

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, August 15, 2012
10 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: August 2, 2012

RE: Closed Session of the Board to be held on August 15, 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. BLUE DIAMOND GROWERS, 10-R2D1-1280 AND 1281
2. CALIFORNIA ERECTORS, INC., 10-R1D2-2772 THROUGH 2775
3. GOLDEN STATE UTILITY CO., 10-R2D3-3354
4. PLASCOR INC., 12-R3D3-0749-THROUGH 0751

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.)

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1. A-1 ROOF MANAGEMENT AND CONSTRUCTION, 11-R1D4-2291
2. ABM INDUSTRIES, 11-R2D2-2024
3. ACCI ROOFING SERVICES, 11-R3D2-2712 AND 2713
4. AERO ANTENNA TECHNOLOGY, 11-R4D3-3246
5. AGRO-JAL FARMS, 11-R4D3-2976 AND 2977
6. AMERICAN NONWOVENS, INC., 12-R3D6-0453
7. APEL CONSTRUCTION MANAGERS INC., 12-R4D1-0018 AND 0019
8. BORGA, INC., 10-R2D5-2717
9. BRITZ-SIMPLOT GROWER SOLUTIONS, 11-R2D5-3178
10. DESERT VIEW POWER, 11-R6D4-3267
11. GARRETT-CALLAHAN COMPANY, 11-R2D2-2093
12. GCU TRUCKING, INC., 11-R1D4-1730
13. GORILLA'S POLISHING CORP., 12-R3D1-0207
14. GRANADA CARE HOMES, INC., 11-R2D2-1374
15. GRIMES ROCKS, INC., 12-R5D2-0370
16. HRM FARM LABOR SERVICES, 12-R4D3-0291
17. HYATT LONG BEACH, 11-R3D5-1851 AND 1852
18. JAIME ZEPEDA LABOR CONTRACTING INC., 12-R3D3-0607
19. LESTER KOEHN, 12-R2D4-0119 AND 0120
20. L.A. COUNTY MTA, 11-R4D1-2682
21. LA MESA SPRING VALLEY SCHOOL DISTRICT, 11-R3D2-2936
22. LUNDAY THAGARD COMPANY, 11-R6D4-3269
23. MARZIA, INC., DBA QOD, USA, 11-R1D1-2428 TO 2429

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24. MAURICE CARRIE WINERY, 11-R3D2-2229
25. McMAHON STEEL CO INC., 11-R6D2-2541 AND 2542
26. MEHLING RANCH, 10-R2D5-2516
27. MOOREFIELD CONST., INC., 10-R2D5-0996
28. MOUNTAIN F ENTERPRISES INC., 10-R2D4-0081 AND 0082
29. ORANGE COAST BUILDING SERVICES INC., 11-R3D1-2380 THROUGH 2382
30. PEARL DEVELOPMENT CORP., 11-R4D3-3187 THROUGH 3189
31. PEREZ FARMS, 12-R2D4-0051 THROUGH 0053
32. PETCO ANIMAL SUPPLIES, INC., DBA PETCO, 11-R1D1-1919
33. PROMOTIONAL SIGNS INC. DBA PROMOTIONAL SIGNS UNLIMITED,
12-R3D6-0451 AND 0452
34. RALPH'S GROCERY COMPANY, 11-R4D1-3118
35. RESTORATION HARDWARE, 12-R4D2-0098 AND 0099
36. R&G (USA) INTERNATIONAL, INC., 12-R1D4-1794 AND 1795
37. ROJI CORPORATION DBA PRINT B3, 12-R3D6-0816
38. SAN JOAQUIN HELICOPTERS, 09-R2D5-3928 AND 3929
39. SF PUC-WASTEWATER ENTERPRISE, 11-R1D1-1918
40. SHIMMICK CONST CO. INC./OBAYASHI JOINT VENTURE, 11-R3D2-2134
41. SL ENGINEERING CO., 11-R3D1-2560 AND 2561
42. STATE COLLEGE CAR WASH, 11-R6D2-1861
43. STONE ETC., INC., 10-R1D4-1541 THROUGH 1544
44. TERRY JOHNSON TRUCKING, INC., 11-R2D5-1415
45. DAVID TSUI DBA DANVILLE CREEKSIDE APARTMENTS, 11-R2D2-1842
46. THE BEST CAR WASH AND LUBE INC., 12-R3D3-0498

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47. TURNER CONSTRUCTION COMPANY, 11-R1D1-2018
48. UNITED SITE SERVICES, 12-R2D5-0300
49. IGOR VASEY DBA ACCESS SCAFFOLDING COMPANY, 10-R1D1-2253
THROUGH 2256
50. VERIZON CALIFORNIA INC., 12-R3D3-0748
51. WAGNER STEEL INC., 11-R6D2-3256 THROUGH 3258
52. YOSEMITE FALLS CAFÉ, 10-R2D5-3279

ORDERS DISMISSING APPEALS:

1. ACE IRON INC., 11-R1D3-0003 AND 0004
2. D & J MAINTENANCE, 11-R4D2-1077 AND 1078
3. ENERGETIC PAINTING AND DRYWALL, INC., 09-R2D1-3355
4. FALLEN LEAF TREE SERVICE, INC., 09-R2D1-1504 THROUGH 1506

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. GOD BLESS TIRE SHOP, INC., 11-R6D7-0972 AND 0973
2. PRESTON PIPELINES, INC., 09-R6D7-3345
3. SHIRO SHIOZAWA DBA SHIRO'S AUTO BODY, 12-R6D7-9086
4. A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 10-R5D1-3029

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.)

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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
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

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23. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896
24. DUKE PACIFIC, INC., 08-R3D3-574
25. ECO BAY SERVICES, INC., 10-R1D1-1233 THROUGH 1236
26. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
27. EZ MIX, INC., 08-R4D3-1898
28. FDO INC. DBA GRAND AMERICAN DOORS, 10-R6D2-1215 THROUGH 1219
29. FORTUNA IRON WORKS 06-R2D3-4222
30. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
31. HOLLINGER CONSTRUCTION INC., 11-R4D1-0891
32. HOME DEPOT, 10-R3D6-3284
33. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
34. IRWIN INDUSTRIES, 08-R6D4-1454
35. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
36. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
37. LION RAISINS, INC., 08-R2D5-2253 AND 2254
38. MARINE TERMINALS, 08-R6D2-1920
39. McPHERSON ENTERPRISES, INC., 10-R2D5-0995
40. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
41. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
42. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667
43. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
44. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864

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45. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
46. POUK & STEINLE, INC., 09-R3D3-0491
47. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
48. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
49. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-3128 THROUGH 3131
50. SDCCD – CONTINUING EDUCATION N C CENTER, 11-R3D2-1196
51. SDUSD – PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297
52. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
53. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
54. SMUD, 08-R2D1-4887 THROUGH 4889
55. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
56. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
57. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
58. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
59. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
60. 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.)

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SUPERIOR COURT:

1. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH 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)
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)

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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.)*

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