

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), (e) and (f)**  
**for**  
**Wednesday, August 21, 2013**  
**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: August 9, 2013**

**RE: Closed Session of the Board to be held on August 21, 2013**

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 AREA RAPID TRANSIT DISTRICT, 10-R1D1-3056 THROUGH 3058
2. KELLY GLOBAL LOGISTICS, INC., 12-R3D5-0014
3. PRUDENTIAL OVERALL SUPPLY, 12-R3D1-2740
4. ROEBBELEN CONTRACTING, INC., 12-R2D2-3248

**PETITIONS FOR RECONSIDERATION:**

1. DISH NETWORK CAL. SVC. CORP., 12-R4D3-0455
2. HYPOWER, INC. DBA HYPOWER ELECTRIC SERVICES, INC., 12-R3D3-1498

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR AUGUST 21, 2013**

**Page 2**

3. RICHARD LOMPA, 12-R1D4-1796
4. SONIC DRIVE-IN, 2012-R2D5-2734

**DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):**

1. BLATTNER ENERGY, INC., 12-R2D2-0911
2. BODEGA LATINA CORP. DBA EL SUPER #31, 13-R3D3-9075
3. DESERT VALLEY DATE, INC. DBA DESERT VALLEY DATE, 11-R6D2-2207

**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. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
5. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241
6. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445 AND 3448
7. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
8. C & L BLUE INC., 11-R4D1-2942 and 11-R4D1-2943 THROUGH 2945
9. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186
10. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
11. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
12. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
13. COMMERCIAL METAL FORMING, 09-R3D1-1592

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR AUGUST 21, 2013**

**Page 3**

14. COMMUNITY RECONSTRUCTION SOLUTIONS, INC., 11-R1D1-1484
15. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
16. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
17. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
18. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
19. EZ MIX, INC., 08-R4D3-1898
20. FERMA CORPORATION, 12-R2D2-1669
21. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
22. HARRIS CONSTRUCTION, 03-R2D5-3914
23. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
24. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
25. JERRY'S TREE SERVICE, A PARTNERSHIP, 13-R1D5-9022
26. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
27. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
28. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
29. LION RAISINS, INC., 08-R2D5-2253 AND 2254
30. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
31. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
32. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
33. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
34. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
35. ONESTOP INTERNET, INC., 11-R4D2-2636 AND 2637

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR AUGUST 21, 2013**

**Page 4**

36. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
37. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
38. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
39. PERSONNEL PLUS, INC., 11-R3D5-1302
40. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
41. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
42. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
43. SIERRA FOREST PRODUCTS, 09-R2D5-3979
44. SMUD, 08-R2D1-4887 THROUGH 4889
45. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
46. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
47. SUNRISE GROWERES FROZ SUN FOODS, 09-R4D3-2850
48. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
49. TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310
50. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 & 0097

**ORDERS DISMISSING APPEAL:**

1. CASTEEN CONSTRUCTION, INC., 12-R3D2-1935 AND 1936
2. CASTEEN CONSTRUCTION, INC., 12-R3D2-3172 THROUGH 3715
3. WARESTAFF, LLC., 13-R3D3-0135 THROUGH 0139

**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:**

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR AUGUST 21, 2013**

**Page 5**

**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. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
3. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,  
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
4. SMUD, 34-2010-80000723 (08-R2D1-4887)
5. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
6. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
7. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965  
(10-0188~0191)
8. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459  
THROUGH 2461)
9. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
10. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039  
(07-R2D3-0275)
11. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
12. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
13. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
14. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
15. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)
16. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219  
AND 0220)

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR AUGUST 21, 2013**

**Page 6**

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

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR AUGUST 21, 2013**

**Page 7**

**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. ACCU-IMAGE, INC DBA ACCU-IMAGE, 13-R6D1-0471
2. AG GROUP, INC., 12-R6D5-3338 AND 3339
3. AGUAYO CONTRACTING, INC., 12-R6D5-3450 AND 3451
4. AMERICAN ORGANICS, DIV OF ATHENS SERVICES, 13-R3D3-1644 AND 1645
5. ASTI GROUP LLC DBA THE MENU, 13-R6D7-1545
6. THOMAS AULT DBA AULT'S BUILDERS, 13-R6D7-0197
7. BELL FOUNDRY COMPANY, 13-R6D2-1961 THROUGH 1966
8. BENEFIT COSMETICS LLC DBA BENEFIT COSMETICS, 13-R1D1-0443
9. BLUE ENGRAVERS, INC., 12-R3D5-1749 THROUGH 1753
10. BLUE LABEL CYPRESS, INC., 12-R2D5-2361 AND 2362
11. CACIQUE, INC., 13-R3D3-1833
12. CALIFORNIA CORRECTIONAL INSTITUTION, 12-R4D7-3405
13. CARLTON FORGE WORKS, 13-R3D5-0414
14. LEAH CHERRINGTON DBA E-Z SMOG, 13-R6D7-0906 THROUGH 0908
15. CITY OF ST. HELENA, DEPARTMENT OF PUBLIC WORKS, 13-R1D5-1210
16. CLAUSS CONSTRUCTION, 12-R3D2-3062 AND 3063
17. COFFMAN SPECIALITIES, INC., 12-R3D3-3614
18. COUNTY OF ORANGE OC ANIMAL CARE, 12-R3D1-3199
19. COUNTY OF SOLANO, 13-R2D2-2017
20. DPW, INC., 13-R1D3-1205 AND 1206

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR AUGUST 21, 2013**

**Page 8**

21. DUGGINS CONSTRUCTION, INC., 12-R3D2-2366
22. MICHAEL DURFEE, ROCKY MORINO, RON UNDERWOOD DBA CAPITOL NEON, 13-R2D1-0125
23. DYNACAST, INC., 13-R3D1-1155 AND 1156
24. EAGLE BURGMANN EJS, 13-R3D2-1394
25. EBISU ENTERPRISE, INC. DBA TAJIMA JAPANESE RESTAURANT, 12-R3D2-2320 AND 2321
26. EXPRESS TIRE, 12-R3D2-3200 AND 3201
27. F & C ENTERPRISES INC DBA SO UNIQUE PAINTING & DECORATING, 12-R1D4-2989 AND 2990
28. FOOTHILL PACKING, 12-R1D2-3662
29. FURNITURE & ACCESSORY RETAIL GROUP OF ORANGE COUNTY DBA: BASSETT, 12-R3D1-3643
30. GERLINGER FOUNDRY & MACHINE WORKS, INC DBA GERLINGER STEEL, INC., 12-R2D1-1929
31. ELMER GONZALEZ DBA EGS GENERAL CONTRACTOR CO., 12-R3D3-3396
32. GRANITE BAY FOUNTAINS CAR WASH, INC DBA DIRT BUSTERS CAR WASH, 13-R2D1-1015
33. GROUP F BUILDERS, 12-R4D1-3411
34. GRUMA CORPORATION DBA MISSION FOODS, 12-R3D6-3166 AND 3167
35. HAR SUK CORP DBA AMERICAN TIRE & TRUCK REPAIR, 13-R2D4-1128 THROUGH 1130
36. HATHAWAY DINWIDDIE CONSTRUCTION COMPANY, 13-R1D3-0863
37. JAMBA JUICE, 13-R2D4-0127
38. JM ENVIRONMENTAL, INC., 13-R2D1-1213 AND 1214
39. KAL ENTERPRISES DBA KETWIG LANES, 13-R2D2-0932

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR AUGUST 21, 2013**

**Page 9**

40. KCCD /BAKERSFIELD COLLEGE, 13-R4D7-1474
41. KENYON PLASTERING OF CALIFORNIA, INC., 13-R6D7-1697
42. LANDAVAZO BROS, INC., 13-R1D1-1150
43. LEWIS GOETZ & CO INC DBA VALLEY RUBBER & GASKET CO INC.,  
12-R2D1-2224 AND 2225
44. LITTLE VILLAGE MARKET, 12-R1D1-3700 AND 3701
45. LONGS DRUG STORES CALIFORNIA, LLC DBA CVS PHARMACY STORE  
9376, 13-R2D1-1170
46. LOS ANGELES UNIFIED SCHOOL DISTRICT, 12-R4D1-3515 THROUGH 3518
47. LOVING OVEN LLC DBA BLOOMFIELD BAKERS, 12-R3D6-3112  
THROUGH 3116
48. MATSUDA'S OF SACRAMENTO, 12-R2D1-3388 AND 3389
49. METROPOLITAN WATER DISTRICT CHEMICAL UNLOADING FACILITY,  
12-R6D4-2086
50. METROPOLITAN WATER DISTRICT DBA ROBERT A. SKINNER, 12-R6D4-  
2850 AND 2851
51. MILLER'S WOODWORKINGS MILLERS WOODWORKING, 12-R3D1-3424
52. MORGAN TRUCK BODY INC., 12-R3D3-2925
53. MOORE VAN & STORAGE OF SACRAMENTO DBA CITY MOVING  
SYSTEMS/UNITED VAN LINES, 13-R2D1-0124
54. MELVIN MORAN DBA BLUE LIGHT ELECTRIC, 12-R1D1-3560 AND 3561
55. NORTH STATE RENDERING, 13-R2D3-1104
56. PACIFIC GAS & ELECTRIC COMPANY, 10-R2D2-3004 THROUGH 3012
57. PALLET KING INC., 13-R2D4-0160 THROUGH 0162
58. JOHN PARK DBA CORDOBA CASINO, 12-R2D1-3390
59. PAYDAY LOAN LLC DBA PAYDAY MONEY CENTERS, 12-R3D1-3102

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR AUGUST 21, 2013**

**Page 10**

60. PIERCAN USA INC., 13-R6D2-1967 THROUGH 1971
61. PRAXAIR, INC., 13-R3D1-0782
62. PREMCO FORGE, INC., 13-R3D5-1405 THROUGH 1407
63. PRIME AG SERVICES, 13-R3D2-1934
64. PRO MECHANICAL CORPORATION, 12-R4D1-2777
65. QUICK QUACK CAR WASH, INC., 12-R2D1-3637
66. ROSS STORES DBA ROOS DRESS FOR LESS, 11-R1D1-1188 AND 1189
67. ROSS STORES DBA ROSS DRESS FOR LESS, 12-R1D3-3383
68. ROBERT BOEGER PLASTERING, INC., 12-R2D2-3059
69. RNM INVESTMENTS INC., 13-R6D7-1491 THROUGH 1493
70. HUGO, ROEL, MARY SANCHEZ DBA HRM FARM LABOR SERVICES,  
12-R6D5-3187
71. SERVICE FREIGHT TRANSPORTATION, INC. 12-R3D5-3755
72. SIERRA-CASCADE NURSERY INC., 13-R2D3-0400 AND 0401
73. SIERRA-CASCADE NURSERY INC., 13-R2D3-0045
74. SILICON VALLEY PAINTING INC. DBA CERTAPRO, 13-R1D2-1842
75. SIU-LUNG MOK DBA WILKER MOK NURSERY, 13-R6D7-0118
76. SOWERS CONSTRUCTION, 12-R3D1-2741 AND 2742
77. SPECIALIZED MILLING CORPORATION, 12-R3D3-2759 THROUGH 2761
78. S & S FOODS, LLC., 13-R4D4-0624
79. SSA TERMINALS, INC., 13-R1D4-0005
80. STEVE LOOC ENTERPRISES, INC., 13-R6D7-1490
81. MICHAEL STOUTD DBA MICHAEL STOUTD GENERAL CONTRACTOR,  
12-R2D1-3664

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
FOR AUGUST 21, 2013**

**Page 11**

82. THE 54 CONSTRUCTION SERVICES COMPANY, INC DBA 54  
CONSTRUCTION COMPANY, 12-R2D1-1900
83. TIGA CONSTRUCTION, INC., 13-R3D2-0290
84. TOTAL STORAGE SOLUTIONS, INC., 12-R6D2-2516 AND 2517
85. TITAN SHEET METAL, INC., 12-R3D1-3270
86. TRI-MARINE FISH COMPANY, 13-R6D4-0188
87. TROPICAL EFFECTS, INC., 12-R6D5-3449 AND 13-R6D5-0081
88. TUTOR-SALIBA CORPORATION, 13-R5D1-1475 AND 1476
89. UC REGENTS UC DAVIS, 13-R2D1-0205
90. ISABEL RODRIGUEZ VALDEZ DBA VALDEZ LABOR SERVICE,  
12-R6D5-3374
91. VINO FARMS, INC. DBA VINO FARMS, LLC, 12-R1D5-3094
92. WILLIAMS JAMES WADDELL DBA WADDELL PAINTING,  
12-R6D7-2343
93. WARREN W. MEYER & SONS CONSTRUCTION CO. INC.,  
13-R3D3-1586 AND 1587
94. WEISS McNAIR LLC, 13-R2D3-0089 THROUGH 0091
95. WEST COVINA UNIFIED SCHOOL DISTRICT – MONTE VISTA ELEM.,  
13-R4D4-1327
96. WESTERN ALLIED CONSTRUCTION, INC., 12-R6D5-2014 AND 2015
97. WHOLE FOODS MARKETS, INC., 13-R1D5-1506 AND 1507

**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.