

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, March 21, 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: March 9, 2007

RE: Closed Session of the Board on March 21, 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. MANUEL DEL CAMPO CONTRACTING, 04-R2D5-016
2. WEBCOR CONSTRUCTION, INC., 04-R1D1-1713

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. ACCU CONSTRUCTION INC, 06-R3D5-4629 AND 4630
2. AJM FRAMERS, INC., 06-R2D1-3071

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3. A & R ENGINEERING CO., INC., 04-R3D5-550 THROUGH 552
4. ARINC INCORPORATED, 06-R3D5-2800
5. AMERICAN RENOLIT CORP., 06-R4D2-4158 AND 4160
6. ATWAL FARMS, INC., 06-R2D3-2566 THROUGH 2569
7. BERSHTEL ENTERPRISES, LLC dba WE PACK IT ALL, 06-R4D4-2877 THROUGH 2880
8. BERSHTEL ENTERPRISES, LLC dba WE PACK IT ALL, 06-R4D4-2881 THROUGH 2883
9. BLUE DIAMOND MATERIALS, 02-R4D1-3172 AND 3173
10. BRINK'S INC., 06-R2D4-3724 AND 3725
11. BROOKSTONE CUSTOM BUILDERS, INC., 06-R2D1-3078 AND 3079
12. BURLINGAME INDUSTRIES dba EAGLE ROOFING PRODUCTS, 06-R3D3-2257
13. BURLINGTON HOMES, 06-R4D3-4544
14. CJS PLUMBING, INC., 06-R1D2-2543
15. CA CORRECTIONS, 06-R2D5-3730
16. CA CORRECTIONS SAN QUENTIN PRISON, 06-R1D5-2459 THROUGH 2463
17. CA, DHS, DCDC, VIRAL & RICKETTSIAL DISEASE LAB, 06-R2D2-4219
18. CALIFORNIA CORRECTIONS, 06-R2D2-1762
19. CALIFORNIA PACIFIC HOMES, 05-R3D3-1942
20. CAL-QUAKE CONSTRUCTION, INC., 06-R4D1-2315
21. CARPENTER COMPANY, 06-R3D3-4272 THROUGH 4275
22. CEDAR KNOLL VINEYARDS, INC., 06-R5D1-2910
23. CEN-CAL FIRE SYSTEMS, INC., 06-R1D5-2145
24. CHATFIELD CONSTRUCTION, INC., 06-R2D1-3638

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25. CIVIL ENGINEERING CONSTRUCTION, INC., 06-R2D1-2562
26. COASTAL COACHWORKS, 06-R6D2-682 THROUGH 693
27. COLUMBIA HELICOPTERS, INC., 05-R2D3-323
28. COSTCO WHOLESALE, INC., 06-R2D3-4123
29. COTTAGE BAKERY, INC., 06-R2D4-4128
30. COURY ENTERPRISES CONTRACTORS, INC., 06-R4D1-4153
31. COVELLO PLASTERING, 06-R4D1-4154 AND 4155
32. C PACK ENGINEERING COMPANY, 04-R3D2-4053 THROUGH 4055
33. GABRIEL L. CRUZ dba GIC TRANSPORT, 06-R4D3-4540 THROUGH 4543
34. D.C. VIENT, INC., 04-R2D1-3929
35. DAVIS WIRE CORPORATION, 04-R4D4-1969 THROUGH 1980
36. DELTA BLUEGRASS CO., INC., 06-R2D4-3110
37. DENNY'S MASONRY, INC., 06-R2D3-2573 AND 2574
38. DE PUE WAREHOUSE CO, 06-R2D3-2173 THROUGH 2175
39. ECONO TREE SERVICE, INC., 06-R1D3-1506
40. ED MITCHELL CONST. & DEVEL., INC., 06-R3D5-3760
41. ELEVEN WESTERN BUILDERS, INC., 06-R3D3-2588
42. ESPANA BUILDING & REMODELING, INC., 06-R4D3-2497
43. JORGE ESPARZA, 06-R2D3-1270
44. FARMDALE CREAMERY, INC., 06-R3D3-2780
45. FORD FRAMING COMPANY, INC., 06-R3D3-3426
46. FRANK'S ROOTER & PLUMBING SERVICE, 06-R4D3-2866 AND 2867
47. FRENCH VALLEY AVIATION, INC., 06-R3D3-2260

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48. GERI CARE IV, LLC dba ANTELOPE VALLEY CARE CENTER, 06-R4D3-4443
49. GORGIN FARMS, 06-R4D3-2872
50. GRANT CONSTRUCTION, INC., 06-R4D3-3788
51. JC GRINDING CO., 06-R6D2-3496 THROUGH 3500
52. JIM GRIFFIN, LYLE CAMPBELL & SCOTT CAMPBELL dba SNT COMPANY,
06-R2D1-2706
53. JIM HAGERTY dba MARIAH MOTORSPORTS, 06-R6D2-4549 THROUGH 4552
54. HAMMER DOWN CONSTRUCTION, 06-R2D4-4126
55. HELENA, 05-R3D5-3502
56. HOFER BUILDERS, INC., 06-R2D1-3075
57. INTER PLAN WEST CONSTRUCTION, 04-R4D2-4085
58. J NOBLE BINNS PLUMBING CO., INC., 06-R4D3-4534 THROUGH 4537
59. JOE R. APODACA PLASTERING, 05-R2D5-338 THROUGH 339
60. JOHNSTON FARMS, 06-R2D5-2579
61. YANG LEE (HOMEOWNER), 06-R2D5-4526
62. KOHL BUILDING MAINTENANCE, 06-R4D1-2830
63. LEMANS KARTING, 06-R1D4-1752
64. MDC VACUUM PRODUCTS LLC, 06-R6D1-3474 THROUGH 3479
65. MARK DATTILO HEATING AND AIR CONDITIONING, 04-R3D3-3328 AND
3329
66. METRO EQUIPMENT, 06-R3D1-2211
67. MOFFA ELECTRICAL SERVICES INC, 04-R4D3-111 AND 112
68. MOUNTAIN POWER CONSTRUCTION COMPANY, 06-R2D3-2571
69. OFFICE FURNITURE WORLD, INC., 06-R1D5-2146 THROUGH 2152

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70. OP CONSTRUCTION COMPANY, 06-R4D1-4151 AND 4152
71. ORANGE COUNTY PLASTERING CO., INC., 05-R3D5-1250 THROUGH 1252
72. PARADISE ELECTRIC, INC., 06-R3D3-2596
73. PARAMOUNT SCAFFOLD CO., 06-R3D5-3190 AND 3191
74. PERFORMANCE ABATEMENT SERVICES, INC., 05-R1D4-3249
75. PETERSON-DEAN, INC., 06-R3D3-2764 AND 2765
76. PETERSEN-DEAN, INC. dba PETERSEN-DEAN ROOFING SYSTEMS, 06-R4D3-4434 THROUGH 4436
77. PIONEER CONTRACTORS, INC., 05-R1D1-599
78. PLACEMENT PROS, 06-R2D5-4129
79. PRECISION AUTO CARE, 04-R2D1-4157
80. PROLINE BUILDERS, INC., 06-R1D5-2141 AND 2142
81. QUALITY STRUCTURES, INC., 06-R3D3-2594 AND 2595
82. RLS PLASTERING, INC., 06-R3D1-2208
83. R M W CONSTRUCTION, 04-R3D2-4401
84. RADFORD CABINETS, INC., 06-R6D2-2962 THROUGH 2967
85. RAKAR, INC., 06-R4D3-1326
86. REHIG PACIFIC, 03-R4D2-3805 THROUGH 3807
87. SBM SITE SERVICES, LLC, 06-R2D1-3060
88. SALWAN PROPERTIES & INVESTMENTS, 06-R1D4-4565
89. SELECT PERSONNEL INC., 05-R3D5-2842 AND 2843
90. SHUANG LONG CONSTRUCTION CO., 06-R1D1-3631
91. SIERRA PACIFIC DOOR & TRIM, 05-R2D1-2632 THROUGH 2634

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92. SIERRA PACIFIC ELECTRICAL CONTRACTING, INC., 06-R3D3-3421
93. SIERRA PACIFIC INDUSTRIES, 06-R2D1-3080
94. SNUG TOP, 06-R6D2-4553
95. SNUG TOP, 06-R6D2-4554
96. SOLEDAD ENERGY LLC dba LOS COCHES BIOMASS, 06-R1D2-1738
THROUGH 1744
97. SO UNIQUE PAINTING & DECORATING, 05-R1D4-2775 AND 2776
98. STAFFING NETWORK, 06-R2D4-2194
99. STRATOFLIGHT CORPORATION, 06-R3D7-2296 AND 2297
100. SUPERIOR FIRE SPRINKLERS, 05-R1D3-3466
101. SYSCO FOOD SERVICES OF SAN DIEGO, 06-R3D7-4286
102. TAVOLACCI CONSTRUCTION, INC., 06-R2D3-2572
103. THERMO POWER INDUSTRIES, 06-R3D7-3192 AND 3193
104. TIM HAUSMANN CONSTRUCTION, 06-R2D1-4121 AND 4122
105. TOY FACTORY, 06-R4D2-4156 AND 4157
106. TRI MISSION COMPANY, 06-R2D3-4124
107. TRIPLE Z LONGO VINEYARDS, 06-R1D5-2143 AND 2144
108. TRI VALLEY ROOFING, INC., 06-R4D3-2357
109. TWO CHEFS ON A ROLL, 05-R3D5-1954
110. UNEDUS CONCRETE, INC., dba CASTILLO CONSTRUCTION, 06-R1D2-4504
AND 4505
111. UNITED METAL PRODUCTS INC., 04-R3D3-3750 AND 3751
112. UNITED STEEL PLACERS, INC., 04-R6D2-711
113. VANDERMOLEN CONSTRUCTION, 06-R2D3-2570, 07-R2D3-824

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114. VEST, INC., 06-R4D2-2840 THROUGH 2845
115. WALLDESIGN, INC., 06-R3D3-2597 THROUGH 2599
116. WASHINGTON MUTUAL, 04-R3D2-4183
117. WEST COAST PLASTERING AND DRYWALL, INC., 06-R4D1-2303
THROUGH 2306
118. WESTERN MANUFACTURING, INC., 06-R3D3-3158 AND 3159
119. WESTERN MANUFACTURING, INC., 06-R3D3-3173 AND 3174

ORDERS DISMISSING APPEALS:

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

1. ASW ALLSTATE PAINTING & CONSTRUCTION, INC., 04-R2D2-4381 AND
4382
2. LAUSD TWEEDY STREET SCHOOL, 04-R4D2-2581
3. PYRAMID CONSTRUCTION, 03-R3D2-3519 AND 3520

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. JACK BARCEWSKI dba SUNSHINE CONSTRUCTION, 06-R1D5-1257
2. CUSTOM PROFESSIONAL ROOFING, 05-R1D4-1070
3. JELD-WEN WINDOWS AND DOORS, 04-R2D1-3723
4. REDONDO BEACH UNIFIED SCHOOL DISTRICT, 05-R3D5-913 AND 914
5. SASSAN GEOSCIENCES, INC., 05-R4D4-2260 AND 2261
6. CHERYL & ERNIE STREHLOW dba EMBROIDME, 07-R2D1-9009 THROUGH
9011

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DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. ADMIRAL TRANSPORTATION, 05-R4D4-2144 THROUGH 2150
2. CUSTOM PROFESSIONAL ROOFING, 05-R1D5-1070

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. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
4. BLUE DIAMOND MATERIALS, 02-R5D2-1268
5. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
6. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
7. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
8. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
9. COX COMMUNICATIONS, 03-R3D2-1942
10. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
11. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
12. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
13. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
14. GLASS PAK, 03-R2D2-0750 AND 0751
15. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
ACTION: For Board Discussion and Action
16. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
17. HELPMATES STAFFING SERVICES, 05-R3D3-2239

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18. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
19. HUSSMAN CORPORATION, 03-R3D1-2939
20. ILH CONSTRUCTION, 02-R1D1-4172
21. IRBY CONSTRUCTION, 03-R3D3-2728
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
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
ACTION: For Board Discussion and Action
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

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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)
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.