

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, May 19, 2010
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 6, 2010

RE: Closed Session of the Board to be held on May 19, 2010

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. ADAMS-CAMPBELL COMPANY, LTD., 09-R3D6-2002 AND 2003 and 09-R3D6-1995 AND 1996
2. CLARK PACIFIC PRECAST LLC, DONALD G. CLARK, A CALIFORNIA CORPORATION; & ROBERT E. CLARK, A CALIFORNIA CORPORATION DBA CLARK PACIFIC (CLARK PACIFIC), 08-R2D1-0027 THROUGH 0030
3. JVC TRUCK LINES, INC., 09-R6D2-2752
4. PRIME MASTER APPLIANCES, INC., 09-R4D3-2307 AND 2308
5. SHEEDY DRAYAGE CO., 08-R1D4-3395 AND 3396
6. VICKERS CONCRETE SAWING, INC., 08-R2D1-1826

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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. A TOOL SHED RENTAL, INC., 08-R1D2-3336 THROUGH 3339
2. ACTIVE INDUSTRIAL CONTRACTING, INC., 09-R2D4-1514
3. ALAN SILVERSTEIN, INC., 07-R4D1-3593 THROUGH 3595
4. ALMA FARMS LLC., 09-R4D5-3527
5. SALVADOR ALVARADO, 09-R6D5-2377 THROUGH 2380
6. AMAZING STEEL CORP. DBA AMAZING HYDRAULICS DBA MITC, 09-R6D2-3241 THROUGH 3245
7. AMERICAN AIRLINES, 10-R4D1-0103 AND 0104
8. ARI-THANE FOAM PRODUCTS, INC., 09-R4D1-3078 AND 3079
9. ASTRO SEAL, INC., 10-R6D2-0670 THROUGH 0672
10. AUTOTECH INTERNATIONAL, INC., 09-R4D1-3944 THROUGH 3948
11. BETTER TIMES CORP., 09-R3D6-1787 THROUGH 1790
12. BIRTCHER ANDERSON REALTY MANAGEMENT, INC., 09-R3D2-2584 THROUGH 2588
13. BLACKBURN FARMING, INC., 09-R1D2-0325 THROUGH 0327
14. BOSCO'S DELICATESSEN, INC. DBA LUCCA DELICATESSEN, 08-R1D1-3090
15. BRENNTAG PACIFIC, INC., 09-R6D4-4085 THROUGH 4087
16. C M & B, INC. DBA MAUCK SHEET METAL, 08-R1D2-3671
17. CAMPBELL CERTIFIED STEEL, 09-R6D2-3028
18. CARMENITA LEASING, 09-R6D2-1970 THROUGH 1972
19. CHINO ICE SERVICE, 09-R6D2-0259 AND 0260

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20. CITY OF LOS ANGELES, DEPT. OF RECREATION AND PARKS,
10-R3D5-0361
21. COALITION FOR RESPONSIBLE COMMUNITY DEVELOPMENT,
07-R6D2-4507
22. CORNER STONE STAFFING SOLUTIONS, INC., 09-R3D6-3986
23. COVENANT CARE LLC DBA PACIFIC HILLS MANOR, 09-R1D2-0179
AND 0180
24. CROWN ENGINEERING & CONSTRUCTION, INC., 08-R1D5-2094
THROUGH 2096
25. C-THRU INDUSTRIES, INC., 09-R6D2-2707 THROUGH 2712
26. CVS PHARMACY CAREMART, 09-R4D3-3080
27. DANIELS HEATING & AIR CONDITIONING, INC., 10-R3D3-0089 AND 0090
28. DESERT HARVEST, INC., 09-R6D4-2232
29. DRAGON CONSTRUCTION COMPANY, 09-R3D1-3227
30. DUCOMMUN AEROSTRUCTURES, INC., 10-R3D5-0438
31. EIDE INDUSTRIES, INC., 09-R1D3-0276 THROUGH 0281
32. ELITE AUTOBODY & COLLISION, 09-R1D2-0285 AND 0286
33. EVANSTAR, INC., 09-R1D2-0207
34. EXXON MOBIL, 09-R6D4-3291 THROUGH 3293
35. F & F CONSTRUCTION, INC., 09-R6D1-0116
36. FIRE GUARD CORPORATION, 09-R4D1-0454 AND 0455
37. FRITO LAY, 09-R3D3-3777
38. GENE WHEELER FARMS, INC., 09-R6D2-3246 THROUGH 3249
39. GOLDEN STATE BORING & PIPE JACKING, 09-R4D2-3658
40. HALIBURTON ENERGY SERVICES, 09-R6D4-2440 ANF 2441
41. HD SUPPLY WATERWORKS LTD, 10-R3D1-0777

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42. HILBERS, INC., 08-R1D3-3404 THROUGH 3409
43. J G BOSWELL COMPANY, 09-R4D3-3525
44. JACK NEAL & SON, INC., 08-R1D5-3732
45. JACK NEAL & SON, INC., 09-R1D5-0331 THROUGH 0333
46. JIPC INCREDIBLE CONCEPTS HOLDING CO., INC., 09-R4D3-3846
47. JOHN BRYNE CONSTRUCTION, 09-R4D1-2629 AND 2630
48. JOHNSTON FARMS, 07-R2D5-5163
49. K PAC COLD STORAGE, 10-R3D5-0010
50. DALE KAZARIAN DBA DALE KAZARIAN'S DRILLING, 08-R1D5-3478 and 08-R1D5-4026
51. LA COUNTY DEPT. CHILD & FAM. SVCS/CHILDCARE SECTION, 10-R3D6-0097
52. L. A. COUNTY FIRE, 10-R4D1-0232
53. JOYFUL FARM, INC., 09-R6D5-3258 THROUGH 3265
54. JOSE PASTOR LARA DBA LARA'S AUTO BODY & PAINT, 09-R6D5-3188
55. LE MEUR WELDING & MFG. CO., 09-R6D2-2581 THROUGH 2585
56. LUMIERE WINERY, 09-R6D2-3375
57. M.A. MEDINA F.L.S., 09-R6D2-3165 AND 3166
58. MARCOLINO HANDBAGS, 09-R6D5-2894 THROUGH 2896
59. MARTIN CONSTRUCTION, INC., 09-R3D5-2911
60. MASTER LANDSCAPE AND MAINTENANCE, INC., 10-R3D1-0822
61. MIKE ROVNER CONSTRUCTION, INC., 09-R4D1-2300 AND 2301
62. NORTH COUNTY COMMUNITY SERVICES, 09-R3D2-3771 AND 3772
63. OMEGA EXTRUDING CORP. OF CALIFORNIA, 09-R4D2-3021

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64. OVERHILL FARMS, INC., 09-R4D2-3843
65. OWENS-ILLINOIS, INC., 09-R4D2-4289 AND 4290
66. PAMPANGA FOOD CO., INC., 10-R6D2-0621
67. PARAMOUNT UNIFIED SCHOOL DISTRICT, 09-R3D6-2692 THROUGH 2695
68. PAYLESS THRIFTY DBA THRIFTY ICE CREAM, 09-R6D4-0580
THROUGH 0583
69. PINER-OLIVET SCHOOL DISTRICT, 09-R1D5-0252
70. POWERHOUSE BUILDING, INC., 09-R1D4-0328 AND 0329
71. PRESBYTERIAN INTERCOMMUNITY HOSPITAL, 10-R3D6-0094
72. RONALD E. PRIBBLE DBA PRIBBLE ROOFING CO., 09-R3D2-3278
THROUGH 3280
73. PRIME MASTER APPLIANCES, 09-R4D3-2307 AND 2308
74. PROGRESSIVE STEEL FABRICATORS, 09-R6D2-2954 THROUGH 2956
75. PUNJAB FARMS, INC., 09-R3D3-3131 AND 3132
76. R & I INDUSTRIES, INC., 09-R6D2-4312 THROUGH 4315
77. R. AVILA FARM LABOR SERVICE, INC., 09-R4D3-5048 AND 5049
78. RAND MECHANICAL, INC., 09-R2D1-2288
79. S. E. HARRISON, INC. DBA HARRISON CONSTRUCTION, 09-R6D7-1474
80. ST. FRANCIS ELECTRIC, 08-R1D2-3643 AND 3644
81. SANDOVAL CONSTRUCTION, 09-R4D3-4293
82. SECURITAS SECURITY SERVICES USA, INC., 09-R3D1-2862
83. SOLARIS PAPER, INC., 10-R3D6-0046
84. SOUTHLAND SCAFFOLD & EQUIPMENT, INC., 09-R4D1-3234
85. SUN CORPORATION DBA AMD CONTRACTORS, 09-R4D1-3020

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86. THE GROWERS COMPANY, INC., 09-R3D2-1907 THROUGH 1909
87. TOP LINE STAFFING, INC., 09-R3D3-3072
88. TOWN OF ATHERTON, 09-R1D3-0231
89. URI BROTHERS FARM, INC., 09-R6D5-3095 THROUGH 3104
90. VADNAIS CORPORATION, 09-R5D2-4171
91. VALLEY BOX COMPANY, 10-R3D2-0747 and 10-R3D2-0888
92. VENEER PRODUCTS, INC., 09-R6D2-2940 THROUGH 2945
93. WALNER TOOLING & EXPAC, 09-R6D2-4233 THROUGH 4236
94. WEST BAY BUILDERS, INC., 08-R1D3-3125 AND 3126
95. WESTCLIFF MEDICAL LABORATORIES, INC., 09-R3D1-3981
96. WESTCO INDUSTRIES, INC., 09-R6D2-4082 THROUGH 4084
97. WIENS FAMILY CELLARS, 09-R6D2-3414
98. WRIGHT CONSTRUCTION, INC., 08-R1D5-4002
99. BEN HUR YAHALOMI DBA EMPIRE TILE & STONE, 09-R4D1-2589 AND 2590
100. CHRIS ZAMORANO & MARIA ZAMORANO DBA Z.R. PALLETS, 08-R6D7
3601 AND 3602

ORDERS DISMISSING APPEALS:

1. ANTONIO FELIX DBA ANTONIO FELIX, 09-R3D3-3719 AND 3720
2. GRANITE WHOLESALE, INC., 08-R1D4-4730 AND 4731
3. MK STUDIO, INC., 09-R6D5-2657 AND 2658
4. OLYMPIC FRAMING DBA TRIUS GENERAL CONTRACTORS, INC., 09-R2D2-
0624 AND 0625
5. PRIME STEEL, INC., 09-R3D6-1523

STIPULATION:

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1. HOT HOUSE ENTERTAINMENT, 08-R6D1-2724 AND 2725

ORDERS OF REMAND:

1. FRANCISCO RAFAEL VALLE, 09-R4D4-9314
2. JOSE HERNANDEZ DBA SUPER SPORT BODY & PAINT, 10-R6D5-9061
3. SUBWAY SANDWICHES #1561, 08-R2D3-0288
4. Z PIZZA CORPORATION, 10-R4D1-9048

ORDER ON REMAND:

1. HERITAGE OPERATING LP DBA PRO-FLAME, 09-R3D3-1067

ORDER AFTER REMAND:

1. ABACHERLI DAIRY, 08-R3D3-5028

PETITIONS FOR RECONSIDERATION:

1. BELL BOTTOM BLUES, 05-R4D2-0236 AND 0237
2. DESCOR, INC. DBA DESCOR BUILDERS, 09-R2D1-0930 AND 0931
3. GRANITE CONSTRUCTION COMPANY, 07-R5D1-3611
4. KEY LIME WEST, INC., 09-R6D2-0518 THROUGH 0524
5. NORTHERN CALIFORNIA PAPER RECYCLERS, INC., 09-RID4-2351 THROUGH 2353
6. PRISON INDUSTRY AUTHORITY, 07-R1D5-2171 THROUGH 2173
7. SCHMIDL FARMS, 08-R2D3-1085
8. SEWING COLLECTION, INC., 06-R4D2-9169
9. SUPERIOR PAINTING BUILDING & REMODELING, 08-R2D1-0681 AND 0682

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. FRESNO PRODUCE CO., INC., 10-R6D1-9064

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2. BARNHART, INC., 09-R2D1-2778
3. GORDON SAND CO., 09-R4D3-2744 AND 2745

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 & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. AC FRAMERS INC., 03-R2D3-3475
4. AC TRANSIT, 08-R1D4-0135
5. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
6. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
7. ANNING-JOHNSON COMPANY, 06-R1D3-1976
8. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
9. BART, 03-R1D1-5170
10. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
11. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
12. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
13. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
14. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
15. BURTON L. SILVA FARMS, 09-R1D2-1498
16. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
17. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955

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18. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
19. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
20. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
21. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
22. CLINE CELLARS, INC., 08-R1D5-2946
23. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
24. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
25. COMMERCIAL METAL FORMING, 09-R3D1-1592
26. CORE GENERAL CONTRACTOR, INC. DBA CORE BUILDERS, 08-R1D2-1379
27. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
28. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
29. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
30. DESIGN BUILDERS, INC., 08-R4D4-1901
31. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
32. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
33. DUKE PACIFIC, INC., 08-R3D3-574
34. DUININCK BROS., INC., 06-R4D3-2871
35. DYNALECTRIC, 03-R1D1-4101
36. E. C. U., INC., 09-R3D5-1094 AND 1095
37. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS, 09-R6D2-2325 THROUGH 2332
38. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
39. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
40. EZ MIX, INC., 08-R4D3-1898

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41. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
42. FORTUNA IRON WORKS 06-R2D3-4222
43. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
44. G.T. ALDERMAN, INC., 05-R4D3-3513
45. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
46. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
47. GLASS PAK, 03-R2D2-750 AND 751
48. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
49. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
50. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
51. HB PARKCO, 07-R4D2-1730 AND 1731
52. HELPMATES STAFFING SERVICES, 05-R3D3-2239
53. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
54. THE HERRICK CORP., 07-R3D1-495
55. HUSSMAN CORPORATION, 03-R3D1-2939
56. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
57. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
58. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
59. JENSEN PRECAST, 05-R2D1-2377
60. JOHN LAING HOMES, 04-R3D1-194 AND 195
61. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
62. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
63. KELLY SERVICES, INC., 06-R1D2-1024

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64. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
65. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
66. LA MINA CANTINA, 09-R2D5-0039
67. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
68. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
69. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
70. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
71. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
72. MARINE TERMINALS, 08-08-R6D2-1920
73. MELMARC PRODUCTS, INC., 09-R3D1-2878
74. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
75. NEW CREATION BUILDERS, 09-R3D1-1460
76. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
77. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
78. O & M INDUSTRIES, 04-R1D5-1597
79. PARKER-HANNIFIN CORPORATION, 08-R2D4-2508
80. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
81. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
82. POUK & STEINLE, INC., 09-R3D3-0491
83. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
84. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
85. R & L BROSAMER, INC., 03-R1D5-4832
86. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710

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87. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
88. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
89. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
90. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
91. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
92. STACY & WITBECK, INC., 05-R1D1-1142
93. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
94. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
95. SUNOPTA FRUIT GROUP, 09-R3D1-9245
96. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT
AGGREGATES, 04-R5D2-850 AND 851
97. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650
AND 2651
98. TEICHERT AGGREGATES, 04-R5D1-2982
99. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
100. UNITED PARCEL SERVICE, 07-R3D3-3322
101. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
102. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
103. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

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:

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1. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
2. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
3. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
4. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB),
34-2007-00882192-CU-WM-GDS, (01-3261)
5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-
9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-
440)
7. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
8. UNITED AIRLINES (SFO) (DOSH v. OSHAB), 34-2009-80000256 (00-2844)
9. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
10. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
11. WEBCOR CONSTRUCTION LP dba WEBCOR BUILDERS, 34-2009-80000384
(08-R1D2-2499/2500)
12. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
13. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
14. JC CONSTRUCTION, BS124990 (09-9265)

COURT OF APPEAL

1. SOUTHERN CALIFORNIA EDISON, B223828 (BS 119297) (08-9062)

PERSONNEL:

(Issues regarding staff.)

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