

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, July 24, 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: July 12, 2013

RE: Closed Session of the Board to be held on July 24, 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. CASE PACIFIC COMPANY, 12-R4D6-1505
2. DISH NETWORK CALIFORNIA SERVICE CORPORATION, 12-R4D3-0455
3. JAMES R. GRIFFIN, INC., 12-R1D3-2065

DECISIONS AFTER REMAND:

1. ALIKA IKAIKA ENTERPRISES, INC. DBA ATTENTION TO DETAIL,
10-R1D2-1191

PETITIONS FOR RECONSIDERATION:

1. BLATTNER ENERGY, INC., 2012-R2D2-0911

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2. FACUNDO CARRILLO DBA HAPPY'S AUTOBODY & PAINT SHOP,
2013-R6D5-9065
3. KLUNE INDUSTRIES, INC., 13-R4D3-0797
4. XL PLASTERING, INC., 2011-R4D1-2236 & 2237

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. 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
THROUGH 2241
6. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
AND 3448
7. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
8. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186
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

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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. FERMA CORPORATION, 12-R2D2-1669
21. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
22. HARRIS CONSTRUCTION, 03-R2D5-3914
23. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
24. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
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. ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637
36. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
37. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864

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38. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
39. PERSONNEL PLUS, INC., 11-R3D5-1302
40. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
41. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
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
50. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 & 0097

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.)

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:

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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)
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)

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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)
32. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00652023 (12-0439)
33. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00651875 (12-0440)

ORDERS DISMISSING APPEAL:

1. BODEGA LATINA CORP. DBA EL SUPER, 12-R3D3-3159

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

1. DIANA'S MEXICAN FOOD PRODUCTS INC., 13-R4D4-1925

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. DIANA'S MEXICAN FOOD PRODUCTS INC., 13-R4D4-9094

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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. 034 MOTORSPORT, 12-R1D2-3519
2. AERO MECHANISM PRECISION INC., 12-R6D2-1578 THROUGH 1584
3. AF RACK INSTALLATIONS, INC., 12-R2D1-2150
4. AGRI-EMPIRE, 12-R3D3-3067
5. AIRPORT TERMINAL SERVICES, INC., 13-R6D2-1086
6. ALL CITY MANAGEMENT SERVICES, INC., 13-R2D2-0450
7. ALL PHASE FRAMING & CONSTRUCTION CO., 12-R2D3-2726
8. AL MILLER & SONS ROOFING, INC., 12-R3D3-2756
9. AMERIPERSONNEL INC., 12-R3D5-2932
10. ANHEUSER BUSCH, INC., 13-R2D2-0931
11. ARIF'S PAINTING INC., 12-R2D3-3491
12. BAY CITIES PAVING & GRADING, INC., 12-R2D4-3269
13. BELLINGHAM MARINE INDUSTRIES, INC., 13-R2D2-1628 AND 1629
14. BERGELECTRIC CORP., 13-R4D3-1438
15. B M C SELECT, 12-R1D2-3309 AND 3310
16. CADELA STEEL, INC., 12-R2D1-2886
17. CARDENAS MARKET, INC., 13-R3D3-0960 AND 0961
18. C & H SUGAR COMPANY, INC., 12-R2D2-2724 AND 2725
19. C & H SUGAR COMPANY, INC., 12-R6D1-0227 THROUGH 0242
20. C M C STEEL FABRICATORS, INC., DBA CMC REBAR, 12-R4D1-3014

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21. COSCO FIRE PROTECTION, INC., 12-R2D2-3667
22. DAVIS WIRE CORPORATION, 12-R3D6-3324 AND 3325
23. DEMARTINI/ARNOTT PAINTING CO., INC., 12-R1D1-2696 AND 2697
24. DIAMOND MATTRESS, INC., 12-R3D5-3259
25. DIGNITY HEALTH PARTNERS DBA MERCY HOSPITALS OF BAKERSFIELD,
13-R4D7-1865 THROUGH 1867
26. DOC BAILEY CONSTRUCTION EQUIPMENT, INC., 13-R2D1-1211 AND 1212
27. DOUGHERTY PUMP & DRILLING, INC., 13-R1D2-0263
28. DUK J CORPORATION DBA SAMWON CONSTRUCTION, 12-R3D5-3261
THROUGH 3263
29. EARTHBOUND FARM LLC, 12-R1D2-2142 AND 2143
30. EXPRESS BUSINESS RESOURCES, LLC DBA EXPRESS FURNITURE
RENTALS, 13-R2D1-1384
31. FANELLI EQUIPMENT REPAIR INC., 12-R2D2-2994
32. FEDEX EXPRESS CORPORATION, 12-R4D1-3041
33. FFA FARM LABOR SERVICES, 12-R6D5-2983
34. FIDEL ELECTRIC, INC., 13-R2D2-0311
35. FISHER METAL PRODUCTS INC., 12-R2D1-2261
36. FORREST AMES CONSTRUCTION, 12-R1D5-3352
37. FOUR SEASONS HOTEL, SAN FRANCISCO, 12-R1D1-3776
38. GUIMARRA VINEYARDS, 12-R4D7-3648
39. HOLCOMB ENGINEERING CONTRACTORS, INC., 12-R4D1-2431
40. INTEGRATED CLEANING SOLUTIONS, INC., 12-R1D1-2175 AND 2176
41. JANSEN CONSTRUCTION CO OF CALIFORNIA, 12-R2D3-3035 AND 3036

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42. JANG HWAN KO DBA JEFF'S GARAGE, 13-R6D7-1146 AND 1147
43. LASER ESTHETICA MEDICAL CORP, 12-R2D1-2887 AND 2888
44. LASSEN CANYON NURSERY, 12-R2D3-3099
45. LOS ANGELES COUNTY PUBLIC HEALTH COMMUNITY HEALTH SERVICE, 12-R4D1-3042 THROUGH 3044
46. LOS ANGELES UNIFIED SCHOOL DISTRICT, 12-R4D3-3215
47. MARIA MALDONADO DBA VISTA VERDE LABOR, 12-R6D5-2854 AND 2855
48. BENITO MARTINEZ INDIVIDUAL DBA BENITO N. MARTINEZ FLC, 12-R2D3-0076
49. ALEJANDRA MARQUEZ DBA AJ LABOR CONTRACTOR, 12-R3D3-2998
50. METRO SERVICES GROUP, 12-R1D1-3742
51. MID-STATE STEEL ERECTORS, 12-R1D3-2612 THROUGH 2616
52. MOTIVE ENERGY TELECOMMUNICATION GROUP, INC., 13-R3D3-1401 AND 1402
53. MOULTON LOGISTICS MANAGEMENT, 12-R4D3-3078
54. MV TRANSPORTATION, 13-R2D2-0276
55. NIAGARA BOTTLING, LLC., 12-R3D6-3110 AND 3111
56. MARTIN ORTIZ DBA OJAI GARDENING, 12-R4D3-3119
57. PACKAGE ADVANTAGE CORP DBA MARIETTA CORP., 12-R4D1-3071 THROUGH 3074
58. PANELIZED STRUCTURES, INC., 13-R3D3-1315 AND 1316
59. PARKER HANNIFIN CORPORATION, 10-R3D3-2838 THROUGH 2840
60. LAN THI PHAM DBA MARVELOUS NAILS & SPA, 13-R6D7-0681
61. PITMAN FAMILY FARMS, 13-R2D5-1390 AND 1391
62. POINT FOUR INC., 12-R2D1-2717 AND 2718

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63. PRUDENTIAL OVERALL SUPPLY, 13-R3D2-0411 THROUGH 0413
64. R.A.H. INDUSTRIES, INC. DBA CONCOURSE AUTOMOBILE, 12-R4D3-1637
65. RAMCO ENTERPRISES, L.P., 12-R1D2-2060 AND 2061
66. RECOLOGY ENVIRON SOLUTION, 12-R2D2-3032
67. RED RIVER FARMS, 12-R3D3-3000 THROUGH 3004
68. REXAM AKA REXAM BEVERAGE CAN COMPANY, 12-R2D2-1447
69. RIVER CITY TIRE, INC., DBA RELIABLE TIRE FACTORY, 12-R2D1-2991
AND 2992
70. SAFEWAY, INC., 12-R2D2-3420
71. SANTOS MONTEMAYOR FLC., INC. 12-R4D3-1819 AND 1820
72. SAN YSIDRO FARMS, INC., 12-R4D7-3328 AND 3329
73. SIGNAWEST SYSTEMS, INC., 12-R1D1-2344 THROUGH 2346
74. DANA SILLDORFF DBA D.C. SILLDORFF, 12-R6D5-2852 AND 2853
75. SOLARCITY CORPORATION, 10-R2D2-3273 AND 3274
76. SMYTHE EUROPEAN INC., DBA PARK AVENUE MOTOS, 13-R6D7-1108
THROUGH 1109
77. STATE OF CA, DEPT. OF WATER RESOURCES, 12-R4D7-2677 AND 2678
78. STONEPLUS, 13-R1D1-1550
79. ST. WORTH CONTAINER INC., 12-R3D6-1635 AND 1636
80. SUBA MANUFACTURING, 13-R6D3-2231 THROUGH 2233
81. SUN-MAID GROWERS OF CALIFORNIA, 12-R2D5-2186
82. SUNWEST FARMS LLC, 12-R3D3-2231 THROUGH 2233
83. TEMECULA VALLEY RV SERVICES INC., 13-R3D3-1525 THROUGH 1528
84. TERA KAR INC. DBA THE FARM STORE, 12-R2D3-3748

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85. TOURNAMENT PLAYERS CLUB AT VALENCIA LLC, 12-R4D3-3216
86. TOWER IMAGING MEDICAL GROUP, 12-R4D1-3070
87. TUDOR RANCH INC., 12-R3D3-2927
88. VALMARK INDUSTRIES, INC., 12-R1D4-2456 THROUGH 2460
89. VANCE CORPORATION, 13-R3D3-1318 AND 1319
90. BOB AND SU VANELLA INDIVIDUAL DBA VANELLA FARM, 12-R2D3-1105
THROUGH 1106
91. JOSE LEYVA VELAZQUEZ, 12-R4D7-3219
92. WALTER MORK CO., INC., 13-R1D4-0303
93. WARFORD CONSTRUCTION INCORPORATED, 12-R2D2-3392 AND 3393
94. WASHINGTON HOSPITAL HEALTHCARE SYSTEM, 12-R1D2-3051
95. WWC SERVICES OF SAN FRANCISCO, INC., 12-R1D1-3347
96. YNT LABOR SERVICES, INC., 12-R2D5-3198
97. Z COLLECTION INC., 12-R1D1-1791 AND 1792

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.