

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, October 1, 2014
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: September 19, 2014

RE: Closed Session of the Board to be held on October 1, 2014

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. LANGER FARMS, LLC, 13-R4D7-0231 THROUGH 0233
2. MICROWAVE ANTENNA SPECIALTIES, A NEVADA CORPORATION, 12-R1D4-3132 THOROUGH 3138

PETITIONS FOR RECONSIDERATION:

1. C. R. ENGLAND, INC., 14-R3D3-0649

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. ADVANCED RIGGERS & MILL WRIGHTS, LLC, 13-R3D1-2057
2. CAL PAC SHEET METAL, INC., 13-R3D1-0547

ORDERS DISMISSING APPEAL:

1. FELIX HARO CONSTRUCTION INC., 13-R2D4-2885

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

NONE

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. COLORADO QUARTZ GOLD CORPORATION, 14-R5D1-9132
2. LEVEL 3 CONSTRUCTION, INC., 14-R1D5-9131
3. NORTH AMERICAN SPECIALTY PRODUCT, LLC., 14-R2D4-9133

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.)

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 TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895 (ER)
2. A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895 (DOSH)
3. B & B ROOF PREPARATION, INC., 12-R3D6-2946
4. BELLINGHAM MARINE INDUSTRIES, 12-R2D2-3144 THROUGH 3146
5. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186
6. DOUBLE S. FASHION, INC., 14-R6D5-1751 AND 1752
7. HARRIS CONSTRUCTION, 03-R2D5-3914
8. HHS CONSTRUCTION, 12-R3D2-0492-0497
9. MARIA DE LOS ANGELES COLUNGA DBA MERCED FARM LABOR, 08-R2D1-3093 THROUGH 3098
10. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406

11. McCARTHY BUILDING CO., INC., 12-R1D4-3458
12. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
13. NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186
14. O.C. JONES AND SONS, INC. 13-R2D2-0310
15. REPUBLIC FURNITURE MFG., INC., 14-R6D2-9083
16. ROEBBELEN CONTRACTING, INC., 12-R2D2-3248
17. ROSENDIN ELECTRIC, INC., 12-R2D1-3028
18. SIERRA FOREST PRODUCTS, 09-R2D5-3979
19. SONIC DRIVE-IN, 12-R2D5-2734
20. TREASURE ISLAND MEDIA, INC., 10-R6D1-1093 THROUGH 1095
21. VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674
22. WC STAFFING INC., DBA WEST COAST STAFFING, 13-R6D2-3522 AND 3523

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)
2. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-8000820 (03-R1D1-5170)
3. MASCON, INC., 34-2011-80000819 (08-R2D1-4278 AND 4279)
4. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)
5. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)

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6. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
7. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
8. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
9. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
10. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
11. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
12. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
13. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
14. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
15. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
16. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
17. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
18. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
19. HOME DEPOT USA, INC., BS141301 (10-3284)
20. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
21. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)
22. AC TRANSIT, RG13687314 (08-R1D4-0135)
23. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
24. BAY AREA RAPID TRANSIT DISTRICT, RG13689346 (09-R2D2-1219 & 1221)
25. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)
26. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)

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27. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
28. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
29. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
30. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056 THROUGH 3058) (DOSH)
31. LAND O'LAKES PURINA FEED, LLC, RG14715717 (08-R2D4-1843 AND 1844) (DOSH)
32. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH 3058) (3rd Party)
33. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
34. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
35. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
36. BHC FREMONT HOSPITAL INC, RG13731145 (13-R1D2-0204)
37. IRWIN INDUSTRIES, BS14-9634 (12-R4D3-3276 & 3277)
38. TL PAVLICH CONSTRUCTION, INC., BS14-9660 (11-R3D6-1303 THROUGH 1310)
39. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)

APPELLATE COURT:

1. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, C075477, 34- 2011-80000640 (08-R2D1-0027 THROUGH 0030)
2. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
3. SHERWOOD MECHANICAL, INC., D065322, 37-2012-00101466 (08-R3D2-4690 ~ 4693)
4. ORANGE COUNTY FIRE AUTHORITY, G050220, 30-2013-00628178

(CONSOLIDATED)

5. AC TRANSIT, A142799, RG13-687314 (08-R1D4-0135)
6. THYSSENKRUPP ELEVATOR CORPORATION, C077115, 34-2013-80001456
(11-R2D1-2217 ~ 2219)

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. AMERICAN SECURITY PRODUCTS COMPANY, 14-R3D3-1105 AND 1106
2. S C ANDERSON, INC., 14-R6D7-2465
3. ANITA'S MEXICAN FOODS CORP., 14-R3E3-2576 THROUGH 2578
4. ARCO NATIONAL CONSTRUCTION COMPANY, INC., 14-R3D5-0665
THROUGH 0667
5. BUILDING MATERIALS & CONSTRUCTION SERVICES INC dba BMC, 14-
R2D1-2536
6. CAL LOWBED, 14-R4D7-1878
7. CENTRAL VALLEY CONCRETE, INC., dba CENT VALLEY TRUCKING, 13-
R2D4-3825
8. CHMAIT dbaTHE OLIVE'S BRANCH, 14-R6D5-1686 AND 1687
9. CKD INDUSTRIES INC., 14-R6D2-0481 THROUGH 0486
10. COORSTEK, INC., 14-R4D3-2091 THROUGH 2093
11. CORTEZ FURNITURE MANUFACTURING, 14-R6R2-0198 THORUGH 0201
12. CYR INTERNATIONAL INC., dba, GREEN CHOPSTICKS, 13-R6D2-3433
THROUGH 3437
13. DATA SPECIALTIES, INC., 13-R2D3-3081
14. DAVIS DEVELOPMENT COMPANY, INC., 13-R1D4-3504
15. DEVCO SANDBLASTING AND INDUSTRIAL COATING, INC., 13-R3D3-2162
AND 2163
16. DRILL TECH DRILLING & SHORING INC., 14-R5D1-1618
17. DUTRA CONSTRUCTION CO INC., 14-R5D1-2097 AND 2098

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18. EAST BAY MUNICIPAL UTILITY DISTRICT, 14-R1D4-1345
19. EAST & WEST GOURMET AFGHAN FOOD, INC., dba BOLANI, dba EAST & WEST GOURMET FOOD., 14-R6D1-0400
20. BRANDON EATON dba CASCADE POOLS & SPAS, 14-R6D7-1331
21. STEVEN JOHN EBERSON dba, PRECISION MUFFLER & WELDING, 14-R6D5-0028
22. ENSIGN UNITED STATES DRILLING (CALIFORNIA) INC., 13-R4D7-1606 AND 1607
23. EXXON MOBIL, 14-R6D4-1364
24. FIESTA AUTO INSURANCE CENTER, 14-R2D5-0162 AND 0163
25. FIESTA AUTO INSURANCE CENTER, 14-R2D5-0164 AND 0165
26. FOLSOM FIRE DEPARTMENT – STATION 35, 13-R2D1-3663
27. GARZA, INC., 13-R6D5-3590
28. J. GINGER MASONRY, LP., 13-R3D3-2980
29. GOLDEN STATE ELEVATORS SERVICE INC., 13-R3D5-0461 AND 0462
30. GOLDEN STATE FOODS CORP., 13-R4D4-1949 AND 1950
31. GOLDEN STATE WATER COMPANY, 14-R4D4-1027
32. GRANITE CONSTRUCTION COMPANY, 13-R3D3-3143
33. HANSON AGGREGATES PACIFIC SOUTHWEST INC., 14-R5D2-1071
34. HUTCH HEATING & AIR INC., 13-R6D7-2011
35. JEFFREY COURT, INC., 10-R3D3-1953 THROUGH 1956
36. JAMES A. KEENAN dba JAMES A. KEENAN CONSTRUCTION, 14-R1D1-0859
37. LABOR READY SOUTHWEST, INC., 13-R2D4-3964
38. LAND O LAKES dba PURINA ANIMAL NUTRITION LLC., 14-R2D4-1451
39. LIQUI-BOX CORPORATION, 14-R2D1-2419 THROUGH 2421
40. LONG BEACH CONVENTION ENTERTAINMENT CENTER/ SMG, 13-R3D5-0971 AND 0972
41. JOHN MADONNA CONSTRUCTION CO INC., 14-R4D3-1977
42. MASONITE INTERNATIONAL CORPORATION, 14-R2D4-0104
43. MAT HOLDINGS INC. dba MIDWEST AIR TECHNOLOGIES, 14-R4D4-0392 AND 0393

44. MCM CONSTRUCTION, INC 13-R2D1-3916 THROUGH 3918
45. MERCURY PLASTICS, INC., 13-R4D4-1443 THROUGH 1446
46. DEANNA MIRANDA dba PASO ROBLES COLLISION CENTER, 14-R6D7-1280
47. MODESTO CITY SCHOOLS TRANSPORTATION DEPT, 14-R2D4-0472
48. O.M. CONTRACTING, INC., 13-R6D5-3961
49. ON TIME STAFFING, LLC., 13-R3D3-3145 AND 3146
50. VICTOR OSORIA dba VEVOA ROOFING SYSTEMS, 14-R1D4-1244
51. PCTC CABINETRY, INC., 13-R3D1-3254 AND 3255
52. PACIFIC PROVIDENCE CONSTRUCTION, INC., 14-R6D5-2524
53. PARKER PERSONNEL, INC., 14-R3D5-0319
54. PET PARTNERS INC. dba BARNEY'S PETS AND SUPPLIES 13-R4D4-3175 AND 3176

55. PETERSEN-DEAN INC. dba PETERSENDEAN, 13-R1D3-1502 THOROUGH 1505
56. JESUS RAMOS dba 4 LEAF LABOR CONTRACTOR, 13-R2D1-3250
57. RHYS VENEYARDS LLC., 13-R6D1-3108 THROUGH 3111
58. MARK J RISKEY CONSTRUCTIONS & DESIGN, 14-R2D4-0390
59. EMILE RUE dba JAPANESE MOTORS, 14-R6D7-1533
60. SACRAMENTO BAKING COMPANY, INC., 14-R6D7-0443 AND 0445
61. SAFEWAY FOOD AND DRUG, 14-R2D4-0985
62. SAFWAY SERVICES LLC., 14-R1D2-0835
63. SAN BENITO SUPPLY, 14-R5D1-2514
64. SAN FRANCISCO SCAFFOLDING CO., INC., 14-R2D2-1570
65. SAN MIGUEL PRODUCE INC., 13-R4D3-3740 THROUGH 3742
66. SEE'S CANDY SHOPS, INC., 13-R6D2-1076 THROUGH 1085
67. SEPULVEDA CONSTRUCTION, 13-R4D4-3239
68. SIDMONTON BUILDING PRODUCTS INC aka SIMONTON WINDOWS, 12-R2D2-3249 AND 3450

69. SUKHJINDER SINGH BRAR dba TRAILS END, 14-R6D7-2009
70. SMITH PACKING, INC., 13-R4D3-0898 AND 0899
71. SOLARBOS, INC., 14-R6D1-1295

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72. SOLARIS PAPER, INC., 13-R4D4-3055
73. SO CAL DYE HOUSE, INC., 14-R6D5-0194 THROUGH 0196
74. SOURCE LOGISTICS LOS ANGELES LLC., 14-R4D4-1007
75. STONELEDGE FURNITURE LLC, dba ASHLEY FURNITURE HOMESTORE, 14-R3D3-2713
76. TECHNI-CAST CORPORATION, 14-R6D2-1083 AND 1084
77. TITAN STEEL CONSTRUCTUION, INC., 14-R4D7-0539 THROUGH 0542
78. TORTUGA PROPERTIES LLC dba LINCOLN GARDEN APTS, 14-R2D4-1450
79. TREE ISLAND WIRE (USA), INC., 13-R4D4-3325
80. TRITON FOODS, 14-R4D4-0976
81. UNITED BARK PRODUCTS INC., 14-R2D3-3252
82. VENTURA REGIONAL SANITATION DISTRICT, 13-R4D3-2890
83. VIKING CONSTRUCTION, 12-R2D3-2417
84. VILLAGE NURSERIES WHOLESale, LLC 14-R3D3-2622 AND 2623
85. WEST BEACH MAINTENANCE, 14-R3D5-1333 THROUGH 1336
86. WORLD ASIA LOGISTICS, INC., 14-R6D1-0398 AND 0399
87. YAEGAKI CORPORATION OF USA, 13-R4D1-2140 THROUGH 2146

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.