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9 *Matosantos, Secretary of California State*  
*Transportation Agency Brian P. Kelly and State*  
10 *Controller John Chiang*

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SACRAMENTO  
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16 **JOHN TOS, AARON FUKUDA; AND**  
17 **COUNTY OF KINGS, A POLITICAL**  
18 **SUBDIVISION OF THE STATE OF**  
19 **CALIFORNIA,**

Plaintiffs,

20 v.

21 **CALIFORNIA HIGH SPEED RAIL**  
22 **AUTHORITY; JEFF MORALES, CEO OF**  
23 **THE CHSRA; GOVERNOR JERRY**  
24 **BROWN; STATE TREASURER, BILL**  
25 **LOCKYER; DIRECTOR OF FINANCE,**  
26 **ANA MATASANTOS; SECRETARY**  
**(ACTING) OF BUSINESS,**  
**TRANSPORTATION AND HOUSING,**  
**BRIAN KELLY; STATE CONTROLLER,**  
**JOHN CHIANG; AND DOES I-V,**  
**INCLUSIVE,**

Defendants.

Case No. 34-2011-00113919

**DECLARATION OF DENNIS TRUJILLO**  
**IN OPPOSITION TO**  
**PLAINTIFFS/PETITIONERS' REQUEST**  
**FOR REMEDIES**

Date: November 8, 2013

Time: 9:00 a.m.

Dept: 54

Judge: Hon. Michael P. Kenny

Trial Date: May 31, 2013

Action Filed: November 14, 2011

1 I, Dennis Trujillo, declare as follows:

2 1) I am the Chief Deputy Director of the California High-Speed Rail Authority and have  
3 served in this position since August 2012. Prior to serving as the Chief Deputy Director, I served  
4 as the Authority's Chief of External Affairs and performed the duties of the Chief Financial  
5 Officer. As a result of my duties in all three capacities, I am intimately familiar with the spending  
6 requirements of Proposition 1A and the Authority's historical and planned expenditures of funds  
7 to advance the high-speed rail program, including federal funds, Proposition 1A bond proceeds  
8 and other state funds dedicated to the program. Previously, I served as the Deputy Secretary of  
9 External Affairs for the Business, Transportation & Housing Agency, Deputy Treasurer of the  
10 State of California overseeing the Public Finance and Investment Divisions of the Office of the  
11 State Treasurer, and as Deputy Director for External Affairs for the California Department of  
12 Transportation. I have an undergraduate degree in Business Administration and have been  
13 through various professional training programs including a fiduciary training program. I have  
14 personal knowledge of the matters set forth herein, and if called to testify, would competently  
15 testify thereto.

16 2) The Authority is currently advancing the high-speed rail program in the Central Valley  
17 through a series of contracts with Caltrans to realign SR 99, with Tutor-Perini to design and build  
18 a first segment of roadbed and with right-of-way consultants to acquire property in the Central  
19 Valley. These contracts are being financed with \$3.24 billion of federal funds granted to the  
20 Authority by the Federal Railroad Administration (FRA). The first federal grant was executed in  
21 September 2010 to provide a total of \$2.466 billion of federal funds pursuant to the American  
22 Recovery and Reinvestment Act (ARRA) of 2009. The second federal grant was executed in  
23 November 2011 and it provided \$928,620,000 of federal funding pursuant to the Omnibus  
24 Appropriation Act of 2010 (2010 Grant). These grant funds were appropriated for use by the  
25 Legislature on July 18, 2012.

26 3) The ARRA and 2010 Grant agreements originally required both parties to share funding  
27 of the program on a task-by-task basis, assigning a cost-sharing ratio for each specified task. In  
28 addition, both grant agreements only allowed the reimbursement method described in 49 C.F.R.

1 18.21(d), under which a grantee was required to spend its own funds first and then seek  
2 reimbursement for the federal share of project costs. Under the ARRA grant program, the  
3 Authority is required to expend the federal funds before September 30, 2017. Any remaining  
4 balance of the ARRA grant not used by that date is not available for expenditure or obligation  
5 pursuant to 31 U.S.C. § 1552 and interim guidance published in the *Federal Register* on June 23,  
6 2009 (74 Fed.Reg. 29900).

7 4) Between 2010 and 2012, the ARRA grant underwent five amendments, which  
8 supplemented the original amount of funding and made other adjustments. One significant  
9 feature of fifth amendment to the ARRA grant added the option of using the advanced payment  
10 method to fund requested expenses as permitted by 49 C.F.R § 18.21(c). In addition, the  
11 amendment allowed the acceleration of ARRA fund expenditures know as the tapered match  
12 arrangement. The FRA is currently allowing advanced federal ARRA grant proceed payments  
13 for project expenditures until the Authority is authorized to sell Proposition 1A bonds and to  
14 commit bond proceeds for expenditure for capital costs expenditures pursuant to subdivision (d)  
15 of Streets and Highway Code section 2704.08. Under the tapered match funding strategy, a  
16 grantee is allowed to use federal funds to cover up to 100 percent of project costs from year to  
17 year, so long as overall funding ratios (federal and state) are met at project completion. By  
18 varying the required matching ratio over the life of the project, or tapering, the Authority and the  
19 FRA can manage that all of the ARRA granted federal money will be invested before the  
20 September 30, 2107 expiration date.

21 5) Under subdivision (g) of Streets and Highway code section 2704.08, the Authority may  
22 use bond funds to pay for environmental studies, planning, preliminary engineering and  
23 acquisition of real property and right-of-way and improvements, as well as some other categories  
24 not relevant here, so long as the total amount of bond proceeds spent for these purposes does not  
25 exceed \$675 million, which is an amount equal to 7.5 percent of the total \$9 billion in bonds  
26 authorized for the program. The Authority accounts for spending for subdivision (g) purposes on  
27 a fiscal year basis using the state's CalSTARS accounting system. From April 2009 when  
28 Proposition 1A bond funds first became available for use through the close of the state's fiscal

1 year on June 30, 2013, the total amount of bond funds expended for subdivision (g) purposes was  
2 \$331,493,567, or 49.11 percent of \$675 million. Thus, the total amount of spending for these  
3 purposes is well below the maximum allowed for these activities under Proposition 1A.

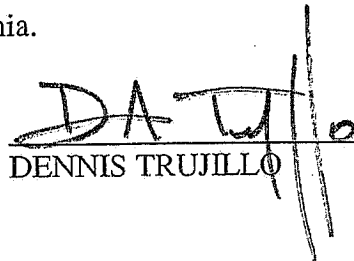
4 6) Under subdivision (d) of Streets and Highway Code section 2704.08, the Authority may  
5 advance the program by using bond funds to pay for capital costs, but only after it has submitted a  
6 funding plan to the Director of Finance and received approval to commit bond funds for these  
7 purposes. No Proposition 1A bond proceeds have been expended to pay subdivision (d) capital  
8 costs. In fact, the Authority could not commit or expend bond proceeds to pay for any capital  
9 construction costs as defined in Proposition 1A before the legislative appropriation of \$3.24  
10 billion of bond funds for capital construction costs on July 18, 2012. Since the legislative  
11 appropriation on July 18, 2012, the Authority has not committed nor expended any bond funds  
12 appropriated for capital construction costs, including for the Caltrans and Tutor-Perini contracts  
13 discussed above.

14 7) When the Authority and the FRA agreed to the tapered match funding strategy in the  
15 fifth amendment to the ARRA grant, the Authority agreed to prepare on a regular basis a funding  
16 contribution plan that reports the rates at which federal and state funds are being spent on the  
17 project for fiscal year 2012-2013 through fiscal year 2018-2019. The fifth amendment authorizes  
18 the Authority, in preparing the funding contribution plan, to include state spending that was  
19 incurred before the grant agreement was first executed, so long as the state spending paid for  
20 costs allowed under the grant agreement. Analysis shows that since 1996, when high-speed rail  
21 planning first began through June 30, 2013, \$450 million of state funds have been contributed to  
22 the project, including allowable bond funding, while only \$275 million of federal funds have been  
23 contributed to the project over the same period of time. Thus, the Authority estimates that it can  
24 spend only federal funds to finance the project (including the costs of the contracts) until  
25 approximately April 2014 before the amount of state funds spent on the high-speed rail program  
26 equals the amount of federal funds spent.

27 8) At the forecasted rate of spending of federal funds, the Authority estimates its damages,  
28 should it be restrained from spending the federal funds over the next six months are \$300.2

1 million. This damage estimate is the forecasted amount of spending of ARRA federal funds for  
2 the months of November 2013 through April of 2014 of the state 2013-2014 fiscal year which  
3 would be prohibited if an injunction to stop work performed under these contracts was imposed.

4 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
5 October 10, 2013 at Sacramento, California.

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7 DENNIS TRUJILLO

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