

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE SPECIAL MEETING  
Held on August 28, 2014  
Sacramento, California**

**PRESENT:**

Art Carter, Chairperson  
Ed Lowry, Member  
Judith Freyman, Member  
Ursula Clemons, Presiding Administrative Law Judge  
Kari Johnson, Executive Officer  
Jeff Mojcher, Chief Counsel  
Aaron Jackson, Industrial Relations Counsel  
Autumn Gonzalez, Industrial Relations Counsel  
Lee Berlin, Executive Secretary

**DETERMINATION OF AUTHORIZATION OF CLOSED SESSION:**

*(Approve or amend minutes of previous Board meeting)*

ACTION: Member Lowry moved that the Board hold a closed session meeting to discuss a time-sensitive matter involving current litigation in the BART matter. The Board members agreed that the matter was sufficiently urgent to satisfy requirements for a special meeting under Government Code sections 11126 (a), (c) (3) and (e) and Labor Code sections 6609 and 6620. Member Freyman seconded. The Board voted to hold a closed session meeting regarding pending litigation matters.

**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:**

BAY AREA RAPID TRANSIT DISTRICT, RG13689346 (09-R2D2-1219)

ACTION: The Board discussed this matter.

IRWIN INDUSTRIES, BS14-9634 (12-R4D3-3276 & 3277)

BARNARD IMPREGILO HEALY JV, 14-R5D1-9013

ACTION: The Board made no finding of urgency for these matters and they were not discussed. However, one of these cases was inadvertently left off the Agenda posted for the Closed Session meeting scheduled for September 3, 2014. The Board will amend that agenda pursuant to Government Code Section 1115.3 because the omission came to the attention of the Board after

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

Minutes of the Special Meeting

August 28, 2014

Page 2

the agenda was posted. The matter can then be discussed at the September 3 meeting.

The Closed Session was adjourned at 12:37 p.m. and the Board returned to the Public Meeting. The Appeals Board incorporated by reference its ACTIONS in the Closed Session, as indicated above. The meeting was adjourned at 12:38 p.m.