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Exempt from Filing Fees
Pursuant to Government
Code Section 6103

12 Attorneys for Respondent
13 PENINSULA CORRIDOR JOINT
14 POWERS BOARD

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF CONTRA COSTA**

17 TOWN OF ATHERTON, a Municipal
18 Corporation; TRANSPORTATION SOLUTIONS
19 DEFENSE AND EDUCATION FUND, a
20 California nonprofit corporation, and
21 COMMUNITY COALITION ON HIGH-SPEED
22 RAIL, a California nonprofit corporation,

23 Petitioner,

24 v.

25 PENINSULA CORRIDOR JOINT POWERS
26 BOARD, a public entity, and DOES 1 – 20,

27 Respondents,
28

Case No: MSN15-0573

Action Under the California Environmental
Quality Act (CEQA)

**RESPONDENT'S REQUEST FOR
JUDICIAL NOTICE IN SUPPORT OF
OPPOSITION TO PETITION**

ASSIGNED FOR ALL PURPOSES:

Hon. Barry P. Goode

Dep.: 17

Hearing Date: July 22, 2016

Time: 9:00 a.m.

Filing Date of Action: February 9, 2015

1 TO PETITIONERS AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that Respondent Peninsula Corridor Joint Powers Board (PCJPB)
3 hereby requests that the Contra Costa County Superior Court take judicial notice of the Sacramento
4 County Superior Court ruling entitled *John Tos, Aaron Fukuda, and County of Kings v. California High*
5 *Speed Rail Authority* (Super. Ct. Sacramento County, 2016, No. 34-2011-00113919-CU-WM-GDS)
6 (“*John Tos*”), attached as an exhibit to the accompanying Declaration of Sabrina V. Teller in support of
7 this request (“Teller Declaration”). The PCJPB offers the following Memorandum of Points and
8 Authorities in support of its request.

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 **A. The court should take judicial notice of the *John Tos* ruling pursuant to Evidence Code**
11 **sections 451, 452, and 453.**

12 The court should take judicial notice of *John Tos* pursuant to Evidence Code sections 451, 452
13 and 453. Evidence Code section 451 requires that judicial notice *shall* be taken of particular matters.
14 Subdivision (a) of the same section requires that judicial notice shall be taken of “[t]he decisional,
15 constitutional, and public statutory law of this state and of the United States....” Judicial notice
16 pursuant to this section is mandatory. Because the *John Tos* ruling is the decisional law of California,
17 the court must take judicial notice of the ruling.

18 Evidence Code section 453 requires that a trial court *shall* take notice of any matters specified
19 in Evidence Code section 452, provided that the party requesting notice (a) gives each adverse party
20 sufficient notice of the request to enable that party to meet the request, and (b) furnishes the court with
21 sufficient information to enable it to take judicial notice of the matter. (Evid. Code, § 453.) This
22 request, and the copy of *John Tos* filed herewith in support of this request, satisfy the requirements of
23 Evidence Code section 453 by providing all parties with notice adequate to enable them to oppose the
24 request, and by providing this court with both the entire materials for which notice is requested, and
25 also detailed argument concerning the propriety of taking judicial notice pursuant to Evidence Code
26 sections 451, 452 and 453.

27 Evidence Code section 452, subdivision (c), authorizes judicial notice of “[o]fficial acts of the
28 legislative, executive, and judicial departments of the United States and of any state of the United

1 States.” The Sacramento County Superior Court is a judicial department of the state of California, and
2 that court’s rulings are judicially noticeable pursuant to Evidence Code, subdivision (c).

3 Evidence Code section 452, subdivision (h), authorizes judicial notice of matters “that are not
4 reasonably subject to dispute and are capable of immediate and accurate determination by resort to
5 sources of reasonably indisputable accuracy.” The *John Tos* ruling is contained in the Sacramento
6 County Superior Court’s files and is readily available to the public. The ruling is not reasonably subject
7 to dispute and is capable of immediate and accurate determination by resort to a source of reasonably
8 indisputable accuracy.

9 Evidence Code section 452, subdivision (d), provides that judicial notice may be taken of
10 records of any court of the State of California. The *John Tos* ruling is a record of the Sacramento
11 County Superior Court.

12 Courts have long taken judicial notice of court rulings pursuant to the above-described sections
13 of the Evidence Code. (See, e.g., *Flores v. Arroyo* (1961) 56 Cal.2d 492, 494 [California Supreme
14 Court took judicial notice of two prior judgments]; *Linda Vista Village San Diego Homeowners*
15 *Association, Inc. v. Tecolote Investors, LLC* (2015) 234 Cal.App.4th 166, “[i]t is well accepted that
16 when courts take judicial notice of the existence of court documents, the legal effect of the results
17 reached in orders and judgments may be established”]; *Williams v. Wraxall* (1995) 33 Cal.App.4th 120,
18 130, fn. 7 [the court “may take judicial notice of the existence of judicial opinions and court documents,
19 along with the truth of the results reached....”].)

20 **B. The *John Tos* ruling is relevant.**

21 Petitioners argue in their opening brief regarding the legality of the High Speed Rail Authority’s
22 use of \$705 million from Proposition 1A funds for the Peninsula Corridor Electrification Project and
23 the High Speed Rail blended system. (See Petitioners’ Opening Brief at p. 23.) As explained in the
24 opposition brief, Respondent does not believe that Petitioners’ arguments regarding this funding are
25 relevant to the subject matter of this case, which is the adequacy of the PCJPB’s compliance with the
26 California Environmental Quality Act. But, to the extent that the court may rule that these arguments
27 are relevant to Petitioners’ arguments, the *John Tos* ruling is also relevant, because the superior court in
28

1 that case ruled that the blended system complies with the requirements of Proposition 1A. (*John Tos* at
2 p. 17.)

3 Pursuant to Evidence Code sections 451, 452 and 453, the court must take judicial notice of the
4 *John Tos* ruling for all of the above-described reasons.

5 **CONCLUSION**

6 The PCJPB respectfully requests the Court to take judicial notice of the *John Tos* ruling,
7 attached as Exhibit A to the Teller Declaration.

8 DATED: May 2, 2016

Respectfully submitted,

9 REMY MOOSE MANLEY, LLP

10 By: 

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12 ELIZABETH R. POLLOCK
13 Attorneys for Respondent
14 PENINSULA CORRIDOR JOINT
15 POWERS BOARD
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3 **PROOF OF SERVICE**

4 I, Rachel N. Jackson, am a citizen of the United States, employed in the City and County of
5 Sacramento. My business address is 555 Capitol Mall, Suite 800, Sacramento, California 95814. My
6 email address is rjackson@rmmenvirolaw.com. I am over the age of 18 years and not a party to the
above-entitled action.

7 I am familiar with Remy Moose Manley, LLP's practice whereby the mail is sealed, given the
8 appropriate postage and placed in a designated mail collection area. Each day's mail is collected and
deposited in a U.S. mailbox after the close of each day's business.

9 On May 2, 2016, I served the following:

10 **RESPONDENT'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF OPPOSITION TO**
11 **PETITION**

- 12 ☒ On the parties in this action by causing a true copy thereof to be placed in a sealed envelope
13 with postage thereon fully prepaid in the designated area for outgoing mail addressed as
indicated below
- 14 ☐ On the parties in this action by causing a true copy thereof to be delivered via Federal Express
to the following person(s) or their representative at the address(es) listed below
- 15 ☐ On the parties in this action by causing a true copy thereof to be delivered via facsimile from
16 (916) 443-9017, to the following person(s) or representative at the facsimile number(s) listed
below, with a facsimile transmission reported as complete and without error
- 17 ☒ On the parties in this action by causing a true copy thereof to be electronically delivered via
18 the internet to the following person(s) or representative at the email address(es) listed below
- 19 ☐ On the parties in this action by causing a true copy thereof to be hand-delivered to
the following person(s) or representative at the address(es) listed below

20 **SEE ATTACHED SERVICE LIST**

21 I declare under penalty of perjury that the foregoing is true and correct and that this Proof of
22 Service was executed on this 2nd day of May, 2016, at Sacramento, California.

23 
24 Rachel N. Jackson
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27
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1 *Town of Atherton, et al. v. Peninsula Corridor Joint Powers Board*
2 Contra Costa County Superior Court Case No. MSN15-0573

3
4 **SERVICE LIST**

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