

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c), (3), and (e)
for
Wednesday, June 13, 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: June 1, 2007

RE: Closed Session of the Board on June 13, 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. COAST DIVING SERVICE, INC., 04-R3D5-3756 AND 3757 (5/17/2007)
2. GOODWILL OF SILICON VALLEY, 06-R1D2-418 (5/18/2007)
3. PANAMA SHUTTERS, 05-R6D2-2167 THROUGH 2181 (5/21/2007)
4. PECK AND HILLER COMPANY, 05-R1D5-941 (5/18/2007)
5. UNITE STEEL INDUSTRIES, 05-R4D2-41 THROUGH 44 (5/21/2007)
6. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802 (5/30/2007)

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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. AC TRANSIT [ALAMEDA CONTRA COSTA TRANSIT], 06-R1D4-4327 AND 4328
2. ABLE BUILDING MAINTENANCE, 06-R1D3-421 AND 422
3. AEG LIVE, LLC, 06-R1D1-4312
4. JOHNNY ALBA dba ALBA PLASTERING, 04-R4D1-4290 THROUGH 4293
5. ALLIED BEVERAGES, INC., 04-R4D3-1789 AND 1790
6. ALLIED CONTRACT SERVICE dba MERCER STAFFING, 05-R1D4-1668 AND 1669
7. ALMIR CONSTRUCTION, 04-R4D1-1775 AND 1776
8. AMAY'S BAKERY & NOODLE CO., 05-R4D1-3166 THROUGH 3170
9. AMERICAN HOME BUILDERS, 06-R2D4-34 THROUGH 36
10. ANCON MARINE SERVICES, 04-R3D5-1771 AND 1772
11. ANDERSON TRUSS, 05-R1D5-4066
12. ANGELICA TEXTILE SERVICES, INC., 04-R4D2-3366 THROUGH 3368
13. ANGKOR AUTO BODY & PAINT, 06-R2D4-4350
14. ANTRIUM ENGINEERING & CONSTRUCTION, INC., 06-R1D4-4316 THROUGH 4319
15. ANWRIGHT CORPORATION, 05-R4D3-4457
16. BCI FRAMING & DRYWALL, 06-R3D1-3738
17. B.O.J. CONSTRUCTION, 06-R2D4-4354 AND 4355
18. BALLY TOTAL FITNESS, 07-R1D2-123 AND 124
19. BAY CITIES PAVING & GRADING INC, 04-R1D5-4267

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20. BAZZANO CONSTRUCTION, 06-R2D3-4714 AND 4715
21. BOMMELYN CONSTRUCTION, 05-R2D3-3112 AND 3113
22. BOTTLING GROUP dba THE PEPSI BOTTLING GROUP, 06-R6D2-4180 THROUGH 4182
23. BOTTLING GROUP dba THE PEPSI BOTTLING GROUP, 06-R6D2-4183 THROUGH 4152
24. BRADSHAW ENGINEERING CORPORATION, 06-R3D3-4763
25. BRALCO METALS, 06-R4D4-3681
26. BRENNAN ELECTRIC, 04-R4D3-3384
27. BRISTOL INDUSTRIES, 06-R3D1-3742
28. CITY OF BURLINGAME, 06-R1D3-5021 THROUGH 5023
29. CN BUILDERS, 05-R3D2-1326 AND 1327
30. CR FEDRICK INC. [SUNDT CONSTRUCTION, INC.], 05-R2D1-2902
31. CRC CONSTRUCTION, 05-R2D3-2388 THROUGH 2392
32. C & W ENVIRONMENTAL CONSULTING, INC., 06-R1D2-4922
33. CAL COAST REPIPING INCORPORATED, 04-R4D3-3169 THROUGH 3173
34. CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS, VETERANS HOME OF CALIFORNIA – YOUNTVILLE, 07-R1D5-1124 THROUGH 1128
35. CALIFORNIA FORENSIC MEDICAL GROUP, 04-R1D5-4020 AND 4021
36. CASA CONSTRUCTION CO., 04-R1D5-1083 THROUGH 1085
37. CASCO GROUP, INC., 05-R3D5-2976 AND 2977
38. CA STORAGE CONSTR INC., dba VALLEY FABRICATING & STEEL, 05-R2D3 -325 THROUGH 331
39. CENTENNIAL STONE, INC. dba LUNA MARBLE GRANITE & TILE, 06-R3D1-5168

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40. CENTRAL COAST BUILDERS, 06-R2D3-5046 AND 5047
41. CERTIFIED COATINGS OF CALIFORNIA, INC., 06-R2D4-450 AND 451
42. DANIEL LEIGH CHECK dba FULL COVERAGE CO., 07-R1D5-624
43. COASTAL EMPLOYER, INC., 06-R2D5-4740
44. COMMAND CENTER INC. dba COMMAND CENTER STAFFING, 06-R2D4-4593
45. COTTAGE BAKERY, INC., 06-R2D4-2183
46. CROWN BUILDING MAINTENANCE CO. dba ABLE ENGINEERING SERVICES, 06-R1D1-4188 THROUGH 4190
47. CULLINANE PLASTERING, 06-R1D1-186 THROUGH 189
48. DAKOTA "AG" WELDING, 05-R2D4-3547 AND 3548
49. DAVIS WIRE CORP., 07-R4D4-1591 THROUGH 1594
50. DELIMEX, 05-R3D7-2486
51. DIVERSIFIED FOAM PRODUCTS, INC., 06-R6D2-4904 THROUGH 4909
52. EL BURRITO MEXICAN FOODS PRODUCTS, INC., 07-R6D2-1086 THROUGH 1088
53. ESCONDIDO DISPOSAL, 05-R3D2-4414 THROUGH 4416
54. EXXONMOBIL REFINING & SUPPLY CO, 05-R3D5-2334 THROUGH 2336
55. 5 STAR PERFORMANCE INSULATION, 05-R2D4-2749 AND 2750
56. FOSTER FARMS, 06-R2D4-3106 THROUGH 3108
57. G.F. COLE CORPORATION, 05-R3D5-645 THROUGH 647
58. GAYLORD'S MEAT CO., 06-R6D2-3295 AND 3297
59. GRANITE ROCK, 06-R1D3-730
60. GROVELAND TREE & LANDSCAPE INC., 04-R6D2-2489 AND 2490

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61. HANSON AGGREGATES, 06-R5D1-5321
62. HARTE HANKS PENNY SAVER [HARTE-HANKS SHOPPERS], 05-R3D1-1315 THROUGH 1319
63. HEALTH EXAMS, INC., 05-R1D1-2468
64. HOF'S & YATES REBAR, INC., dba H & Y REBAR, 06-R6D2-3293 AND 3294
65. HOME BUILDING COMPONENTS, 05-R3D2-4557
66. WILLIAMS LYON HOMES, 05-R2D2-2296
67. HUDD DISTRIBUTION SERVICES INC, 05-R3D5-229 AND 230
68. ITT INDUSTRIES [HYDRO-AIR], 05-R3D1-1321 AND 1322
69. INDEPENDENT RIGGING, 06-R6D2-4097
70. JSL FOOD GROUP, 07-R6D2-875 THROUGH 885
71. JOHN COOK DRYWALL dba BVC CONSTRUCTION, 07-R2D4-728 AND 729
72. JOHNSEN CONSTRUCTION, INC., 06-R2D1-3359
73. RICHARD BRENT JOHNSON dba RICHARD BRENT CREATIONS, 06-R3D1-4615
74. KAMPER FABRICATION, 06-R6D1-3958 THROUGH 3960
75. KELLEY FLEET SERVICE, 06-R6D2-4104 AND 4105
76. KELLEY FLEET SERVICE, 06-R6D2-4106 AND 4107
77. KIWI DISTRIBUTING COMPANY, INC., 05-R4D2-4433 AND 4434
78. LAKE COUNTY CORRECTIONAL FACILITY, 04-R1D5-3719 THROUGH 3721
79. LAKESHORE LEARNING MATERIALS, 05-R3D5-2985 AND 2986
80. LA PAZ PLASTERING, INC., 04-R3D3-1866 AND 1867
81. MB SPORTS, 06-R6D1-4095 AND 4096
82. MGM ENTERPRISES, INC., dba SPECIALTY SIDING, 05-R3D5-1515

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83. MAINLAND SECURITY IND, INC., dba MAINLAND BEST SECURITY, 06-R4D1-3444
84. MAJOR FARMS, 07-R1D2-120
85. McDONALDS #6216, 06-R2D4-2737
86. MIKE'S METAL WORKS, 04-R3D2-4056 THROUGH 4059
87. MITSUBISHI WAREHOUSE, 04-R4D2-2399 THROUGH 2402
88. NADA PACIFIC CORPORATION, 07-R5D1-428
89. NESCO RESOURCE, 06-R1D2-4194
90. NEWPORT STONE, INC., 05-R3D1-1174 THROUGH 1176
91. NORRIS ELECTRIC, 06-R2D1-4340
92. NUMMI, 05-R1D4-3412
93. NUMMI, 06-R1D4-426
94. P G & E, 06-R1D1-1022 AND 1023
95. PACIFIC HOME PRODUCTS, 06-R1D4-4320 THROUGH 4326
96. PERFORMANCE CATAMARANS, 07-R6D2-593 THROUGH 602
97. PERFORMANCE CATAMARANS, 07-R6D2-603 THROUGH 609
98. PETCO ANIMAL SUPPLIES, INC., 06-R3D3-4762
99. PLACEMENT PROS, 06-R2D4-1047 AND 1050
100. PLATT CONSTRUCTION, 05-R2D3-2386 AND 2387
101. CITY OF POWAY WATER TREATMENT, 03-R3D7-2330
102. POWER TRIM COMPANY, INC., 03-R3D1-4555 THROUGH 4563
103. PRECISION PIPELINE, INC., 04-R3D1-4536
104. PREMIER PLASTICS, 06-R2D4-1278 THROUGH 1280
105. PRIME SMOKE MEATS INC., 05-R1D4-702

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106. PHAM QUANG dba GOLDEN CONSTRUCTION CO., 05-R3D5-231 AND 232

107. ROBINSON PHARMA, INC., 04-R3D1-969 THROUGH 974

108. CITY OF ROSEVILLE, 05-R2D1-3418

109. ROSS & CHRISTOPHER REFRIGERATION & CONSTRUCTION, 04-R4D3-1965 AND 1966

110. RUDOLPH & SLETTEN, INC., 06-R1D2-1498

111. SDI dba STANDARD DRYWALL, INC., 05-R3D1-1177 THROUGH 1179

112. SJS ENTERPRISES INC dba SC VILLAGE, 07-R3D3-658 AND 2143

113. SAN BENITO FOODS, 06-R1D2-772 THROUGH 774

114. SAN FRANCISCO TERMINAL EQUIPMENT "SFOTEC", 06-R1D3-1747 AND 1748

115. SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT, 07-R1D3-1117 THROUGH 1119

116. CITY OF SANTA BARBARA BUILDING MAINTENANCE, 05-R4D3-1209 AND 2880

117. SENTRY TECH ELECTRONIC PATROL, 05-R3D5-2337 AND 2338

118. SHARP & FELLOWS, INC., 06-R4D1-1617

119. SHARP INTERIOR SYSTEMS, 04-R4D2-48

120. SHORELINE BUILDERS, INC., 06-R1D5-4572

121. SIERRA PACIFIC INDUSTRIES, 05-R2D3-4085

122. SIERRA WASTE WOOD GRINDING, LLC, 06-R2D1-4339

123. SINANIAN DEVELOPMENT, INC., 04-R4D1-3373 AND 3374

124. SMITH BROTHERS CRANE RENTAL, INC., 04-R4D1-2924 AND 2925

125. SOURCECORP, INC. dba DELIVEREX ACQUISITION, 06-R1D1-4186 AND 4187

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126. SPRUCE STREET CAR WASH, 06-R1D3-4314
127. STOCKTON INDUSTRIAL SUPPLY, 04-R2D4-4167
128. SUFFOLK CONSTRUCTION COMPANY, INC., 05-R3D1-3609
129. SUN VIEW VINEYARDS OF CA, INC., 04-R4D3-3600 AND 3601
130. TFR ENTERPRISES, 04-R6D2-2825 AND 2826
131. TJC, 05-R2D5-981 AND 982
132. T & M PAINTING & CONSTRUCTION, INC., 06-R4D1-1859 AND 1860
133. TSI, dba APEX BULK COMMODITIES, 07-R4D3-974
134. TWE ENTERPRISES, 04-R1D5-2868 AND 2869
135. TANIMURA & ANTLE, INC., 06-R1D2-4410
136. TAORMINA INDUSTRIES, 05-R3D1-990
137. TECHNICAL DEVICES COMPANY, 03-R3D5-4679 THROUGH 4682
138. TEKNI-PLEX INC. dba DOLCO PACKAGING, 07-R6D2-1222 THROUGH 1228
139. THREE HARBORS SERVICES, INC., 05-R3D5-2987 AND 2988
140. TOP SHELF PAINTING & DECORATING, 06-R1D1-1731 THROUGH 1735
141. TOWN & COUNTRY GLASS, 06-R3D5-5180 AND 5181
142. TRANSIT SALES INTERNATIONAL, 06-R3D3-5288 THROUGH 5291
143. TRIM MASTERS, INC., 06-R2D4-4594
144. TWYMAN PLUMBING & ELECTRIC, 06-R2D3-4345
145. UPSTATE RAIN GUTTERS, 06-R2D3-4349
146. VALLEY FLOORING SPECIALTIES, 06-R2D5-5156
147. VICTOR FARMS, 06-R2D4-30 AND 31
148. WALKER WOOD PRODUCTS, INC., 05-R6D2-1833 THROUGH 1835

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149. WASABI RESTAURANT, 06-R4D3-4481

150. WEST BUILDERS, INC., 05-R3D5-1611 AND 1612

151. WEST SONOMA COUNTY DISPOSAL, INC., 04-R1D5-4150 THROUGH 4153

152. WESTSIDE dba ALTA BUILDING MATERIAL COMPANY, 06-R1D4-429

153. WILSON FARMS, 06-R2D1-3508

ORDER DENYING LEAVE TO FILE LATE APPEAL:

1. HARRINGTON TOOLS INC., 06-R4D1-2824 THROUGH 2826

ORDERS DISMISSING APPEALS:

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

1. ADVANCED POLYMER TECHNOLOGIES, 04-R2D4-4656

2. AMELCO ELECTRIC S.F., INC., 04-R6D2-348

3. CBMI CAL BLDG. & MAINTENANCE IND., INC., 05-R4D1-2696

4. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393

5. DIAMOND HOME CLEANING, 05-R3D1-2318

6. DIAZ & SONS, INC., 04-R1D5-3722

7. DOMINO 17521, INC., 05-R4D1-2248

8. DOWNEY AREA RECYCLING & TRANSFER, 05-R4D4-3042 THROUGH 3044

9. DURAMAR FLOOR, INC., 04-R6D2-3442 THROUGH 3448

10. EL MONTE ALLOYS, 04-R4D4-3395 THROUGH 3397

11. EL MONTE ALLOYS, 04-R4D4-3398 THROUGH 3404

12. FASHION MANIA, 04-R4D2-3061 AND 3062

13. GRAND CASINO BAKERY & CAFÉ, 05-R6D2-2275 THROUGH 2277

14. JSO INC. dba AMERICA'S LABOR SUPPLY, 05-R2D5-1902

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15. KYOUNG HEE HONG, 05-R4D1-4307
16. LE CLAIRE AUTOMOTIVE, 04-R4D4-651 THROUGH 654
17. M2 COLLISION, 05-R1D4-428 THROUGH 430
18. MARANATHA INDUSTRIAL CONTRACTOR, 04-R2D3-3277 AND 4271
19. MIMO & COM dba TONY TRIM, 06-R4D1-1865 THROUGH 1871
20. RENAISSANCE RESTORATION OF SAN DIEGO, INC., 04-R4D4-AND 1629, 04-R4D4-2149
21. SANG KUN CHONG dba SK FASHION, 03-R4D1-4360
22. SCOTT COMPANY OF CALIFORNIA, 04-R4D1-2209 AND 2210
23. SPRAY BOOTH TECHNOLOGIES, 03-R3D3-4910
24. STOKES CONSTRUCTION, 04-R2D5-4665 AND 4666
25. T & M PAINTING & CONSTRUCTION, 06-R4D1-1859 AND 1860
26. TISSURAMA INDUSTRIES, INC., 04-R4D2-3530 THROUGH 3532
27. TOAD IN THE HOLE TAVERN & GRILL, INC., dba BRITTANY'S CAFÉ, 05-R3D3-2533 AND 2534
28. TRI-COUNTY, INC., 04-R1D5-3927
29. TRU TOP, INC., 04-R6D2-3912 THROUGH 3920
30. TWIN PALMS CONSTRUCITON & DESIGN, 04-R3D1-4177 AND 4178
31. WORLD AT WORK STAFFING, INC., 04-R4D1-1453
32. YOU AND I CUTTING, 06-R3D5-2797 THROUGH 2799

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. GROUND ZERO ENGINEERING, 07-R1D3-9062 THROUGH 9069

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2. KELSEYVILLE LUMBER & SUPPLY CO., INC., 04-R1D5-119 THROUGH 122

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. DMC ENGINEERING, 05-R4D3-49

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. AC FRAMERS INC., 03-R2D3-3475
2. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
4. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
5. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
6. BLUE DIAMOND MATERIALS, 02-R5D2-1268
7. BRYDENSOT 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. CLUB FRESH, LLC, 06-R2D1-9241 AND 9242
12. COX COMMUNICATIONS, 03-R3D2-1942
13. DADE BEHRING, 05-R2D1-2203
14. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
15. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
16. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131

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17. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
18. GLASS PAK, 03-R2D2-0750 AND 0751
19. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
20. HELPMATES STAFFING SERVICES, 05-R3D3-2239
21. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
22. HUSSMAN CORPORATION, 03-R3D1-2939
23. ILH CONSTRUCTION, 02-R1D1-4172
24. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
25. JERLANE, INC. dba COMMERCIAL BOX AND PALLET, 01-R3D2-4344
THROUGH 4348
26. JOHN LAING HOMES, 04-R3D1-194 AND 195
27. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
28. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
29. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
30. LONG BEACH CITY COLLEGE, 03-R3D5-2747
31. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
32. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
33. McDONALDS #10660, 03-R1D3-4116 & 4117
34. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
35. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
36. O& M INDUSTRIES, 04-R1D5-1597
37. PMR RACE CARS, 03-R3D3-1825
38. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
39. RII PLASTERING INC., 02-R3D1-2679

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40. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
41. SAFEWAY #951, 05-R1D4-1410
42. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
43. STACY & WITBECK INC., 05-R1D1-1142
44. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
45. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
46. TEICHERT AGGREGATES, 04-R5D1-2982
47. TRIO METAL, 03-R4D4-0317
48. WESTERN DOOR, 01-R3D1-2827
49. 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. BLF FRAMING, INC., 04CS01618 (02-1837/38)
3. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)
4. HARRIS CONSTRUCTION CO., INC., 07CS00518 (02-3914)
5. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LOCAL LODGE 1781; JULIA SMITH, (UNITED AIRLINES dba UNITED AIRLINES SFO SYC), 07CS00331 (00- 2844)
6. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)

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APPELLATE COURT:

1. 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.)

PERSONNEL *(Issues regarding staff.)*

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