

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 6, 2013
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 22, 2013

RE: Closed Session of the Board to be held on March 6, 2013

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 item not resolved in this meeting will be continued to subsequent meetings as indicated in the minutes.

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. BILL NELSON GENERAL ENGINEERING CONSTRUCTION INC.,
10-R2D5-2399 AND 2400
2. CONTEMPORARY SERVICES CORP., 12-R3D1-0640
3. CRAIN WALNUT SHELLING INC., 11-R2D3-1223 AND 1224
4. LNI CUSTOM MANUFACTURING, INC., 12-R6D2-0250 THROUGH 0254
5. ORANGE COUNTY FIRE AUTHORITY, 12-R3D1-0439
6. ABDUL G. ZADEH DBA ISLAND AUTO PARTS WAREHOUSE, INC.,
12-R3D3-1213 AND 1214

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR MARCH 6, 2013**

Page 2

DECISION AFTER REMAND:

1. FDO INC. DBA GRAND AMERICAN DOORS, 10-R6D2-1215 THROUGH 1219

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. 3411 BUILDERS, INC., 12-R6D5-1853 AND 1854
2. APNIVEX CORP. DBA COMM-FAB, 12-R6D2-1066 AND 1067
3. B&B PIPE AND TOOL CO., 12-R6D2-1648 THROUGH 1656
4. BERNARDS BROS. INC. DBA BERNARDS BUILDERS, 12-R4D3-1229
5. BEST WESTERN INN AND SUITES, 12-R2D2-1984
6. B N B T BUILDERS, INC. DBA BNBUILDERS, INC., 12-R1D1-1521 AND 1522
7. B & S PALLETS, 12-R6D2-2248 THROUGH 2251
8. CHOONG HYUN MISSION CHURCH, 12-R4D1-1540
9. COASTAL EMPLOYMENT, INC., 12-R3D5-0994
10. COCA COLA BOTTLING COMPANY OF SOUTHERN CALIFORNIA,
12-R3D2-3158
11. CSC, 12-R3D3-3256
12. DAVEY TREE SURGERY COMPANY, 11-R1D5-1561
13. DEPLOYHR INC., 12-R6D2-0026 THROUGH 0029
14. DESIGN QUEST CUSTOM, INC., 12-R4D1-1499 THROUGH 1501
15. DEVCON CONSTRUCTION, INC., 10-R1D2-2706 THROUGH 2707
16. DON LINDSTROM ENTERPRISES, 11-R6D2-2808
17. DPI SPECIALTY FOODS, 12-R6D2-0833 THROUGH 0835

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR MARCH 6, 2013**

Page 3

18. DRYTECH ENTERPRISE, INC., 12-R4D1-1436 AND 1437
19. ELITE SCREENING, INC., 12-R3D5-2653 AND 2654
20. ESPARZA ENTERPRISES, INC., 11-R2D5-3034
21. FOAM DISTRIBUTORS, INC., 12-R1D4-3521 THROUGH 3523
22. FOREST LAWN MEMORIAL PARK ASSOCIATION, 12-R4D1-1728 AND 1729
23. FREMONT UNION HIGH SCHOOL DISTRICT CUPERTINO HIGH, 12-R1D2-1553 THROUGH 1554
24. GODO FARM LABOR CONTRACTOR, 12-R2D5-0525
25. GRIMMWAY ENTERPRISES INC., 12-R2D5-0866
26. HAXTON MASONRY INC., 11-R3D2-3297
27. HEADSTART NURSERY, INC., 12-R3D3-3304 AND 3305
28. HOYT ROOFS, INC., 12-R3D1-1565
29. HUXTABLE KITCHEN, INC., 12-R4D2-1543 THROUGH 1545
30. INTERNATIONAL SECURITY ACADEMY, INC., 12-R4D1-1402
31. J & M, INC., 12-R2D2-2068
32. KELLY TOOL & MFG. CO., INC., 12-R4D2-0822 THROUGH 0824
33. KSM CONSTRUCTION, INC., 12-R4D2-1363 THROUGH 1365
34. KONO FARMS INC. DBA KONO FARMS, 12-R3D3-2924
35. LABOR READY, 12-R3D6-1432
36. LA CITY LOS ANGELES WORLD AIRPORTS, 12-R4D1-1840
37. LA CITY WATER & POWER, 12-R4D1-1609
38. HOWARD LEE DBA SEOUL MARKET, 12-R4D1-1403
39. LIDDERDALE ENTERPRISES, INC., DBA THE SET SHOP, 12-R4D1-1128

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR MARCH 6, 2013**

Page 4

40. LOS ANGELES COUNTY DEPT. OF MENTAL HEALTH, 12-R3D5-1682
41. MOUNTAIN CASCADE, INC., 12-R1D5-1693
42. MPM BUILDING SERVICES, INC., 12-R4D1-1082 THROUGH 1085
43. MR. FAUX'S FINISHES, 12-R3D2-1744 AND 1745
44. MURGUIA CONSTRUCTION, INC., 12-R3D1-1260 THROUGH 1264
45. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0392 THROUGH 0397
46. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0398 THROUGH 0403
47. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0404 THROUGH 0407
48. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-1239 THROUGH 1242
49. NIBBI BROS. ASSOCIATES, INC., DBA NIBBI CONCRETE, 12-R1D1-0409
THROUGH 0413
50. OC FRAMING, INC., 12-R6D5-1470 THROUGH 1472
51. ORANGE COUNTY CONTAINER GROUP, 12-R3D6-1604
52. PACKERS SANITATION SERVICES, INC., 12-R1D4-2146
53. PARKS MANAGEMENT CORP DBA SIX FLAGS DISCOVERY KINGDOM,
12-R2D2-2181 AND 2182
54. RAY PERRY DBA RAY'S MASONRY, 12-R6D7-2139 AND 2140
55. PLEASANTON DEVELOPMENT COMPANY, 12-R1D4-3414 AND 3415
56. PORT OF OAKLAND – OAKLAND INTERNATIONAL AIRPORT, 11-R1D4-2610
57. PORTS AMERICA – EVERGREEN TERMINAL, 12-R6D2-1957
58. POWELL CONSTRUCTORS, 12-R3D5-1266
59. QUETICO LLC., 12-R6D2-2281 THROUGH 2286
60. REAL ESTATE CONSULTING & SERVICES, INC., 12-R3D3-1603
61. ROBERTSON'S READY MIX, INC., 12-R5D3-1851

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR MARCH 6, 2013**

Page 5

62. ROTTMAN DRILLING CO., 12-R6D2-2082 AND 2083
63. SAFEWAY INC. DIV. VONS MILK PLANT, 12-R6D2-3590 THROUGH 3592
64. SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (BART), 12-R2D2-1251
65. SCHUFF STEEL COMPANY, 12-R1D1-2315
66. SIMPLE STAFFING, INC., 11-R4D2-2800
67. SOUTH VALLEY MUSHROOM FARM, INC., 12-R1D2-2144
68. SRS GILBERT INDUSTRIAL COATINGS, INC., 12-R1D3-3052 THROUGH 3054
69. SUNNYGEM, LLC, 12-R4D3-2110 AND 2111
70. TROYS DRYWALL, 12-R3D2-0892
71. TIGHT QUARTERS, 12-R3D1-3318
72. BRAD THOMPSON DBA BC THOMPSON, 12-R3D6-0961 THROUGH 0964
73. TEO'S ROOFING AND WATERPROOFING, 12-R1D3-1858
74. TREEHOUSE ALMONDS, 12-R2D5-1801 THROUGH 1806
75. TSI DIXON, 12-R6D3-2448
76. VANDENBERG MFG CO. INC., 12-R6D2-1328 THROUGH 1331
77. WOODSIDE INVESTMENTS INC., DBA MICHAEL & COMPANY, 11-R2D1-2763
AND 2764
78. WORLD CLASS DISTRIBUTION, 11-R6D2-3262 THROUGH 3264
79. WAL-MART STORES INC. DBA WAL-MART STORE #3494, 12-R3D2-1740
80. ZINUS, INC., 12-R1D4-2573

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. JAZZ GROUP, INC./ IMPERIAL REPAIR GROUP, INC. DBA IMPERIAL TRUCK
WASH & REPAIR, 13-R2D4-9019
2. MILLER ENVIRONMENT, INC., 13-R4D1-9020

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR MARCH 6, 2013**

Page 6

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.)

PETITIONS FOR RECONSIDERATION

1. BIG LOTS #4038, 11-R3D2-1929 THROUGH 1931

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. EDCO WASTE & RECYCLING SERVICES, INC., 12-R3D2-0163 AND 0164
2. HOFFMAN FOOD MANAGEMENT CO., LLC, 12-R6D7-9156
3. K H S & S OF CONCORD, INC., 11-R2D2-0374 AND 0375
4. RAJ KUMAR SHARMA DBA SUNRISE ORCHARDS, 10-R2D1-3391
5. SIERRA FOREST PRODUCTS, 09-R2D5-3979
6. STEVEN D. ANDERSON CONSTRUCTION DBA ANDERSON CONSTRUCTION, 12-R6D5-9181
7. THYSSENKRUPP ELEVATOR CORPORATION, 11-R2D1-2217 ~ 2219
8. YNT HARVESTING, 08-R2D5-5010

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. A-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592
2. AC TRANSIT, 08-R1D4-0135
3. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
4. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
5. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
6. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR MARCH 6, 2013**

Page 7

7. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445 AND 3448
8. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
9. CALIFORNIA ERECTORS, INC., 10-R1D2-2772 THROUGH 2775
10. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
11. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
12. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
13. COMMERCIAL METAL FORMING, 09-R3D1-1592
14. COMMUNITY RECONSTRUCTION SOLUTIONS, INC., 11-R1D1-1484
15. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
16. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
17. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
18. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
19. EZ MIX, INC., 08-R4D3-1898
20. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
21. HARRIS CONSTRUCTION, 03-R2D5-3914
22. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
23. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
24. IRWIN INDUSTRIES, 08-R6D4-1454
25. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
26. LFP VIDEO GROUP LLC DBA HUSTLER VIDEO, 11-R6D2-0966 ~ 0968
27. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
28. LION RAISINS, INC., 08-R2D5-2253 AND 2254

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR MARCH 6, 2013**

Page 8

29. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
30. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
31. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
32. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
33. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
34. ORANGE COUNTY FIRE AUTHORITY, 12-R3D1-0364
35. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
36. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
37. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
38. PERSONNEL PLUS, INC., 11-R3D5-1302
39. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
40. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
41. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
42. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
43. SMUD, 08-R2D1-4887 THROUGH 4889
44. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
45. SOUTHERN CALIFORNIA EDISON CO., 12-R3D3-0499
46. SOUTHLAND-TUTOR-PERINI JOINT VENTURE, 11-R5D1-3248
47. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
48. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
49. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
50. TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR MARCH 6, 2013**

Page 9

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. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
2. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
3. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
4. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-80006047 (07-R5D1-3611)
5. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
6. SMUD, 34-2010-80000723 (08-R2D1-4887)
7. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
8. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
9. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)
10. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459 THROUGH 2461)
11. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
12. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)
13. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039 (07-R2D3-0275)
14. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR MARCH 6, 2013**

Page 10

15. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
16. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
17. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
18. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)
19. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219
AND 0220)
20. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
21. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258
(05-R2D4-2650 AND 2651)
22. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
23. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
24. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
25. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
26. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
27. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332
(09-R4D5-0459 & 0460)
28. A. TEICHERT & SON, DBA TEICHERT AGGREGATES, RG12 659881
(10-R5D1-3029)
29. HOME DEPOT USA, INC., BS141301 (10-3284)
30. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)

PERSONNEL: *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.