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6 Attorney for Petitioner
7 Transportation Solutions Defense and Education Fund

FILED
ENDORSED
2016 OCT 18 PM 2:45
GDSSC COURT CLERK
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SACRAMENTO**

10 TRANSPORTATION SOLUTIONS DEFENSE
11 AND EDUCATION FUND,

12 Petitioner

13 vs.

14 CALIFORNIA AIR RESOURCES BOARD, an
15 agency of the State of California, and DOES 1-
16 10 inclusive,

17 Respondents

18 CALIFORNIA HIGH-SPEED RAIL
19 AUTHORITY, an agency of the State of
20 California, and DOES 11-20 inclusive,

21 Real Parties In Interest

No. 34-2014-80001974-CU-WM-GDS

Action under the California Environmental
Quality Act

Assigned for all purposes to Hon. Shelleyanne
W.L. Chang, Dept. 24

VERIFIED SECOND AMENDED PETITION
FOR PEREMPTORY WRIT OF MANDATE

Action Filed: June 23, 2014

22 Petitioner TRANSPORTATION SOLUTIONS DEFENSE AND EDUCATION FUND.
23 (hereinafter, "PETITIONER") hereby alleges as follows:

24 1. This action challenges the actions of Respondent CALIFORNIA AIR RESOURCES
25 BOARD (hereinafter, "ARB") in approving the First Update to the Climate Change Scoping Plan
26 (hereinafter, "PROJECT") and certifying the program-level Environmental Analysis ("EA") for
27 said PROJECT.

28 2. PETITIONER alleges that ARB's actions violated provisions of the California
29 Environmental Quality Act (Public Resources Code §21000 et seq., hereinafter referred to as
"CEQA") and of the Global Warming Solutions Act of 2006 (Health & Safety Code §§38500 et
seq., hereinafter referred to as "AB 32"). More specifically, PETITIONER alleges that the EA
for the PROJECT was inadequate in failing to identify, acknowledge, and analyze the significant

1 GHG emissions impacts of including Real Party in Interest California High-Speed Rail
2 Authority's (hereinafter, "CHSRA") high-speed rail project (hereinafter, "HSR project") within
3 the PROJECT as will be detailed hereinafter, that ARB violated the procedural requirements of
4 CEQA, and that the PROJECT, and specifically the inclusion of the HSR project within the
5 PROJECT, violated provisions of AB 32, as will be detailed hereinafter.

6 3. PETITIONER seeks this Court's peremptory writ of mandate ordering ARB to rescind its
7 improper and illegal inclusion of the HSR project in the PROJECT and the associated sections of
8 its supporting EA and requiring it to comply with CEQA and use proper criteria in any
9 reconsideration of its approval of the HSR project's inclusion in the PROJECT. PETITIONER
10 also asks that it be granted its reasonable attorneys' fees under Code of Civil Procedure §1021.5
11 or other applicable basis.

12 **PARTIES**

13 4. Petitioner TRANSPORTATION SOLUTIONS DEFENSE AND EDUCATION FUND is
14 a California nonprofit corporation incorporated and existing under the laws of the State of
15 California. PETITIONER's purposes include promoting and encouraging sustainable and
16 environmentally responsible transportation policies and projects within the State of California.

17 5. PETITIONER and its members have a direct and beneficial interest in the proper
18 compliance by ARB with the requirements of AB 32 and CEQA. These interests will be directly
19 and adversely affected by the approvals at issue in this action in that ARB's approvals for the
20 PROJECT violate provisions of law as set forth in this Petition and would cause significant and
21 avoidable harm to PETITIONER, its members, members of the public, future generations of
22 members of the public, and the environment.

23 6. PETITIONER brings this action on its own behalf, as well as on behalf of its members
24 and of the citizens of California, who will be harmed by ARB's improper actions in that
25 inclusion of the HSR project in the PROJECT and the subsequent expenditure of GGRF funds on
26 the HSR project will result in increasing, rather than decreasing, GHG emissions and worsening
27 the impacts of global warming.

28 7. PETITIONER, acting either directly or through its authorized representatives, submitted
29

1 written and oral comments to ARB objecting to the actions complained of herein prior to the
2 close of the public hearing on the approval of the PROJECT. PETITIONER or public agencies,
3 organizations, or members of the public raised each of the grounds for noncompliance with AB
4 32 and CEQA before Respondents, either orally or in writing, prior to the close of the public
5 hearing before ARB on the PROJECT.

6 8. This action is for the purpose of enforcing important public rights and policies of the
7 State of California. It is brought to ensure that the approvals granted by ARB are made in
8 conformance with the provisions of CEQA and of AB 32. If successful, this action would
9 require ARB to rescind the PROJECT's approval and confront the evidence that construction of
10 CHSRA's high-speed rail project will result in increasing GHG emissions prior to 2020, contrary
11 to the express intent of AB 32. By seeking a determination of whether the Project is consistent
12 with AB 32, this action will help the public evaluate the validity of the assertions made by the
13 Legislature in appropriating funds from the Greenhouse Gas Reduction Fund ("GGRF"¹) to
14 assist CHSRA in constructing its high-speed rail project. It will thus also promote the
15 accountability of legislators to the voters. In these ways, the prosecution of this action will confer
16 a substantial benefit on members of the public by enforcing the important public policies
17 underlying CEQA and AB 32 that are intended to protect the public and the environment.

18 9. PETITIONER will not receive any financial benefit from the successful prosecution of
19 this action, although PETITIONER is assuming a significant financial burden in prosecuting the
20 action. In this action, PETITIONER is acting as a private attorney general to protect these public
21 rights and policies and prevent such harms. As such, PETITIONER is entitled to recover its
22 reasonable attorneys' fees under C.C.P. §1021.5.

23 10. Respondent CALIFORNIA AIR RESOURCES BOARD is an agency of the State of
24 California established and operating under the laws of the State of California. ARB is the
25 primary agency responsible for implementing the provisions of AB 32, and specifically for
26 preparing and approving Climate Change Scoping Plans, which the Legislature directed to focus
27 California's strategic planning for meeting the goals set by AB 32, and more specifically for

28 _____
29 ¹ A fund established under Government Code § 16428.8.

1 proposing uses for revenue obtained under provisions of AB 32. ARB is also the lead agency for
2 environmental review of the PROJECT under its own CEQA-equivalence document, and was
3 responsible for certifying the EA for the PROJECT.

4 11. The true names and capacities of DOES 1-10 are unknown to PETITIONER at this time;
5 however PETITIONER alleges, based on information and belief, that each party named as DOE
6 is responsible for the acts and omissions of each of the other respondents. Therefore
7 PETITIONER sues such Parties by such fictitious names, and will ask leave of the Court to
8 amend this Petition by inserting the true names and capacities of said Does when ascertained.

9 12. Real Party in Interest CALIFORNIA HIGH-SPEED RAIL AUTHORITY (“CHSRA”) is
10 an agency in the executive branch of the State of California under the State Transportation
11 Agency. It is responsible, under the laws of California, for planning and implementing a high-
12 speed rail system within and for the benefit of the State of California. CHSRA would be
13 responsible for actually expending funds for the HSR project, as recommended in the PROJECT.

14 13. The true names and capacities of Real Parties in Interest DOES 11-20 are unknown to
15 PETITIONER at this time; however PETITIONER alleges, based on information and belief, that
16 each such party named as DOE has some interest in the subject matter of this action. Therefore
17 PETITIONER sues such Parties by such fictitious names, and will ask leave of the Court to
18 amend this Petition by inserting the true names and capacities of said Does when ascertained.

19 **STATEMENT OF FACTS**

20 **I. AB 32 AND GREENHOUSE GAS REDUCTION STANDARDS**

21 14. In 2006, the Legislature approved and the Governor signed AB 32. That bill specifically
22 committed California to a strategy to reduce greenhouse gas (“GHG”) emissions – i.e., gases that
23 increase the earth’s retention of solar radiation and are thought to be responsible for global
24 warming. It set two specific goals: to reduce California’s levels of GHG production to 1990
25 levels by 2020 and to reduce California’s GHG production levels to no more than 20% of the
26 1990 levels by 2050. The aim of these reductions is to place California on a path that, if
27 followed by the remainder of the world, would stabilize GHG levels worldwide and reduce the
28 likelihood of catastrophic climate change impacts.

1 15. AB 32 requires ARB to take a number of actions towards its implementation. One of
2 those actions is to prepare and approve a series of Climate Change Scoping Plans (“Scoping
3 Plans”). The Scoping Plans are intended to achieve the maximum technologically feasible and
4 cost-effective GHG emissions reductions by 2020. AB 32 requires that the Scoping Plan be
5 updated at least every five years.

6 16. ARB prepared and adopted an initial Scoping Plan in 2008.

7 17. ARB prepared and certified a Functional Equivalent Document (“FED”), which serves as
8 the equivalent of an Environmental Impact Report under CEQA, for its initial 2008 Scoping
9 Plan. The 2008 Scoping Plan and 2008 FED were given final approval by ARB in May 2009.

10 18. The 2008 FED was successfully challenged in court for noncompliance with CEQA.
11 Consequently, ARB was ordered to revise the 2008 FED to address deficiencies in its
12 alternatives analysis. Consequently, in 2011 ARB prepared and, in August 2011 certified, a
13 2011 Supplement to the 2008 FED. ARB subsequently reapproved the 2008 Scoping Plan.

14 **II. THE 2014 UPDATED SCOPING PLAN**

15 19. ARB prepared a Draft First Update to the Scoping Plan, which it released to the public in
16 February 2014. ARB also prepared and, on or about March 14, 2014, released to the public a
17 Draft EA for the Updated Scoping Plan. The Draft EA was circulated for forty-five days for
18 public review and comment.

19 20. PETITIONER submitted a written comment letter on the Draft Updated Scoping Plan.
20 The letter specifically pointed out that the GHG Report submitted to ARB by CHSRA, and
21 specifically referenced in the Draft Updated Scoping Plan at footnote 72 on page 63, grossly
22 misrepresented the GHG emissions impacts of its proposed high-speed rail project. The CHSRA
23 Report did so by not only understating the construction-related emissions compared to the
24 asserted operational GHG emissions reductions, but perhaps even more importantly and
25 egregiously, by omitting entirely the GHG emissions impacts associated with manufacturing the
26 many thousands of tons of cement that would be needed for the project’s construction. ARB
27 made no changes to the Updated Scoping Plan or its EA in response to PETITIONER’s letter.

28 21. On or about May 15, 2014, ARB released its Updated Scoping Plan in final form. On or
29 about that same date, ARB also released its Final EA for that Updated Scoping Plan, including

1 its Responses to Comments on the Draft EA for the Updated Scoping Plan. Neither the final
2 version of the Updated Scoping Plan nor the Final EA for the Updated Scoping Plan nor the
3 Responses to Comments on the EA for the Updated Scoping Plan provided any response to
4 PETITIONER's comments on the Scoping Plan and its environmental impacts, and specifically
5 on its critique of including the CHSRA's high-speed rail project in the Project. The Final
6 Updated Scoping Plan continued to include the CHSRA's high-speed rail project as a GHG
7 emissions reduction measure.

8 22. On or about May 22, 2014, ARB held a public hearing on the First Update to the Climate
9 Change Scoping Plan and its Final EA. At the hearing, PETITIONER, through its President,
10 submitted oral comments repeating its criticisms of the Updated Scoping Plan and its Final EA.
11 In particular, PETITIONER called attention to the fact that the Final EA failed to disclose or
12 discuss the significant adverse GHG emissions impacts of including the high-speed rail project in
13 the Updated Scoping Plan. Nevertheless, ARB certified the Final EA and approved the Updated
14 Scoping Plan.

15 23. On or about May 23, 2014, ARB filed a Notice of Determination for its approval of the
16 Updated Scoping Plan and certification of the associated Final EA.

17 **PRELIMINARY ALLEGATIONS**

18 24. PETITIONER has exhausted any and all available administrative remedies to the extent
19 required by law. PETITIONER has raised its concerns and objections through both oral and
20 written testimony throughout the administrative process and prior to the close of the public
21 hearing for the final approval of the PROJECT.

22 25. PETITIONER has no plain, speedy or adequate remedy in the ordinary course of law
23 unless the Court grants the requested writ of mandate requiring ARB to rescind their improper
24 and illegal approval for the PROJECT and certification of its EA. In the absence of such relief,
25 PETITIONER, its members, the public, and the environment will suffer irreparable harm from
26 the implementation of the PROJECT, and specifically the increased GHG emissions associated
27 with the high-speed rail project, and from acts undertaken in furtherance thereof without ARB's
28 consideration of mitigation measures or alternatives that would reduce or avoid the PROJECT's
29

1 significant environmental impacts.

2 26. Pursuant to Public Resources Code §21167.5, on June 20, 2014, PETITIONER served
3 notice on ARB of its intent to initiate litigation under CEQA over the PROJECT's approval.
4 Proof of service of that notice, along with a copy thereof, are attached hereto as Exhibit A.

5 27. Pursuant to Public Resources Code §21167.7 and C.C.P. §388, PETITIONER has
6 provided notice and a copy of this amended petition to the California Attorney General. A copy
7 of said notice, with proof of service, is attached hereto as Exhibit B.

8 **CHARGING ALLEGATIONS**
9 **FIRST CAUSE OF ACTION**
10 **INADEQUATE EA (VIOLATION OF CEQA)**

11 28. PETITIONER hereby realleges and incorporates by reference the allegations contained in
12 paragraphs 1 through 27, inclusive.

13 29. ARB is the lead agency for the PROJECT under CEQA.

14 30. As lead agency, ARB had a duty to prepare an EA that analyzed the PROJECT's
15 potential environmental impacts, identified the PROJECT's potentially significant impacts, and,
16 for each significant impact, identified, to the extent possible, feasible mitigation measures that
17 would reduce that impact to a level of insignificance.

18 31. ARB also had a duty under CEQA to ensure that the EA considered a reasonable range of
19 feasible alternatives that could avoid or significantly reduce one or more of the PROJECT's
20 significant impacts, and that the EA provided adequate responses to all comments received on
21 the PROJECT and its Draft EA during the comment period.

22 32. During the comment period, PETITIONER submitted written comments on the
23 PROJECT pointing out its deficiencies, and specifically noting that inclusion of CHSRA's HSR
24 project in the PROJECT would result in significant increases in GHG emissions, rather than the
25 GHG emissions reductions called for by AB 32. ARB failed to adequately address these issues,
26 either in the revised PROJECT, in its Responses to Comments document, or otherwise.

27 33. On or about May 22, 2014 ARB held its final public hearing on the PROJECT.
28 PETITIONER, through its authorized representative, provided additional oral comments on
29 defects relating to the PROJECT and its Final EA and specifically objected to the PROJECT's

1 inclusion of CHSRA’s high-speed rail project, prior to the close of the public hearings on the
2 PROJECT. The defects in the EA and in PROJECT identified in these comments are set forth in
3 greater detail below. ARB failed to respond to these comments or to correct the errors identified
4 by PETITIONER. Nevertheless, on that same day ARB closed the public hearing and approved
5 Resolution #14-16 adopting the PROJECT and certifying the Final EA for the PROJECT. In
6 doing so, ARB adopted CEQA findings purporting to address all of the PROJECT’s potentially
7 significant environmental impacts. In addition, ARB approved a Statement of Overriding
8 Considerations (“SOC”) purportedly justifying the PROJECT’s significant and unavoidable
9 impacts based on the benefits the PROJECT would provide. However, neither the findings nor
10 the SOC identified the impacts pointed out by PETITIONER that would be associated with
11 including the HSR project in the PROJECT.

12 **COUNT NUMBER ONE – Inadequate PROJECT Description.**

13 34. ARB violated CEQA by failing to include in the EA an accurate and adequate description
14 of the high-speed rail project proposed for inclusion in the Scoping Plan. More specifically, the
15 EA failed to include in the high-speed rail project the production of the enormous quantities of
16 cement that would be needed to construct the high-speed rail project.

17 35. In addition, the EA was inadequate in considering only construction impacts from the
18 first one-tenth of the Initial Operating Segment of the high-speed rail project while considering
19 the putative GHG reduction effects associated with construction and operation of the entire
20 Initial Operating Segment.

21 **COUNT NUMBER TWO – Failure to identify significant impacts:**

22 36. ARB violated CEQA by preparing and certifying an EA for the PROJECT that failed to
23 properly identify significant impacts of the PROJECT, and more specifically improperly
24 segmenting (“piecemealing”) impacts associated with the HSR project.

25 37. Specifically, the EA was inadequate and improperly certified under CEQA for failing to
26 identify as significant or understating the significance of the PROJECT’s GHG emissions
27 impacts. More specifically, the EA improperly relied on CHSRA’s inadequate analysis of the
28 GHG emissions impacts of including its high-speed rail project within the PROJECT, without
29

1 doing its own independent analysis and evaluation of those impacts and their significance, as
2 required under CEQA. In particular, the EA failed to disclose, analyze: or consider 1) the GHG
3 emissions impacts from construction of the entire Initial Operating Segment (“IOS”) of the HSR
4 project, relying instead on the CHSRA’s analysis of the HSR project, which only considered the
5 construction impacts (including GHG emissions impacts) from the first portion of that segment,
6 dubbed “CP1” and amounting to only one-tenth the length of the IOS, while considering the
7 putative GHG reduction effects of the construction and operation of the entire IOS; 2) the GHG
8 emissions impacts caused by GHG emissions associated with the manufacture of the enormous
9 quantities of cement that would be needed to construct the IOS, which cement would not have
10 been manufactured but for the construction of the IOS.

11 **COUNT NUMBER THREE** – Failure to properly consider cumulative impacts of the
12 PROJECT:

13 38. Even if the PROJECT did not directly include the cement production required to
14 construct the HSR project, that cement production, and the GHG emissions impacts associated
15 with that cement production, was a reasonably foreseeable future project resulting from approval
16 of the PROJECT. Therefore, that cement production and its GHG emissions impacts should
17 have been discussed under the PROJECT’s cumulative impacts.

18 39. Neither the PROJECT nor the EA for the PROJECT addressed the GHG emissions
19 impacts associated with the cement production required for construction of the HSR project,
20 either as a direct or a cumulative impact of the PROJECT. That failure was a violation of CEQA
21 and an abuse of ARB’s discretion.

22 **COUNT NUMBER FOUR** – Failure to consider feasible mitigation measures to address
23 significant PROJECT impacts:

24 40. The EA was inadequate in failing to consider any mitigation measures to address the
25 significant GHG production impacts associated with including the high-speed rail project within
26 its PROJECT. More specifically, The EA failed to adopt or even adequately consider feasible
27 mitigation measures that could have reduced the PROJECT’s significant GHG emissions
28 impacts.

29

1 **COUNT NUMBER FIVE** – Failure to consider an adequate range of alternatives:

2 41. ARB violated CEQA by preparing and certifying an EA for the PROJECT that failed to
3 consider and analyze an adequate range of alternatives to the PROJECT that could have feasibly
4 avoided or reduced the significant GHG production impact resulting from including the high-
5 speed rail project as a recommended GHG reduction measure in the PROJECT.

6 42. In particular, the EA failed to provide an adequate analysis of the following alternatives:

7 a. An alternative that would involve the redesign of the HSR project: such that it was
8 shorter in length and used construction techniques requiring less use of cement (e.g.,
9 minimizing the use of raised concrete viaduct structures), all of which would have
10 significantly reduced the required amount of concrete and associated GHG impact.

11 b. Eliminating the HSR project from consideration and instead increasing the amount of
12 funding provided to other transportation projects, such as alternative fuel vehicles, that
13 would improve transportation without producing the HSR project’s GHG emissions
14 impacts.

15 **COUNT NUMBER SIX** – Failure to adequately respond to comments:

16 43. The EA was deficient and in violation of CEQA for failing to provide good-faith
17 reasoned responses, supported by substantial evidence in the record, to all comments received on
18 the PROJECT and/or its EA identifying PROJECT impacts. In particular, the EA failed to
19 provide any response to the comment letter submitted by PETITIONER.

20 44. All of the above violations of CEQA were prejudicial to PETITIONER and others in that
21 they adversely affected the rights of PETITIONER, public agencies, and other organizations and
22 members of the public to be provided with full and accurate information on the PROJECT, its
23 impacts, and feasible ways to mitigate or avoid those impacts, as well as their right to be able to
24 provide comments on those issues and have their comments responded to with reasoned fact-
25 based responses.

26 45. ARB abused its discretion and failed to proceed in the manner prescribed by law by
27 certifying the EA and approving the PROJECT when the EA failed to satisfy the requirements of
28 CEQA as set forth above.

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**SECOND CAUSE OF ACTION
INADEQUATE FINDINGS**

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2 46. PETITIONER hereby realleges Paragraphs 1-45 inclusive and incorporates them herein
3 by this reference.

4 47. Under CEQA, a lead agency must, in approving a project for which an EIR or an EIR-
5 equivalent document has been prepared, make findings addressing each of the project's
6 potentially significant impacts and explaining how those impacts have been mitigated or
7 avoided, or, if the impacts are found to be unavoidable, explaining why mitigation or avoidance
8 is infeasible and describing the justification, through a statement of overriding considerations, for
9 why the project should proceed in spite of its significant and unavoidable impacts.

10 48. As part of Resolution #14-16 approving the PROJECT, the ARB adopted findings
11 purporting to identify and discuss each of the PROJECT's potentially significant impact and
12 why, even though those impacts might be unavoidable, ARB was justified in approving the
13 PROJECT in spite of those impacts. However, those finding and the SOC were defective in that
14 they failed to address the significant GHG emissions impacts from including the HSR project in
15 the PROJECT. Likewise, the SOC was defective in failing to disclose and address the
16 significant GHG emissions increases associated with the HSR project, making its balancing of
17 PROJECT impacts against PROJECT benefits defective.

**THIRD CAUSE OF ACTION
PROCEDURAL VIOLATION OF CEQA – FAILURE TO RECIRCULATE**

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20 49. PETITIONER hereby realleges Paragraphs 1-48 inclusive and incorporates them herein
21 by this reference.

22 50. CEQA requires that when information is disclosed about the environmental impacts of a
23 project after the CEQA document for the project has been released for public review and
24 comment, and the new information discloses a new or significantly increased impact from the
25 project, the CEQA document must be recirculated to allow comment on the new information.

26 51. The information provided by PETITIONER in its comment letter on the PROJECT
27 disclosed that the HSR project included in the PROJECT would have significantly greater GHG
28 emissions impacts than had been disclosed by the Draft EA for the PROJECT.

29 52. Contrary to its duty under CEQA, ARB failed to recirculate the EA to allow public and

1 agency comment on the newly disclosed increase in impacts.

2 53. ARB's failure to recirculate the EA was an abuse of discretion in violation of CEQA.

3
4 **FOURTH CAUSE OF ACTION**
5 **APPROVAL IN VIOLATION OF THE GLOBAL WARMING PREVENTION ACT**
6 **(AB 32)**

7 54. PETITIONER hereby realleges Paragraphs 1-53 inclusive and incorporates them herein
8 by this reference.

9 55. The PROJECT herein was a project requiring compliance with AB 32.

10 56. ARB violated AB 32 by approving the PROJECT when the PROJECT violated
11 provisions of AB 32 by failing to ensure that the GHG emission reductions claimed to be
12 achieved by the adoption of the PROJECT would achieve the maximum technologically feasible
13 and cost-effective reductions in Greenhouse gas emissions from sources or categories of sources
14 of greenhouse gases by 2020, as required by AB 32.

15 57. More specifically, the GHG reductions claimed through the inclusion of the HSR project
16 in the PROJECT would not, in reality and as demonstrated by the evidence in the record before
17 ARB, result in reducing greenhouse gas emissions by 2020, but were instead illusory because in
18 reality the construction of the HSR project would result in a significant increase in GHG
19 emissions by 2020 and that increase in emissions would not be fully offset by any concomitant
20 reductions in GHG emissions, making the HSR project a contributor to a net increase in GHG
21 emissions before 2020, directly contrary to the intent and requirements of AB 32.

22 **PRAYER FOR RELIEF**

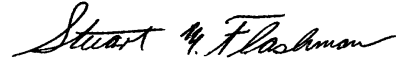
23 WHEREFORE, PETITIONER prays for relief as follows:

24 1. For this Court's peremptory writ of mandate directing ARB to set aside and vacate its
25 approval of the PROJECT and the certification for its EA insofar as the PROJECT and its EA
26 include the HSR project as a component of the PROJECT;

27 2. For this Court's peremptory writ of mandate directing ARB, in taking any further actions
28 to consider including the HSR project in said PROJECT, to use proper legal criteria under both
29 CEQA and AB 32 and substantial evidence in the record before them in making any

- 1 determination of whether to grant approval to a PROJECT including the HSR project;
- 2 3. For an award of reasonable attorney's fees under Code of Civil Procedure section 1021.5
- 3 or as otherwise authorized by law;
- 4 4. For costs of suit incurred herein; and
- 5 5. For such other and further equitable or legal relief as the Court deems just and proper.

6 Dated: October 18, 2016

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8 Stuart M. Flashman
9 Attorney for Transportation Solutions
10 Defense and Education Fund

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VERIFICATION

I, David Schonbrunn, am an officer of Transportation Solutions Defense and Education Fund, which is the petitioner in this action. I have been authorized by the petitioner to execute this verification on its behalf. I have read the foregoing Second Amended Petition and am familiar with the matters alleged therein. I am informed and believe that the matters stated therein are true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification was executed on October 17, 2016 at Sausalito, California.


David Schonbrunn

Exhibit A

Law Offices of
Stuart M. Flashman
5626 Ocean View Drive
Oakland, CA 94618-1533
(510) 652-5373 (voice & FAX)
e-mail: stu@stufash.com

June 20, 2014

Mary D. Nichols, Board Chairman
California Air Resources Board
1001 "I" Street
P.O. Box 2815
Sacramento, CA 95812

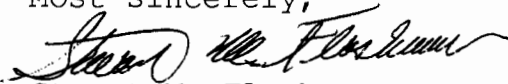
RE: Notice of Intent to Initiate Legal Action.

Dear Ms. Nichols:

Please take notice that the Transportation Solutions Defense and Education Fund ("TRANSDEF") intends to initiate legal action against the California Air Resources Board under the California Environmental Quality Act and the California Global Warming Solutions Act of 2006 for its approval of the First Update to the Climate Change Scoping Plan and its approval of the Final Environmental Analysis for said project.

This notice is being sent pursuant to Public Resources Code §21167.5. Please contact me immediately if you need clarification or wish to discuss this notice further.

Most sincerely,


Stuart M. Flashman

PROOF OF SERVICE BY MAIL

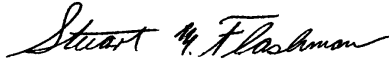
I am a citizen of the United States and a resident of Alameda County. I am over the age of eighteen years and not a party to the action involved herein. My business address is 5626 Ocean View Drive, Oakland, CA 94618-1533.

On June 20, 2014, I served the within NOTICE OF INTENT TO INITIATE LEGAL ACTION on the party listed below by placing a true copy thereof enclosed in a sealed envelope with first class postage thereon fully prepaid, in a United States Postal Service mailbox at Oakland, California, addressed as follows:

Mary D. Nichols, Board Chairman
California Air Resources Board
1001 "I" Street
P.O. Box 2815
Sacramento, CA 95812

I, Stuart M. Flashman, hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California on June 20, 2014.



Stuart M. Flashman

Exhibit B

1 Stuart M. Flashman (SBN 148396)
5626 Ocean View Dr.
2 Oakland, CA 94618-1533
Telephone/Fax: (510) 652-5373
3 e-mail: stu@stuflash.com

4 Attorney for Petitioner
Transportation Solutions Defense and Education Fund
5
6
7

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SACRAMENTO**

10 TRANSPORTATION SOLUTIONS DEFENSE
AND EDUCATION FUND, a California
nonprofit corporation,

11 Petitioner

12 vs.

13 CALIFORNIA AIR RESOURCES BOARD, an
agency of the State of California, and DOES 1-
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15 Respondents

16 CALIFORNIA HIGH-SPEED RAIL
AUTHORITY, an agency of the State of
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No. 34-2014-80001974-CU-WM-GDS
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NOTICE OF FILING OF AMENDED LEGAL
ACTION

[C.C.P. §388, Public Resources Code §21167.7]

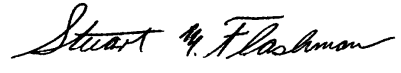
18 TO THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA:

19 PLEASE TAKE NOTICE under Code of Civil Procedure section 388 that, on October
20 18, 2016, Petitioner TRANSPORTATION SOLUTIONS DEFENSE AND EDUCATION FUND
21 filed the attached Second Amended Petition for Peremptory Writ of Mandate against Respondent
22 CALIFORNIA AIR RESOURCES BOARD (“ARB”) in Sacramento County Superior Court.
23 The petition alleges that ARB violated the provisions of the California Environmental Quality
24 Act (CEQA) and provisions of the California Global Warming Solutions Act (AB 32) in
25 approving the First Update to the Climate Change Action Plan. A copy of the second amended
26 petition is attached hereto for your reference.
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28 Please provide a letter acknowledging receipt of this notice.
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DATE: October 18, 2016



Stuart M. Flashman
Attorney for Petitioner
Transportation Solutions Defense
and Education Fund

PROOF OF SERVICE BY MAIL

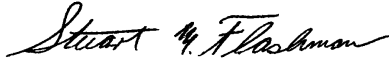
I am a citizen of the United States and a resident of Alameda County. I am over the age of eighteen years and not a party to the action involved herein. My business address is 5626 Ocean View Drive, Oakland, CA 94618-1533.

On October 18, 2016, I served the within NOTICE OF FILING OF AMENDED LEGAL ACTION on the party listed below by placing a true copy thereof enclosed in a sealed envelope with first class postage thereon fully prepaid, in a United States Postal Service mailbox at Oakland, California, addressed as follows:

Office of the California Attorney General
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550

I, Stuart M. Flashman, hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California on October 18, 2016.

A handwritten signature in black ink that reads "Stuart M. Flashman". The signature is written in a cursive style with a large initial 'S'.

Stuart M. Flashman