

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, May 1, 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: April 18, 2013

RE: Closed Session of the Board to be held on May 1, 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 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. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 12-R5D1-0337
2. FONTANA UNIFIED SCHOOL DISTRICT, 12-R3D3-1746
3. TILTON PACIFIC CONSTRUCTION, INC., 12-R2D1-0516
4. VENETIAN STONE WORKS, 12-R3D1-0947 THROUGH 0949
5. VH PROPERTY CORP DBA TRUMP NATIONAL GOLF CLUB LA,
12-R3D5-1725

DECISION AFTER REMAND:

1. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1218 THROUGH 1221

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR May 1, 2013
Page 2

PETITIONS FOR RECONSIDERATION:

1. JERRY'S TREE SERVICE, A PARTNERSHIP, 13-R1D5-9022
2. NORTHWOOD DESIGN PARTNERS, INC., 2013-R1D4-9021
3. ROCHE EXCAVATING, INC., 2013-R3D1-9236

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. BILL NELSON GENERAL ENGINEERING CONSTRUCTION, INC.,
10-R2D5-2399 AND 2400

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
7. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
AND 3448
8. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
9. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
10. C & L BLUE INC., 11-R4D1-2942 AND 11-R4D1-2943 THROUGH 2945
11. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
12. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
13. COMMERCIAL METAL FORMING, 09-R3D1-1592

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR May 1, 2013
Page 3

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. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
26. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
27. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
28. LION RAISINS, INC., 08-R2D5-2253 AND 2254
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. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
35. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR May 1, 2013
Page 4**

36. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
37. PERSONNEL PLUS, INC., 11-R3D5-1302
38. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
39. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
40. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
41. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
42. SIERRA FOREST PRODUCTS, 09-R2D5-3979
43. SMUD, 08-R2D1-4887 THROUGH 4889
44. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
45. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
46. SUNRISE GROWERES FROZ SUN FOODS, 09-R4D3-2850
47. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
48. TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310

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.)

1. OLD D'S APPAREL, INC., 12-R4D1-1177 AND 1178
(Decision of Administrative Law Judge)

ORDER AFTER REMAND:

1. SDUSD-PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297

ORDERS DISMISSING APPEAL:

1. DAMION MANTLE DBA DAMION MANTLE PAINTING & DECORATING, 12-R1D1-2569 THROUGH 25
2. WEST SIDE ELECTRIC, INC., 12-R3D1-2021

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR May 1, 2013
Page 5**

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

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. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
3. GRANITE CONSTRUCTION CO., INC., (DOSHS V OSHAB) 34-2010-80006047
(07-R5D1-3611)
4. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
5. SMUD, 34-2010-80000723 (08-R2D1-4887)
6. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
7. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
8. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)
9. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
THROUGH 2461)
10. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
11. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039
(07-R2D3-0275)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR May 1, 2013
Page 6

12. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
13. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
14. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
15. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
16. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)
17. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
18. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
19. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
20. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
21. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
22. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
23. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
24. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
25. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
26. A. TEICHERT & SON, DBA TEICHERT AGGREGATES, RG12 659881 (10-R5D1-3029)
27. HOME DEPOT USA, INC., BS141301 (10-3284)
28. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
29. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00628178 (10-3667)
30. THYSSENKRUPP ELEVATOR CORP., 34-2013-80001456 (11-2217 ~ 2219)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR May 1, 2013
Page 7

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. 4580 UNIVERSITY AVE INC. DBA SUPER MERCADO MURPHY, 12-R3D2-1865 AND 1866
1. ADVANCED FRAMING STRUCTURES CORP., 13-R6D2-0240
2. AIR GAS DRY ICE, INC., 12-R3D5-2323
3. AMERICAN SUBCONTRACTOR GROUP INC., DBA AMERICAN DEMO, 12-R3D3-0991 THROUGH 0993
4. AUDIO VISUAL SERVICES GROUP, INC., DBA PSAV PRESENTATION SERVICES, 12-R3D1-1395 AND 1396
5. BENZ SANITATION, INC., 12-R6D2-2827 AND 2828
6. CHOOSE BLACKHAWK, INC., 12-R3D6-0644 AND 0646
7. CITY OF SAN JOSE DEPARTMENT OF TRANSPORTATION, 12-R1D2-2874
8. COCA COLA REFRESHMENTS USA, INC., 13-R1D4-0120
9. COUNTRY SWEET PRODUCE, INC., 13-R4D7-1065
10. DPA LABORATORIES INC., DBA DPACI, 12-R4D3-2054
11. DYNAMIC CONSTRUCTION SERVICES, INC., 12-R3D5-1400
12. EDCO WASTE SERVICES LLC., 12-R6D2-2339
13. EISEL ENTERPRISES INC., 12-R6D2-3016 THROUGH 3024
14. EMPLOYERS OUTSOURCING INC., 12-R3D2-1810
15. EMPLOYER'S OUTSOURCING INC., 12-R3D2-1905
16. FABTRONICS, INC., 13-R6D2-0713 THROUGH 0719
17. FAMILY RANCH, INC., 12-R6D7-3298 AND 3299
18. F & B ASSOCIATES INC. DBA BEST BEVERAGE CATERING, 12-R3D6-1685

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR May 1, 2013
Page 8

19. GOLDEN STATE BORING & PIPE JACKING INC., 12-R5D2-1880
20. GRAPHIC TRENDS, 12-R3D6-1909 AND 12-R3D6-1925
21. GRANITE CONSTRUCTION COMPANY, 12-R5D1-3048
22. GT WATER PRODUCTS, INC., 12-R6D2-1001 AND 1002
23. HONEY BAKED HAM COMPANY, 12-R3D1-1160 AND 12-R3D1-1552
24. HUSSMANN CORPORATION, 12-R3D3-2020
25. INTERAMERICAN MOTOR CORPORATION, 10-R3D5-0221 AND 0222
26. IRELAND INTERIOR SYSTEMS INC., 12-R1D1-2023 AND 2024
27. MAGANA LABOR SERVICES, INC., 12-R6D5-2055
28. MEDIA BLAST & ABRASIVE, INC., 12-R3D1-0014 THROUGH 0016
29. METRO FIRE & SAFETY, INC., 12-R3D2-1602
30. MITCO INDUSTRIES, INC., 12-R3D3-1430 AND 1431
31. MONTESSORI IN THE CITY, 13-R2D1-0925
32. MV TRANSPORTATION, 12-R2D1-2034 AND 2035
33. NATIONAL RAISIN COMPANY, 10-R2D5-3778
34. ONLINE GRAPHICS AND FINISHING, 12-R3D1-1833
35. ORANGE COUNTY FIRE AUTHORITY, 11-R3D1-2850
36. ORR BUILDERS, 12-R3D3-2048
37. PAC-DENT INTERNATIONAL INC., 12-R6D2-1183 THROUGH 1186
38. PACIFIC MARITIME ASSOCIATION, 11-R1D4-0134
39. PACIFIC SOUTHWEST IRRIGATION CORP., 12-R2D4-1592 THROUGH 1595
40. ROSS PLASTERING, INC., 13-R1D2-0914 AND 0915

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
FOR May 1, 2013
Page 9

41. SIGNA MECHANICAL, 12-R3D3-2073
42. ALICIA SILVA AND/OR RAMIRO SILVA, 12-R3D1-2159
43. SINECERA INC., DBA CROWN PRECISION, 12-R3D6-1868
44. ST. IVES LABORATORIES, INC., 12-R4D3-1574 AND 1575
45. STRATEGY BUILDERS INC., 12-R3D2-3573
46. TEHACHAPI RECYCLING, INC., 12-R6D2-2825 AND 2826
47. TERMINALIFT LLC., 12-R6D2-0831 AND 0832
48. TRI BORING INC., 12-R5D2-2409
49. UNITED PARCEL SERVICE INC. DBA UPS, 13-R3D2-0549 AND 0550
50. VILORE FOODS COMPANY INC., 13-R6D2-0633 AND 0634
51. WC STAFFING INC., DBA WEST COAST STAFFING, 12-R3D2-1834
52. WECKERLE SALES CORPORATION, 12-R3D5-1683
53. WEST COAST STAFFING INC., 12-R3D2-1811
54. WINSLOW CONSTRUCTION AND ELECTRIC COMPANY, 12-R3D5-3615

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.