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**COUNTY IS EXEMPT FROM
FILING FEES PER GOV. CODE
SECTION 6103**

8 Attorney for Plaintiffs
9 JOHN TOS; AARON FUKUDA;
AND COUNTY OF KINGS

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SACRAMENTO

13
14 JOHN TOS, et al.,

15 Plaintiffs,

16 v.

17 CALIFORNIA HIGH SPEED RAIL
AUTHORITY, et al.,

18 Defendants.

CASE NO. 34-2011-00113919

**SUPPLEMENTAL DECLARATION OF
KATHY A. HAMILTON**

Trial Date: May 31, 2013

19
20 I, Kathy A. Hamilton, declare as follows:

21 1. I declare under penalty of perjury, that the following is true and correct, and that if
22 called as a witness to testify to the following, I would be competent to so testify.

23 2. On March 1st, 2013, I signed the Declaration of Kathy A. Hamilton ("the Prior
24 Declaration") for this lawsuit.

25 3. The following Supplemental Declaration is intended to capture the Public Records
26 Act ("PRA") requests I have made of the California High-Speed Rail Authority ("Authority")
27 since that date and their responses.

28 4. These requests were a continuation of my 2012 efforts (chronicled in the Prior

1 Declaration) seeking the documentation that supported the Authority's assertion that the April
2 2012 Business Plan, which introduces the concept of using existing infrastructure known as the
3 Blended System, met the travel time requirements of Proposition 1A.

4 5. My February 17th request for more technical information (Exhibit I to the Prior
5 Declaration) triggered a March 4th response. Mr. Tom Fellenz, counsel for the Authority wrote:

6 Authority personnel needed for consultation regarding the records
7 you have requested are not readily available; therefore under
8 Government Code Section 62539(c) the Authority is invoking the
9 fourteen day extension in order to make a determination. A
determination letter will be sent to you no later than March 15,
2013. (Exhibit A, p. 2.)

10 6. They did indeed send a determination letter, without any of the requested
11 information, and finally on April 12th I received three earlier draft versions of the publicly
12 released Phase 1 Blended Travel Time Memo. (Exhibits D, E and G.) The Authority did not
13 respond to all my requests, claiming there were no documents available. (Exhibit C.)

14 7. The original draft of that memo, which I had been seeking since June 2012, was
15 withheld by the Authority under a claim of exemption:

16 This report was converted into the final report entitled "Phase 1
17 Blended Travel Time" which you received on February 13, 2013.
18 The draft form is not being released under Government Code
section 6254(a). (Exhibit B, p. 2.)

19 This original draft memo was firmly established as being in existence as of May 23, 2012.
20 Thierry Prate, a consultant for Parsons Brinckerhoff, wrote to the HSR Authority Records
21 staff:

22 As you know this is a very sensitive matter, Jeff Morales and Hans
23 van Winkle have required from the team to produce a technical
24 memo of how to achieve the IA journey time under the Phase 1
Blended system. This memo is currently being reviewed by Hans.
You will receive the information directly today or tomorrow.
(Exhibit C to the Prior Declaration.)

25 8. This memo was promised to me by the High-Speed Rail Authority in an email
26 dated May 31st from Kyle Wunderli of the HSR Authority Records staff (Exhibit B to the Prior
27 Declaration) but never delivered.

28 9. Also found in these new documents were train performance curves dated March

23, 2012 (pp. 3-4; Exhibits D, E, and G.) and curves dated April 27, 2012 (p. 5; Exhibits D and E.) These documents contradict the Authority's May 31, 2012 response to my PRA request:

I have an answer on your request for some documented proof of the assertions the engineers made to Dan Richard. The answer is that no document exists. (Exhibit B to the Prior Declaration.)

10. The table below is intended to provide a convenient comparison of the travel times between San Francisco and San Jose cited in the four versions of the Phase 1 Blended Travel Time memo provided to me by the Authority. I have carefully checked and verified that each element of the table is an accurate representation of those materials.

11. The February 12, 2013 published memo (Exhibit I) shows a different travel time for the Blended System than the January 13, 2013 version (Exhibit D). The earlier version shows a 32 minutes travel time, while the final report asserts a 30 minutes travel time for the equivalent 110 mph trip.

12. This is significant because AB 3034 mandates that the travel time between certain cities "shall not exceed the following." The maximum travel time between the San Francisco and San Jose city pairs is 30 minutes. The editing of the memos changed a route that did not comply with Proposition 1A into one that did.

13. The bold findings in the shaded cells of the chart below are clearly inconsistent with earlier versions. As I had requested all communications pertaining to the travel time for the April 2012 Business Plan, the absence of any communications in the Public Records Act response indicating the discovery of mistakes is evidence that the changes in travel time were not the correction of an error. One is forced to conclude that these changes were a deliberate attempt to misrepresent the project's compliance with Proposition 1A.

Date Document	SF-SJ Travel Time Blended System	SF-SJ Travel Time Dedicated Tracks	Title of SF-SJ Model Run	Top Speed on SF-SJ Model Run	Attachment List Title
1/13/13 Memo	:32 at 110 mph :30 at 125 mph	NA :30 at 125 mph	SF to SJ - 110 mph SF to SJ - 125 mph	110 125	SF to SJ - 110 mph SF to SJ - 125 mph

Date Document	SF-SJ Travel Time Blended System	SF-SJ Travel Time Dedicated Tracks	Title of SF-SJ Model Run	Top Speed on SF-SJ Model Run	Attachment List Title
2/5/13 Memo	:30 at 125 mph	:30 at 125 mph	SF to SJ - 125 mph	125	SF to SJ - 125 mph
2/6/13 Vacca E-Mail	“We would prefer to use the 110...”				
2/7/13 Memo	:30 at 110 mph	:30 at 125 mph [inferred]	None	110	SF to SJ
2/8/13 Model Run	:30 at 110 mph		None	110	
2/12/13 Memo	:30 at 110 mph	None	SF to SJ - 110 mph	110	SF to SJ

14. Proposition 1A specifically selects the San Francisco Transbay Terminal as the northern terminus for the HSR system. The January 13 and February 5 versions include text mentioning the San Francisco Transbay Transit Center, the Terminal's new name. This information was deleted from the February 7 version and the published memo, making it impossible to verify that the travel time matched the statutory requirement.

15. One doesn't need to be an engineer to compare numbers. Tony Daniels, a very experienced engineer and top executive for Parsons Brinckerhoff, said in August 2009 that the train would just make the 2 hours and forty minute travel time requirement (See Exhibit A to the Prior Declaration), using aggressive speeds and a dedicated four-track system. Today using what is proposed in the April 2012 Business Plan Blended System with part of the segments sharing existing infrastructure, not four tracks, perhaps two or three, with lower speeds, it will take 8 minutes less. The final version of the memo says that the SF to LA run will take a theoretical 2 hours and 32 minutes. This is a pure run time, not a realistic operational train schedule that includes allowances for real-world problems. How likely is it that a real train will be able to make the trip in 2 hours 40 minutes?

16. Compliance of the Los Angeles-to-San Francisco travel time with Proposition 1A was mandatory for the approval of the April 2012 Business Plan. I do not believe the Authority's

1 assertion that there were no written or electronic communications--beyond the paltry few that
2 were disclosed--between or among consultants, Board members, Authority personnel and the peer
3 review group on this critical subject.

4 17. As I write this Supplemental Declaration on the one-year anniversary of my first
5 PRA request, I can honestly say that the Authority's practice of hiding information has forced me
6 to engage in constant struggle to meet my needs as a journalist.

7 I declare under penalty of perjury pursuant to the laws of the State of California that the
8 foregoing is true and correct.

9 Executed on this ___ day of April, 2013, at Menlo Park, California.

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11 /s/

KATHY A. HAMILTON

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