

STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
2520 Venture Oaks Way, Suite 300
Sacramento, California 95833
(916) 274-5751

EXPEDITED

In the Matter of the Appeal of:
FIRST SOLAR ELECTRIC INC.

Docket No(s).
13-R4D7-3280
through 3282

Jon L. Benjamin, Attorney
I.D. No. 4/7/Y0393/030/2013

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that the above-captioned matter has been set for hearing at

**DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
7718 Meany Avenue
Bakersfield, CA 93308**

March 5, 2014 - 10:00 AM

and that at the above time and place the Occupational Safety and Health Appeals Board will proceed to hear and dispose of the appeal in the manner prescribed by Law. A party may be, but not need be, represented by an attorney, may present any relevant evidence and will be given full opportunity to cross-examine all witnesses. A party is entitled to the assistance of an interpreter and the issuance of subpoenas to compel the attendance of witnesses and subpoenas duces tecum to compel the production of documents or things in accordance with established rules of practice and procedure by applying to the Occupational Safety and Health Appeals Board, 2520 Venture Oaks Way, Suite 300, Sacramento, California 95833.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

Date of Notice: October 31, 2013

By: 

Executive Officer

NOTE: CONTINUANCES ARE DISFAVORED AND WILL BE GRANTED ONLY UPON A CLEAR SHOWING OF GOOD CAUSE. REQUESTS FOR CONTINUANCES ARE TO BE MADE IMMEDIATELY, BUT NOT LATER THAN 15 DAYS AFTER THE DATE OF THIS NOTICE (5 extra days if the address of the recipient seeking a continuance is in California - 10 days if out-of-state).

The parties are expected to submit all issues for decision at the hearing. All witnesses, evidence, and other proof must be available at the hearing. The official record for Appeals Board hearings shall be taken by an electronic device. Any party desiring the presence of a court reporter must make their own arrangements.

A copy of this Notice of Hearing shall be served by the employer on an authorized employee representative of affected employees by personal delivery or by postage pre-paid first class mail, or on affected employees who are not represented by an authorized employee representative by posting a copy of this notice at or near the referenced site of violation, positioned so as to be easily read by employees working in the area. *In addition, notice of this Hearing shall be served on any employee or their representative, seriously injured or killed in an accident related to this appeal.*

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 Occupational Safety and Health Appeals Board, should contact the Appeals Board at the above listed 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.

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to the within action; my place of employment and business address is 2520 Venture Oaks Way, Suite 300, Sacramento, California.

On October 31, 2013 I served the attached Notice of Hearing by placing a true copy thereof in an envelope addressed to the persons named below at the address set out immediately below each respective name, and by sealing and depositing said envelope in the United States Mail at Sacramento, California, with postage thereon fully prepaid. There is delivery by the United States Mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed:

Jon L. Benjamin, Attorney
FARELLA, BRAUN & MARTEL, LLP
235 Montgomery Street
San Francisco, CA 94104-0000

District Manager
DOSH - Bakersfield
7718 Meany Avenue
Bakersfield, CA 93308

DOSH - Legal Unit
1515 Clay Street, Suite 1901
Oakland, CA 94612

DOSH - Legal Unit
320 West Fourth Street, Room 400
Los Angeles, CA 90013

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 31, 2013 at Sacramento, California.



Declarant

BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

EXPEDITED

In the Matter of the Appeal of:

FIRST SOLAR ELECTRIC INC.

Jon L. Benjamin, Attorney
I.D. No. 4/7/Y0393/030/2013

IMIS# 313388555

Docket No(s) .

13-R4D7-3280
through 3282

**NOTICE OF PREHEARING
CONFERENCE**

NOTICE IS HEREBY GIVEN that a prehearing conference in the above-captioned matter will be conducted by telephone on **January 21, 2014 - 10:30 AM**. The conference call will be initiated by the undersigned Administrative Law Judge or other designee. Unless the undersigned has been otherwise advised, the call will be placed to the person and telephone number appearing on the Appeal Form and to the DOSH District Office from which the Citation issued.

The purpose of the prehearing conference is to simplify the issues, expedite the hearing and afford the parties an opportunity to participate in settlement discussions. The parties shall be prepared to discuss the issues to be presented, the scope and timing of discovery, pending and contemplated motions, a firm estimate of the length of the hearing, and any other matters that may aid in expediting the hearing or otherwise disposing of the case. (Title 8, California Code of Regulations, Section 374)

NOTICE IS HEREBY GIVEN that failure to be prepared for or to participate in the prehearing conference may result in the imposition of sanctions, inferences or other orders during the conference or during the hearing, as the Appeals Board may deem appropriate. (Title 8, California Code of Regulations, Section 374(c).)

NOTICE IS FURTHER GIVEN that if the prehearing conference does not resolve the matter it will proceed as deemed appropriate by the Board.

A party may be, but need not be, represented by an attorney at the prehearing conference. A party may also request the assistance of an interpreter for the prehearing conference; any such request should be made immediately to the person listed below.

All communications or questions regarding the prehearing conference should be directed to the undersigned, addressed to 100 North Barranca Street Suite 410, West Covina, CA 91791, or call Mirna Lopez, Sr. Typist Legal at (626)332-1145, Fax:(626)966-4490. Any party unable to participate in the prehearing conference must notify the person listed above.

A copy of this Notice of Prehearing shall be served by the employer on an authorized employee representative of affected employees by personal delivery or by postage pre-paid first class mail, or on affected employees who are not represented by an authorized employee representative by posting a copy of this notice at or near the referenced site of violation, positioned so as to be easily read by employees working in the area. *In addition, notice of this prehearing shall be served on any employee or their Representative, seriously injured or killed in an accident related to this appeal.*



DATED: October 31, 2013

Administrative Law Judge

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 Occupational Safety and Health Appeals Board, should contact the Appeals Board at the above listed 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.

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to the within action; my place of employment and business address is .

On October 31, 2013 I served the attached Notice of Prehearing Conference by placing a true copy thereof in an envelope addressed to the persons named below at the address set out immediately below each respective name, and by sealing and depositing said envelope in the United States Mail at Sacramento, California, with postage thereon fully prepaid. There is delivery by the United States Mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed:

Jon L. Benjamin, Attorney
FARELLA, BRAUN & MARTEL, LLP
235 Montgomery Street
San Francisco, CA 94104-0000

District Manager
DOSH - Bakersfield
7718 Meany Avenue
Bakersfield, CA 93308

DOSH - Legal Unit
1515 Clay Street, Suite 1901
Oakland, CA 94612

DOSH - Legal Unit
320 West Fourth Street, Room 400
Los Angeles, CA 90013

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 31, 2013 at Sacramento, California.



Declarant

BEFORE THE
STATE OF CALIFORNIA

EXPEDITED

OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

In the Matter of the Appeal of:

**FIRST SOLAR ELECTRIC INC.
10400 Helios Way & 13505 Hwy 58
Santa Margarita, CA 93453**

Employer

**DOCKETS 13-R4D7-3280
through 3282**

IMIS 313388555

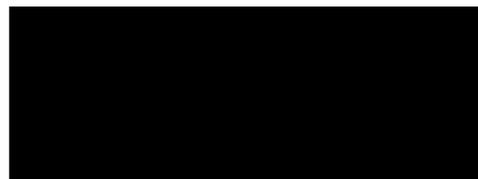
**NOTICE OF STATUS
CONFERENCE**

NOTICE IS HEREBY GIVEN that a **STATUS CONFERENCE** in the above-captioned matter will be conducted by telephone on **November 25, 2013** at **10:30 a.m.** The conference call will be initiated by the Undersigned Administrative Law Judge or other designee.

The purpose of the status conference is to simplify the issues and expedite the hearing. The parties shall be prepared to discuss the issues to be presented, the witnesses to be called, the status of discovery requests, pending and contemplated motions, and any other matters that may aid in expediting the hearing or otherwise disposing of the case.

Any communications or questions regarding the status conference should be directed to Kathleen Veloria, Senior Legal Typist, addressed to 2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833, or called in to (916) 274-5780. Any party unable to participate in the Status Conference must notify the person listed above.

Dated: October 31, 2013
CHW:sp



Administrative Law Judge

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to the within action. My place of employment and business address is 2520 Venture Oaks Way, Suite 300, Sacramento, California 95833.

On October 31, 2013, I served the attached **Notice of Status Conference** by placing a true copy thereof in an envelope addressed to the persons named below at the address set out immediately below each respective name, and by sealing and depositing said envelope in the United States Mail at Sacramento, California, with first-class postage thereon fully prepaid. There is delivery service by United States Mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed:

Jon L. Benjamin, Attorney
FARELLA, BRAUN & MARTEL LLP
235 Montgomery Street
San Francisco, CA 94104

DOSH DISTRICT OFFICE
7718 Meany Avenue
Bakersfield, CA 93308-5110

DOSH LEGAL UNIT
Attn: Amy Martin, Chief Counsel
1515 Clay Street, Suite 1901
Oakland, CA 94612

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 31, 2013, at Sacramento, California 95833.



Declarant

EXPEDITED

**BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD**

In the Matter of the Appeal of:

**FIRST SOLAR ELECTRIC INC.
10400 Helios Way & 13505 Hwy 58
Santa Margarita, CA 93453**

Employer

**DOCKETS 2013-R4D7-3280
through 3282**

IMIS 313388555

ORDER RE DISCOVERY

This appeal is processed pursuant to tit. 8, Cal. Code Regs sec. 373(b). This Order is issued to fulfill the objective of expediting this appeal for prompt resolution.

Pursuant to Title 8, California Code of Regulations §§350.1, 350.2 and 373, the Occupational Safety and Health Appeals Board (Appeals Board) hereby Orders and Compels that Discovery in the above captioned case shall begin immediately and be completed within the dates set forth below. Further, it shall be the continuing duty for both parties to produce to the opposing party all newly discovered information or material within the scope of this order.

The parties shall immediately produce and exchange the documents designated below for production.

- (1) Each party shall produce and exchange with the other party a list of the names and addresses of witnesses (to the extent known) having personal knowledge of the acts, omissions or events which are the basis for this proceeding;
- (2) Each party shall produce and exchange a list of all witnesses, with their addresses if known, intended to be called to testify at hearing.
- [3] Each party shall assemble any statements of parties or witnesses relating to the subject matter of the proceeding, and provide these to the other party or parties;
- (4) Each party shall assemble all writings or things (including photographs, drawings, etc.) which the party then proposes to offer in evidence, and provide these to the other party or parties;

(5) Each party shall assemble any other writing or things (including photographs, drawings, etc.) which is relevant and which would be admissible in evidence, and provide these to the other party or parties;

(6) Each party shall assemble all inspection and investigative reports made by or on behalf of the Division or other party pertaining to the subject matter of the proceeding, and produce and exchange them;

(7) For the purpose of this Order "statements" include written statements by the person, signed or otherwise authenticated, stenographic, mechanical, electrical or other recordings or transcripts thereof, of oral statements by the person, and written reports or summaries of such oral statements.

(8) Nothing in this Order requires the disclosure of the identity of a person who submitted a complaint regarding an unsafe condition in an employment or place of employment unless that person requests otherwise. Nothing in this section authorizes the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney's work product.

[9] You are hereby required to furnish the above immediately but no later than 15 days from this order's date, and further, to file with the Appeals Board within thirty (30) days of the date of this Order a written response listing all Discovery that has been conducted in compliance with this Discovery Order.

[10] Any party claiming that certain writings or things are privileged against disclosure shall serve on the other party or parties a written statement setting forth what matters are claimed to be privileged and the reasons therefore.

[11] Any party claiming that it cannot comply with the Discovery Order may, within 15 days from this Order's date, file a request to extend the time allowed for compliance with this Order. That request must state with specificity the reasons that constitute good cause for the Appeals Board to grant the request to extend the time for compliance.

The Administrative Law Judge or the Appeals Board may impose sanctions on a party who fails to respond to this Order Compelling Discovery or makes an evasive or incomplete response to discovery.

(1) Such sanctions may include:

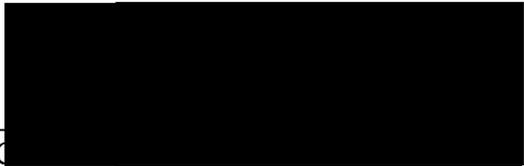
(a) An order prohibiting the introduction of designated matters into evidence by the abusing party; and/or

(b) An order establishing designated facts, claims, or defenses against the abusing party in accordance with the claim of a party adversely affected.

(2) Any other order as the Administrative Law Judge or the Appeals Board may deem appropriate under the circumstances.

IT IS FURTHER ORDERED that all other discovery that the parties engage in pursuant to Board Regulations §§372 through 372.4, including depositions, must be completed within 45 days of this order's date.

DATED: October 31, 2013


ADMINISTRATIVE LAW JUDGE

DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
TEL: (916) 274-5751
FAX: (916) 274-5785



October 31, 2013

EXPEDITED

Jon L. Benjamin, Attorney
FARELLA, BRAUN + MARTEL LLP
235 Montgomery Street
San Francisco, CA 94104

RE: EXPEDITED HEARING PROCESS
FIRST SOLAR ELECTRIC INC.
2013-R4D7- 3280 through 3282
Docket Date: October 28, 2013

IMIS# 313388555

Dear Mr. Benjamin

In accordance with Board Regulation 373(b), the matter will be heard on an expedited basis.

This case will proceed as follows:

1. Discovery will begin immediately and the parties will have a continuing duty to produce and exchange newly discovered information throughout this process;
2. There will be a Mandatory Status Conference scheduled 30 days from the Docket Date shown above;
3. There will be a Mandatory Pre-Hearing Conference within 60 days after the Status Conference;
4. There will be a Hearing on the entire case within 30 days after the Pre-Hearing Conference.
5. Parties may simultaneously file pre-hearing briefs.

The materials included with this explanatory letter are:

1. A Standing Order Compelling Discovery to begin immediately and continue throughout the expedited hearing process. The Standing Order also requires both parties to submit a Discovery Report prior to the Pre-Hearing Conference.

2. A Notice of Status Conference setting the date of the Status Conference and requiring the parties to be prepared to discuss the continued application of section 373(b), and to report on discovery activities.
3. A Notice of Pre-Hearing Conference requiring the parties to participate and be prepared to follow the included Pre-Hearing Conference Agenda.
4. A Notice of Hearing setting the date for the Expedited Hearing.

The case will not continue in the expedited process if a continuance is sought and granted by the Appeals Board; or if the case is referred to the Bureau of Investigations for review; or if the Appeals Board is advised by the Division of Occupational Safety and Health (Cal OSHA) that the employer has abated all conditions for which it was cited.

Sincerely,



SARSVATI PATEL
Senior Legal Typist

cc: DOSH District Office – Bakersfield

DOSH LEGAL UNIT – SF (Oakland)
LA LEGAL

encls: Discovery Letter
Status Conference
Pre-Hearing Conference
Hearing Notice