

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, August 2, 2012
2 p.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 19, 2012

RE: Closed Session of the Board to be held on August 2, 2012

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.

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. TATAFU SIO DBA ALOHA CONSTRUCTION, 10-R1D5-1648 THROUGH 1650

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. 99 CENT ONLY STORES, 11-R1D4-0043 THROUGH 0045
2. AMAZING CAKES, 11-R6D2-2620 AND 2621
3. AMERI-KLEEN BLDG SERVICES DBA SANITATION SPECIALISTS, 11-R1D2-1486 AND 1487

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For August 2, 2012

Page 2

4. ANGELICA CORPORATION, 11-R1D2-1364
5. ARMSTRONG INTERIOR CONSTRUCTION, 11-R3D1-2629 AND 2630
6. AYALA CORPORATION, 11-R2D4-3291 THROUGH 3293
7. AZCONA HARVESTING, LLC, 11-R1D2-2654
8. ANGEL BELTRAN DBA CREATIVE DESIGN LANDSCAPE, 12-R3D3-0608
9. BI-CITY PAINT & BODY CO., INC., 11-R6D7-1718 AND 1719
10. BIG WEST DISTRIBUTION, INC., 12-R2D1-0910
11. CAL-COAST DAIRY SYSTEMS INC., 11-R2D1-2124 THROUGH 2126
12. CALIFORNIA DISTRIBUTION CENTER, LLC., 12-R3D6-0169
13. CALIFORNIA WATER SERVICE COMPANY, 11-R2D1-1874
14. CHECKSMART FINANCIAL, LLC DBA CA CHECK CASHING STORES, LLC,
12-R1D4-1622
15. CHECKSMART FINANCIAL, LLC DBA CA CHECK CASHING STORES, LLC,
12-R1D4-1623
16. CHEEMA FARMS, 11-R2D3-2501
17. CHURN CREEK CONSTRUCTION COMPANY, INC., 12-R2D1-1445 AND 1446
18. COLLEGEWOOD INC., 11-R2D1-1732
19. CONSTRUCTION PLUS, 11-R2D1-2495
20. COTTAGE BAKERY, INC., 11-R2D4-2825
21. CSU LONG BEACH, 11-R3D5-1386
22. DBA DAKOTA "AG" WELDING, DIV. OF JACKRABBIT, 12-R2D4-0861
THROUGH 0863
23. DEPALMA ORCHARDS, INC., 11-R2D1-2355
24. DISCOVERY FOODS, LLC., 12-R1D4-1525

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For August 2, 2012

Page 3

25. DRILL TECH DRILLING & SHORING INC., 11-R2D3-2166 AND 2167
26. DUPONT POWER TOOL, 11-R2D3-1978
27. DURANT HARVESTING, 11-R6D2-2577
28. ECO BAY SERVICES INC., 11-R2D1-2454
29. ENGEL INSULATION, INC., 11-R2D1-1600
30. FIRESTONE COMPLETE AUTO CARE, 12-R1D2-1524
31. FOOD EQUIPMENT MANUFACTURING CO., 12-R1D2-0043
32. FOOTHILL PACKING INC., 11-R1D2-0866
33. FOSTER FARMS, INC. 12-R2D4-0885
34. FREEDOM INDUSTRIAL COATINGS, INC., 12-R2D1-0204
35. F.W. SPENCER & SON, INC., 11-R1D1-1327
36. GEORGE HOOD INC. DBA WILDCAT METALS, 11-R1D2-2089
37. GEORGE C. HOPKINS CONSTRUCTION CO., INC., 11-R4D2-2635
38. GREEN VALLEY CORPORATION DBA BARRY SWENSON BUILDER,
11-R1D2-1443
39. GREEN VALLEY HARVEST, INC., 11-R1D2-2494
40. HARKINS THEATRES, 12-R3D6-0138
41. HARRISON CONTRACTING, INC., 11-R2D3-2456 THROUGH 2458
42. HELIX ELECTRIC, INC., 12-R2D5-0526
43. HNR FRAMING SYSTEMS, INC., DBA BMC SELECT, 11-R3D2-2033
THROUGH 2035
44. INSULATION DISTRIBUTORS, INC., 12-R6D7-0937
45. JAZZ GROUP, INC. IMPERIAL REPAIR GROUP, INC. DBA IMPERIAL TRUCK
WASH & REPAIR, 12-R2D4-0886 THROUGH 0888
46. JB PROVIDER SERVICES INC., 11-R4D1-3184

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 2, 2012
Page 4

47. JC FARMS SERVICES, INC., 11-R2D1-2335
48. JMC CONSTRUCTION INC., 11-R6D7-2426 AND 2427
49. KNT, INC. DBA KNT MANUFACTURING, 11-R1D2-2188 THROUGH 2190
50. L AND R PALLETS INC., 11-R4D2-3075 AND 3076
51. LA TERRA FINA USA, INC., 11-R1D4-0595 THROUGH 0596
52. LINDA COUNTY WATER DISTRICT WASTE WATER TREATMENT PLANT,
12-R6D3-0340
53. LIONELLI MASONRY, INC., 11-R2D1-2998
54. MAGIC MOUNTAIN, LLC., 11-R4D3-3190
55. MANN BROTHERS, 11-R2D3-2404
56. VICTOR MARTELL DBA MARTELL'S AUTOMOTIVE SERVICE,
11-R6D7-3272
57. MICHAEL L MANNA RANCH, INC. DBA ACAMPO AG SERVICE,
11-R2D4-2935
58. NATURE QUALITY, INC., DBA NATURE QUALITY CO., 11-R1D2-3202
59. NORTHCOAST PARTNERS INC. DBA CRYSTAL SPRINGS BOTTLED WATER
COMPANY, 11-R2D1-1371 AND 1372
60. NORTH STATE GROCERY INC. DBA SAV MOR FOODS, 11-R2D3-2459
61. OPI PRODUCTS, INC., 11-R4D3-2304 AND 2305
62. TAYLOR OSBORNE DBA OSBORNE BUILDERS, 11-R2D1-2158
63. PASSION FRUIT FARMS, 12-R2D4-0884
64. PATRON PALLETS INC., 11-R4D2-3073 AND 3074
65. PAUL GRAHAM DRILLING, 11-R6D3-2834 AND 2835
66. PLANADA COMMUNITY SERVICES DISTRICT WASTEWATER,
11-R6D3-1825

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For August 2, 2012

Page 5

67. PREMIUM RICE GROUP, LLC., 11-R2D1-1922 AND 1923
68. QUAIL H FARMS, 12-R2D4-0050
69. RAUL RAMOS JR. REALTY AND INVESTMENT PROPERTIES INC., DBA RIVER VALLEY PROPERTY MANAGEMENT, 11-R2D1-2092
70. R DALEY CORP (McDONALDS STORE #24703), 11-R3D5-2363
71. RECOLOGY SAN FRANCISCO, 11-R1D1-0796 THROUGH 0798
72. RICH DOSS, INC., 11-R3D6-3228
73. SAFEWAY, INC. VONS DIVISION, 12-R4D3-0144
74. SAINTE PARTNERS II LP DBA KCVU FOX 30, KRVU UPN 21, 12-R2D3-0744
75. SALINAS FARM CONTRACTOR INC., 12-R2D4-0010 THROUGH 0012
76. SAL MARTINEZ FARM LABOR CONTRACTOR, 11-R2D1-2216
77. SANDY LODGING LLC DBA DAYS INN, 11-R2D1-2157
78. SEMINIS VEGETABLE SEEDS INC., 11-R2D1-2400
79. SIERRA PACIFIC INDUSTRIES, INC., 11-R2D1-1044 AND 1045
80. SOLAR TURBINES INCORPORATED 11-R6D4-1988
81. SOLID PROPERTY SERVICES, 12-R3D2-0490 AND 0491
82. STEPHENS INSTITUTE DBA ACADEMY OF ART UNIVERSITY, 10-R1D1-3434 THROUGH 3441
83. STEVE GREENE CONSTRUCTION CO., 12-R4D3-0226
84. SULLIVAN COUNTER TOPS, INC., 11-R1D4-0597
85. TECHNION CONTRACTORS INC., 11-R4D3-2748
86. TERRACARE ASSOCIATES, LLC, 12-R2D1-0810
87. THE SUNSHINE SCHOOLHOUSE, 11-R2D1-1875
88. TRADEMARK CONSTRUCTION INC., 12-R4D1-0095

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For August 2, 2012

Page 6

89. WALL ART VINYL, INC., DBA DEZIGN, 11-R1D1-1690
90. WEST 12 RANCH, 11-R2D4-0350
91. WEST COAST CABINET & DOORS, LLC., 11-R6D2-1898 THROUGH 1904
92. WESTERN SIGN & AWNING DBA WESTERN SIGN SYSTEMS, 11-R3D2-2173
93. WILLIAM FULLER & ASSOCIATES, INC., 10-R2D2-3871 THROUGH 3822
94. ZAFIRO PRODUCE, INC., 12-R3D6-0168

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. ECO BAY SERVICES, INC., 10-R1D1-1233 THROUGH 1236

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. CA DEPT. OF FORESTRY & FIRE PROTECTION, 10-R2D1-0728
2. JOSH GENERAL ENGINEERING, INC., 11-R4D2-2801 AND 2802
3. JUSTIS ENTERPRISES DBA BILL'S ROOFING, 09-R2D1-0586
4. KENYON PLASTERING, INC., 10-R1D4-2710

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. ALLIED SALES & DISTRIBUTION, INC., 11-R6D2-0480
3. AC TRANSIT, 08-R1D4-0135
4. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
5. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For August 2, 2012

Page 7

6. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
7. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
8. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241
9. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445 AND 3448
10. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
11. CALIFORNIA HIGHWAY PATROL, 09-R2D1-3762
12. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
13. CENTRAL VALLEY ENGINEERING & ASPHALT, INC. 08-R2D1 5001 AND 5002
14. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
15. COMMERCIAL METAL FORMING, 09-R3D1-1592
16. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
17. COUNTY OF LOS ANGELES DEPT. OF PUBLIC WORKS, 07-R4D2-2540
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. DELTA TRANSPORTATION, INC., 08-R2D1-4999
22. DENIO'S ROSEVILLE FARMERS MARKET & AUCTION INC. 11-R2D1-2431
23. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896
24. DUKE PACIFIC, INC., 08-R3D3-574
25. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS, 09-R6D2-2325 THROUGH 2332
26. EZ MIX, INC., 08-R4D3-1898

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For August 2, 2012

Page 8

27. FDO INC. DBA GRAND AMERICAN DOORS, 10-R6D2-1215 THROUGH 1219
28. FORTUNA IRON WORKS 06-R2D3-4222
29. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
30. HOLLINGER CONSTRUCTION INC., 11-R4D1-0891
31. HOME DEPOT, 10-R3D6-3284
32. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
33. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
34. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
35. LION RAISINS, INC., 08-R2D5-2253 AND 2254
36. MARINE TERMINALS, 08-R6D2-1920
37. McPHERSON ENTERPRISES, INC., 10-R2D5-0995
38. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
39. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
40. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667
41. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
42. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
43. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
44. POUK & STEINLE, INC., 09-R3D3-0491
45. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
46. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
47. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-3128 THROUGH 3131
48. SDCCD – CONTINUING EDUCATION N C CENTER, 11-R3D2-1196
49. SDUSD – PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For August 2, 2012

Page 9

50. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
51. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
52. SIERRA FOREST PRODUCTS, 09-R2D5-3979
53. SMUD, 08-R2D1-4887 THROUGH 4889
54. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR,
08-R2D1-3414 THROUGH 3418
55. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
56. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
57. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
58. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION,
05-R2D4-2650 AND 2651
59. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 09-R4D5-0459
AND 0460

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. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSHS v. OSHAB)
(00-440)
2. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
3. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
4. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM**

For August 2, 2012

Page 10

5. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
6. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
7. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
8. SMUD, 34-2010-80000723 (08-R2D1-4887)
9. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
10. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
11. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)
12. GUILLAUME GRAPEVINE NURSERY, INC., 34-2011-800001010
(08-R2D1-3273)
13. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
THROUGH 2461)
14. FLATIRON CONSTRUCTION CORP, 34-2012-800001029 (10-R4D1-2789)
15. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)
16. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039
(07-R2D3-0275)
17. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
18. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
19. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
20. DUININCK BROS., INC., 34-2012-80001129 (06-2871)

COURT OF APPEAL:

1. JERLANE, INC., D060844 (2007-00056381) (01-4344 and 4345)

PERSONNEL: *(Issues regarding staff.)*

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For August 2, 2012
Page 11

Any matter not completed at this Closed Session may be continued to subsequent meetings.