

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 8, 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: December 24, 2013

RE: Closed Session of the Board to be held on January 8, 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. BAY AIR SYSTEMS, INC., 13-R1D4-1012
2. B & B ROOF PREPARATION, INC., 12-R6D2-0033 AND 0034
3. DEVCON CONSTRUCTION INC., 12-R1D2-2062 THROUGH 2064
4. DICK MILLER, INC., 13-R3D2-0578
5. O.C. JONES & SONS, INC., 13-R2D2-0310
6. VICTORY SCREEN PRINTING, 12-R3D1-3673 AND 3674

PETITIONS FOR RECONSIDERATION:

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

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2. BELLINGHAM MARINE INDUSTRIES, 2012-R2D2-3144 THROUGH 3146

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. BIRRIERIAS TLAQUEPAQUE, INC., 13-R6D5-0147 THROUGH 0149
2. CHARLES DIXON DBA DIXON SCIENTIFIC, 13-R3D2-9155
3. THE COCA COLA COMPANY, 11-R2D5-2461

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. BAY AREA RAPID TRANSIT DISTRICT, 12-R1D1-3056 THROUGH 3058 (DOSH)
5. BAY AREA RAPID TRANSIT DISTRICT, 12-R1D1-3056 THROUGH 3058
(THIRD PARTY - SEIU)
6. BODEGA LATINA CORP., DBA EL SUPER, 12-R2D2-3500
7. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
8. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
9. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186
10. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
11. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
12. COMMERCIAL METAL FORMING, 09-R3D1-1592
13. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
14. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387

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15. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
16. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
17. DISH NETWORK CAL. SVC. CORP., 12-R4D3-0455
18. FERMA CORPORATION, 12-R2D2-1669
19. GMAC ELECTRIC, INC., 13-R6D5-9138
20. HARRIS CONSTRUCTION, 03-R2D5-3914
21. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
22. KANA PIPELINE, INC., 13-R3D3-9108
23. KELLY GLOBAL LOGISTICS, INC., 12-R3D5-0014
24. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
25. LABOR READY, 13-R3D2-0164
26. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
27. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
28. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
29. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
30. MARIA DE LOS ANGELES COLUNGA DBA MERCED FARM LABOR,
08-R2D1-3093 THROUGH 3098
31. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
32. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
33. MORROW MEADOWS CORP., 09-R3D3-2295
34. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
35. NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186
36. ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637

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37. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
38. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
39. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
40. PERSONNEL PLUS, INC., 11-R3D5-1302
41. ROEBBELEN CONTRACTING, INC., 12-R2D2-3248
42. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
43. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
44. SIERRA FOREST PRODUCTS, 09-R2D5-3979
45. SONIC DRIVE-IN, 12-R2D5-2734
46. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
47. STARBUCKS DBA STARBUCK'S COFFEE #5867, 12-R3D2-3675 THROUGH 3678
48. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
49. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
50. TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310
51. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 AND 0097

ORDERS DISMISSING APPEAL:

1. BIG CAT EQUIPMENT RENTALS, LLC, 13-R3D3-1264 AND 1265
2. KARINA'S MEXICAN SEAFOOD RESTAURANT, 12-R3D3-2520 AND 2521

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

1. SCARONI CONSTRUCTION, INC., 13-R6D5-3706

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ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. ART RAMIREZ, INC., 13-R6D7-9208
2. ESCONDIDO AAMCO, LLC., 13-R6D5-9207

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(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)

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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)
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)

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

APPELLATE COURT:

1. XL CONSTRUCTION, C074514 (2008-R1D2-1191-1193)
2. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)

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-1 TREE SERVICE & STUMP REMOVAL LLC, 13-R2D3-1127
2. AGROTECH RESEARCH, 13-R2D2-2426
3. AFAB INC., 13-R3D2-2059
4. AMERICAN RECLAMATION, INC., 12-R4D1-1841 AND 1842
5. ANTIOCH BUILDING MATERIALS, INC., 13-R2D2-1813 AND 1814
6. BAINS ORCAHRDS INC., 13-R2D1-1928 AND 1929
7. BANTUS INC DBA DAVID MEYERS CONSTRUCTION, 13-R6D7-2205
8. BERKELEY FORGE & TOOLS, INC., 12-R1D4-1890 THROUGH 1894
9. BJ'S RESTAURANTS, INC., 13-R2D1-1556
10. BONITA STEEL ERECTORS, 13-R3D2-0316
11. BURTECH PIPELINE, INC., 13-R3D2-0829
12. CAL CENTRAL HARVESTING, INC., 13-R4D7-2031

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13. CALIFORNIA COMFORT SYSTEMS, INC., 13-R6D4-2147 AND 2148
14. CALIFORNIA DEPARTMENT OF TRANSPORTATION DBA CALTRANS,
13-R3D2-0579
15. CALIFORNIA'S INSTITUTE OF THE ARTS, 13-R4D3-2864
16. CALIFORNIA PACKAGING CENTERS, INC., 13-R4D4-0553
17. CA STATE PRISON, DEPT. OF CORRECTIONS, 13-R4D3-0706
18. CEDARWOOD-YOUNG DBA ALLAN COMPANY, 13-R3D2-1643
19. CHRISTIANSON ROOFING INC., 13-R3D2-0017
20. C & H SUGAR COMPANY, INC., 12-R2D2-3356
21. CITY OF BAKERSFIELD, 13-R4D7-1959
22. COAST PACKING COMPANY, 13-R4D1-2301 AND 2302
23. COLORAMA THERMAL INC (incorrectly cited as COLORAMA WHOLESALE
NURSERY), 13-R3D3-3306
24. COMMAND PACKAGING VERNON, INC., 13-R4D1-0422 THROUGH 0424
25. COUNTY OF SAN LUIS OBISPO, DEPT. OF PUBLIC WORKS, 13-R4D7-3282
AND 3284
26. DERREL'S MINI STORAGE, INC., 13-R6D1-2068
27. DRESICK FARMS INC., 13-R2D5-0575
28. DURAN CONTRACTING, INC., 13-R4D7-2067
29. DURAN & VENEABLES INC., 12-R2D1-3599
30. FIGAS CONSTRUCTION, 12-R2D3-3153
31. FINELINE INDUSTRIES, INC. DBA CENTURION, 13-R6D1-1886
THROUGH 1888
32. FINELINE INDUSTRIES, INC. DBA CENTURION, 13-R6D1-2033
33. FINELINE INDUSTRIES, INC. DBA CENTURION, 13-R6D1-2583 AND 2584

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34. GLEZ FARMS, INC., 13-R1D2-2465
35. GRIFFITH COMPANY, 13-R4D7-2229 AND 2230
36. ROBERT WILLIAM HALFACRE DBA BOBCAT ATHLETIC, 13-R6D5-1274
AND 1275
37. HANSEN'S RECYCLING INC., 13-R2D3-2190
38. HARBOR PRODUCTS INC., 13R6D2-1477 THROUGH 1480
39. HBI CONSTRUCTION, INC., 13-R2D4-1631
40. GERARDO HERNANDEZ DBA TAQUERIA Y CARNICERIA CORINA,
13-R6D7-2049 AND 2050
41. HI-TEMP INSULATION, INC., 13-R4D3-3043
42. JC FORD COMPANY, 13-R3D1-0942 THROUGH 0944
43. JOHN R. BENSON FARMS, INC., 12-R3D2-3428 AND 3429
44. KEMPER SPORTS MANAGEMENT INC., DBA BLACK GOLD GOLF CLUB,
13-R3D1-3333
45. KIPER DEVELOPMENT INC., 13-R6D7-2686
46. L.A. CITY WATER & POWER, 13-R4D1-1243 AND 1244
47. LA COUNTY OLIVE VIEW UCLA MEDICAL CENTER, 12-R4D3-3533
48. LAGUNA CLAY COMPANY, 12-R3D6-2948 AND 2949
49. LANE BRYANT STORES, 13-R2D2-0312
50. LARA LABOR CONTRACTORS, 13-R2D2-2502
51. LAUSD, WILLIAM MULHOLLAND MIDDLE SCHOOL, 13-R4D3-0970
52. LINEAR OPTIONS INC., 13-R2D3-1388
53. MANPOWER, INC., 13-R2D5-1301
54. MARINE & RESTAURANT FABRICATORS, INC., 13-R6D2-1197
THROUGH 1201

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55. METRO SHEET METAL INC., 13-R6D2-0075 THROUGH 0077
56. MICHAELS ART & CRAFTS, 13-R2D5-2192 AND 2193
57. MOARK, LLC., 13-R3D3-2391 AND 13-R3D3-2811
58. JULIO F. MONROY DBA CONVERTIBLE WORLD, 13-R6D5-0033
THROUGH 0039
59. MT SYSTEMS, INC., 13-R1D2-3080
60. NAKANO WAREHOUSE & TRANSPORTATION CORP., 13-R6D2-2292
AND 2293
61. NEWTRON, INC., 13-R1D2-3662
62. OPINIONS, LTD., 13-R3D3-1837
63. ORIGINAL FOODS, INC. DBA GIOVANNI'S, 13-R4D3-1997 THROUGH 1999
64. OTIS ELEVATOR COMPANY, 13-R1D1-1500
65. PACIFIC STEEL CASTING CO., 12-R6D1-3281 THROUGH 3283
66. PARAGON SYSTEMS, INC., 13-R3D2-2058
67. PERFORMANCE TEAM FREIGHT SYSTEMS, INC., 13-R3D5-3106
68. ROY PHILLIPS DBA PHILLIPS CONSTRUCTION, 13-R6D7-1977 AND 1978
69. PRECIOUS METALS PLATING, 13-R3D1-3161
70. PRINCE TELECOM, 13-R4D3-0972
71. ROYAL KNIGHT ROOFING CO INC., 13-R1D2-1365 AND 1366
72. R & R ROOFING CONTRACTORS, INC., 13-R3D2-2060
73. SEAFOOD CITY SUPERMARKET, 12-R3D2-1626 AND 1627
74. SELECT STORAGE INC., DBA ORTIZ BROS. MVOING & STORAGE,
13-R6D2-2001
75. SHIMMICK CONSTRUCTION CO INC., 12-R1D4-2704 AND 2705

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76. SILVERLINE CONSTRUCTION INC., 13-R1D2-1501
77. SODEXO, INC., 13-R3D3-1834 AND 1835
78. STAMPED CONCRETE, INC., 13-R2D1-2051
79. STATE OF CALIFORNIA DEPT. OF TRANSPORTATION, 13-R4D3-0359
AND 0360
80. SUPERIOR WALL SYSTEMS, INC., 13-R3D3-1320
81. SUN MAID GROWERS OF CALIFORNIA, 13-R2D5-0867 AND 0868
82. SUNSTALL, INC., 13-R4D7-0979 THROUGH 0981
83. TED MULLER PLASTERING INC., 13-R6D7-2206 AND 2207
84. THE CALIFORNIA REDWOOD COMPANY, 12-R2D1-2892 AND 12-R2D1-3122
AND 3123
85. THE NEIL JONES FOOD COMPANY DBA TOMATEK, 13-R2D5-3312 AND 3313
86. TIMBERWORKS, INC., 13-R1D2-0916 THROUGH 0918
87. TRI-STATE STAFFING, 13-R2D5-2158
88. TRI-STEEL CORPORATION, 13-R4D7-2065 AND 2066
89. SATURNINO VALENCAI DBA VALENCIA LATH & PLASTERING,
13-R2D1-2038
90. WELCOME MARKET, INC., 13-R1D4-3140
91. BARRY L. WHITE DBA WESTERN ESTATES CONSTRUCTION, 13-R1D1-1611
AND 1612
92. YOUNG'S CONSTRUCTION, 13-R4D1-1001

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.