

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 19, 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: March 7, 2014

RE: Closed Session of the Board to be held on March 19, 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. AGPRIME, 12-R2D5-0156 THROUGH 0162
2. ALLEGIANCE BUSINESS CORPORATION DBA HI TECH PRECISION,
13-R6D2-1771 AND 1772
3. BAY CITIES PAVING & GRADING, INC., 12-R2D1-1665
4. BHC FREMONT HOSPITAL, INC., 13-R1D2-0204
5. NBC UNIVERSAL, 13-R4D3-0528 THROUGH 0530
6. WEST VALLEY CONSTRUCTION, INC., 12-R2D5-3526

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PETITIONS FOR RECONSIDERATION:

1. BARNARD IMPREGILO HEALY JV, 14-R5D1-9013

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. BROWNSTONE UPHOLSTERY CORPORATION, INC., 13-R6D5-1090-1094
2. GEO PLASTICS, 2013-R6D2-0810
3. POM WONDERFUL, LLC, 2013-R2D5-1515-1516
4. KELLY SERVICES, INC., 2013-R2D5-1519
5. JOHN BEAN TECHNOLOGIES CORP DBA JBT FOOD TECH, 2013-R2D5-1632-1633

ORDERS AFTER REMAND DISMISSING APPEAL:

1. DELTA TRANSPORTATION, 08-R2D1-4999

ORDERS DISMISSING APPEAL:

1. KEVIN SEMIEN, 13-R1D1-1499

ORDER DENYING LEAVE TO FILE LATE APPEAL:

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.)

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

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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
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. HHS CONSTRUCTION, 12-R3D2-0492-0497
26. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
27. KELLY GLOBAL LOGISTICS, INC., 12-R3D5-0014

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28. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
29. LABOR READY, 13-R3D2-0164
30. LA VALENCIA HOTEL, 2013-R3D2-9199
31. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
32. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
33. MARIA DE LOS ANGELES COLUNGA DBA MERCED FARM LABOR,
08-R2D1-3093 THROUGH 3098
34. MARCO RUFO DBA MARCO RUFO, 13-R6D5-9217
35. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
36. MCCARTHY BUILDING CO., INC., 12-R1D4-3458
37. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
38. MORROW MEADOWS CORP., 09-R3D3-2295
39. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
40. NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186
41. O.C. JONES AND SONS, INC. 13-R2D2-0310
42. ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637
43. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
44. JIM PARKER, 2014-R4D1-9009
45. PERSONNEL PLUS, INC., 11-R3D5-1302
46. ROEBBELEN CONTRACTING, INC., 12-R2D2-3248
47. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
48. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
49. SIERRA FOREST PRODUCTS, 09-R2D5-3979

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50. SONIC DRIVE-IN, 12-R2D5-2734
51. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
52. STARBUCKS DBA STARBUCK'S COFFEE #5867, 12-R3D2-3675
THROUGH 3678
53. SUNRISE GROWERES FROZ SUN FOODS, 09-R4D3-2850
54. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
55. TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310
56. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 AND 0097
57. TREASURE ISLAND MEDIA, INC., 2010-R6D1-1093 THROUGH 1095
58. VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674

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)
6. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
THROUGH 2461)
7. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)

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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)
26. BIG LOTS STORES, INC., 37-2013-00045936 (11-R3D2-1929 ~ 1931)
27. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)

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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. AA MAX QUALITY CONSTRUCTION, 13-R3D3-3894
2. AFFORDABLE 1 PAINTING INC., 13-R2D3-2604
3. ALPINE MEADOWS SKI RESORT, LLC., 13-R2D1-2152 AND 2153

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4. AQUATIC ENVIRONMENTS, INC., 13-R2D2-3018 AND 3019
5. ARMSTRONG INSTALLATION SERVICE DBA ARMSTRONG PAINT,
13-R1D5-2772 AND 2773
6. ARTESIA SAWDUST PRODUCTS, INC., 13-R4D4-1601
7. BARRERA AG SERVICES, 14-R2D5-0252 AND 0253
8. BAY CITIES PAVING & GRADING INC., 13-R2D4-2322 THROUGH 2324
9. BIG VALLEY LABOR, LLC., 13-R2D4-2539 AND 2540
10. BLUE RIDGE FOREST PRODUCTS, INC., 13-R2D1-2694 AND 2695
11. DAVID W. BONACCI DBA AMERICAN RAIN GUTTER, 13-R2D1-0270
THROUGH 0275
12. RICK ANTHONY BROWN AKA RICK BROWN DBA RICK BROWN
CONSTRUCTION, 12-R2D2-3421
13. CA CORRECTIONS – AVENAL, 13-R2D5-3221
14. CALIFORNIA EXPERIENCE LLC DBA CALIFORNIA PARTY BUS,
12-R1D1-1885 THROUGH 1887
15. CLARK PACIFIC CORPORATION, 12-R2D1-3600
16. CLEVELAND WRECKING COMPANY DBA URS RESOURCES, LLC.,
13-R2D2-2252 AND 2253
17. C.R. ENGLAND, INC., 13-R2D1-1808
18. CREW CONTRACT, INC., & MW SVCS INC DBA CREW MW II, LP,
14-R2D2-0368
19. DAYLIGHT TRANSPORT, LLC., 13-R6D2-1773 THROUGH 1775
20. DEL FRESH PRODUCE, INC., 13-R1D2-1794
21. DICK JAMES & ASSOCIATES, INC., 13-R2D1-2381 AND 2382
22. DOUGLASS STEEL SUPPLY, 12-R6D2-3284 THROUGH 3288
23. EXPRESS CHIPPING, INC., 13-R2D4-2078 THROUGH 2084

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24. FRANCES TODD INC. DBA THE WOODEN DUCK, 13-R6D1-1881
THROUGH 1885
25. FRANCISCO SANCHEZ FARM LABOR, 13-R2D5-3302
26. FULL STEAM STAFFING, LLC, 14-R2D4-0083
27. GARDNER TRUCKING, INC., 12-R3D2-0782
28. GARZA, INC., 14-R3D3-0507
29. GEORGE E. MASKER, INC., 14-R1D1-0411 AND 0412
30. MANUEL GOMEZ DBA GOMEZ LANDSCAPING, 13-R6D7-3745
THROUGH 3747
31. HECTOR GONZALEZ DBA HECTOR GONZALEZ CONSTRUCTION,
13-R6D7-2671
32. GRAVENTA ENTERPRISES DBA CONCORD DISPOSAL SERVICES,
13-R2D2-3097
33. HOLIDAY INN EXPRESS, 14-R2D1-0241
34. HRM HOLDINGS LLC DBA BLUELINE TECHNOLOGIES, 13-R2D3-1252
AND 1253
35. IMAGINE APPAREL, 14-R2D1-0225
36. JAIME ZEPEDA LABOR CONTRACTING, INC., 13-R6D5-2180 AND 2514
37. JAVIER RODRIGUEZ FARMS, 14-R2D5-0251
38. JD2 INCORPORATED, 13-R2D4-2077
39. JERRY'S TREE SERVICE A PARTNERSHIP, 13-R1D5-3624
40. JOSEPH & JULIE FLORES INC. DBA IHOP #642, 13-R2D3-2812 AND 2813
41. PATRICK KRYSTEK DBA BAYVIEW CONSTRUCTION, 13-RD7-3092
THROUGH 3094
42. KELCOLE MFG., INC. DBA CONSOLIDATED OVERHEAD DOOR,
13-R4D3-1059 AND 1060

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43. DARREN LEE DBA DARREN LEE, 13-R1D1-3849 AND 3850
44. LOPEZ FARM LABOR CONTRACTING, 13-R2D5-2595
45. LA CANADA UNIFIED SCHOOL DISTRICT PARADISE CANYON
ELEMENTARY, 13-R4D1-1658
46. L.A. CITY PUBLIC WORKS SANITATION, 13-R4D1-1657
47. MARK III CONSTRUCTION, INC., 12-R2D1-2461 AND 2462
48. MARTIN TYNAN & SON CONSTRUCTION, 13-R6D7-2575-2576
49. MISSION VIEJO ORNAMENTAL IRON, INC., 13-R6D2-3133 THROUGH 3135
50. NEPOMUCENO NAVA LUPIAN DBA NAVA FARMS, 13-R2D4-2538
51. NISSEN VINEYARD SERVICES, INC., 13-R1D5-2592
52. OKEEFEE'S INC DBA SAFTIFIRST, 13-R2D4-2388 THROUGH 2390
53. OLIVAS VALDEZ INC., 12-R4D1-3579 AND 3580
54. OMKNI SHEET METAL, INC., 13-R1D3-1615 AND 1616
55. ON TIME SERVICES CO., 13-R1D5-2874 AND 2875
56. OWENS CORNING INSULATING SYSTEMS, LLC., 13-R1D3-3558
57. OXNARD LEMON ASSOCIATES, LTD., 13-R6D2-3625 THROUGH 3631
58. PETROLEUM SALES, INC., 13-R1D5-2536
59. PRIME FABRICATION, INC., 13-R6D2-3063 THROUGH 3066
60. PRO TEK CONSTRUCT, INC., DBA BAY CITIES CONSTRUCTION,
13-R2D4-3597
61. QUALITY HARVEST, INC., 13-R2D4-0402 THROUGH 0404
62. RECOLOGY SAN MATEO COUNTY, 13-R1D3-2379
63. RINNOVO GROUP, INC., 13-R6D7-0200 AND 0201

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64. ROSENTHAL BROTHERS, INC., 13-R6D7-2750 AND 2751
65. SACRAMENTO COUNTY, GENERAL SERVICES, 13-R2D1-2830
66. SACRAMENTO COUNTY, GENERAL SERVICES, 13-R2D1-2831
67. SAFEWAY INC., 13-R2D4-1989
68. SANDERS PRECISION TIMBER FALLING INC., 13-R2D3-0277
69. SARABIAN FARMS, 13-R2D5-2260 AND 2261
70. SINSKEY VINEYARDS, INC., 13-R6D1-3285 AND 3286
71. SOUSA FARMS, INC., 13-R2D4-2594
72. SPROUTS FARMERS MARKET STORE #228, 13-R3D2-1133 AND 1134
73. ST. JOSEPH HEALTH SYSTEMS SONOMA COUNTY DBA SANTA ROSA MEMORIAL HOSPITAL, 13-R1D5-0304
74. SUNSWEET DRYERS, 12-R2D1-3743
75. SWEETWATER UNION HIGH SCHOOL DISTRICT, 12-R3D2-0921 THROUGH 0923
76. THE INN ON THE BOULEVARD, INC., 13-R6D2-1105 AND 13-R6D2-1548
77. T. MARZETTI COMPANY, 13-R1D2-2185
78. TOP BUILT, INC., 13-R2D1-2774
79. PETER TREMBOIS DBA SPECIALTY PRODUCE, 13-R6D7-2926
80. TSA STORES INC DBA SPORTS AUTHORITY, 14-R3D3-0089 AND 0090
81. UNDERGROUND CONSTRUCTION COMPANY, INC., 13-R1D5-2016
82. FLOYD VARVELL, DBA INDIAN CREEK CAR WASH, 13-R2D4-3748 THROUGH 3750
83. VALLEY WALL SYSTEMS, INC., 13-R2D3-3478
84. VIKING SHRED, LLC., 13-R2D1-2673 THROUGH 2675

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85. VOLT SERVICES GROUP, 13-R2D4-3713

86. VSS INTERNATIONAL, INC., 13-R2D1-3275 THROUGH 3277

87. WESTERN DRYWALL, INC., 13-R6D7-2687 AND 2688

88. WIN & GREAT TIMES, LLC DBA HOLIDAY INN SD MIRAMAR, 13-R3D2-1262
AND 1263

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.