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By *[Signature]* Deputy

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Exempted from Fees
(Gov. Code § 6103)

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1000, and YVONNE
WALKER, a taxpayer,

Petitioners/Plaintiffs,

v.

ARNOLD SCHWARZENEGGER, as Governor
of the State of California; et al.,

Defendants/Respondents.

CASE NO. RG-09456750

**DECLARATION OF CINDY MCKIM
IN SUPPORT OF RESPONDENTS'
JOINT OPPOSITION TO MOTION
TO LIFT AUTOMATIC STAY**

Date: March 23, 2010
Time: 9:00 a.m.
Dept.: 31
Reservation No.: 1042-409
The Honorable Frank Roesch

I, CINDY MCKIM, declare as follows:

1. I am employed with the State of California, Department of Transportation, as the Chief Deputy Director. I have held that position since August 17, 2009. My duties and responsibilities include advising and assisting the Department Director regarding all aspects in the



1 policy and operation of the Department of Transportation; representing the Department Director in
2 meetings, hearings, boards, commissions and committees as delegated by the Director; and
3 protecting the interests of the public and employees in the integrity of the decisions and actions of
4 the Department.

5 2. I have been with the Department of Transportation for over 30 years. During that
6 time, I have served as the Deputy Director for Rail, Transit, and Aeronautics Program, Acting
7 Deputy Director of Policy and Administration, Assistant Director of the Administrative Service
8 Center, Assistant Director of Management and Policy Planning, and Chief of the Divisions of
9 Accounting, Rail, and Mass Transportation. Prior to becoming the Chief Deputy Director, I was our
10 Department's Chief Financial Officer (Deputy Director, Finance Program) for five years.

11 3. The Department of Transportation (Caltrans) is responsible for the design, construction,
12 maintenance, and operation of the California state highway system, as well as that portion of the
13 interstate highway system within the state's boundaries. Alone and in partnership with Amtrak,
14 Caltrans is also involved in the support of intercity passenger rail service in California and is a leader
15 in promoting the use of alternative modes of transportation. Caltrans manages more than 50,000
16 miles of California's highway and freeway lanes, provides inter-city rail services, permits more than
17 400 public use airports and special use hospital heliports, and works with local agencies. Caltrans
18 carries out its mission of improving mobility across California with six primary programs:
19 Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning,
20 Administration, and the Equipment Service Center.

21 4. As of January 2010, Caltrans employs 20,658 full and part-time employees; 1378
22 intermittent employees; and 211 on a temporary separation for a total of 22,247 employees.

23 5. The Department of Transportation created its budget in reliance on the existence of
24 three furlough days and determined expenditures it could maintain accordingly. As the Department
25 of Transportation's budget currently stands, the amount of allocated expenditures is based on the
26 funds available to the Department of Transportation, specifically taking into account the savings
27 accomplished by the furloughs.

28 6. Total monthly payroll cuts with furloughs have averaged 142.2 millions dollars per

1 month this fiscal year. Without a furlough, the payroll amount would be 165.7 millions per month.

2 7. The estimated cost of backpay for all employees, including management, at seven percent
3 interest would be 271 million dollars if paid through February 2010, if repaid at the end of the fiscal
4 year (June 2010), the total cost would be 374 million dollars.

5 8. In the event that the Department of Transportation was required, as of this date, to
6 cease the implementation of three furlough days per month for all employees, the Department of
7 Transportation's financial expenditures would exceed its available funds. As a result, the
8 Department would be required to immediately, and drastically reduce expenditures.

9 9. If the furlough program was completely discontinued and immediate repayment and
10 interest were required, the Department of Transportation would be required to immediately shut
11 down the a significant portion of the Department's construction program, which would result in
12 payment to contractors of "cease-work" orders (a cease work order is an order to contractors to quit
13 whatever project they're working on and in exchange, the Department must provide the contractors
14 with just compensation for the early termination of the contract). However, it is unclear whether the
15 Department would have sufficient funding to pay for the cease work orders.

16 10. Salaries are typically paid by a mix of funding sources, however, if the furlough
17 program were to cease, the Department of Transportation would only have funds from the State
18 Highway Account, the Public Transportation Account, and the Transportation Investment Fund to
19 make up the additional personnel costs. A rough estimate shows that the Public Transportation
20 Account and the State Highway Account would run into negative cash balances by the end of the
21 fiscal year. If the Department could not secure a short-term loan from the General Fund, this would
22 result in the Department having to find other funds to meet payroll expenses, and would cause
23 cessation of its on-going construction work, not financed solely by bonds or federal dollars.

24 11. The Department had calculated a nearly \$342 million savings through the furlough
25 program. This figure was used to calculate Capital Outlay allocation capacity for the current fiscal
26 year. The Department's personal services spending authority was reduced to account for the
27 furloughs through section 3.90 of the Budget Act. If those savings are eliminated, it would have an
28 immediate impact on the Department of Transportation's ability to allocate funds to capital projects

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and to award projects that may have already been advertised. Furthermore, the federal government matches state funds at approximately 15% state to 85% federal dollars, so any significant reduction in state funds puts the Department's ability to leverage federal funds in jeopardy.

12. An immediate cessation of the three day furlough program would have wide ranging and devastating impacts on the Department of Transportation's ability to continue to fulfill its mission to the people of the State of California, by requiring an immediate discontinuation of important construction projects to improve the condition of California's state highway system. The payment of backpay will exhaust all amounts allocated for employee compensation; accordingly the DOT will run out of money for the payment of salary prior to the end of the fiscal year. In order to make a recovery from the impact, the Department's long term plan would be to reduce expenditures by slowing down project delivery which would result in eliminating staff, possibly through a layoff.

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

Executed on this day of March 9, 2010, at Sacramento, California.

Cindy Mckim
CINDY MCKIM