

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

November 8, 2006
10:00 a.m.

ROLL CALL:

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

MINUTES OF OCTOBER 25, 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 October 2006 _____
Total Intents to Appeal to Date _____
Appeals Docketed in October 2006 _____
Total Appeals Docketed to Date _____
Appeals Packets Completed in October 2006 _____
Total Appeals Packets Completed to Date _____

| | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 |
|----------|-------------|-------------|-------------|-------------|-------------|-------------|
| 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 | |
| November | 507 | 368 | 331 | 332 | 326 | |
| December | 447 | 389 | 621 | 509 | 442 | |
| TOTAL | 5255 | 5367 | 5235 | 4762 | 4651 | |

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
Tuesday, November 21, 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

oshappeals@dir.ca.gov

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

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**State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
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Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, November 8, 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: October 27, 2006

RE: Closed Session of the Board on November 8, 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.

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. AIR PERFECTION, INC., 05-R1D4-3654
2. HADLEY AUTO TRANSPORT, 06-R1D4-437
3. IRBY CONSTRUCITON, 03-R3D3-2728
4. KILTER HOME SERVICES, INC. dba KILTER TERMITE CONTROL, 05-R3D1-789
5. LIGHTFOOT & SONS LATH AND PLASTER, 04-R4D4-1204
6. MESQUITE ENTERPRISE LLC, 04-R3D3-2913

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7. NESA INTERNATIONAL, INC., 04-R4D4-1792 THROUGH 1795
8. RALPH OPFER dba RALPH OPFER FLOORING, 04-R2D1-601 AND 602
9. SIERRA LOG HOMES, 04-R2D3-3624
10. STEVE WILLS TRUCKING & LOGGING, 05-R2D3-3119
11. U.S. FILTER WESTATES, 05-R1D4-4063

DECISIONS AFTER REMAND

1. CITY OF COMMERCE, 03-R4D2-2628
2. IMPERIAL HIGHWAY CHEVRON, 03-R4D2-2778 THROUGH 2780
3. RAMONA EQUIPMENT RENTAL dba ONE STOP EQUIPMENT RENTAL, 02-R3D2-2944 THROUGH 2948

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. ARB, INC., 03-R2D5-3507 AND 3508
2. ACCU CHEM CONVERSION, INC., 05-R3D7-4135
3. AGRI-EMPIRE, 04-R3D3-2564
4. ANDRES LANDSCAPING, 03-R1D2-5008
5. AQUARION OPERATING SERVICES, 06-R2D7-1193
6. ACCLAIM HOMES, 06-R1D3-1977 THROUGH 1979
7. ASPLUNDH TREE EXPERT, 05-R4D1-2690 AND 4136
8. BAY AREA RAPID TRANSIT DISTRICT, 04-R1D1-1053 THROUGH 1058
9. BELLER EQUIPMENT, INC., 06-R2D3-1763 THROUGH 1765

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10. BRENTWOOD MANUFACTURING CO., 04-R4D4-1219 THROUGH 1225
11. BUILDER'S MILLWORK, INC., 05-R6D2-4021 THROUGH 4035
12. CA CORRECTIONS-STATE PRISON L.A. COUNTY, 06-R4D3-1655
13. CA FORESTRY AND FIRE PROTECTION, 06-R2D3-1766
14. CALIFORNIA MODEL & DESIGN GROUP, INC., 05-R1D1-4213
15. CALIFORNIA TRUSS COMPANY, INC., 06-R3D3-1442
16. CAL TRANS, 06-R1D4-0230
17. CAPITAL MACHINE CORP., 05-R2D1-1761 THROUGH 1763
18. CENTRAL PRECAST CONCRETE, INC., 04-R1D4-1562 AND 1563
19. CITY HARDWOOD FLOORS, 04-R1D3-670 AND 671
20. COLBO PLASTERING, INC. dba GET PLASTERED BY COLBO, 06-R2D3-1766
AND 1767
21. CORESLAB STRUCTURES (LA), INC., 05-R3D3-2952
22. COSTCO, 05-R4D3-1801 AND 1802
23. COX MANUFACTURING, 04-R3D3-547 THROUGH 549
24. CROSBY & OVERTON, INC., 06-R3D5-1608 AND 1609
25. CRYSTAL GEYSER ROXANE, 04-R2D5-387
26. D.R. LEMINGS CONSTRUCTION, 05-R2D2-1288
27. DUMBARTON QUARRY ASSOCIATES, 06-R5D1-3803
28. E & T FOOD MARKET dba KING RANCH MARKET, 05-R3D3-3733
29. EDEN ROSE FARMS, 06-R3D2-1831
30. ELIXIR INDUSTRIES, 04-R2D1-4025
31. EL TIGRE METAL POLISHING, INC., 05-R4D4-1111 AND 1112
32. EMPIRE POLO CLUB INC., 04-R3D2-1347 AND 1348

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33. ENGINEERED FRAMING SYSTEMS, INC., 04-R3D1-1950
34. EXTREME MACHINE, INC., 04-R1D2-1714
35. 5 STAR DAIRY, INC., 06-R2D4-1778 AND 1779
36. FORCE FRAMING, INC., 06-R3D1-1569 THROUGH 1572
37. FREEDOM ENGINEERING AND CONSTRUCTION, 04-R2D1-1089
38. FULLERTON JOINT UNION HIGH SCHOOL DISTRICT, 04-R2D5-608
39. G & M PLASTERING, 06-R3D1-1565
40. GABRIEL CONTAINER CO., 05-R4D4-3371 THROUGH 3373
41. GAMUT CONSTRUCTION COMPANY, INC., 04-R3D3-027 AND 028
42. GEORGE CHIALA FARMS, INC., 06-R1D2-869
43. GLEASON INDUSTRIES, 06-R2D1-1513 THROUGH 1516
44. GLOBEGROUND, 06-R1D3-1980
45. GRIMMWAY FARMS, 06-R2D5-1560
46. HAHN FRAMING, 04-R3D3-3132
47. HALEX CORPORATION, 06-R4D4-981 THROUGH 986
48. HEARTLAND FIRE COMMUNICATIONS, 05-R3D2-1181
49. HIMALAYA FASHION, INC., 06-R3D5-2275 THROUGH 2277
50. HOTEL LA JOLLA, 05-R3D2-1325
51. INTERIOR SERVICES & DESIGN, 04-R2D5-3291 AND 3292
52. INTERSTATE BRANDS CORPORATION dba COLOMBO BAKERY, 04-R6D1-1242 and 1243
53. JAVIER AUTO ELECTRICAL AND MECHANICAL, 03-R4D4-319 AND 320
54. KBI, A BMC FRAMING CO., 05-R3D3-1450

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55. LAUSD – AUDUBON MIDDLE SCHOOL, 06-R4D1-262
56. LAGUNA BAKERY, 04-R3D1-1758
57. LOS ANGELES UNIFIED SCHOOL GARFIELD HIGH, 06-R4D4-1464
58. M.C. WILLIAMS, 04-R2D5-193
59. MANN’S DRIVE LINE SERVICE dba DRIVE LINE SERVICE OF WHITTIER,
05-R4D4-1718
60. MASCON INCORPORATED, 05-R2D1-1286
61. MEDINA WOOD PRODUCTS, INC., 06-R2D4-1785
62. MERCHANTS BUILDING MAINTENANCE, LLC, 05-R2D2-1679 THROUGH
1681
63. MISSION RUBBER COMPANY, 04-R3D3-270 THROUGH 272
64. MONTCLAIR GAS AND WASH, 06-R3D3-2591 THROUGH 2593
65. NO. CA LABOR TRAINING & RETRAINING TRUST FUND, 06-R2D2-395
66. OLYMPIC CONSTRUCTION COMPANY, 05-R2D1-318 AND 319
67. ORTIZ CONSTRUCTION, 05-R3D2-2931 AND 2932
68. PACIFIC CHEESE CO. INC., 03-R1D4-4537
69. PAGLIARO CONSTRUCTION, INC., 03-R3D2-4166 THROUGH 4168
70. PIER 1 IMPORTS, #6051, 05-R3D3-3321
71. PINE PLAZA LAUNDRY, 04-R3D3-3324 AND 3325
72. PREFERRED PERSONNEL, 04-R4D4-134
73. PREFERRED PERSONNEL, 05-R3D5-3146
74. R & L BROSAMER INC., 04-R5D1-3425
75. RLH FIRE PROTECTION, 03-R2D5-4653 THROUGH 4658
76. REBORN CABINETS, INC., 05-R6D2-1836 THROUGH 1848

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77. RIVER RANCH FRESH FOOD, LLC, 06-R3D2-1426
78. ROBERTSON'S READY MIX LIMITED, 06-R5D3-1338
79. SBC CALIFORNIA, 06-R4D3-2351
80. S.L. SHAW COMPANY, INC., 04-R4D3-2429
81. SANCHEZ BROTHERS, 06-R1D5-232
82. SEQUOIA EQUITIES, 06-R1D4-2129
83. SIERRA CABINETS, 05-R6D1-1123
84. SIERRA PACIFIC INDUSTRIES, 04-R2D3-1341
85. STANFORD UNIVERSITY, 06-R1D2-2099
86. STEVEDORING SERVICES OF AMERICA, 04-R6D1-1244
87. STEVEDORING SERVICES OF AMERICA, 04-R6D1-1245 AND 1246
88. TAILORED MASONRY, 06-R3D1-492 AND 493
89. TANGLEWOOD CONSTRUCTION, INC., 05-R1D2-4514
90. TAYLOR DUNN, 06-R3D7-1858
91. TEICHERT AGGREGATES, 03-R5D1-4975
92. TERMINAL FREEZERS, INC., 04-R3D7-990 THROUGH 995
93. TERMINAL FREEZERS, INC., 04-R3D7-996 THROUGH 1000
94. TILDEN-COIL, 05-R3D3-3436
95. UNITED STATIONERS SUPPLY CO., 03-R2D1-4314
96. VENUS FOODS, 04-R4D4-1208 THROUGH 1215
97. W.A. JOHNSON CONSTRUCTION, 06-R3D2-1287 AND 1288
98. WERMER CORPORATION/COVI CONCRETE, 04-R4D2-3162, 04-R4D2-2761
AND 2762 (Consolidated Order)
99. YEAGER SKANSKA, INC., 04-R3D3-2714

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ORDERS DISMISSING APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. BLACKHAWK FURNITURE, INC., 04-R6D2-3210 THROUGH 3220
2. GANA STEEL, INC., 04-R3D1-1608 AND 1609
3. GILPIN CASTELLI dba VERNER OAKS APARTMENTS, 04-R2D1-821
4. R. AVILA FLS, 04-R2D5-2682
5. REGIONAL STEEL CORPORATION, 04-R3D1-2688
6. SABCO ELECTRIQUE, INC., 04-R3D5-2197
7. THE ORMAN GRUB COMPANY, 04-R3D1-1755 THROUGH 1757
8. TRU-TOP, INC., 04-R6D2-2146 THROUGH 2148

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. BROTHERS DELI, 04-R1D3-1068
2. PATTERSON, INC., dba M. PATTERSON, INC., 03-R2D1-4834 AND 4835
3. THE GENE SCHICK COMPANY, 05-R1D4-0937

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. J'S PIPELINE CONSTRUCTION, 06-R3D1-9107 AND 9108

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. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
ACTION: Returned from October 11, 2006 Board meeting for further discussion and review.

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2. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
ACTION: This matter will be discussed.
3. AC FRAMERS INC., 03-R2D3-3475
4. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
5. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
6. BLUE DIAMOND MATERIALS, 02-R5D2-1268
7. BRYDENSCOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
8. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
9. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
10. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
11. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
12. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
13. GLASS PAK, 03-R2D2-0750 AND 0751
14. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
15. HUSSMAN CORPORATION, 03-R3D1-2939
16. ILH CONSTRUCTION, 02-R1D1-4171 & 4172
17. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
18. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
19. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
20. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
21. LONG BEACH CITY COLLEGE, 03-R3D5-2747
22. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
23. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442

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24. McDONALDS #10660, 03-R1D3-4116 & 4117
25. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
26. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
27. PMR RACE CARS, 03-R3D3-1824 & 1825
28. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
29. RII PLASTERING INC., 02-R3D1-2679
30. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
31. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
32. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
33. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
34. TRIO METAL, 03-R4D4-0316 & 0317
35. UNITED AIRLINES, 00-R1D5-2844
36. WESTERN DOOR, 01-R3D1-2827
37. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

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. PACIFIC RESOURCE RECOVERY, 04CS00695 (00-1108)

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4. BLF FRAMING, INC., 04CS01618 (02-1837/38)
5. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

APPELLATE COURT:

1. C. OVERAA & CO., CO51245 (04CS00570) 01-3560
2. THE HERRICK CORP., CO51506 (01CS00438) 97-1373

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.)

1. PUBLIC RECORDS REQUEST BY CAL-OSHA REPORTER

PERSONNEL *(Issues regarding staff.)*

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