

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, June 26, 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: June 14, 2013

RE: Closed Session of the Board to be held on June 26, 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. ART AND CRAFTSMEN, 12-R6D2-3409 AND 3410
2. DESERT VALLEY DATE, INC. DBA DESERT VALLEY DATE, 11-R6D2-2207 THROUGH 2211
3. ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637
4. RED PERVEA DBA A-1 CONSTRUCTION & REMODELING, 12-R3D3-2074
5. X L PLASTERING INC., 11-R4D1-2236 AND 2237

PETITIONS FOR RECONSIDERATION:

1. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 & 0097

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DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. BAY AREA RAPID TRANSIT (BART) DISTRICT, 09-R2D2-1219 & 1221

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. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
3. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
4. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
5. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
6. 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. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186
10. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
11. C & L BLUE INC., 11-R4D1-2942 AND 11-R4D1-2943 THROUGH 2945
12. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
13. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
14. COMMERCIAL METAL FORMING, 09-R3D1-1592
15. COMMUNITY RECONSTRUCTION SOLUTIONS, INC., 11-R1D1-1484
16. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
17. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
18. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038

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19. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
20. EZ MIX, INC., 08-R4D3-1898
21. FERMA CORPORATION, 12-R2D2-1669
22. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
23. HARRIS CONSTRUCTION, 03-R2D5-3914
24. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
25. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
26. IRWIN INDUSTRIES, 08-R6D4-1454
27. JERRY'S TREE SERVICE, A PARTNERSHIP, 13-R1D5-9022
28. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
29. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
30. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
31. LION RAISINS, INC., 08-R2D5-2253 AND 2254
32. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
33. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
34. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
35. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
36. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
37. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
38. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
39. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
40. PERSONNEL PLUS, INC., 11-R3D5-1302

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41. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
42. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
43. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
44. SIERRA FOREST PRODUCTS, 09-R2D5-3979
45. SMUD, 08-R2D1-4887 THROUGH 4889
46. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
47. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
48. SUNRISE GROWERES FROZ SUN 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

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 AFTER REMAND:

1. PCS SOLUTIONS, INC., 12-R3D6-0578 AND 0579

ORDERS DISMISSING APPEAL:

1. LUIS & MIGUEL AGUIRRE DBA AGUIRRE CUTTING SERVICE,
12-R6D5-2869 THROUGH 2872
2. SONIC DRIVE IN, 12-R2D5-2734

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. FACUNDO CARRILLO, DBA HAPPY'S AUTOBODY & PAINT SHOP,
13-R6D5-9065
2. SAVS ENTERPRISES, 13-R4D2-9093

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. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
3. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
4. SMUD, 34-2010-80000723 (08-R2D1-4887)
5. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
6. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
7. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)
8. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
THROUGH 2461)
9. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
10. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039
(07-R2D3-0275)
11. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
12. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
13. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
14. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
15. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)
16. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219
AND 0220)

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17. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
18. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
19. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
20. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
21. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
22. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
23. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
24. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
25. A. TEICHERT & SON, DBA TEICHERT AGGREGATES, RG12 659881 (10-R5D1-3029)
26. HOME DEPOT USA, INC., BS141301 (10-3284)
27. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
28. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00628178 (10-3667)
29. THYSSENKRUPP ELEVATOR CORP., 34-2013-80001456 (11-2217 ~ 2219)
30. BIG LOTS STORES, INC., 37-2013-00045936 (11-R3D2-1929 ~ 1931)
31. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)

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.)

2. ADVANCE PLASTICS, 13-R3D2-0018
3. AGBW CORP. DBA BPI PLUMBING, 12-R3D2-2579
4. AIR CHINA LIMITED DBA AIR CHINA, 12-R4D1-1726 AND 1727

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5. ALCO HARVESTING LLC., 13-R3D2-0949
6. ALERT BUILDING MAINTENANCE, LLC., 12-R1D4-2617
7. ALTMAN SPECIALITY PLANTS, INC., 12-R1D2-2987
8. ANSCHUTZ SOUTHERN CALIFORNIA SPORTS COMPLEX, 12-R3D5-3787
9. APPA FINE FOODS, INC., 12-R3D3-2650 THROUGH 2652
10. ARCADIA CHAIR CO., 12-R6D2-3471 THROUGH 3474
11. ARAMARK UNIFORM & CAREER APPAREL, LLC, 12-R2D1-1060
THROUGH 1063
12. ASHLEY FURNITURE INDUSTRIES, INC., 13-R3D3-0966 THROUGH 0968
13. BARBER WELDING AND MANUFACTURING COMPANY, 12-R4D2-1730
THROUGH 1732
14. BASEBUILD CONSTRUCTION, 13-R1D2-0539
15. BAY CITIES PAVING & GRADING, INC., 12-R1D2-2610
16. BERBER ROOFING INC. DBA RB ROOFING AND TEAR-OFF, 12-R3D1-3038
17. BLACK GOLD PARTNERS 2, INC., 12-R1D2-3379 AND 3380
18. BODEGA LATINA CORPORATION DBA EL SUPER, 12-R3D6-1997
19. BOUTONNET FARMS, INC., 12-R6D5-2534
20. C3 LIGHTING SOLUTIONS, INC., 12-R3D1-2745
21. CA DEPT. OF CORRECTIONS & REHAB. CSP-SOLANO, 12-42D2-3391
22. CAMPANELLI & ASSOCIATES CORP., LTD., DBA CAMPANELLI
CONSTRUCTION, 12-R4D3-2672
23. C.A. RASMUSSEN INC., 12-R4D3-1849 AND 1850
24. CHILBOMYUNOK USA, 12-R4D1-2775 AND 2776
25. CITY OF GILROY, 11-R1D2-1971 AND 1972

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26. C. CLUNN CONSULTING, INC., 12-R3D3-0166 AND 0167
27. CONDUIT NETWORKS, INC., 12-R3D2-2754 AND 2755
28. COPPEL CORPORATION, 13-R3D2-0832 THROUGH 0834
29. DILLARD TRUCKING INC. AKA DILLARD ENVR. SERVICES, 13-R2D2-0207
30. DIRECTV, LLC, 12-R1D4-2708 AND 2709
31. DIRECTV, LLC, 12-R1D4-2710 AND 2711
32. D & J LUMBER COMPANY, INC., 13-R1D2-1280 AND 1281
33. DOOR SYSTEM DESIGN, INC., 12-R2D3-2641 AND 2642
34. DUNCAN FAMILY FARMS, 12-R4D7-3402 AND 3403
35. DV CUSTOMER FARMING, LLC., 13-R4D7-0590
36. ENCORE INTERIORS, INC., 13-R6D2-0805 AND 0806
37. ETO DOORS, 12-R6D2-3543 THROUGH 3552
38. EXCELLENT WINDOW CLEANING, INC., 12-R1D1-3559
39. FORTUNE AVENUE FOODS, INC., 12-R6D2-0551 THROUGH 0560
40. FP INTERNATIONAL, 12-R6D4-2289
41. HALL MANAGEMENT CORP, 13-R2D5-0281 AND 0282
42. HARVEY SINGH FARMS, 13-R2D5-0279 THROUGH 0280
43. HBI CONSTRUCTION, INC., 13-R2D4-0012
44. HILLTOWN PACKING, 12-R1D2-2492
45. HOBBS CONSTRUCTION, 11-R2D5-0379 AND 0380
46. GRAPE VALLEY CONTRACTING, 12-R4D7-3080
47. GRIMMWAY FARMS, 12-R2D5-1450
48. INTEGRITY NETWORKS, 13-R2D5-0935 AND 0936

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49. LA CITY TRANSPORTATION – PARKING ENFORCEMENT & TRAFFIC,
12-R4D3-2957
50. LESLIE’S POOLMART COMMERCIAL SERVICE CENTER, 13-R3D3-1140
51. LOS ANGELES UNIFIED SCHOOL DISTRICT, 12-R4D3-2956
52. MCM CONSTRUCTION INC., 12-R2D3-2360
53. M G PARTNERS, INC., 12-R4D1-2779
54. MJ STAR-LITE, INC., 12-R4D6-3046 AND 3047
55. MICHAEL’S/JAY DEE/COLUCCIO JV, 13-R5D1-0654
56. MOTIVE ENERGY, INC., 12-R3D1-2188
57. NIXON-EGLI EQUIPMENT COMPANY, 12-R3D1-3253
58. NOR-CAL CONCRETE SPECIALTIES, INC., 13-R6D7-0078 AND 0079
59. PACHECO BROTHERS, INC., 12-R2D5-0266 THROUGH 0268
60. PARKER HANNIFIN CORPORATION, 12-R3D1-1599 AND 1600
61. PERERA CONSTRUCTION & DESIGN, INC., 12-R3D3-1321
62. PETERSEN DEAN INC., 12-R2D2-3747
63. POLYMER LOGISTICS, INC., 13-R3D3-0835 THROUGH 0837
64. QUEEN OF THE VALLEY MEDICAL CENTER, 12-R1D5-2219 AND 2220
65. RALEY’S INC., 12-R2D2-3668 AND 3669
66. RANCHO TREE SERVICE, 12-R2D5-1391 THROUGH 1394
67. RESTORATION HARDWARE, INC., 12-R6D2-0545 THROUGH 0550
68. REUTLINGER COMMUNITY FOR JEWISH LIVING, 12-R2D2-3058
69. SACRAMENTO MUNICIPAL UTILITIES DISTRICT, 12-R2D1-2719
70. SHOOK & WALLER CONSTRUCTION, INC., 13-R6D7-0080

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71. SHORELINE BUILDERS INC., 12-R1D2-2700 THROUGH 2703
72. S & S SPRAYERS, LLC., 12-R4D6-1638
73. STRUCTURAL DESIGN, 12-R3D2-3494
74. THERMAL STRUCTURES, INC., 12-R3D3-2757 AND 2758
75. TONY VALENTINE CONSTRUCTION, INC., 12-R3D1-1808 AND 1809
76. TOWNE PARK, LTD., 12-R1D1-3627
77. ERIC SHAWN TRAN DBA TRANSPRO BUILDERS, 12-R1D2-3482 AND 3483
78. TURFEVOLUTIONS, 12-R3D1-3060 AND 3061
79. UNITED PARCEL SERVICE, INC., 12-R6D2-0591 AND 0592
80. URBAN BROS PAINTING, INC., 13-R1D1-0910
81. UTC ARROWSPACE SYSTEM DBA GOODRICH CORPORATION, 12-R6D4-3804
82. VARIAN MEDICAL SYSTEMS, INC. DBA VARIAN MEDICAL SYSTEMS, 12-R3D2-3711
83. VESSEY & COMPANY, INC., 12-R3D2-1601
84. WALKER EVANS ENTERPRISES, A CALIFORNIA CORPORATION, 13-R3D3-1185
85. WEATHERITE CORPORATION, 12-R6D2-1547 THROUGH 1550
86. WECKWORTH CONSTRUCTION COMPANY INC., 12-R1D5-3243 AND 3244
87. WEST COAST STUCCO, INC., 13-R1D4-1368 THROUGH 1371
88. WILLIAMS MANUFACTURING CO., INC., 12-R4D3-2239 AND 2240

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.