

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, June 4, 2008
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: May 22, 2008

RE: Closed Session of the Board on June 4, 2008

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. KENDALL-JACKSON WINE ESTATES, 07-R1D2-3415 AND 3416
2. LA UNICA MARKET, 06-R4D2-4475 THROUGH 4477
3. TRIPPLETT PAINTING AND RESTORATION, 06-R4D2-3227

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. A & S CASE CO., 06-R6D2-2440 THROUGH 2447
2. MICHAEL ABITBOUL dba MICHAEL PLUMBING, 07-R4D1-3478 THROUGH 3480
3. AIR PRODUCTS AND CHEMICALS, INC., 07-R4D2-0070 AND 0071

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4. THE J ALEXANDER COMPANY, INC., 07-R3D5-1563 THROUGH 1565
5. ALMANOR MFG. INC., 06-R2D3-3510 AND 3511
6. ALTER ELECTRIC, 07-R4D1-4721
7. APEX INTERNATIONAL DEVELOPMENT CORP., 05-R4D3-3198 AND 3199
8. ARMSTRONG CONSTRUCTION, 07-R3D2-2590
9. BAY CITY ELECTRICAL WORKS, INC., 08-R4D3-0753
10. BERKELEY FARMS, 08-R6D3-1453
11. BILLET BARN & CORRALS, 07-R6D2-806 THROUGH 809
12. BLUE WAVE CAR WASH, 08-R6D5-0504 THROUGH 0508
13. BRAKE PARTS INC., 07-R2D5-3444 AND 3445
14. BRENNTAG PACIFIC INC., 07-R4D4-3717 THROUGH 3719
15. C & R INTERNATIONAL SALES, INC., 06-R2D4-4727 THROUGH 4729
16. CARLISLE TIRE AND WHEEN COMPANY, 07-R3D5-755 AND 756
17. CARTER CRYOGENICS COMPANY, LLC., 08-R6D4-1039
18. CEDAR LANE NATURAL FOODS, INC., 07-R3D5-3146 AND 3147
19. CEDARWOOD YOUNG CO., dba ALLAN COMANPANY, INC., 07-R2D5-3781 THROUGH 3783
20. CLASSIC MILL & CABINET, 07-R6D1-3385
21. COASTAL EMPLOYERS, 06-R2D1-5135
22. DAVIS WIRE CORP., 08-R6D2-0238 THROUGH 0243
23. DE LIGHT VILLE, 07-R4D3-1807 THROUGH 1809
24. DE OLIVIERA CONCRETE, INC., 07-R4D3-580 THROUGH 582
25. DEVCON CONSTRUCTION, 07-R1D3-1903 THROUGH 1906
26. DORE' CONSTRUCTION, 07-R1D1-2491 THROUGH 2493

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27. DOUBLE V INDUSTRIES, INC., dba BLUE FROG, 08-R6D5-1043
28. EL DORADO NORTHERN LUMBER, 07-R2D1-4019
29. EL DORADO TRUSS CO. INC., 05-R2D1-1423 THROUGH 1425
30. ELLISON FRAMING INC., 07-R1D4-4115
31. ENERGETIC PAINTING & DRYWALL, INC., 07-R2D1-3937
32. ESSEX PERFORMANCE BOATS, INC., 07-R6D2-1089 THROUGH 1091
33. FOX RACING INC., dba FOX MOTORSPORTS INC., 08-R1D2-0516 AND 0517
34. CITY OF FRESNO, WASTE WATER TREATMENT PLANT, 07-R2D5-855 THROUGH 857
35. G & G SPECIALTY FOODS INC., 07-R1D5-2499 THROUGH 2501
36. GOLDEN STATE BORING AND PIPE JACKING, INC., 07-R5D3-2856
37. ROBERT GOMEZ, dba RDG CONSTRUCTION, 07-R3D1-2918 AND 2919
38. GOODWILL INDUSTRIES OF SACRAMENTO VALLEY NORTHERN NEVADA, 07-R2D1-3020
39. GRANITE CONSTRUCTION COMPANY, 06-R5D1-2907
40. GRANITE CONSTRUCTION COMPANY, 06-R5D1-3804
41. GRIFFIN DEWATERING CORPORATION, 07-R6D4-4984 AND 4985
42. GRIJALVA CONTRACTORS, INC., 07-R4D3-2242
43. GWP HOLDINGS, LLC dba WESTERN TRUCK PARTS & EQUIP., 07-R2D1-3868
44. HANSON AGGREGATES/SISQUOC PLANT, 07-R5D2-3612
45. SIM J. HARRIS, INC., 07-R3D3-1181 AND 1182
46. JOHN T. HEMINGER, 06-R2D1-2677 AND 2678
47. RUSSELL HINTON COMPANY, 06-R1D1-4916 AND 4917
48. HORAN CONSTRUCTION, 07-R3D3-3142 AND 3143

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49. IMPERIAL DATE GARDENS, 07-R3D2-2596 THROUGH 2600
50. J & I FASHION, 08-R6D5-0861 THROUGH 0863
51. JAVIER LOYOLA MENDOZA, 06-R3D5-3918 AND 3919
52. JUST WATER HEATERS, INC., 07-R1D4-3649
53. KAL FUME, INC., 07-R3D1-2922
54. L & L NURSERY SUPPLY, INC., 07-R3D3-3139 AND 3140
55. LA TORTILLA FACTORY INC., 07-R6D1-2643 THROUGH 2646
56. LABOR READY SOUTHWEST, INC., 07-R3D5-2115
57. LAGMAY CORPORATION, 07-R3D5-3811
58. LAS PLUMAS LUMBER AND TRUSS COMPANY, 07-R6D2-2336 THROUGH 2340
59. LASSEN LAND COMPANY, INC., 07-R2D3-3114
60. LEOPOLDO'S FARM SERVICE, INC., A CALIFORNIA CORPORATION, 07-R2D5-0387 AND 0388
61. THE LOFTS, 07-r2d5-3130
62. MACO IMPORT AND EXPORT, 07-R4D4-0776 THROUGH 0778
63. MAHER FRAMING SYSTEMS, INC., 07-R2D1-0845 AND 0846
64. MAJOR LINES OF CALIFORNIA, 07-R3D3-858 AND 859
65. FERNANDO FLORES MARTINEZ, 07-R3D2-3047 AND 3048
66. MARTINEZ GARDENING, 06-R3D5-4790 AND 4791
67. T. MARZETTI COMPANY WEST, 06-R1D2-3042 AND 3043
68. METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, 07-R3D3-2975
69. J. H. MORROW, 07-R2D1-2569 AND 2570
70. NATIONAL CONSTRUCTION RENTALS, INC., 07-R4D3-2240 AND 2241

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71. NELSON BROTHERS FARMS, 07-R3D2-2606 THROUGH 2609
72. ORTIZ ENTERPRISES, INC., 05-R5D2-2563 THROUGH 2567
73. PACIFIC AWARD METALS, INC., 07-R1D4-0470 THROUGH 0472
74. PACIFIC GAS & ELECTRIC COMPANY, 06-R2D2-2169
75. PATTERSON FROZEN FOODS, INC., 07-R2D4-3125
76. PERTRONIX, 07-R4D2-2536 THROUGH 2538
77. PJO & SON, INC., 07-R2D1-2504
78. R M T TRUCKING, INC., 06-R5D3-3472 AND 3473
79. ROSA PONCE dba R & R FASHION, 07-R4-D1-762 THROUGH 765
80. R G M PRODUCTS, INC., 06-R2D5-3125
81. RHINO VALVE USA, INC., 07-R4D3-1586 THROUGH 1588
82. RIVERSIDE CONSTRUCTION CO., INC., 06-R3D3-4426 THROUGH 4430
83. ROYAL MEDJOOOL DATES, 07-R3D2-2593 THROUGH 2595
84. SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT, 07-R2D5-1535
85. SAN-MAR CONSTRUCTION CO., INC., 07-R4D3-4730
86. SANTA CATALINA ISLAND COMPANY, 08-R3D5-1226 AND 1227
87. CHARLES SCHWAB & CO., INC., 07-R3D5-1803
88. SCUSD-CLAYTON B. WIRE ELEMENTARY SCHOOL, 06-R2D1-4704 AND 4705
89. SELECTBUILD NORCAL, 07-R2D1-3939
90. SHINE FOOD, INC., 06-R4D1-2819
91. SIGN UP CO., 07-R2D1-2566
92. SPROUTS FARMERS MARKET, 07-R3D5-4261

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93. STARS CONSTRUCTION, 07-R3D1-5039
94. STRONG ROOFING INC., 07-R2D1-2176 AND 2177
95. T & M STEEL, 08-R3D3-0830
96. TANG APPAREL, LTD., 08-R6D5-1041
97. A. TEICHERT & SON INC., 06-R2D1-4006 AND 4007
98. TERRY MECHANICAL, 07-R1D4-2496
99. THYSSENKRUPP ELEVATOR CORPORATION, 07-R6D3-2490
100. TILL ROOFING, INC., 07-R3D1-3133
101. TRAFFIX DEVICES, INC., 06-R3D3-3153 THROUGH 3156
102. CA DEPARTMENT OF TRANSPORTATION, 07-R1D1-0118 AND 0119
103. TUTOR SALIBA, 06-R4D1-2832
104. UPSURGE, INC., 08-R6D5-0909
105. USS POSCO INDUSTRIES, 06-R2D2-2167 AND 2168
106. VIKING WIRE INC., 06-R3D3-3569 THOROUGH 3571
107. WALLDESIGN, INC., 07-R3D1-0732
108. WALMART DISTRIBUTION CENTER, 06-R3D3-4365
109. WALT DISNEY PICTURES AND TELEVISION, 07-R4D1-761
110. WARD CONSTRUCTION dba RODGER WARD CONSTRUCTION, INC., 07-R4D4-4916
111. WASTE MANAGEMENT OF SAN GABRIEL/POMONA VALLEY, 06-R6D2-998
112. WESTERN DATE RANCH MANAGEMENT CO., 07-R3D2-2610 THROUGH 2614
113. WESTERN INSULATION LP., 07-R2D1-3866
114. D. A. WILLIAMS CONSTRUCTION, INC., 07-R4D3-1659

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ORDERS ON COSTS PETITION

1. ARTHUR J BREWSTER dba PRESTIGE KITCHENS INC., 08-R3R5-1121

ORDERS DISMISSING APPEALS:

1. ER CONSTRUCTION, 07-R6D1-1748
2. HPS MECHANICAL, INC., 07-R2D5-2022
3. NATIONS ROOF OF CALIFORNIA, 08-R2D1-9175
4. SFUSD-RAOUL WALLENBERG TRADITIONAL HIGH SCHOOL, 08-R1D1-9174
5. ROBERT WEAR dba CALIF. FREEZING EQUIPMENT LLC., 08-R2D4-9177

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

1. AJL STAFFING RESOURICES, LLC., 08-R4D4-9198
2. CADILLAC PAINTING, 08-R4D3-9169
3. CALIFORNIA WATER RESOURCES, 08-R2D3-9176
4. FOUR SEASONS ROOFING, 08-R1D2-9199
5. J R UNIVERSAL CONSTRUCTION INC., 08-R4D2-9168
6. MERVYN'S, LLC., STORE #9, 08-R2D4-9197
7. JERONIMO OLIVARES, dba AAH WELDING & REPAIR, 08-R3D5-9165

ORDERS GRANTING LEAVE TO FILE LATE APPEALS:

1. ENCORE MODEL HOME FURNITURE SALES 08-R2D1-1829

ORDERS DENYING LEAVE TO REOPEN APPEALS:

NONE.

ORDERS GRANTING APPEALS:

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NONE.

STIPULATIONS:

1. ANAHEIM ARENA MANAGEMENT, LLC, 7-R3D1-1865 and 1866
2. KINDER MORGAN ENERGY PARTNERS, LP., 05-R2D4-2013 AND 2014
3. CITY OF UKIAH, 06-R2D7-914 -920

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. BUTTON TRANSPORTATION, 04-R1D4-365 THROUGH 365
2. THE HERRICK CORP., 07-R3D1-495
3. RUIZ FOOD PRODUCTS, INC., 06-R2D5-2582
4. SDH CONSTRUCTION, 08-R2D1-9156

DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):

1. AMERICAN ROTARY BROOM CO. , INC., 06-R6D2-2945 THROUGH 2950, 06-R6D2-2957 THROUGH 2961; 06-R6D2-3298 THROUGH 3305 AND 06-R6D2-3319 AND 3326
2. EXPO PROPANE, INC., 08-R3D5-9012
3. S & G PALLETS INC., 08-R3D3-9009
4. SHEA KENNY JV, 07-R5D3-3218
5. SOUTHERN CALIFORNIA EDISON, 06-R4D2-2062
6. TOTAL CONCEPTS, 08-R4D3-9016

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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. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
2. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. AC FRAMERS INC., 03-R2D3-3475
4. ASC PROFILES, INC., 06-R2D1-1181
5. BART, 03-R1D1-5170
6. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
7. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
8. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
9. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. BLUE DIAMOND MATERIALS, 02-R5D2-1268
11. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
12. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
13. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224
14. CENTRAL CHEVROLET, 05-R1D4-2615 THROUGH 2618
15. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
16. COX COMMUNICATIONS, 03-R3D2-1942
17. DADE BEHRING, 05-R2D1-2203
18. DAKOTA COMPANIES UNLIMITED, 05-05-R4D3-392 and 393
19. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
20. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636

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21. DYNALECTRIC, 03-R1D1-4101
22. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
23. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
24. G. T. ALDERMAN, INC., 05-R4D3-3513
25. GENERAL TRUSS CO. INC., 06-R2D1-0783 AND 0784
26. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
27. GLASS PAK, 03-R2D2-0750 AND 0751
28. GOLDEN STATE BORING & PIPE JACKING, INC., 05-R5D2-2359
29. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
30. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
31. HELPMATES STAFFING SERVICES, 05-R3D3-2239
32. HUSSMAN CORPORATION, 03-R3D1-2939
33. ILH CONSTRUCTION, 02-R1D1-4172
34. INDUSTRIAL MASONRY, INC., 07-R3D2-0735 AND 0736
35. JOHN LAING HOMES, 04-R3D1-194 AND-195
36. KELLY SERVICES, INC., 06-R1D2-1024
37. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
38. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
39. LONG BEACH CITY COLLEGE, 03-R3D5-2747
40. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
41. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA),05-R4D2-2541
42. O & M INDUSTRIES, 04-R1D5-1597
43. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658

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44. PMR RACE CARS, 03-R3D3-1825
45. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
46. RII PLASTERING INC., 02-R3D1-2679
47. R & L BROSAMER, INC., 03-R1D5-4832
48. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
49. STACY & WITBECK INC., 05-R1D1-1142
50. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
51. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
52. TEICHERT AGGREGATES, 04-R5D1-2982
53. TRIO METAL, 03-R4D4-0317
54. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2556 AND 2557
55. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
56. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
57. WESTERN DOOR, 01-R3D1-2827

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. WESTERN MILLING, LLC, 06 CE CG 04007 (06-9039/9040)
2. UNITED AIRLINES dba UNITED AIRLINES SFO SYC, 07CS00331 (00-2844)
3. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
4. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)

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5. J. F. SHEA CONSTRUCTION, INC (DOSH v. OSHAB) 34-2007-00882187-CU-WM-GDS, (02-801)
6. E. L. YEAGER CONSTRUCTION COMPANY, INC., (OSH v. OSHAB) 34-2007-00882192-CU-WM-GDS, (01-3261)
7. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
8. MURRAY COMPANY, BS112469 (07-9190/9192)
9. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
10. SEQUEL CONTRACTORS CIVRS. 804265 (05-1438)

APPELLATE COURT:

NONE.

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.)

NONE.

PERSONNEL: (Issues regarding staff.)

NONE.

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