

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, March 5, 2014
9:30 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: February 21, 2014

RE: Closed Session of the Board to be held on March 5, 2014

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

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. CORREA PALLET, INC., 12-R2D5-2157 AND 2158

PETITIONS FOR RECONSIDERATION:

1. BROWNSTONE UPHOLSTERY CORPORATION, INC., 13-R6D5-1090-1094
2. GEO PLASTICS, 2013-R6D2-0810
3. HHS CONSTRUCTION, 12-R3D2-0492-0497
4. JOHN BEAN TECHNOLOGIES CORP DBA JBT FOOD TECH,
2013-R2D5-1632-1633
5. KELLY SERVICES, INC., 2013-R2D5-1519

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6. JIM PARKER, 2014-R4D1-9009
7. POM WONDERFUL, LLC, 2013-R2D5-1515-1516
8. SILHOUETTE, LLC, 2010-R4D1-0662 THROUGH 0663
9. TREASURE ISLAND MEDIA, INC., 2010-R6D1-1093 THROUGH 1095
10. TWIN SPRINGS, LLC, 2010-R4D1-0664 THROUGH 0666

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. DEVCON CONSTRUCTION, INC., 12-R1D2-2062 THROUGH 2064

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

1. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
2. BELLINGHAM MARINE INDUSTRIES, 2012-R2D2-3144 THROUGH 3146
3. BRAD STONER PAINTING, INC., 13-R3D2-9200
4. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241
5. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
6. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186
7. CHEVRON PRODUCTS COMPANY, 13-R6D4-3506 AND 3507
8. CHEVRON PRODUCTS CO., 13-R6D4-0905
9. CHEVRON PRODUCTS COMPANY, R6D4-2715 AND 2716
10. CHEVRON PRODUCTS COMPANY, 13-R6D4-1353 THROUGH 1355
11. CHEVRON U.S.A., 13-R6D4-1536
12. CHEVRON USA, 13-R6D4-2566

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13. CHEVRON U.S.A., INC, 13-R6D4-1537 THROUGH 1544
14. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
15. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
16. COMMERCIAL METAL FORMING, 09-R3D1-1592
17. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
18. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
19. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
20. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
21. DISH NETWORK CAL. SVC. CORP., 12-R4D3-0455
22. FERMA CORPORATION, 12-R2D2-1669
23. GMAC ELECTRIC, INC., 13-R6D5-9138
24. HARRIS CONSTRUCTION, 03-R2D5-3914
25. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
26. KELLY GLOBAL LOGISTICS, INC., 12-R3D5-0014
27. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
28. LABOR READY, 13-R3D2-0164
29. LA VALENCIA HOTEL, 2013-R3D2-9199
30. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
31. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
32. MARIA DE LOS ANGELES COLUNGA DBA MERCED FARM LABOR,
08-R2D1-3093 THROUGH 3098
33. MARCO RUFO DBA MARCO RUFO, 13-R6D5-9217
34. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406

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35. MCCARTHY BUILDING CO., INC., 12-R1D4-3458
36. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
37. MORROW MEADOWS CORP., 09-R3D3-2295
38. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
39. NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186
40. O.C. JONES AND SONS, INC. 13-R2D2-0310
41. ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637
42. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
43. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
44. PERSONNEL PLUS, INC., 11-R3D5-1302
45. ROEBBELEN CONTRACTING, INC., 12-R2D2-3248
46. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
47. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
48. SIERRA FOREST PRODUCTS, 09-R2D5-3979
49. SONIC DRIVE-IN, 12-R2D5-2734
50. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
51. STARBUCKS DBA STARBUCK'S COFFEE #5867, 12-R3D2-3675
THROUGH 3678
52. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
53. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
54. TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310
55. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 AND 0097
56. VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674

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ORDERS DISMISSING APPEAL:

1. KIM AHN FASHION, 13-R6D5-2435
2. PACIFIC HARBOR LINE, 13-R3D5-1839

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

1. 5A5 STEAK LOUNGE, 14-R1D1-0423
2. MICHELS CORPORATION DBA MICHEL POWER, 14-R3D2-0401

ORDER DENYING LEAVE TO FILE LATE APPEAL:

1. HASSAN ABDIRAHMAN DBA UNIVERSITY TRANSMISSION, 14-R6D5-9014

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

LEGISLATION:

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. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
2. SMUD, 34-2010-80000723 (08-R2D1-4887)
3. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-8000820 (03-R1D1-5170)
4. MASCON, INC., 34-2011-80000819 (08-R2D1-4278 AND 4279)
5. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)

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6. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459 THROUGH 2461)
7. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
8. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
9. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
10. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
11. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
12. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
13. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
14. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
15. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
16. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
17. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
18. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
19. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
20. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
21. A. TEICHERT & SON, DBA TEICHERT AGGREGATES, RG12 659881 (10-R5D1-3029)
22. HOME DEPOT USA, INC., BS141301 (10-3284)
23. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
24. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00628178 (10-3667)
25. THYSSENKRUPP ELEVATOR CORP., 34-2013-80001456 (11-2217 ~ 2219)

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26. BIG LOTS STORES, INC., 37-2013-00045936 (11-R3D2-1929 ~ 1931)
27. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)
28. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00652023 (12-0439)
29. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00651875 (12-0440)
30. AC TRANSIT, RG13687314 (08-R1D4-0135)
31. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575
(12-R5D1-337)
32. BAY AREA RAPID TRANSIT DISTRICT, RG13689346 (09-R2D2-1219 & 1221)
33. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)
34. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
35. MARTIN J. SOLIS dba SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749
(2008-R2D1-3414 THROUGH 3418)
36. SHIMMICK-OBAYASHI, 34-2014-80001750 (2008-R3D3-5023 THROUGH 5025)
37. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)

APPELLATE COURT:

1. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, C075477,
34- 2011-80000640 (08-R2D1-0027 THROUGH 0030)
2. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191
THROUGH 1193)
3. SHERWOOD MECHANICAL, INC., D065322, 37-2012-00101466 (08-R3D2-4690 ~
4693)

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. GUILLERMO & ROSARIO AMEZOLA DBA AMEZOLA FLC, 13-R2D1-2603
2. A-PLUS TREE SERVICE INCORPORATED, 114-R2D2-0176 AND 14-R2D2-0426

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3. ARIES BUILDERS, 13-R2D2-3069
4. BAY RAM COLLISION CENTER, INC., 13-R1D4-1624
5. BOSKOVICH FARMS, INC., 13-R4D3-2524 AND 2525
6. BRANNON, INC., DBA SMITH ELECTRIC SERVICE, 13-R4D3-2702
7. BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC, 12-R3D6-3272
8. CA TRANSPORTATION, 13-R2D1-2918
9. CENTRAL TRANSPORT INTERNATIONAL, 13-R3D2-2144 AND 2115
10. CERRO PACIFIC LUMBER INC., 13-R2D1-2281 THROUGH 2283
11. CITEK TAPE DRIVE REPAIRS SPECIALISTS DBA INTEGRITY, 13-R3D1-0129 AND 0130
12. CREATIVE COMMUNICATION TECHNOLOGIES, INC., 13-R3D2-2087
13. E & K VINTAGE WOOD, 13-R3D5-1940
14. EXIDE TECHNOLOGIES, INC., 13-R3D5-1529
15. FAIRBANKS FAMILY TRUST DBA RONALD FAIRBANKS, 13-R4D3-2558
16. FEDEX GROUND PACKAGE SYSTEMS, INC., 13-R2D1-1953
17. FOREST WOOD FIBER PRODUCTS, INC., 14-R3D3-0131 THROUGH 0133
18. G & F HORSE TRAILER AND REPAIR, 14-R3D3-0087 AND 0088
19. GEORGE WEIR ASPHALT CONSTRUCTION, INC., 13-R3D2-1180 AND 1181
20. GIRL SCOUTS SAN DIEGO, 13-R3D2-3855 AND 3856
21. HUMBOLDT BAY FOREST PRODUCTS, INC., 13-R2D3-0750
22. ILLUMINA, INC., 13-R3D2-3892
23. ILLUMINA, INC., 13-R3D2-3893
24. INTERMOUNTAIN DISPOSAL, INC., 13-R2D1-1217

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25. IPG-USA INC. DBA WESTERN INDUSPAC PACKAGING GROUP,
13-R1D4-2833 AND 2834
26. J F CONSTRUCTION CORPORATION, 13-R6D5-0190 AND 0192
27. KAB ENGINEERING, LLC., 12-R4D7-3511
28. KONO & SONS, INC., 13-R4D3-3955 THROUGH 3957
29. LA WEB INC., 13-R4D4-3186 THROUGH 3189
30. LONG BEACH MEMORIAL MEDICAL CENTER, INC., 13-R3D5-1408
31. MYERS POWER PRODUCTS, INC., 13-R4D3-2838 THROUGH 2842
32. NOWLIN FENCE, INC., 13-R6D2-2563 AND 2564
33. ON TIME STAFFING, LLC., 13-R6D2-1349
34. PACIFIC BELL TELEPHONE CO. DBA AT&T, 13-R2D2-1385
35. PACIFIC RIM INTERNATIONAL WEST, INC., 13-R4D4-1064
36. PACKARD HOSPITALITY GROUP, LLC., 13-R4D1-1409
37. KALPESH PATEL DBA HOLT & GROVE AIRPORT WASH, 13-R4D4-0977
AND 0978
38. PURE PACIFIC ORGANIC LLC., 13-R1D2-3801
39. PYRO-COMM SYSTEMS, INC., 13-R4D7-27272 AND 2728
40. REGENT AEROSPACE CORP, 13-R6D2-2667 AND 2668
41. RJP FRAMING, INC., 13-R1D4-3208
42. SAFEWAY, INC., 13-R2D4-2920
43. SAN LUIS PUMP COMPANY, 13-R2D4-3695 THROUGH 3698
44. STRATEGIC OPERATIONS, INC., 13-R3D2-2116 THROUGH 2119
45. SUPERIOR PAPER & PLASTIC, INC., 13-R3D5-1403 AND 1404
46. TACO BELL, 13-R2D1-3347

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47. TWENTIETH CENTURY FOX FILM CORPORATION, 13-R4D1-0585
48. UC LOS ANGELES FACILITIES MANAGEMENT, 12-R4D1-3012 AND 3013
49. VENTURA FOODS, LLC., 13-R4D4-1459 AND 1460
50. VERTICAL FRAMING, INC., 13-R2D1-3023 AND 3024
51. WHEEL COSMO INC., DBA ALLOY WHEEL REPAIR SPECIALISTS,
12-R3D6-2591 AND 2592

PERSONNEL: *(Issues regarding staff.)*

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.