

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, April 16, 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: April 4, 2014

RE: Closed Session of the Board to be held on April 16, 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. IRWIN INDUSTRIES, 12-R4D3-3276 AND 3277
2. OC TURF AND PUTTING GREENS, 13-R3D2-1751

PETITIONS FOR RECONSIDERATION:

1. BAY CITIES PAVING & GRADING, INC., 12-R2D1-1665
2. VISTA CONSTRUCTION, 14-R6D7-9015

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. BARNARD IMPREGILO HEALTY JV, 14-R5D1-9013
2. ROCKET FARMS HERBS, INC., 13-R3D2-3549 THROUGH 3551

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3. WEST VALLEY CONSTRUCTION, 12-R2D5-3526

ORDERS DISMISSING APPEAL:

ORDERS GRANTING LEAVE TO FILE APPEAL:

1. GARFIELD BEACH CVS LLC., 14-R3D1-1085

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. JAMES BALDWIN DBA LYON'S MUFFLER & BRAKE, 14-R6D5-9019
3. BELLINGHAM MARINE INDUSTRIES, 2012-R2D2-3144 THROUGH 3146
4. BRAD STONER PAINTING, INC., 13-R3D2-9200
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

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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
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

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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. 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. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
53. TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310
54. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 AND 0097
55. TREASURE ISLAND MEDIA, INC., 2010-R6D1-1093 THROUGH 1095
56. VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674

LEGISLATION:

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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)
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)

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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)
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)

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38. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056 THROUGH 3058) (DOSH)
39. LAND O'LAKES PURINA FEED, LLC, RG14715717 (08-R2D4-1843 AND 1844) (DOSH)
40. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH 3058) (3rd Party)

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. ABM FACILITY SERVICES, INC., 14-R2D1-0389
2. BAR 20 DAIRY, LLC., 12-R2D5-2153 THROUGH 2156
3. BAY BREAD, LLC DBA LA BOULANGE DE HAYES, 13-R1D1-1498
4. BLU MOUNTAIN AIR, INC., 14-R2D2-0718
5. BOREAL RIDGE CORPORATION DBA SODA SPRINGS SKI RESORT, 13-R2D1-2936 AND 2037
6. CABLECOM OF CALIFORNIA, INC., 13-R1D2-0492 THROUGH 0494
7. CALIFORNIA WOOD SHAVINGS, INC., 13-R2D4-3082
8. CAL PACIFIC EXPORT PACKERS, INC., 13-R6D2-2526 THROUGH 2529
9. CARPE PIZZA V, LLC DBA PAPA MURPHY'S PIZZA, 13-R2D4-3400

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10. CITY OF RIPON, 14-R2D4-0023 AND 0024
11. COAST FROST PROTECTION, INC., 13-R4D3-0900 AND 0903
12. DNAM APPAREL INDUSTRIES, LLC., 10-R4D1-0969 THROUGH 0971
13. ECKERT COLD STORAGE COMPANY, 13-R2D4-3349
14. EL METAPANECO, 13-R3D5-2408 AND 2410
15. JIM GROVERMAN DBA PETALUMA PUMPKIN PATCH & A'MAZIN,
13-R6D7-3327
16. WILLIAM M. HAMILTON & SHERILYN THARP DBA THARP-HAMILTON
WOODWORKING, 14-R1D4-0715 AND 0716
17. HERITAGE HOTEL GROUP, INC. DBA ECONOLODGE, 14-R2D1-0528
18. ISLAND PACIFIC SUPERMARKETS, INC., 14-R2D2-0022
19. JBA HOLDING COMPANY, INC., 13-R2D4-3348
20. JOHANSEN MASONRY, INC., 13-R2D1-2971 THROUGH 2973
21. JR CUSTOM HARVESTING CO., INC., 14-R1D2-0053 AND 0054
22. J.S. HACKLEY ARCHITECTURAL SIGNAGE INC., 14-R1D4-0861
THROUGH 0863
23. LARSON FAMILY WINERY, INC., 14-R1D5-0339
24. LINEAGE LOGISTICS, 13-R6D2-3634 THROUGH 3636
25. MARSHALL MACHINERY, INC., 13-R3D1-2331
26. MOUNTAIN FORGE INC., 13-R2D3-2383
27. OLIVET INTERNATIONAL, INC., 13-R3D3-3699 THROUGH 3705
28. ONEWAY DEVELOPMENT & CONSTRUCTION CO., INC., 13-R3D2-1583
AND 1584
29. PACIFIC VIEW CONSTRUCTION, 13-R3D1-2330
30. PCH GARAGE, 13-R3D1-2194 AND 2195

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31. S & A BUMPER FIXING, 13-R3D5-3805
32. SAN-MAR CONSTRUCTION CO. INC., 13-R4D1-1141
33. SEARS AUTO CENTER, 14-R2D1-0243
34. SEARS ROEBUCK & CO DBA SEARS #1598, 13-R4D4-1668
35. SSA PACIFIC INC., 12-R2D1-3777 AND 3778
36. STEVENS CREEK QUARRY INC DBA SCQ CONSTRUCTION, 14-R1D4-0805
37. STURGEON SERVICES INTERNATIONAL, INC., AKA STURGEON SERVICES INTERNATIONAL AND AKA STURGEON & SONS, INC., AND STURGEON & SONS GRADING AND PAVING, INC., 11-R2D5-0160 THROUGH 0162
38. SUN LIGHT & POWER, 13-R1D2-2311
39. TERMINAL FREEZERS, LLC, DBA LINEAGE LOGISTICS, 14-R1D2-0678
40. THE G-M DEVELOPMENT COMPANY NEVADA LIMITED PARTNERSHIP, 12-R1D4-3129 THROUGH 3131
41. THE LAWSON ROOFING CO. INC., 14-R1D1-0402
42. VALMONT INDUSTRIES DBA CALWEST GALVANIZING, 13-R3D5-3667
43. VERIZON, 13-R3D5-3951 AND 3952

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.