. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
31. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
32. O & M INDUSTRIES, 04-R1D5-1597
33. PMR RACE CARS, 03-R3D3-1825
34. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
35. RII PLASTERING INC., 02-R3D1-2679
36. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
37. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
38. STACY & WITBECK INC., 05-R1D1-1142
39. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
40. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
41. TEICHERT AGGREGATES, 04-R5D1-2982
42. TRIO METAL, 03-R4D4-0317
43. WESTERN DOOR, 01-R3D1-2827
44. 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)

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3. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)
4. 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)
5. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LOCAL LODGE 1781; JULIA SMITH, (UNITED AIRLINES dba UNITED AIRLINES SFO SYC), 07CS00331 (00- 2844)
6. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)

APPELLATE COURT:

1. 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.