

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, June 2, 2010
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 20, 2010

RE: Closed Session of the Board to be held on June 2, 2010

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. BIG VALLEY LABOR LLC, 08-R1D2-3614
2. E & J GALLO WINERY, 08-R2D4-1840
3. KAP ENGINEERING, INC., 09-R3D6-2064 THROUGH 2069

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. ACTIVE FORKLIFT, 09-R3D6-3890
2. AEG ONTARIO ARENA LLC, 09-R3D3-3404 AND 3405

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3. ALCAL/ARCADE CONTRACTING, INC., 08-R1D4-3397 THROUGH 3399
4. AMERICAN INTERNATIONAL ENGINEERING & MFG., INC., 09-R6D2-2922 THROUGH 2925
5. ARBOR PRODUCTS LTD. DBA EXPERT TREE SERVICE, 08-R1D4-3129
6. BANEY CORPORATION DBA OXFORD SUITES CHICO, 09-R2D1-1063
7. BAYVIEW WOOD FLOOR DESIGN, INC., 09-R2D3-0808
8. BENJI'S RESTAURANT, 09-R3D1-3401
9. CALIFORNIA OLIVE RANCH, INC., 10-R6D7-0137
10. CARDINAL AQUA PURE, INC., 09-R2D1-1587
11. CARGILL, 09-R6D3-1416 THROUGH 1419
12. CBS OUTDOOR, 08-R2D1-1577 AND 1578
13. CITY OF GRASS VALLEY PUBLIC WORKS, 09-R2D1-1400
14. CLAUDIO'S SPECIALTY BREADS, 08-R1D2-2589
15. CONTRA COSTA COUNTY, 09-R2D2-0558
16. CORRWOOD CONTAINERS, 09-R6D5-3340 THROUGH 3342
17. CRAINCO, INC., 08-R4D4-4474 AND 4475
18. CRYOQUIP, INC., 09-R6D2-3167 THROUGH 3175
19. CTL MANAGEMENT, INC. DBA AUTUMN OAKS, 09-R2D1-1291 THROUGH 1293
20. DEL NORTE COUNTY, 09-R2D1-2462 AND 2463
21. DESERT VALLEY AUTO COLLISION, 09-R6D5-2484
22. DOLE FRESH VEGETABLES, INC., 08-R6D3-3993
23. DRAGON CONSTRUCTION COMPANY, 09-R3D1-3227
24. DRI COMMERCIAL, 08-R1D2-2667 AND 2668
25. DT SARI COMPANY, INC., 10-R3D3-1208 THROUGH 1210

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26. EEL RIVER DISPOSAL COMPANY, INC., 09-R2D1-1062
27. EKIM PAINTING NORTH, INC., 09-R1D3-0582
28. FAIRFIELD RESIDENTIAL LLC, 10-R3D3-1291 AND 1292
29. FIRST CLASS AUTO DETAILING, 09-R6D7-3961 AND 3962
30. FLATIRON WESTERN DIVISION NORTH, 09-R5D1-2701
31. FOX THERMAL INSTRUMENTS, 08-R1D2-4385 THROUGH 4387
32. FRITO LAY, 10-R3D3-0173
33. GEORGE HOOD, INC. DBA WILDCAT METALS, 08-R1D2-3263 AND 3264
34. GOLDEN STATE WATER COMPANY, 09-R3D6-3778
35. GRAND AUTO ELECTRIC, 09-R4D2-2917 THROUGH 2919
36. GRANITE CONSTRUCTION COMPANY, 09-R5D1-1013
37. GRANITE CONSTRUCTION COMPANY, 09-R5D1-1016
38. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
39. GROWERS ICE COMPANY, 08-R6D3-3604 THROUGH 3608
40. HITEX DYEING & FINISHING, INC., 09-R3D6-2882 THROUGH 2885
41. HOME DEPOT, INC., 09-R1D4-0802
42. HOME DEPOT, 10-R3D5-0840
43. HURLEY CONSTRUCTION, INC., 09-R2D1-1294 AND 1295
44. ILONA KITCHEN & BATH, INC. DBA IKB, 09-R1D2-0472
45. INGLEWOOD PARKS & RECREATION, 08-R4D1-4182 AND 4183
46. J & J PLASTERING, INC., 08-R1D3-4676
47. JA HILL CORPORATION, 08-R4D4-1915
48. JANCO INDUSTRIES, INC., 08-R1D2-3469

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49. JOHN BIRDSSELL CONSTRUCTION, 07-R2D5-5170 AND 5171
50. JOHNSON WESTERN GUNITE COMPANY, 09-R1D2-0551 AND 0552
51. JR KRAUSS, LTD, 09-R2D1-1003
52. KIRKWOOD MOUNTAIN RESORT LLC, 08-R2D4-2133
53. LA COUNTY DEPT. OF CHILDREN AND FAMILY SERVICES, 10-R3D6-0174
54. LA COUNTY INTERNAL SERVICES DEPT., 10-R3D6-0095 AND 0096
55. LLAMAS FARM LABOR CONTRACTING, 07-R2D5-3320 AND 3321
56. LONG BEACH WATER DEPARTMENT, 09-R6D4-3297 THROUGH 3299
57. DARRYL & JEAN LOVAAS, DBA CRESCENT ARMS APARTMENTS, 09-R2D1-0845
58. M5 STEEL MANUFACTURING, 09-R4D2-3733
59. M.R. CHRISTENSEN CONSTRUCTION, 09-R1D3-0839 AND 0840
60. MACY'S, INC., 08-R1D4-4614 AND 4615
61. MACY'S, INC., 09-R3D2-2686
62. MALCOLM DRILLING CO., INC., 09-R5D1-0866
63. ROBERT A. MOULTHROUP, DDS, 08-R1D2-4000 AND 4001
64. ADELITA MURILLO DBA AMERICAN BIN AND PALLET REPAIR, 09-R6D5-1645 THROUGH 1648
65. NETFLIX, INC., 09-R3D1-4014
66. NEWSTAR FRESH FOODS LLC, 08-R6D3-3461
67. NORTH BAY OVERHEAD DOORS, INC., 08-R1D1-3253 AND 3254
68. OFFICE MAX, 10-R1D4-0262
69. ORCHARD SUPPLY HARDWARE STORES CORPORATION, 09-R2D4-1378
70. OWENS-BROCKWAY GLASS CONTAINER, INC., 09-R1D4-0874 AND 0875
71. PACIFIC VALLEY MECHANICAL, INC., 09-R2D1-0971 AND 0972

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72. PIZZICONI CONSTRUCTION, 08-R1D1-3390
73. PLUMBING UNLIMITED, INC., 09-R2D5-1064 AND 1065
74. REAL EQUITY DEVELOPMENT, INC., 07-R2D4-4129 AND 4130
75. REED'S, INC., 09-R6D2-2702 THROUGH 2706
76. RINCON FARMS, INC., 08-R1D2-3183
77. RUDOLPH & SLETTEN, INC., 08-R1D2-3394
78. SHEEDY DRAYAGE CO., 08-R1D2-0271
79. SONOMA SAUSAGE LLC, 09-R6D1-0461 THROUGH 0463
80. SSA MARINE DBA SSA TERMINALS LONG BEACH LLC, 09-R6D2-2717
81. STG MACHINE, 09-R1D2-0549
82. SUN MAID GROWERS OF CALIFORNIA, 09-R2D5-2074 THROUGH 2076
83. SUNRISE FARMS, 08-R1D2-3029 AND 3030
84. SWISSPORT USA, INC., 08-R1D3-3620
85. THE TATITLEK CORPORATION, 10-R3D3-0218
86. JUAN PAULO TORRES DBA GOLDEN STATE CONSTRUCTION, 09-R2D1-1428
87. WESTCLIFF MEDICAL LABORATORIES, INC., 09-R3D1-3933
88. WESTERN HYBRID SEED, INC., 09-R6D7-4043

ORDER DISMISSING APPEAL:

1. PLASTIC DISPLAY PRODUCTS, 08-R3D2-2197 THROUGH 2199

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ORDERS GRANTING LATE APPEALS:

1. GIBBS CONSTRUCTION CO., 10-R4D3-1378 THROUGH 1382
2. GINO LUIS ROSS, 10-R4D2-1443 AND 1444

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

1. THUY TRANG THI HUYNH DBA TRANSTAR AUTO BODY, 10-R6D7-9118
2. LINDA WONG, 10-R4D1-9098

ORDERS OF REMAND:

1. JACOBSON STAFFING CO. DBA JACOBSON WAREHOUSING, 09-R2D4-1380
2. JE SNYDER ELECTRIC, INC., 09-R2D1-2995
3. R-COLD, INC., 09-R2D5-4011
4. RDV FARMS, INC., 08-R2D3-4282
5. SAN JOAQUIN HOUSING AUTHORITY, 08-R2D4-4352
6. SUN SWEET DRYERS, 09-R2D1-0530

ORDER AFTER REMAND:

1. POWER FREIGHT SYSTEMS, 06-R1D4-3347

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. MISSION FLAVORS & FRAGRANCES, INC., 05-R6D2-1139
2. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 & 2022
3. SUMMIT ROOFING, 10-R2D1-9093

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. DESCOR, INC. DBA DESCOR BUILDERS, 09-R2D1-0930 AND 0931
2. GRANITE CONSTRUCTION COMPANY, 07-R5D1-3611

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3. KEY LIME WEST, INC., 09-R6D2-0518 THROUGH 0524
4. NORTHERN CALIFORNIA PAPER RECYCLERS, INC., 09-R1D4-2351 THROUGH 2353
5. PRISON INDUSTRY AUTHORITY, 07-R1D5-2171 THROUGH 2173
6. SCHMIDL FARMS, 08-R2D3-1085

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 & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. AC FRAMERS INC., 03-R2D3-3475
4. AC TRANSIT, 08-R1D4-0135
5. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
6. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
7. ANNING-JOHNSON COMPANY, 06-R1D3-1976
8. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
9. BART, 03-R1D1-5170
10. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
11. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
12. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
13. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
14. BURTON L. SILVA FARMS, 09-R1D2-1498
15. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
16. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955

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17. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
18. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
19. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
20. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
21. CLINE CELLARS, INC., 08-R1D5-2946
22. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
23. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
24. COMMERCIAL METAL FORMING, 09-R3D1-1592
25. CORE GENERAL CONTRACTOR, INC. DBA CORE BUILDERS, 08-R1D2-1379
26. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
27. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
28. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
29. DESIGN BUILDERS, INC., 08-R4D4-1901
30. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
31. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
32. DUKE PACIFIC, INC., 08-R3D3-574
33. DUININCK BROS., INC., 06-R4D3-2871
34. DYNALECTRIC, 03-R1D1-4101
35. E. C. U., INC., 09-R3D5-1094 AND 1095
36. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS, 09-R6D2-2325 THROUGH 2332
37. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
38. EZ MIX, INC., 08-R4D3-1898
39. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477

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40. FORTUNA IRON WORKS 06-R2D3-4222
41. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
42. G.T. ALDERMAN, INC., 05-R4D3-3513
43. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
44. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
45. GLASS PAK, 03-R2D2-750 AND 751
46. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
47. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
48. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
49. HB PARKCO, 07-R4D2-1730 AND 1731
50. HELPMATES STAFFING SERVICES, 05-R3D3-2239
51. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
52. THE HERRICK CORP., 07-R3D1-495
53. HUSSMAN CORPORATION, 03-R3D1-2939
54. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
55. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
56. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
57. JENSEN PRECAST, 05-R2D1-2377
58. JOHN LAING HOMES, 04-R3D1-194 AND 195
59. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
60. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
61. KELLY SERVICES, INC., 06-R1D2-1024
62. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323

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63. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
64. LA MINA CANTINA, 09-R2D5-0039
65. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
66. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
67. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
68. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
69. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
70. MARINE TERMINALS, 08-08-R6D2-1920
71. MELMARC PRODUCTS, INC., 09-R3D1-2878
72. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
73. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
74. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
75. O & M INDUSTRIES, 04-R1D5-1597
76. PARKER-HANNIFIN CORPORATION, 08-R2D4-2508
77. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
78. POUK & STEINLE, INC., 09-R3D3-0491
79. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
80. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
81. R & L BROSAMER, INC., 03-R1D5-4832
82. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
83. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
84. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
85. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417

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86. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
87. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
88. STACY & WITBECK, INC., 05-R1D1-1142
89. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
90. SUNOPTA FRUIT GROUP, 09-R3D1-9245
91. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT
AGGREGATES, 04-R5D2-850 AND 851
92. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650
AND 2651
93. TEICHERT AGGREGATES, 04-R5D1-2982
94. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
95. UNITED PARCEL SERVICE, 07-R3D3-3322
96. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
97. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
98. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

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. HARRIS CONSTRUCTION COMPANY, INC., 07-CS00518 (05-3914)
(Appeal Due Date: June 11, 2010)
2. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
3. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
4. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB),
34-2007-00882192-CU-WM-GDS, (01-3261)

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5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
7. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
8. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
9. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
10. WEBCOR CONSTRUCTION LP dba WEBCOR BUILDERS, 34-2009-80000384 (08-R1D2-2499/2500)
11. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
12. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430 (09- 9280/9281)

COURT OF APPEAL

1. SOUTHERN CALIFORNIA EDISON, B223828 (BS 119297) (08-9062)

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.