

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), and (e)**  
**for**  
**Wednesday, June 1, 2011**  
**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 19, 2011**

**RE: Closed Session of the Board to be held on June 1, 2011**

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.

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**DECISION OF ADMINISTRATIVE LAW JUDGE:**

*(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. ABAROOT MFG. CO., INC., 10-R6D2-1113 THROUGH 1121
2. EDEY MFG. CO., INC., 10-R6D2-1014 THROUGH 1018
3. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
4. KIWI DOCKS, INC., 10-R6D2-1935 THROUGH 1937
5. ST. FRANCIS ELECTRIC, INC., 09-R1D4-3478

**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.)*

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1. ACE COMPOSITES, INC., 10-R2D3-4020
2. JOSEPH A. ALLEN DBA J. A. ALLEN CONSTRUCTION, 10-R6D5-3916 THROUGH 3918
3. ALLEN L. BENDER, INC., 10-R2D1-0554
4. ALPINE CONCRETE AND PUMPING, INC., 10-R2D3-0412
5. AM PALLETS CO., 10-R3D5-3866 THROUGH 3869
6. AM VALERO FOODSTORE, 08-R2D5-1725 THROUGH 1727
7. ATHENA ENGINEERING, INC., 10-R3D6-3330
8. BAKER COMMODITIES, INC. DBA BC DRAIN, 10-R3D6-3641
9. C. J. SEVEN GROUP, INC., DBA FEEDABLE BBQ BUFFET, 10-R6D5-4132
10. JOHN CARRERA DBA J & J SEPTIC TANK SERVICES, 09-R1D2-3820
11. CHEMICAL TRANSFER CO., INC., 10-R2D4-0656 AND 0657
12. CITY OF FOSTER CITY, DEPARTMENT OF PUBLIC WORKS, 09-R1D3-4195
13. COMTREND CORPORATION, 10-R3D1-3632
14. CONANT ORCHARDS, INC., 10-R2D1-2591
15. CONSOLIDATED FABRICATORS CORP., 10-R6D2-0704 THROUGH 0710
16. COOPER OUT WEST, INC., 10-R2D4-0350 AND 0351
17. CREATIVE INVENTIONS LLC, 10-R6D2-2116 THROUGH 2124
18. CVS PHARMACY, 11-R3D1-0296
19. D. B. ENTERPRISES, 10-R3D1-3455 AND 3456
20. D. J. GUNITE, INC. DBA DJ GUNITE, 10-R6D5-2473 AND 2474
21. DEL MONTE FOODS COMPANY, 10-R2D4-0083
22. DIVISADERO TOUCHLESS CAR WASH, 09-R6D7-3006
23. E & J GALLO WINERY, 10-R2D4-0901

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24. F & H CONSTRUCTION, 09-R2D1-3573 THROUGH 3575
25. FIX AUTO, 11-R3D1-0052
26. FRAZIER AVIATION, INC., 10-R6D2-2804 THROUGH 2812
27. FRIENDLY ANIMAL HOSPITAL, INC., 10-R3D1-3895 THROUGH 3897
28. FUJI FOOD PRODUCTS, INC., 10-R3D6-4109 AND 4110
29. G COLLISION, 10-R6D7-2813
30. GALLO GLASS COMPANY, 10-R2D4-0812 AND 0813
31. JAIME GARCIA J & JAIME GARCIA T DBA OLYMPIAN FOAM, 10-R6D2-0932  
AND 0933
32. GENERAL DEVELOPMENT & CONSTRUCTION, 10-R3D6-2490  
THROUGH 2492
33. GENTIS CONSTRUCTION, INC., 10-R2D4-1697
34. GOODWILL OF ORANGE COUNTY, 11-R3D1-0094
35. GRAND HYATT SAN FRANCISCO, 09-R1D1-2186
36. GREEN AUTO WRECKERS, INC., 09-R1D2-4192 THROUGH 4194
37. GUANS MUSHROOM, INC., 11-R4D2-0479
38. HILLSIDE HOMES GROUP, INC., 09-R1D4-2676 AND 2677
39. HJ CONSTRUCTION, 10-R3D6-3695 AND 3696
40. INDER SINGH FARM, 09-R2D4-2816 THROUGH 2818
41. INT. EXP. GEN. BUILDERS, INC. DBA INTERIOR EXPERTS, 10-R6D5-3921
42. ISLAND DISTRICT HONEY, 08-R2D5-2251
43. J. GUNITE, INC. DBA DJ GUNITE, 10-R6D5-2473 AND 2474
44. J. SEVEN GROUP, INC. DBA FEEDABLE BBQ BUFFET, 10-R6D5-4132
45. KIRK JACKSON DBA JACKSON DRYWALL, 09-R2D1-1636

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46. JERICO PRODUCTS, INC., 10-R5D1-1339
47. KELSO'S AUTO DISMANTLING AND AUTO SALES, 10-R2D4-0165
48. LABCON NORTH AMERICA, 10-R1D5-0154
49. LOS ANGELES HARBOR GRAIN TERMINAL, 10-R3D5-3862 THROUGH 3865
50. MAINSTAY BUSINESS SOLUTIONS, 09-R2D4-3129
51. MALLARD CREEK, INC., 10-R2D1-0457
52. METROPOLITAN STEVEDORE COMPANY, 09-R2D2-2875
53. MISSION FLAVORS & FRAGRANCES, INC., 10-R6D2-0182 THROUGH 0187  
and 11-R6D2-0035 AND 0036
54. MISSION PLASTICS, INC., 10-R3D3-3934
55. OVADIA MIZRAHI DBA DANI-TAL, 10-R1D2-0068 THROUGH 0070
56. NADDOUR'S ORNAMENTAL IRON DBA EDESSA CORP.,  
10-R6D2-3168 THROUGH 3172
57. P. G. & E. CORPORATION, 09-R2D1-1429
58. PECORARO, INC., 10-R1D1-3239
59. PROGRESSIVE GLASS & MIRROR, INC., 11-R3D1-0736 AND 0737
60. RC ROOFING COMPANY, 10-R3D6-3486
61. RIVENDELL WOODWORKS, INC., 10-R6D1-4121 THROUGH 4125
62. RSSE, INC., 11-R2D3-0089 THROUGH 0091
63. SAJE, 10-R4D1-2729
64. ST. FRANCIS ELECTRIC, INC., 10-R1D4-0149
65. TESORO LOS ANGELES, 10-R6D4-3569
66. TESORO LOS ANGELES, 10-R6D4-3570 THROUGH 3572
67. THE SECOND DISTRICT AGRICULTURE ASSOC. DBA SAN JOAQUIN  
COUNTY FAIR, 10-R2D4-0037 AND 0038

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68. W. M. LYLES CO., 09-R2D5-3552
69. WAHIB'S MIDDLE EAST RESTAURANT, 11-R6D5-0453
70. WAL-MART STORE 3587, 11-R2D1-0575
71. WINDSOR CHICO CREEK CARE & REHABILITATION CENTER LLC,  
10-R2D1-0263
72. ZIXTA ENTERPRISES, INC. DBA VALLARTA SUPERMARKETS,  
10-R3D6-4072

**ORDERS DISMISSING APPEALS:**

1. CORY DESHEAN CARTER DBA AGAPE COLLISION REPAIR, 10-R6D7-0762  
THROUGH 0764
2. DEL RIO WEST PALLET, INC., 09-R2D4-2403
3. SELECT STAFFING, 08-R2D5-3284
4. SKYVA CONSTRUCTION, INC., 09-R2D1-3924

**ORDER GRANTING LEAVE TO FILE LATE APPEALS:**

1. WAL-MART STORES, INC., STORE #5434, 11-R1D4-1079

**ORDERS DENYING LATE APPEALS:**

1. ALAN MODE, INC., 11-R6D5-9087

**ORDERS DENYING LEAVE TO FILE LATE APPEALS:**

1. ARROWHEAD PRODUCTS CORP., 11-R3D1-9092
2. CALIFORNIA SWATCH DYERS, INC., 11-R6D5-9090
3. GREEN HILLS COUNTRY CLUB, 11-R1D3-9091
4. PRECISE PROPERTIES, 11-R4D1-9088
5. HUA XING/JOBEY GUAN DBA BAY CAL AUTO BODY, 11-R6D7-9105

**ORDERS OF REMAND:**

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1. ANNA'S LINEN #145, 08-R2D1-3490
2. DYNAMIC FABRICATION, INC., 10-R6D2-0629 THROUGH 0637
3. JOSEFF-HOLLYWOOD, 09-R6D2-3914 THROUGH 3919

**STIPULATION:**

1. PERFORMANCE CONTRACTING, INC. DBA PCI, 09-R1D4-1001

**PETITIONS FOR RECONSIDERATION:**

1. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 THROUGH 1221
2. GRAND HYATT SAN FRANCISCO, 09-R1D1-2186
3. LUIS CUEVA MICHEL FLC, 11-R2D1-9068
4. NEWMAN FLANGE & FITTING COMPANY, 09-R2D4-0939 & 0940

**DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):**

1. A C TRANSIT, 08-R1D4-4611
2. EQUITY WINDOWS & SIDING, INC., 11-R1D2-9061
3. HAM SUPREME SHOP, 11-R3D5-9065
4. SA RECYCLING LLC, 11-R2D5-9059

**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 PALLETS, 10-R6D5-1687 AND 1688
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. AC TRANSIT, 08-R1D4-0135
4. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
5. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
6. ALT'S TOOL & MACHINE, 10-R6D2-2986 AND 3266

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7. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY  
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
8. ANNING-JOHNSON COMPANY, 06-R1D3-1976
9. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
10. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
11. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
12. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO.,  
09-R6D2-2239 THROUGH 2241
13. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
14. BURRTEC WASTE INDUSTRIES, INC., 10-R3D3-9222
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
18. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
19. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
20. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
21. SILVIA CASTRO, MIGUEL CASTRO DBA SILVIA CASTRO FLC,  
09-R2D4-1900
22. CLINE CELLARS, INC., 08-R1D5-2946
23. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
24. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR  
08-R6D5-3466 AND 3467
25. COMMERCIAL METAL FORMING, 09-R3D1-1592
26. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
27. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387

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28. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
29. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
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. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,  
09-R6D2-2325 THROUGH 2332
36. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
37. EZ MIX, INC., 08-R4D3-1898
38. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
39. FORTUNA IRON WORKS 06-R2D3-4222
40. G.T. ALDERMAN, INC., 05-R4D3-3513
41. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
42. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
43. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3678
44. HB PARKCO, 07-R4D2-1730 AND 1731
45. THE HERRICK CORP., 07-R3D1-495
46. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
47. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
48. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
49. JENSEN PRECAST, 05-R2D1-2377
50. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968

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51. KELLY SERVICES, INC., 06-R1D2-1024
52. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
53. L & S CONSTRUCTION, 10-R3D2-1822
54. LA MINA CANTINA, 09-R2D5-0039
55. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
56. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
57. LION RAISINS, INC., 08-R2D5-2253 AND 2254
58. L N I CUSTOM MANUFACTURING, 10-R6D2-9154
59. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
60. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
61. MARINE TERMINALS, 08-08-R6D2-1920
62. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
63. MILLENIUM GENERATION, INC., 08-R4D3-5047
64. MOOREFIELD CONSTRUCTION, INC., 10-R3D5-9207
65. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
66. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
67. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
68. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
69. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
70. POUK & STEINLE, INC., 09-R3D3-0491
71. R & L BROSAMER, INC., 03-R1D5-4832
72. RAMON ARANDA dba I & R PALLETS, 10-R6D5-9053
73. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730

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74. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
75. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
76. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
77. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
78. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
79. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
80. SMUD, 08-R2D1-4887 THROUGH 4889
81. MARTIN J. SOLIS, DBA SOLIS FARM LABOR, 08-R2D1-3415
82. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR,  
08-R2D1-3414 THROUGH 3418
83. SONORA REGIONAL MEDICAL CENTER, 10-R2D4-0162
84. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
85. SUNOPTA FRUIT GROUP, 09-R3D1-9245
86. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
87. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
88. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT  
AGGREGATES, 04-R5D2-850 AND 851
89. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION,  
05-R2D4-2650 AND 2651
90. UNITED PARCEL SERVICE, 07-R3D3-3322
91. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
92. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

**LEGISLATION**

*(Review and discuss current legislation which may affect the Appeals Board)*

1. SENATE BILL 829

**PENDING LITIGATION:**

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*(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. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
2. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB),  
34-2007-00882192-CU-WM-GDS, (01-3261)
4. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
5. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
6. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
7. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
8. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
9. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430  
(09- 9280/9281)
10. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
11. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047  
(07-R5D1-3611)
12. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-  
80000640 (08-R2D1-0027 THROUGH 0030)
13. EMERSON RUSSELL MAINTENANCE CO., RG-10543219 (08-R1D4-4167)
14. SMUD, 34-2010-80000723 (08-R2D1-4887)
15. CAL ENERGY OPERATING CORP., 34-2010-80000735 (09-R3D2-3675 & 3676)
16. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
17. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)

**COURT OF APPEAL**

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1. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)
2. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)

**PERSONNEL:**

*(Issues regarding staff)*

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