

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**PUBLIC MEETING AGENDA**

2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
&  
100 North Barranca Street, Suite 410  
West Covina, CA 91791

**December 6, 2006**  
**10:00 a.m.**

**ROLL CALL:**

Candice A. Traeger, Chairwoman  
Marcy V. Saunders, Board Member  
Robert Pacheco, Board Member

**MINUTES OF NOVEMBER 21, 2006**

**ADMINISTRATIVE MATTERS**

*(Information regarding the general administration of cases pending before the Appeals Board.)*

1. CALENDARING/CASELOAD

**NEW BUSINESS**

*(The Appeals Board hears and discusses new reports presented by staff.)*

**OLD BUSINESS**

*(The Appeals Board hears and/or discusses matters on a follow-up basis.)*

1. 2007 LEGISLATION  
*(Review and discuss legislation introduced that impacts the Appeals Board.)*
2. 2006/07 BUDGET  
*(Review and discuss budget issues for this fiscal year.)*
3. REGULATORY REVIEW PROPOSALS  
*(Review of the Appeals Board's Rules of Policy and Procedure)*

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**CHAIRWOMAN’S REPORT**

*(Hear report from the Chair on issues affecting the Appeals Board.)*

**BOARD MEMBERS’ REPORTS**

*(Hear reports from Board Members on issues affecting the Appeals Board.)*

**EXECUTIVE OFFICER’S REPORT**

*(Report regarding administrative matters and news from the Department and Appeals Board.)*

**STAFF REPORTS**

(Reports from the Presiding ALJs and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

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

**PUBLIC COMMENT**

*(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)*

**APPEALS**

*(Report of statistics regarding appeals docketed by the Appeals Board for the current month, previous months, and previous four years.)*

Intents to Appeal in November 2006 \_\_\_\_\_  
Total Intents to Appeal to Date \_\_\_\_\_  
Appeals Docketed in November 2006 \_\_\_\_\_  
Total Appeals Docketed to Date \_\_\_\_\_  
Appeals Packets Completed in November 2006 \_\_\_\_\_  
Total Appeals Packets Completed to Date \_\_\_\_\_

	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
January	387	586	482	357	422	405
February	302	420	405	421	435	320
March	421	320	470	513	400	506
April	372	559	526	416	406	259
May	612	589	359	325	187	588
June	421	384	446	486	517	372
July	410	511	367	320	372	578
August	549	426	345	386	345	498

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September	350	374	448	269	380	468
October	482	438	435	425	346	508
November	507	368	331	332	326	
December	447	389	621	509	442	
<b>TOTAL</b>	<b>5255</b>	<b>5367</b>	<b>5235</b>	<b>4762</b>	<b>4651</b>	

Recess to Closed Session to discuss matters pursuant to Government Code § 11126 (a), (c) (3), and (e) and Labor Code sections 6609 and 6620.

The next Public Meeting/Closed Session is scheduled  
 Wednesday, December 20, 2006  
 Cal/ OSHA Appeals Board

2520 Venture Oaks Way, Suite 300  
 Sacramento, CA 95833  
 &  
 100 North Barranca Street, Suite 410  
 West Covina, CA 91791

NOTICE TO PARTIES: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district Office or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**For Further Information  
 Contact**

Janet M. Eagan  
 2520 Venture Oaks Way, Suite 300  
 Sacramento, CA 95833  
 (916) 274-5751

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<http://www.dir.ca.gov/oshappeals/>

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), and (e)**  
**for**  
**Wednesday, December 6, 2006**  
**10:00 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: November 22, 2006**

**RE: Closed Session of the Board on December 6, 2006**

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

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**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. FIRE SPRINKLER SYSTEMS, INC., 04-R3D1-2185 AND 2186
2. KENNEDY-JENKS CONSULTANTS, 06-R1D1-410
3. MAGANA'S ORNAMENTAL IRON WORKS, 03-R4D1-5136
4. OAKMONT HOLDINGS dba ELEGANT SURFACE'S, 04-R2D1-1941
5. PEACOCK CONSTRUCTION, 04-R1D1-2851
6. SOUTHERN CALIFORNIA GAS CO., 04-R4D4-3066
7. SPRING MOUNTAIN INDUSTRIES, 05-R4D3-4451
8. THE DAVEY TREE EXPERT COMPANY, 05-R1D2-4215

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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. ADMIRAL SUNROOM CORP, 05-R3D3-3707
2. AEROL STAFFING SERVICE, 06-R3D3-1209
3. ALPASE, INC., 04-R4D4-702 AND 703
4. ALSTYLE APPAREL dba A & G INC., 04-R3D1-1127 THROUGH 1132
5. AMERIPEC, INC., 03-R6D2-5149 THROUGH 5151
6. AMERIPEC, INC., 03-R6D2-5152 AND 5153
7. AMERIPEC, INC., 03-R6D2-5154 THROUGH 5157
8. ANHEUSER BUSCH, 06-R2D7-2206
9. ANNING-JOHNSON CO., 04-R4D2-2934
10. ARAMARK SPORTS AND ENTERTAINMENT, 06-R3D2-1576
11. ARROWHEAD PRODUCT CORP., 05-R3D5-1011 AND 1012
12. ASHCO, INC., 04-R4D4-3174 THROUGH 3180
13. ATHENS SERVICES, 05-R4D4-1213
14. RAYMOND AUKER, 04-R1D1-2044 THROUGH 2046
15. AUTOMOTIVE CALIPER EXCHANGE, 06-R3D1-494 AND 495
16. B & B NURSERIES INC. dba THE LANDSCAPE CENTER, 05-R4D1-2540
17. BARRETT BUSINESS SERVICES, INC., 05-R2D4-4528 AND 4529
18. BASAW MANUFACTURING, 06-R6D2-1956 THROUGH 1958
19. CMT SHEET METAL, 05-R4D4-2009 AND 2010

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20. CALIFORNIA HARVEST COMPANY, 06-R3D2-810 THROUGH 812
21. CAPAZ CONSTRUCTION, 03-R1D2-4782
22. CASTO, 05-R1D4-0001
23. CONTINUOUS COATING, 05-R3D1-1511 AND 1512
24. CONTINUOUS COATING dba CLING ON CORNER BEAD CO., 04-R3D1-2082 THROUGH 2088
25. CONWAY WESTERN EXPRESS, 06, R3D3-2775
26. COUNTRY VILLA WOODMAN HEALTH CARE CENTER, 05-R4D3-2133 AND 2134
27. CROWN EQUIPMENT COMPANY dba CROWN LIFT TRUCKS, 04-R2D1-890
28. CRYSTAL CREAM & BUTTER CO., 05-R2D1-311
29. CUMMINGS CONSRUCTION, 05-R3D3-0028
30. DJ'S FEED AND PET SUPPLY, INC., 04-R3D2-1140 AND 1141
31. D.R. HORTON, INC. – SACRAMENTO, A CALIFORNIA CORPORATION dba D.R. HORTON, AMERICA'S BUILDER, 05-R2D1-494 AND 495
32. D.R. HORTON, 05-R2D4-3120
33. DALTON TRUCKING CO., INC., 05-R3D3-453
34. DERR STEEL ERECTION COMPANY, 05-R2D2-2643
35. THOMAS P. DONNELLY, 04-R2D1-947
36. DURSO LANDSCAPE DESIGN, 06-R4D1-588
37. ELLISON FRAMING, INC., 05-R2D4-2919
38. ENEAVOR HOMES, INC., 05-R2D4-2917 AND 2918
39. EURO TECH KITCHENS, INC., 06-R4D3-2063
40. FIRM MEDICAL ASSOCIATES, 04-R2D5-480
41. FREDERICK MANOR, 06-R3D2-2751

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42. G & G ROLL-OFF SERVICES, 05-R4D4-3523 AND 3524
43. HI-SHEAR CORPORATION, 05-R3D5-362
44. HUBBELL LIGHTING, INC. dba KIM LIGHTING, 05-R4D4-1050 THROUGH 1052
45. JAMES E. SIMON CO., 05-R3D3-1442
46. JAMES O'SHEA & SONS ROOFING, 05-R1D3-183 AND 184
47. JOHN LEE dba PRE-FAB GRANITE WAREHOUSE, 04-R2D1-2880
48. L A CHEMICAL, 04-R2D5-892 THROUGH 895
49. LA HYPERION TREATMENT PLANT, 05-R3D7-3336
50. LAKE COUNTY PUBLISHING CO., INC., 06-R1D5-2153 AND 2154
51. MARCOR REMEDIATION, INC. dba MARCOR ENVIRONMENTAL, 03-R3D3-4886 AND 4887
52. MATTOS UNDERGROUND, 04-R2D5-3899
53. METAL POWDER PRODUCTS, 04-R3D1-2541 THROUGH 2547
54. MIDTOWN GAS & FOOD MART, 05-R2D1-305 AND 306
55. MISSION FOODS, 04-R4D4-2967 THROUGH 2969
56. NATIONAL METAL STAMPINGS, 06-R4D3-628 AND 629
57. ORANGE COUNTY CHILD SUPPORT SERVICES, 06-R3D1-931
58. ORANGE COUNTY DEPT. OF EDUCATION dba RANCHO SONADO, 05-R3D1-885
59. OVERHILL FARMS, 03-R4D2-3284 THROUGH 3286
60. PACIFIC SEAFOOD GROUP dba CRAIG & HAMILTON MEAT COMPANY, INC., 06-R6D1-1676 THROUGH 1678
61. PACTIV, 05-R4D4-1817
62. PENINSULA BUILDERS, 06-R1D1-868

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63. JEFF PICKARD dba PICKARD & SONS CONSTRUCTION, 06-R4D3-1887 AND 1888
64. RANCHO FRAMING, INC., 06-R1D2-1236
65. REBORN CABINETS, 05-R6D2-3073
66. S & S GENERAL CONTRACTOR, 04-R3D2-2707 THROUGH 2709
67. SALSBURY ENGINEERING, INC., 04-R4D4-1910 AND 06-R4D4-4455
68. SANTEE DAIRIES, INC., 04-R4D4-2138 AND 2139
69. SIERRA & SIERRA DEMOLITION, 05-R4D1-370 AND 371
70. SILLER BROTHERS, INC., 05-R2D1-193
71. SKY PALACE, INC., dba FOUR SEASONS LANDSCAPING, 06-R3D1-935 AND 936
72. SUPERIOR ENGINEERED PRODUCTS CORPORATION, 04-R3D3-3130 AND 3131
73. TARGET STORE #1867, 04-R3D3-2715
74. TELSTAR UTILITIES CONSTRUCTION INC., 04-R2D5-1944 THROUGH 1947
75. TOP METAL DESIGNS, 04-R1D3-3922 THROUGH 3924
76. TRANSIT CARE, INC., 05-R3D3-3746
77. U.S. DYEING & FINISHING, INC., 06-R3D5-1342
78. UNITED MARBLE & GRANITE, 05-R1D2-3836
79. UNITED STEEL & METALS, 04-R4D4-3984 AND 3985
80. VALLEY FAMILY HEALTH CENTER, 04-R2D5-1849
81. VALLEY METALS, 05-R6D2-2590 THROUGH 2596
82. VENICE TRADING CO INC, 06-R3D1-308 AND 309
83. VIP CARWASH, 06-R3D2-1586 AND 1587

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84. WFC CONSTRUCTION CO., 04-R4D4-646 THROUGH 650
85. WEEGER BROTHERS, 04-R3D5-2920
86. WEI-PI CONSTRUCTION, 06-R3D1-310 AND 311
87. WESTERN PIPELINE, INC., 04-R2D1-1337
88. WILLIAM LYON HOMES INC., 06-R3D1-312
89. W.M. LYLES COMPANY, 04-R3D2-621 THROUGH 623

**ORDERS DISMISSING APPEALS:**

1. MANPOWER, INC., 05-R2D4-4530
2. 6 TR HARVESTING, 01-R2D5-714 AND 715
3. S M DESIGN, 04-R4D2-1786 AND 1787
4. HAN S. SONG, 04-R1D1-1061 THROUGH 1066
5. W C NOVEL, 04-R2D5-478 AND 479

**ORDERS DENYING LEAVE TO FILE A LATE APPEAL:**

1. PARRISH AUTOMOTIVE, 06-R2D1-9214

**ORDERS DENYING LEAVE TO REOPEN APPEAL:**

1. RDS INC. dba MR. ROOTER PLUMBING, 06-R4D3-9213

**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. SAM AND ED ABUATIEH dba STEREO 1, 04-R4D4-2441 AND 2442
2. AIRGUIDE PUBLICATIONS, INC., 04-R3D5-1956
3. DONALD B. MURPHY CONTRACTORS, INC., 04-R2D1-1940

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4. J. MADSON DESIGN & CONSTRUCTION, 06-R2D1-9121
5. M. S. CLARK ROOFING, 04-R2D1-1564
6. REGIONAL STEEL CORPORATION, 04-R3D1-2688

**DECISIONS AFTER RECONSIDERATION (DRAFTS):**

*(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)*

1. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791  
ACTION: This matter will be discussed.
2. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619  
ACTION: Returned from November 8, 2006 Board meeting for further discussion, review and action.
3. AC FRAMERS INC., 03-R2D3-3475
4. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
5. BLUE DIAMOND MATERIALS, 02-R5D2-1268
6. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
7. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
8. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
9. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
10. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
11. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
12. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
13. GLASS PAK, 03-R2D2-0750 AND 0751
14. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
15. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536

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16. HUSSMAN CORPORATION, 03-R3D1-2939
17. ILH CONSTRUCTION, 02-R1D1-4171 & 4172
18. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
19. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
20. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
21. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
22. LONG BEACH CITY COLLEGE, 03-R3D5-2747
23. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
24. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
25. McDONALDS #10660, 03-R1D3-4116 & 4117
26. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
27. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
28. O & M INDUSTRIES, 04-R1D5-1597
29. PMR RACE CARS, 03-R3D3-1824 & 1825
30. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
31. RII PLASTERING INC., 02-R3D1-2679
32. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
33. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
34. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
35. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
36. THE GENE SCHICK COMPANY, 05-R1D4-0937
37. TRIO METAL, 03-R4D4-0316 & 0317
38. UNITED AIRLINES, 00-R1D5-2844

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39. WESTERN DOOR, 01-R3D1-2827
40. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018
41. X-ACT FINISH & TRIM, INC., 06-R3D1-9114

**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. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. MOUNTAIN CASCADE, 03CS01655 (01-3561)
3. BLF FRAMING, INC., 04CS01618 (02-1837/38)
4. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

**APPELLATE COURT:**

1. C. OVERAA & CO., CO51245 (04CS00570) 01-3560

**OTHER LEGAL MATTERS**

*(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)*

**PERSONNEL** *(Issues regarding staff.)*

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