

1 MICHAEL J. BRADY (SBN 40693)
1001 Marshall Street, Suite 300
2 Redwood City, CA 94063-2052
Telephone: (650) 364-8200
3 Facsimile: (650)780-1701
Email: mbrady(@)rmkb.com
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5 Attorney for Plaintiffs
JOHN TOS, AARON FUKUDA; AND
6 COUNTY OF KINGS, A POLITICAL
SUBDIVISION OF THE STATE OF
7 CALIFORNIA

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

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SACRAMENTO

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12 JOHN TOS, AARON FUKUDA; AND
13 COUNTY OF KINGS, A POLITICAL
SUBDIVISION OF THE STATE OF
14 CALIFORNIA,
15 Plaintiffs,
16 v.
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18 CALIFORNIA HIGH SPEED RAIL
AUTHORITY, CHIEF EXECUTIVE
OFFICER, ROELOF VAN ARK;
19 GOVERNOR JERRY BROWN;
SENATOR MARK LENO, CHAIRMAN,
20 JOINT LEGISLATIVE BUDGET
COMMITTEE; STATE TREASURER,
21 BILL LOCKYER; DIRECTOR OF
FINANCE, ANA MATOSANTOS;
22 SECRETARY (ACTING) OF BUSINESS,
TRANSPORTATION AND HOUSING,
23 TRACI STEVENS; STATE
CONTROLLER, JOHN CHIANG; AND
24 DOES I-V, INCLUSIVE,
25 Defendants.

Case No. 34-2011-00113919
**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF PLAINTIFFS' OPPOSITION
TO DEMURRER**

Date: June 15, 2012
Reservation No.: 1660513
Time: 9:00 a.m.
Dept: 54
Judge: Hon. Shelleyanne W.L. Chang
Trial Date: None Set
Action Filed: November 14, 2011

1 Pursuant to Evidence Code sections 452(c) and 453, Plaintiffs JOHN TOS,
2 AARON FUKUDA, and COUNTY OF KINGS, A POLITICAL SUBDIVISION OF THE
3 STATE OF CALIFORNIA, request that this Court take judicial notice of the following:

4 1. Attached hereto as Exhibit 10 is a copy of the California State Auditor's Report
5 "2010 Report 2009-106." This report, as well as the following official documents, will be
6 referred to by their "links" in order to provide convenience to the Court and to avoid an unwieldy
7 document. The actual exhibits attached will have the link information.

8 2. Attached hereto as Exhibit 11 is a copy of the California State Auditor's Report
9 "January 2011 Report 2011-041."

10 3. Attached hereto as Exhibit 12 is a copy of the California State Auditor's Report
11 "January 2011 Report 2011-504."

12 4. Attached hereto as Exhibit 13 is a copy of the January 3, 2012, Peer Review Group
13 Comments on Funding Plan.

14 5. Attached hereto as Exhibit 14 is a copy of the November 29, 2011, LAO Report.

15 6. Attached hereto as Exhibit 15 is a copy of the April 17, 2012, LAO Report entitled
16 "2011-13 Budget Funding Requests for High Speed Rail."

17 7. Attached hereto as Exhibit 17 is a copy of the April 12, 2012, California High Speed
18 Rail Business Plan "Ridership and Revenue Forecasting."

19 8. Attached hereto as Exhibit 18 is a copy of the April, 2012, California High Speed
20 Rail Revised Business Plan.

21 9. Attached hereto as Exhibit 19 is a copy of the Governor's Budget.

22 10. Attached hereto as Exhibit 20 is a copy of the Legislative Analyst Office, "The 2012-
23 13 Budget: Funding Requests for High-Speed Rail" dated April 17, 2012.

24 11. Attached hereto as Exhibit 21 is a copy of the (Federal statute) ARRA
25 Grant/Cooperative Agreement, as amended.

26 12. Attached hereto as Exhibit 22 is a copy of the FY 2010 Grant/Cooperative
27 Agreement: Amendment 0 to FY 2010 FRA/CHSRA Grant/Cooperative Agreement dated
28 November 18, 2011.

1 13. Attached hereto as Exhibit 23 is a copy of the CHSRA Funding Plan dated November
2 3, 2011.

3 14. Attached hereto as Exhibit 24 is a copy of the Revised 2012 Business Plan dated
4 April 12, 2012.

5 15. Attached hereto as Exhibit 25 is a copy of the Peer Review Group report dated May
6 18, 2012.

7 16. Attached hereto as Exhibit 26 is a copy of the CHSRA Project Level EIR/EIS:
8 Merced to Fresno Final EIR/EIS certified dated May 3, 2012.

9 17. Attached hereto as Exhibit 27 is a copy of the CHSRA Program Level EIR/EIS.

10 18. Attached hereto as Exhibit 28 is a copy of California Watch, a news service on
11 California developments, dated August 7, 2011.

12 19. Attached hereto as Exhibit 29 is a copy of the CHSRA Amendment dated April 27,
13 2012, to its Request for Proposal of Design-Build Services.

14 20. Attached hereto as Exhibit 30 is a copy of California Watch dated March 2, 2012.

15 21. Attached hereto as Exhibit 31 is a copy of the Legislative Analyst Office, "The 2012-
16 13 Budget: Funding Requests for High-Speed Rail."

17 22. Attached hereto as Exhibit 32 is a copy of the Governor's Budget, May Revision
18 2012-13.

19 23. Attached hereto as Exhibit 33 is a copy of a video relating to the Governor's budget
20 submission.

21 24. Attached hereto as Exhibit 34 is a copy of an article from the Sacramento Bee, dated
22 May 15, 2012.

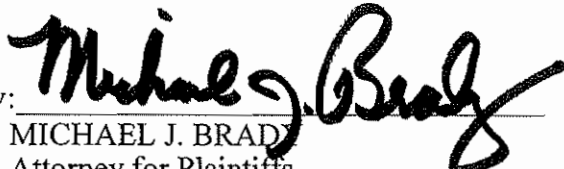
23 25. Attached hereto as Exhibit 35 is an e-mail from Kyle Wunderli (public records staff
24 of the CHSRA), dated May 31, 2012, responding to a public records request from Kathy
25 Hamilton on the issue of "trip time" from Los Angeles to San Francisco.

26 This motion is further based upon this notice, the memorandum of points and authorities in
27 opposition to the demurrer by defendants, filed concurrently with this notice, all pleadings and
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1 papers on file herein, the Declaration of Michael J. Brady attached hereto, and upon such other
2 matters as may be presented in connection with the June 15 hearing.

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4 Dated: June 4, 2012

Respectfully Submitted,

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6 By: 
7 MICHAEL J. BRADY
8 Attorney for Plaintiffs
9 JOHN TOS, AARON FUKUDA; AND
10 COUNTY OF KINGS, A POLITICAL
11 SUBDIVISION OF THE STATE OF
12 CALIFORNIA

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EXHIBIT 10

California State Auditor's Report "2010 Report 2009-106"

<http://www.bsa.ca.gov/pdfs/reports/2009-106.pdf>

EXHIBIT 11

California State Auditor's Report "January 2011 Report 2009-106."

<http://www.bsa.ca.gov/pdfs/reports/2011-041.pdf>

EXHIBIT 12

California State Auditor's Report "January 2011 Report 2011-504"

<http://www.bsa.ca.gov/pdfs/reports/2011-504.pdf>

EXHIBIT 13

January 3, 2012, Peer Review Group Comment on Funding Plan

<http://www.cahsrprg.com/files/CommentsonCHSRA2010FundingPlan.pdf>

EXHIBIT 14

November 29, 2011, LAO Report

http://www.lao.ca.gov/handouts/transportation/2011/HSRA_Business_Funding_plan_11_29_11.pdf

EXHIBIT 15

April 17, 2012, LAO Report
“2011-13 Budget Funding Requests for High Speed Rail”

<http://www.lao.ca.gov/analysis/2012/transportation/high-speed-rail-041712.pdf>

EXHIBIT 16

EXHIBIT 17

April 12, 2012, California High Speed Rail Business Plan
"Ridership and Revenue Forecasting"

<http://www.calhsr.com/uncategorized/can-the-hsra-meet-their-240-travel-time-promise>

EXHIBIT 18

April, 2012, California High Speed Rail Revised Business Plan

<http://cahighspeedrail.ca.gov/assets/0/152/431/1a6251d7-36ab-4fec-ba8c-00e266dadec7.pdf>

EXHIBIT 19
Governor's Budget

<http://www.ebudget.ca.gov/pdf/GovernorsBudget/2000/2665FCS.pdf>

EXHIBIT 20

April 17, 2012, Legislative Analyst Office, "The 2012-13 Budget: Funding Requests for High-Speed Rail"

<http://www.lao.ca.gov/analysis/2012/transportation/high-speed-rail-041712.aspx>

EXHIBIT 21

ARRA Grant/Cooperative Agreement, as amended

Amendment 4 to ARRA FRA/CHSRA Grant/Cooperative Agreement dated April 16, 2012:
<http://www.cahighspeedrail.ca.gov/assets/0/152/327/b65efbf9-43a4-4d64-ac49-e442fce9cca7.pdf>

Amendment 3 to ARRA FRA/CHSRA Grant/Cooperative Agreement dated September 19, 2011:
<http://www.cahighspeedrail.ca.gov/assets/0/152/281/985fcbd5-c406-4270-a7a8-ddcbd2b8854c.pdf>

Amendment 2 to ARRA FRA/CHSR Grant/Cooperative Agreement dated August 1, 2011:
<http://www.cahighspeedrail.ca.gov/assets/0/152/281/11a35acc-e6c4-4e10-81e7-dbeb2fe514f6.pdf>

Amendment 1 to ARRA FRA/CHSRA Grant/Cooperative Agreement dated December 22, 2010:
<http://www.cahighspeedrail.ca.gov/assets/0/152/281/36e32938-3eba-4cd5-b241-683a95f69151.pdf>

EXHIBIT 22

November 18, 2011, FY 2010 Grant/Cooperative Agreement: Amendment 0 to
FY 2010 FRA/CHSRA Grant/Cooperative Agreement

<http://www.cahighspeedrail.ca.gov/assets/0/152/281/a332a850-d7a6-4fda-8db4-bcfd28e47417.pdf>

EXHIBIT 23

November 3, 2011, CHSRA Funding Plan

<http://www.cahighspeedrail.ca.gov/assets/0/152/281/d89c18ef-f90b-4cd8-8fcd-0f4ffd93e0a9.pdf>

EXHIBIT 24

April 12, 2012, CHSRA Revised 2012 Business Plan

<http://www.cahighspeedrail.ca.gov/assets/0/152/431/1a6251d7-36ab-4fec-ba8c-00e266dadec7.pdf>

EXHIBIT 25

May 18, 2012, Peer Review Group report

http://www.cahsrprg.com/files/bus_plan.pdf

EXHIBIT 26

May 3, 2012, CJSRA Project Level EIR/EIS: Merced to Fresno
Final EIR/EIS certified

<http://www.cahighspeedrail.ca.gov/assets/0/152/327/29eab6e8-6931-443a-8cb7-0a26d95823ca.pdf>

EXHIBIT 27

CHSRA Program Level EIR/EIS

<http://www.cahighspeedrail.ca.gov/WorkArea/DownloadAsset.aspx?id=12116> (proposed resolution) http://stateofcalifornia.granicus.com/MediaPlayer.php?publish_id=55 at 02:01:20 to 02:04:05 (video of Board adoption of proposed resolution)

EXHIBIT 28

August 7, 2011, *California Watch*

<http://californiawatch.org/dailyreport/land-owners-balk-selling-bullet-train-11947>

EXHIBIT 29

April 27, 2012, CHSRA Amendment to its Request for Proposal of
Design-Build Services

<http://www.cahighspeedrail.ca.gov/WorkArea/DownloadAsset.aspx?id=12493>

EXHIBIT 30

March 2, 2012, *California Watch*

<http://californiawatch.org/dailyreport/rail-authority-accept-fresno-area-bids-within-weeks-15137>

EXHIBIT 31

April 17, 2012, Legislative Analyst Office, "The 2012-13 Budget: Funding Requests for High-Speed Rail"

<http://www.lao.ca.gov/analysis/2012/transportation/high-speed-rail-041712.aspx>

EXHIBIT 32

May Revision 2012-13, Governor's Budget

<http://www.ebudget.ca.gov/Revised/StateAgencyBudgets/2000/2665/department.html>

EXHIBIT 33
Governor's Budget Submission

Video only

EXHIBIT 34

May 15, 2012, *Sacramento Bee*
May 21, 2012, *Capitol Weekly*

<http://www.sacbee.com/2012/05/11/4483012/lahood-warns-california-lawmakers.html>

<http://capitolweekly.net/article.php?xid=10101nrt47otiji>

EXHIBIT 35

May 31, 2012, e-mail from Kyle Wunderli (public records staff of the CHSRA)
responding to a public records request from Kathy Hamilton

----- Forwarded message -----

From: **High-Speed Rail Records** <records@hsr.ca.gov>

Date: Thu, May 31, 2012 at 4:43 PM

Subject: RE: Trip Times fo Phase 1 route and between cities as outlined in AB 3034

To: Kathy Hamilton <katham3@gmail.com>

Ms. Hamilton,

You're right about that. Sometimes it's tough to track down answers on such a dynamic project with so many different businesses involved. 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. These were verbal assertions based on skill, experience, and optimism and so Dan Richard went with the expertise of the engineers offering these assertions. I have been informed that a memo is in the process of being drafted on this very issue and I will provide that to you as soon as its complete. Their best guess is that by end of next week it may be ready. I apologize for the inconvenience in waiting so long only to find no documents existed.

Sincerely,

Kyle Wunderli

CHSRA Public Records Staff

www.cahighspeedrail.ca.gov

From: Kathy Hamilton [<mailto:katham3@gmail.com>]

Sent: Tuesday, May 29, 2012 5:48 PM

To: High-Speed Rail Records

Subject: Re: Trip Times fo Phase 1 route and between cities as outlined in AB 3034

Thank you for getting back Kyle. You have a tough job. Regards, Kathy Hamilton

On Tue, May 29, 2012 at 11:10 AM, High-Speed Rail Records <records@hsr.ca.gov> wrote:

Ms. Hamilton,

I have sent your message on to the person responsible for getting me the responsive document to your request. I hope to get back to you soon with the records or a time frame on when they would be available. Your statement that the law requires requests be fulfilled in 10 days is incorrect. The CPRA provides that an agency has 10 days to provide a determination letter as to the availability of the requested records. I hope to provide you soon either the documents or a date on which your request can be fulfilled. Thank you for your patience.

Sincerely,

Kyle Wunderli

CHSRA Public Records Staff

www.cahighspeedrail.ca.gov

From: Kathy Hamilton [mailto:katham3@gmail.com]
Sent: Thursday, May 24, 2012 5:47 PM
To: High-Speed Rail Records
Cc: Thomas Fellenz
Subject: Trip Times fo Phase 1 route and between cities as outlined in AB 3034

Dear Kyle, it has been since April 17th that I have asked the trip time information supporting the April business plan.. By law I am supposed to have my requests fulfilled in 10 days and it's been 5 weeks. Please ask PB to produce these immediately. .I would like them tomorrow if at all possible. Thank you, Kathy Hamilton. .

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Kathy Hamilton
[REDACTED] cell

[REDACTED]