

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 29, 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: May 17, 2013

RE: Closed Session of the Board to be held on May 29, 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. BARRETT BUSINESS SERVICES, INC., 12-R1D2-1412
2. CME SERVICES, 12-R5D1-2279
3. ORANGE COUNTY INDUSTRIAL PLASTICS, 12-R3D1-1989
4. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 AND 0097

PETITIONS FOR RECONSIDERATION:

1. BAY AREA RAPID TRANSIT (BART) DISTRICT, 09-R2D2-1219 AND 1221
2. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 AND 3185
3. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 12-R5D1-0337

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4. ROBERT CLAPPER CONSTRUCTION SERVICES, 13-R3D5-9039

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

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
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

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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. JERRY'S TREE SERVICE, A PARTNERSHIP, 13-R1D5-9022
26. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
27. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
28. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
29. LION RAISINS, INC., 08-R2D5-2253 AND 2254
30. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
31. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
32. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
33. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
34. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
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

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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. SIERRA FOREST PRODUCTS, 09-R2D5-3979
44. SMUD, 08-R2D1-4887 THROUGH 4889
45. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
46. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
47. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
48. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
49. 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.)

ORDERS DISMISSING APPEAL:

1. CENTRAL OREGON TRUCK COMPANY, 12-R2D2-1317

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)

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2. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
3. GRANITE CONSTRUCTION CO., INC., (DOSH 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)
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)

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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)
31. BIG LOTS STORES, INC., 37-2013-00045936 (11-R3D2-1929 ~ 1931)

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-R3D3-2368 AND 2369
2. AFC FINISHING SYSTEMS INC., 12-R2D3-1484 THROUGH 1488
3. AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA, 12-R4D1-1844
4. AZUSA UNIFIED SCHOOL DISTRICT, 12-R3D6-2075 THROUGH 2077
5. BAY AREA RAPID TRANSIT DISTRICT, 11-R2D2-0701 THROUGH 0704
6. BAYVIEW ENGINEERING & CONSTRUCTION COMPANY, INC., 12-R2D4-2397
7. BCI COCA COLA BOTTLING CO. OF LOS ANGELES, 12-R2D2-2037

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8. BEAVER MEDICAL GROUP, LP., 12-R3D3-2398
9. BERKELEY UNIFIED SCHOOL DISTRICT, 13-R1D4-0920
10. BOTTLING GROUP, LLC., DBA PEPSI BEVERAGES COMPANY,
12-R6D1-2436 THROUGH 2438
11. BOTTLING GROUP, LLC., DBA PEPSI BEVERAGES COMPANY,
12-R6D1-2801 THROUGH 2806
12. KATHLEEN J BRINTON DBA BLOOMINGTON #1 FLORIST, 13-R3D3-0349
13. BROOKFIELD NORCAL BUILDERS, INC., 12-R1D4-2884
14. SAMUEL BRUTTOMESSO, 12-R4D3-1279 THROUGH 1283
15. CAL COAST STUCCO, INC., 12-R4D3-2788 AND 2789
16. CALIFORNIA HOME IMPROVEMENT & DESIGN, INC., 12-R3D1-2421
THROUGH 2423
17. CALIFORNIA STATE UNIVERSITY, LOS ANGELES/CAL STATE LOS
ANGELES, 12-R4D1-2478
18. CAL SUN GROWERS, 12-R2D5-3462 AND 3463
19. CAMPBELL CERTIFIED, INC., 12-R3D2-1115 THROUGH 1118
20. CASTLEROCK ENVIRONMENTAL, INC., 12-R4D1-2377 AND 2378
21. CHARADES LLC, 12-R3D6-1238
22. CHICO'S AUTO WRECKING, INC., 12-R3D3-0988 AND 0989
23. COMPLETE DECON, INC., 12-R2D2-1667 AND 1668
24. CVC CONSTRUCTION, INC., 12-R6D7-3768 AND 3769
25. D & W FINE PACK, LLC., 12-R3D3-3751
26. EXACT STAFF, INC., 12-R2D5-2319
27. FPI MANAGEMENT, INC., 12-R3D6-1940
28. FRAMING BY SUPERIOR, INC., 12-R4D1-2053

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29. GENCO ATC, 13-R3D3-0454
30. GIUMARRA VINEYARDS CORPORATION, 10-R2D5-2781 AND 2782
31. G.K. WELDING INC., 12-R6D1-3049
32. GOODWILL INDUSTRIES OF ORANGE COUNTY, 13-R3D1-0577
33. GRANITE CONSTRUCTION COMPANY, 12-R5D1-2434
34. GULBRANSON SERVICES, INC., 12-R3D6-1684
35. HONG KONG BANJUM, 12-R3D1-2746
36. J & J ACOUSTICS, INC., 12-R1D1-2059
37. J.R. ROBERTS/DEACON, INC., 12-R2D1-1589
38. KAY GENERAL SERVICES, INC., 12-R3D6-0929
39. KERN COUNTY FIRE DEPT., 12-R2D5-1253 THROUGH 1258
40. KERN RIDGE GROWERS, INC., 09-R2D5-0809 AND 0810
41. KINDER MORGAN LIQUIDS TERMINALS LLC AKA KINDER MORGAN, 12-R2D2-2638
42. LABOR READY NORTHWEST, INC., 12-R2D4-3671
43. LA DOUGHMAKERS LLC DBA PANERA BREAD, 12-R3D5-3260
44. LAMPS PLUS, INC. STORE #35, 12-R2D2-2069
45. LAUSD DISTRICT NURSING SERVICES & STUDENT MEDICAL SERVICES, 12-R4D1-2406
46. LIBERTY PACKING COMPANY, LLC, 12-R2D4-3422
47. LOMO GOLD STORAGE, 12-R6D3-3727 THROUGH 3731
48. JUAN LUIS AYALA LOPEZ DBA J.A. CONTRACTING, 12-R2D5-1155
49. LUCKY FARMS, INC., 13-R3D3-0551
50. MANPOWER GROUP DBA MANPOWER, 12-R3D1-2695

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51. MATSUI NURSERY, INC., 12-R6D7-3454 THROUGH 3457
52. WILLIAM P MCGRATH JR. DBA MOTHER EARTH LANDSCAPING,
12-R1D5-1982 AND 1983
53. MEK AIR TECH, 12-R4D1-2479
54. MEPCO LABEL SYSTEMS, INC., 12-R2D4-2731 AND 2732
55. MILODON, INC., 12-R4D3-2510 THROUGH 2513
56. MINUTE MAN, INC., 13-R4D3-0630
57. MV PUBLIC TRANSPORTATION, INC., 12-R4D2-1911
58. NBTY MANUFACTURING LLC, 12-R6D2-2560 THROUGH 2562
59. NATION'S FOODSERVICE, INC., 12-R2D2-2576 THROUGH 2577
60. NEWPORT THIN FILM LABORATORY, 12-R3D6-2549
61. NIAGARA BOTTLING, LLC., 12-R6D2-2821 THROUGH 2824
62. OM CONTRACTING INC., 12-R3D3-1996
63. PARADIGM STEEL FABRICATORS, INC., 12-R4D2-1846 THROUGH 1848
64. PARAMOUNT CITRUS LCC., 12-R4D6-3170
65. PENINSULA PACKAGING, LLC DBA PENINSULA PACKAGING CO., 12-
R1D2-3124 THROUGH 3126
66. PERFECTION METAL PRODUCTS, INC., 12-R6D1-2599 THROUGH 2602
67. PLANT SCIENCES INC., 13-R2D3-0606 AND 0607
68. PLI LOGISTICS, INC., 12-R1D4-2878 THROUGH 2882
69. PREMIUM PACKAGING INC., 12-R6D7-3346
70. PRIDE CONCRETE CALIFORNIA, 12-R2D2-3568 AND 3569
71. PSS CONSTRUCTION, INC., 12-R6D5-1979 THROUGH 1981
72. RECOLOGY, INC. DBA JEPSON PRAIRIE ORGANICS, 13-R2D2-0044

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73. SANDMAN, INC., DBA STAR CONCRETE, 12-R1D2-0414 THROUGH 0415
74. SAVANT CONSTRUCTION, INC., 12-R4D2-1845
75. SCHLOSSER FORGE CO., 12-R3D6-2771 AND 2772
76. SNAK-KING CORP., 12-R3D6-2548
77. SUNNYGEM, LLC., 12-R4D6-2793 AND 2794
78. SUNTREAT PACKING & SHIPPING CO., 09-R2D5-1809 AND 1810
79. SUPERIOR FRAMING, INC., 12-R3D5-2931
80. TENCATE ADVANCED COMPOSITES USA, INC., 13-R2D2-0335
THROUGH 0337
81. TRACY CENTER FOR DENTISTRY, 12-R2D4-3358
82. U S LOGISTICS, INC., 12-R3D3-2102
83. VENTURA FOODS, LLC., 12-R3D5-2933
84. WINDSOR FOODS, INC., 12-R3D5-3162
85. XUE PEI HU DBA AC FIRE PROTECTION, 12-R6D5-2452

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.