

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Thursday, February 22, 2007
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: February 9, 2007

RE: Closed Session of the Board on February 22, 2007

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. A. TEICHERT & SON, INC., a Corporation dba TEICHERT AGGREGATES, 04-R5D1-850 AND 851
2. PACIFIC GAS & ELECTRIC, CO., 05-R5D1-2357
3. REDONDO BEACH UNIFIED SCHOOL DISTRICT, 05-R3D5-913 AND 914
4. SASSAN GEOSCIENCES, INC., 05-R4D4-2260 AND 2261
5. TEICHERT AGGREGATES, 04-R5D1-2982

DECISION AFTER REMAND

1. MEDALLION INDUSTRIES, INC., 02-R6D1-2825 THROUGH 2830

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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. ABC SECURITY, 06-R1D4-3051
2. ACCESS SOIL DRILLING COMPANY, INC., 03-R1D3-2496 AND 2497
3. ALBERTSON'S, INC., 06-R3D1-2224
4. ALMANOR MANUFACTURING, INC., 03-R2D3-4551 AND 4552
5. AMERICAN COMMUNICATIONS & ELECTRONICS, INC., 04-R4D4-2964 THROUGH 2966
6. AMERICAN TRANSIT MIX COMPANY, INC., 05-R2D4-2807 AND 2808
7. AMERICOLD LOGISTICS, LLC-VICTORVILLE IMC, 06-R3D3-3758
8. ANGELICA TEXTILE SERVICES, 04-R2D2-4158 THROUGH 4163
9. ARCENEUX STEEL, 06-R6D2-2521
10. AVIS ROTO-DIE COMPANY, 06-R4D1-2620
11. AYALA BORING, INC., 06-R5D2-1675
12. B.F. STEEL, INC., 04-R4D4-4106
13. JACK BARCEWSKI dba SUNSHINE CONSTRUCTION, 06-R1D5-1257
14. RICHARD BECHGUENTURIAN dba McDONALDS, 03-R4D3-5206 AND 5207
15. BIG LOTS, 06-R4D4-3951
16. DAN BILICH dba UPDATE CONSTRUCTION, INC., 06-R2D3-3099
17. BLOSSOM VALLEY CONSTRUCTION, 06-R1D2-2647
18. BRADY COMPANY CENTRAL CALIFORNIA, INC., 04-R1D2-512 AND 513
19. BRITZ FARMING CORP., 03-R2D5-5046
20. CVC, 06-R2D1-2559

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21. CW CONSTRUCTION, 06-R3D3-2012 THROUGH 2014
22. DANIEL CAMACHO, 06-R4D4-3946 AND 3947
23. CARLISLE TIRE AND WHEEL CO., 05-R3D5-1090
24. CHANCELLOR OIL TOOL, INC., 06-R4D3-3237 AND 3238
25. JOSE LUIS CHAVEZ dba JOSE LUIS CHAVEZ FLC, 06-R2D3-3723
26. CHEVRON PRODUCTS COMPANY, 03-R3D7-1166 AND 1167
27. CLOVER LEAF CONSTRUCTION CO. INC., 05-R2D2-2211
28. COMPTON UNIFIED SCHOOL DISTRICT, 03-R4D2-5201 AND 5202
29. CONAGRA FOOD INGREDIENTS COMPANY, 03-R4D3-3326 AND 3327
30. DALTON TRUCKING, INC., 06-R3D3-3166 THROUGH 3168
31. DAN R. BUTLER & ASSOCIATES, INC., 06-R1D3-3049
32. ALPHONSUS F. DASS dba KAD MARBLE & GRANITE, 04-R2D1-3826
THROUGH 3830
33. DISCOUNT TIRE, 04-R4D3-343 AND 345
34. DIX METALS INC, 04-R3D5-1359 THROUGH 1361
35. DRIFTERS INDUSTRIES, INC., 06-R3D5-2806 THROUGH 2809
36. DYNAMIC PLUMBING HOLDING, INC., dba DYNAMIC PLUMBING, 06-
R4D4-2626
37. ELSINORE CONSTRUCTION INC. dba BOURNE ROOFING, 04-R4D3-3671
38. FABRICATED EXTRUSION COMPANY, LLC, 06-R1D4-2184 AND 2185
39. FERMA CORPORATION, 06-R1D2-2110
40. FLIGHT TEST ASSOCIATES, INC., 06-R2D5-3114
41. FUTURE FORD OF CONCORD LLC, 06-R2D2-2712
42. GIRARD MANAGEMENT GROUP, 05-R2D4-4393 AND 4394

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43. GIRARD MANAGEMENT GROUP, 05-R2D4-4395 AND 4397
44. GRANITE SYSTEMS, 06-R3D1-499
45. GREGORY SAWYER, DDS, 05-R2D3-088
46. HAWKEYE EQUIPMENT RENTALS, 05-R3D3-640 THROUGH 642
47. HENDRIX & CHANCELLOR ALL-COMMUNICATIONS, INC., 06-R2D3-3722
48. HEPPNER HARDWOODS, 05-R4D4-560 THROUGH 564
49. HEDY HOLMES, 06-R2D4-2190 THROUGH 2192
50. HOME DEPOT DISTRIBUTION CENTER #5645, 05-R3D3-1460 THROUGH 1463
51. HUFF LUMBER, 06-R4D4-1897 THROUGH 1905
52. INNOVATIVE STRUCTURES, INC., 05-R2D4-510 THROUGH 512
53. INVENSYS CONTROLS, 06-R3D5-2278 AND 2279
54. IRISH CONSTRUCTION, 04-R3D2-3309 THROUGH 3311
55. IRONWOOD PACKAGING, LLC, 06-R3D3-2020 AND 2021
56. ISSAC BODNER CONSTRUCTION, 06-R4D3-3236
57. JIMENEZ NURSERY, INC., 06-R4D3-4060
58. JIM MARTIN CONSTRUCTION, 06-R3D3-2034 AND 2035
59. KVC CONSTRUCTION, 06-R3D3-3169
60. KAZI FOOD, INC. (KENTUCKY FRIED CHICKEN STORE), 06-R4D3-3941
61. KNIGHT & CARVER YACHT CENTER, 06-R6D2-3828 THROUGH 3836
62. LA CO DEPT SOCIAL SERVICES MED LONG TERM CARE OFC, 06-R4D4-3948
63. LKQ OF SOUTHERN CALIFORNIA, 06-R6D2-2992 THROUGH 2997
64. LIL JOE'S RESTAURANT, 06-R2D1-3072 AND 3073

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65. MNM MANUFACTURING INC., 03-R4D2-4395 THROUGH 4399
66. M.S. MONTIERO & SONS, 04-R2D5-3737 AND 3738
67. GAIL MA, 05-R1D1-1563 AND 1564
68. MAGNESIUM ALLOY PRODUCTS COMPANY, 06-R4D2-2335 AND 2336
69. MATHENY WINDOWS & DOORS, 04-R1D4-2642 THROUGH 2645
70. McCLONE CONSTRUCTION COMPANY, 05-R2D1-3415 THROUGH 3417
71. MERCED COUNTY DEPT. OF PUBLIC WORKS, SOLID WASTE DIV., 05-R2D4-1309 AND 1310
72. MONTEBELLO CONTAINER CORPORATION, 06-R4D4-2900
73. MONTENAY PACIFIC POWER CORP, 06-R3D5-4474
74. MORROW EQUIPMENT COMPANY LLC, 06-R1D5-3059
75. MOTIVATIONAL SYSTEMS, INC., 06-R3D3-2036 AND 2037
76. NIBBI BROTHERS ASSOCIATES, INC., dba NIBBI CONCRETE, 06-R1D2-2545
77. NOBLE DISTRIBUTION SYSTEMS, 06-R4D2-338 THROUGH 340
78. PABCO PAPER, 06-R4D2-2848 THROUGH 2850
79. PACIFIC COAST STEEL, INC., 06-R6D1-2390
80. PACIFICA ENTERPRISES LLC, 03-R2D5-4862 THROUGH 4882
81. PANOLAM INDUSTRIES, 06-R3D3-318 AND 319
82. PAUL HAMILTON CONSTRUCTION, 05-R3D1-886 AND 887
83. PIEDMONT LUMBER CO., INC., 04-R1D5-316 AND 317
84. PLACER COUNTY PUBLIC WORKS, 05-R2D1-2381
85. R.D. OLSON CONTRACTOR, 06-R4D1-2619
86. RGS SERVICES INC., 05-R3D3-3145

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87. RED'S PLUMBING, INC., 05-R4D3-4445
88. ROBINSONS MAY, 04-R4D4-3181 THROUGH 3183
89. SANDBERG FURNITURE, 03-R4D2-4958
90. SEPCO EARTHSCAPE, INC., 06-R4D1-2312 AND 2313
91. SERVICE CRAFT LOGISTICS, 06-R3D3-3175
92. D.H. SMITH, 06-R1D2-3694 THROUGH 3696
93. SOURCE/CORP, 06-R3D5-3759
94. SPECTRA COLOR, INC., 06-R3D3-2771 THROUGH 2774
95. SPOONER'S WOODWORKS, INC., 05-R6D2-4612 THROUGH 4615
96. SUNDT CONSTRUCTION, INC., 06-R2D3-3092
97. TSB AG SERVICES, 04-R2D5-1105 AND 1106
98. TWF CONSTRUCTION dba SELECT BUILD, 06-R3D3-3157
99. THE JEWEL DATE CO., 06-R3D3-3170 AND 3171
100. THE SAN DIEGO UNION TRIBUNE, 06-R3D2-2227
101. THREE SEASON'S DEVELOPMENT, INC., 06-R2D3-3104
102. TILLEY CRANE INSPECTION SERVICE, 03-R6D2-202 AND 203
103. TIM SHANNON CONSTRUCTION, INC. (TSC), 06-R4D4-2661 THROUGH 2664
104. TRAILMOBILE PARTS & SERVICES CORPORATION, 06-R6D2-2924
THROUGH 2929
105. TRI-STAR CONTRACTING, INC., 06-R3D3-4617
106. TSUNAMI dba MCGILL GLASS WAREHOUSE, 05-R4D3-669
107. UNION FRAMING, INC., 05-R2D2-2383 AND 2384
108. VAN LAW FOOD PRODUCTS, 05-R6D2-575 THROUGH 583
109. VAN LAW FOOD PRODUCTS, 05-R6D2-584 THROUGH 590

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- 110. WALLDESIGN, INC., 06-R3D3-2022 THROUGH 2024
- 111. WARREN ASBESTOS ABATEMENT CONTRACTORS, INC., 06-R2D3-1535 THROUGH 1537
- 112. WATTS ANDERSON BORROWS, 04-R4D3-3376
- 113. WEBER DISTRIBUTION, LLC, 04-R3D2-3136, 3838 AND 3839
- 114. WESTERN NONWOVENS, INC., 06-R4D2-605
- 115. WILLIAM BOOS & COMPANY, INC., 04-R2D5-1115 THROUGH 1117
- 116. WILLIAM D. YOUNG & SONS TRUCKING & NURSERY, 06-R3D3-243 AND 244
- 117. WILLIAMS TANK LINES, 04-R3D5-2093 AND 2094
- 118. WINCO FOODS, 05-R2D4-881 AND 882
- 119. YEHUDA VAKNIN, INC., 06-R6D2-3271 THROUGH 3280

ORDERS DISMISSING APPEALS:

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

- 1. CUSTOM PROFESSIONAL ROOFING, 05-R1D4-1070
- 2. GONSALVES & SANTUCCI, INC., dba CONCO CEMENT CO., 06-R3D1-806
- 3. R.T. WIL-LO, INC., 04-R4D4-051 THROUGH 056
- 4. TEK SYSTEMS, 05-R4D1-1095

ORDER ON EMPLOYEE APPEAL:

- 1. SADIE IRENE BRYSON, 06-R3D3-549

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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. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
ACTION: For further review and discussion and to take Board action regarding a prior motion on the petition.
2. KEVIN R. FUSON CONSTRUCTION, 03-R4D5-2083
3. NICOLAS DEL VILLAR, 06-R3D3-9254 AND 9255
4. PRIMARY STEEL, 04-R4D4-4105
5. WEST COAST LINEN & SUPPLY, 06-R2D5-9237 THROUGH 9240
ACTION: For further review and discussion and to take Board action regarding a prior motion on the petition.

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
ACTION: For further review and discussion and to take Board action regarding a prior motion on the petition.
2. WEST COAST LINEN & SUPPLY, 06-R2D5-9237 THROUGH 9240
ACTION: For further review and discussion and to take Board action regarding a prior motion on the petition.

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. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
ACTION: This matter will be reviewed and discussed.
2. IRBY CONSTRUCTION, 03-R3D3-2728
ACTION: This matter will be reviewed and discussed.
3. AC FRAMERS INC., 03-R2D3-3475
4. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791

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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. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
10. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
11. COX COMMUNICATIONS, 03-R3D2-1942
12. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
13. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
14. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
15. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
16. GLASS PAK, 03-R2D2-0750 AND 0751
17. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
18. HELPMATES STAFFING SERVICES, 05-R3D3-2239
19. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
20. HUSSMAN CORPORATION, 03-R3D1-2939
21. ILH CONSTRUCTION, 02-R1D1-4172
22. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
23. JOHN LAING HOMES, 04-R3D1-194 AND 195
24. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
25. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
26. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
27. LONG BEACH CITY COLLEGE, 03-R3D5-2747

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28. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
29. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
30. McDONALDS #10660, 03-R1D3-4116 & 4117
31. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
32. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
33. O & M INDUSTRIES, 04-R1D5-1597
34. PMR RACE CARS, 03-R3D3-1825
35. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
36. RII PLASTERING INC., 02-R3D1-2679
37. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
38. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
39. STACY & WITBECK INC., 05-R1D1-1142
40. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
41. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
42. TRIO METAL, 03-R4D4-0317
43. WESTERN DOOR, 01-R3D1-2827
44. 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)

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2. BLF FRAMING, INC., 04CS01618 (02-1837/38)
3. 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.