

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, January 22, 2014
9:30 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: January 10, 2014

RE: Closed Session of the Board to be held on January 22, 2014

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

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. BEST CONTRACTING SERVICES, INC., 12-R3D3-3786
2. McCARTHY BUILDING CO, INC, 12-R1D4-3458
3. TREASURE ISLAND MEDIA, INC., 11-R6D1-1093 THROUGH 1095

PETITIONS FOR RECONSIDERATION:

1. DAMION MANTLE DBA DAMION MANTLE PAINTING AND DECORATING,
2012-R1D1-2569 AND 2570
2. LA VALENCIA HOTEL, 2013-R3D2-9199

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DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. BODEGA LATINA CORP, DBA EL SUPER, 2012-R3D6-2545 THROUGH 2547

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

1. A-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592
2. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
3. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
4. BELLINGHAM MARINE INDUSTRIES, 2012-R2D2-3144 THROUGH 3146
5. BODEGA LATINA CORP., DBA EL SUPER, 12-R2D2-3500
6. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241
7. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
8. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186
9. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
10. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
11. COMMERCIAL METAL FORMING, 09-R3D1-1592
12. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
13. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
14. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
15. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
16. DISH NETWORK CAL. SVC. CORP., 12-R4D3-0455
17. FERMA CORPORATION, 12-R2D2-1669

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18. GMAC ELECTRIC, INC., 13-R6D5-9138
19. HARRIS CONSTRUCTION, 03-R2D5-3914
20. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
21. KANA PIPELINE, INC., 13-R3D3-9108
22. KELLY GLOBAL LOGISTICS, INC., 12-R3D5-0014
23. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
24. LABOR READY, 13-R3D2-0164
25. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
26. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
27. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
28. MARIA DE LOS ANGELES COLUNGA DBA MERCED FARM LABOR,
08-R2D1-3093 THROUGH 3098
29. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
30. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
31. MORROW MEADOWS CORP., 09-R3D3-2295
32. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
33. NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186
34. ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637
35. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
36. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
37. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE
CONTRACTING, INC., 08-R2D1-0025 AND 0026
38. PERSONNEL PLUS, INC., 11-R3D5-1302
39. ROEBBELEN CONTRACTING, INC., 12-R2D2-3248

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40. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
41. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
42. SIERRA FOREST PRODUCTS, 09-R2D5-3979
43. SONIC DRIVE-IN, 12-R2D5-2734
44. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
45. STARBUCKS DBA STARBUCK'S COFFEE #5867, 12-R3D2-3675
THROUGH 3678
46. SUNRISE GROWERES FROZ SUN FOODS, 09-R4D3-2850
47. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
48. TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310
49. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 AND 0097
50. VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674

ORDERS DISMISSING APPEAL:

1. BEYOND COMFORT, HVAC CORP., 12-R4D3-3619
2. BROWNSTONE UPHOLSTERY CORPORATION, 13-R6D5-1090 THROUGH 1094
3. KOOSHAREM LLC DBA SELECT STAFFING, 13-R6D2-1487
4. GEORGE REISS DBA REISS RACING & RESTORATION, 13-R6D5-2717
AND 2718
5. ROCKET FARMS HERBS, INC., 13-R3D2-3549 THROUGH 3551

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

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(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

LEGISLATION:

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. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
2. SMUD, 34-2010-80000723 (08-R2D1-4887)
3. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
4. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
5. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)
6. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459 THROUGH 2461)
7. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
8. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039 (07-R2D3-0275)
9. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
10. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
11. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
12. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
13. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)
14. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)

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15. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
16. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
17. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
18. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
19. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
20. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
21. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
22. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
23. A. TEICHERT & SON, DBA TEICHERT AGGREGATES, RG12 659881 (10-R5D1-3029)
24. HOME DEPOT USA, INC., BS141301 (10-3284)
25. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
26. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00628178 (10-3667)
27. THYSSENKRUPP ELEVATOR CORP., 34-2013-80001456 (11-2217 ~ 2219)
28. BIG LOTS STORES, INC., 37-2013-00045936 (11-R3D2-1929 ~ 1931)
29. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)
30. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00652023 (12-0439)
31. ORANGE COUNTY FIRE AUTHORITY, 30-2013-00651875 (12-0440)
32. AC TRANSIT, RG13687314 (08-R1D4-0135)
33. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
34. BAY AREA RAPID TRANSIT DISTRICT, RG13689346 (09-R2D2-1219 & 1221)

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35. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-3426)

APPELLATE COURT:

1. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, C075477,
34- 2011-80000640 (08-R2D1-0027 THROUGH 0030)
2. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191
THROUGH 1193)

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. ACOSTA AND SONS INC., 13-R1D1-2464 AND 14-R1D1-0029
2. ALADDIN AIR CONDITIONING & HEATING, INC., 13-R4D3-2062
3. AR PIPELINE, 13-R4D3-2227 AND 13-R4D3-2310
4. AUTOZONE PARTS, INC., 13-R1D4-3594
5. BANDEL MANUFACTURING, INC., 13-R6D2-2912 THROUGH 2916
6. BLACK DIAMOND BLADE, INC DBA CUTTING EDGE SUPPLY, 13-R2D1-1806
AND 1807
7. BRAUN ELECTRIC COMPANY, INC., 13-R4D7-2000
8. CAMPBELL SOUP SUPPLY COMPANY, LLC, 13-R2D1-0206
9. CA STATE METROPOLITAN STATE HOSPITAL, 11-R3D6-1311 AND 1312
10. CA TRANSPORTATION, 13-R2D1-3112 THROUGH 3117
11. CHEVRON ENERGY TECHNOLOGY COMPANY, 13-R2D2-2184
12. CHEVRON PRODUCTS COMPANY, 13-R6D4-3506 AND 3507
13. DINO & HOPE CLARIZIO, 13-R4D1-0353 AND 0354
14. COMMAND PACKAGING VERNON, INC., 13-R4D1-0420 AND 0421

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15. COSTCO WHOLESALE CORPORATION, 13-R1D4-3539
16. COUNTRY BUILDERS CONSTRUCTION, INC., 13-R1D1-2588
17. DELGADO BROTHERS, 13-R3D5-3071
18. DIXON HAY COMPANY, 13-R2D2-1218 AND 1219
19. ELECTRO-FORMING CO., 13-R2D2-3211 THROUGH 3216
20. EXTRA CHEESE, LLC/PAPA JOHN'S PIZZA, 13-R4D1-1424
21. FRANK FRIEDMAN DBA FRANK FRIEDMAN CONSTRUCTION,
13-R4D1-1413 AND 1414
22. GARAWAN FARMING INC., 13-R2D5-0208 AND 0209
23. GARDENA PLYWOOD INC., DBA VAN NUYS PLYWOOD & LUMBER,
13-R4D3-1947 AND 1948
24. HARBOR VIEW FARMS, LLC., 13-R4D3-3177
25. HARTY PIPELINES, INC., 13-R1D1-3207
26. HIRE STANDARDS POOL MAINTENANCE, INC., DBA HIRE STANDARDS
AMERICA'S POOL SERVICE, 13-R3D3-0455 THROUGH 0457
27. HP HOOD LLC DBA HOOD DAIRY, 13-R2D1-2721
28. FARAH & SAZZADUL KHAN DBA ARBOR APARTMENTS, 13-R2D4-3547
AND 3548
29. KLICKS CORE CO., 13-R3D5-1321 THROUGH 1325
30. KOHL'S DEPARTMENT STORE, INC., 13-R6D2-1161 THROUGH 1164
31. LABEL ID TECHNOLOGIES, INC., 13-R3D2-3231 THROUGH 3233
32. LATHROP CONSTRUCTION ASSOCIATES, INC., 13-R2D2-1815
33. LONG BEACH CONTAINER TERMINAL, INC., 12-R3D5-3531
34. NABORS COMPLETION & PRODUCTION SERVICES CO., 13-R4D7-2303
AND 2304

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35. NUTTER INSTALLATIONS INC., 13-R4D3-0763 AND 0764
36. OAK TREE FURNITURE, INC., 13-R4D4-0221 AND 0222
37. OKLAND CONSTRUCTION, 13-R2D5-2832
38. PHILLIPS 66, 13-R6D3-1145
39. RECON ENVIRONMENTAL INC., DBA NATIVE PLANTS, INC., 13-R4D3-1921
40. SACRAMENTO COCA COLA BOTTLING CO., INC., 13-R2D1-1290
THROUGH 1293
41. TOMAS M SALINAS DBA HEARTWOOD DESIGN/BUILD, 13-R2D3-3366
42. SHEA HOMES, LP, 13-R3D2-1042 AND 1043
43. SOLAR COMPANY INC., THE, 13-R2D3-1382 AND 1383
44. SONIC ELECTRONIX, INC., 12-R4D3-2597 AND 2598
45. SOUTH COUNTY PACKING, INC., 13-R1D2-1795
46. LANCE TODD DBA L T CONSTRUCTION, 13-R4D1-1191 THROUGH 1193
47. U.S. BORAX, INC., 13-R5D2-3057
48. VALLEY FIG GROWERS, INC., 13-R6D1-0983 THROUGH 0991
49. WESTERN FOAM, INC., 13-R2D3-2284 AND 2285

PERSONNEL: *(Issues regarding staff.)*

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.