SUPREME COURT COPY

Case No. S226753

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

CALIFORNIA BUILDING INDUSTRY ASSOCIATION,
Plaintiffs and Petitioners,

vs.

STATE WATER RESOURCES CONTROL BOARD,
Defendant and Respondent;

SUPREME COURT
FILED

JAN 27 2016

Frank A. McGuire Clerk

Deputy

On Appeal From the California Court of Appeal, First Appellate District,
Division Two, Case No. A137680
San Francisco County Superior Court Case No. CGC-11-516510
Hon. Curtis E.A. Karnow, Superior Court Judge

APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF AND [PROPOSED] BRIEF OF *AMICI CURIAE* CALIFORNIA DAIRY CAMPAIGN, THE MILK PRODUCERS COUNCIL, AND WESTERN UNITED DAIRYMEN IN SUPPORT OF PETITIONER CALIFORNIA BUILDING INDUSTRY ASSOCIATION

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APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

The California Dairy Campaign, the Milk Producers Council, and Western United Dairymen (collectively "the Dairy Associations" or "*Amici*") apply to this Court under California Rules of Court, rule 8.520, subdivision (f), for permission to file an *Amicus Curiae* Brief in the above-referenced case. This proposed brief is offered in support of Petitioner California Building Industry Association (Petitioner). *Amici* agree with Petitioner that Article XIII A of the California Constitution,[1] since being amended by Proposition 26, places the burden on state agencies, including Defendant and Respondent State Water Resources Control Board (State Water Board), to prove that a new levy or charge is not a tax, that it is reasonably related to the cost of the regulatory program, and that it is allocated fairly and reasonably to feepayors' burdens and benefits.

The proposed *Amicus Curiae* Brief is intended to assist this Court in determining the appropriate standard of review and burden of proof for determining the validity of "fees" adopted in the wake of Proposition 26. The Court of Appeal's decision in *Building Industry Assn. v. State Water Resources Control Bd.* (2015) 235 Cal.App.4th 1430, opn. mod. May 11, 2015, 2015 Cal.App. LEXIS 398 (Appellate Decision), relies heavily upon this Court's decision in *California Farm Bureau Fed'n v. State Water Resources Control Bd.* (2011) 51 Cal.4th 421 (*California Farm Bureau*). The undersigned counsel is lead counsel in *California Farm Bureau*, and therefore is uniquely familiar with issues involved in tax-fee disputes and is acutely aware of the impact the Court's resolution of this case will have on regulated communities throughout the State.

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[1] Hereinafter all further "Article XIII A" references are to the California Constitution.

INTRODUCTION

This *Amicus Curiae* Brief is filed by the Dairy Associations in support of Petitioner. The Court of Appeal erred by applying an incorrect burden of proof when validating the constitutionality of the State Water Board's stormwater fee. As a result, the Appellate Decision sanctions an unconstitutional tax and effectively eliminates the constitutional protections enacted by California voters to prevent the State from imposing taxes as regulatory fees.

This case primarily involves the correct and proper interpretation of Article XIII A as amended by Proposition 26. In 2010, California voters enacted the initiative measure to stop the State and its administrative agencies from avoiding the constitutional requirement that new or increased taxes be approved by a two-thirds vote of each house of the Legislature by simply classifying new levies and charges as "fees." (See Voter Information Guide, Gen. Elec. (Nov. 2, 2010), text of Proposition 26, § 1(c), (e), (f), pp. 114-115.) To this end, Proposition 26 expressly defined the term "tax" and thereby created a general rule that all new levies and charges be considered taxes requiring approval by a two-thirds vote of each house of the Legislature. (See Cal. Const., art. XIII A, § 3(b).) Additionally, Proposition 26 made clear that the State bears the burden of proving, in the first instance, the validity of any levy or charge it seeks to impose as something other than a tax. (*Id.* at § 3(b), (d).)

The Appellate Decision fails to apply the correct burden of proof provided in Article XIII A as amended by Proposition 26, and instead relies on case law interpreting Article XIII A that pre-dates the enactment of Proposition 26. As such, the Appellate Decision effectively reverses the constitutional amendments made by Proposition 26 and overrides the voters' intent to enact meaningful tax relief. If upheld by this Court, the Appellate Decision will approve subsequent courts' use of outdated

precedent that fails to account for the constitutional changes made by Proposition 26. Moreover, if the Appellate Decision is affirmed, this Court's decision will essentially sanction the State's continued abuse of the loophole by which state agencies avoid the constitutional restriction on new and increased taxes by merely characterizing new levies and charges as "fees." California voters enacted Proposition 26 to specifically reverse this practice. Therefore, for these reasons and as described in more detail below, *Amici* respectfully request this Court reverse the Appellate Decision.

DESCRIPTION AND INTEREST OF APPLICANTS

The Dairy Associations are California non-profit corporations with approximately 850 members located throughout California. The Dairy Associations' members include dairy farms that produce and sell milk throughout the country. Most of the Dairy Associations' members hold permits issued by the State Water Board or one of nine regional water quality control boards (collectively "Water Boards"). Like the permits at issue in the Appellate Decision, these permits regulate the discharge of water from dairy farms and production facilities to waters of the state. The primary purpose of the Dairy Associations is to represent its members and assist them with regulatory matters related to the dairy industry, including regulatory issues before the Water Boards.

The Dairy Associations and their members have a significant interest in this case. Owners and operators of dairy farms must obtain water quality permits from the Water Boards before discharging to waters of the state. The Dairy Associations' members pay fees to the State Water Board for the administration of the dairy program. These fees are assessed under the same authority at issue in this case. (See generally Wat. Code, § 13260.) Over the past ten years, dairy fees have increased dramatically, quadrupling over the period and sharply increasing in many years. When coupled with

increased permit requirements, the fees threaten the continued vitality of California's dairy industry.

Due to the costly nature of these "regulatory fees," the Dairy Associations filed their own lawsuit challenging the State Water Board's recent adoption of new dairy fees. (See *California Dairy Campaign, et al. v. State Water Resources Control Bd.*, Sacramento Superior Court Case No. 34-2015-80002004 (filed January 8, 2015).) Specifically, the Dairy Associations' suit alleges the dairy fees are unconstitutional taxes. As the Appellate Decision and the Dairy Associations' suit both involve the interpretation of the constitutional limitations on new and increased taxes, the Dairy Associations and their members have a direct interest in the resolution of this case.

Moreover, resolution of this case involves an important issue of law that will impact regulated individuals and communities throughout the state. California voters enacted Proposition 26 to provide for effective tax relief. Specifically, Proposition 26 was intended to close the loophole whereby the State imposed new or increased levies and charges as "regulatory fees" rather than taxes subject to approval by a two-thirds vote of each house of the Legislature. (See Voter Information Guide, Gen. Elec., *supra*, text of Proposition 26, § 1(f), p. 114.) To do so, Proposition 26 amended the Constitution to include a broad definition of the term "tax" that creates a general rule that all new or increased levies and charges be considered taxes subject to the two-thirds legislative vote requirement. (Cal. Const., art. XIII A, § 3(b).) The initiative measure also shifts the burden of proving that a new or increased levy or charge is not a "tax" to the State. (*Id.* at § 3(d).) However, the Court of Appeal's decision fails to apply these constitutional standards, relying instead on case law predating Proposition 26, and allows the State to perpetuate its practice of

imposing new and increased levies and charges as "fees" without first obtaining a two-thirds vote of each house of the Legislature.

In light of the foregoing, the effect of the Court's decision in this case will not be limited to the State Water Board's stormwater fee. Instead, it will broadly apply to all levies and charges that the State and each of its administrative agencies attempt to impose beyond the constitutional restriction requiring two-thirds vote of each house of the Legislature. Accordingly, the Court's resolution of this case will have immediate practical implications for regulated individuals and communities of all types throughout the State.

California voters enacted Proposition 26 to amend the Constitution to provide effective tax relief and close the loophole whereby the State avoided the constitutional restriction on new and increased taxes by merely classifying levies and charges as "fees." If upheld, the Appellate Decision will not only validate the State Water Board's stormwater fee, but will essentially sanction the State's continued abuse of this loophole. Proposition 26 was intended to prohibit this practice.

For these reasons, and as described in more detail below, *Amici* request permission to file the attached *Amicus Curiae* Brief.

Date: January 20, 2016

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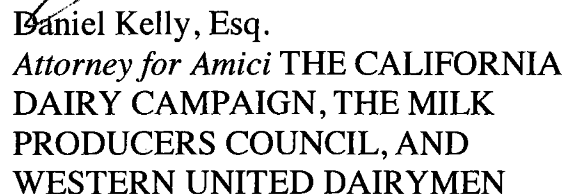

By ______________________
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BRIEF OF *AMICUS CURIAE*

I. ARGUMENT

A. Proposition 26 Amended the Constitution to Provide Meaningful Tax Relief By Making More Charges Subject to the Restriction on New Taxes and Placing the Burden of Proving the Validity of a Fee On the State

California voters enacted Proposition 13 to amend the Constitution to restrict the imposition of new and increased state taxes unless approved by not less than a two-thirds vote of members elected to each house of the Legislature. (See *Amador Valley Joint Union Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 220; *Schmeer v. County of Los Angeles* (2013) 213 Cal.App.4th 1310, 1317.) However, in the years following Proposition 13's enactment, the State and its administrative agencies were allowed to avoid this constitutional restriction by characterizing new charges and assessments as regulatory fees. (See Voter Information Guide, Gen. Elec. (Nov. 2, 2010), text of Proposition 26, § 1(c), (e), p. 114.)

In 2010, California voters passed Proposition 26 to prevent the State from avoiding the constitutional restriction originally imposed by Proposition 13. Specifically, voters sought to ensure that "neither the Legislature nor local governments can circumvent these restrictions on increasing taxes by simply defining new or expanded taxes as 'fees.' " (Voter Information Guide, *supra*, text of Proposition 26, § 1(f), p. 114.) Accordingly, Proposition 26 makes "[a]ny change in state statute which results in any taxpayer paying a higher tax" subject to Proposition 13's restriction on new and increased taxes. (Cal. Const., art. XIII A, § 3(a).) The initiative measure also included an express definition of the word "tax." (See *id.* at § 3(b).) This definition broadly defines the term to capture "any levy, charge, or exaction of any kind imposed by the State." (*Ibid.*) Together these amendments create a general rule that all new or

increased levies and charges be considered taxes subject to approval only by a two-thirds vote of each house of the Legislature.

Notwithstanding the foregoing, Proposition 26 recognized a role for regulatory fees but limited the State's use and imposition of fees to one of five narrow exceptions. (See Cal. Const., art. XIII A, § 3(b)(1)-(5).) Prior to Proposition 26, the State and its administrative agencies were allowed to enact regulatory fees so long as the fees did "not exceed the reasonable cost of providing the services for which the fees are charged and are not levied for any unrelated revenue purposes[.]" (*Schmeer v. County of Los Angeles, supra*, 213 Cal.App.4th at pp. 1321-1322, citing *Sinclair Paint Co. v. State Bd. of Equalization* (1997) 15 Cal.4th 866, 876.) After Proposition 26 was enacted, the State must prove that a levy or charge is not a tax by proving it qualifies for an exception; that the amount of any fee is no more than necessary to cover the reasonable costs of the regulatory program; and that the fees allocated to payors bear a fair or reasonable relationship to the payors' burdens on, or benefits received from, the regulatory program. (Cal. Const., art. XIII A, § 3(d).)

Thus, Proposition 26 effectively shifted the burden of proving the validity of a fee to the State. No longer is the initial burden on a plaintiff challenging a levy or charge to demonstrate the invalidity of a fee. (Cf. *California Farm Bureau Fed'n v. State Water Resources Control Bd.* (2011) 51 Cal.4th 421, 436 (*California Farm Bureau*).) Instead, Proposition 26 expressly placed the burden on the State to prove that a levy or charge is not a tax by proving that it qualifies for an exception to the definition of a "tax." (See Cal. Const., art. XIII A, § 3(b), (d).)

The amendments made to Article XIII A[1] by Propositions 13 and 26 must be read in furtherance of the voters' goal of achieving tax relief. Therefore, the courts must ensure that the State complies with its constitutional responsibilities by proving that levies and charges it wishes to enact beyond the two-thirds vote requirements qualifies for an express exception to the definition of "taxes."

B. The Appellate Decision Incorrectly Placed the Burden of Proving the Invalidity of the Stormwater Fee on Petitioner

Proposition 26 amended Article XIII A to place the burden on the State to prove that a levy or charge is not a "tax" by proving that it qualifies for a stated exception. (Cal. Const., art. XIII A, § 3(b).) Notwithstanding this express constitutional provision, the Court of Appeal required Petitioner to prove that the stormwater "fee" was invalid. (*Building Industry Assn. v. State Water Resources Control Bd.* (2015) 235 Cal.App.4th 1430, opn. mod. May 11, 2015, 2015 Cal.App. LEXIS 398 (Appellate Decision) at p. 1437.) Specifically, the Court of Appeal found: "The plaintiff challenging a fee bears the burden of proof to establish a prima facie case showing that the fee is invalid." (*Id.* at p. 1451, internal citations omitted.) In essence, the court's finding required Petitioner to prove that the stormwater fee surpassed the costs of the stormwater program and that the allocation of the stormwater fee to Petitioner's members was not fair or reasonable. (See *id.* at p. 1437.)

The Court of Appeal's finding is directly at odds with the express language of Article XIII A. As amended by Proposition 26, Article XIII A requires the State Water Resources Control Board (State Water Board), in the first instance, to prove the validity of the stormwater fee by

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[1] Hereinafter all further "Article XIII A" references are to the California Constitution.

demonstrating that it qualifies for an exception to the constitutional definition of "tax." (Cal. Const., art. XIII A, § 3(b).) The purpose of this constitutional requirement is to ensure that the State does not abuse the loophole that previously resulted in a proliferation of unjustified fees. (See Voter Information Guide, *supra*, text of Proposition 26, § 1(c), (e), p. 114.) By placing the burden on Petitioner to prove the invalidity of the stormwater fee, the Court of Appeal lessens the effectiveness of the constitutional restriction on new and increased taxes that Proposition 26 sought to strengthen.

In support of its finding that Petitioner must prove the invalidity of the stormwater fee, the Court of Appeal relied on several judicial decisions analyzing the constitutional restriction on new or increased taxes. (See Appellate Decision at p. 1437, citing *Sinclair Paint Co. v. State Bd. of Equalization*, *supra*, 15 Cal.4th at p. 878; *San Diego Gas & Electric Co. v. San Diego County Air Pollution Control Dist.* (1988) 203 Cal.App.3d 1132, 1146; *Beaumont Investors v. Beaumont-Cherry Valley Water Dist.* (1985) 165 Cal.App.3d 227, 235).) However, all of those decisions necessarily involved interpretations of Article XIII A that neither reflect the changes made by Proposition 26 nor recognize the voters' intent to strengthen the restriction on the State's ability to impose regulatory fees. Further, the Court of Appeal's reliance on *California Farm Bureau* is equally unavailing because this Court explicitly decided that case based on the Constitution as it existed prior to Proposition 26's enactment. (*California Farm Bureau, supra*, 51 Cal.4th at p. 428, fn. 2.)

The Court of Appeal's reliance on inapplicable law runs afoul of the most basic rules of statutory construction. "The fundamental task of statutory construction is to ascertain the intent of the lawmakers so as to effectuate the purpose of the law." (*People v. Cruz* (1996) 13 Cal.4th 764, 774-775; see also *Professional Engineers in California Government v.*

Kempton (2007) 40 Cal.4th 1016, 1037 (*Professional Engineers*) [providing that rules governing the construction of a statute apply to the construction of a voter initiative].) This Court recognizes that the best indicator of voter intent is the language of the constitutional provision or statute. (*Kwikset Corp. v. Superior Court (Benson)* (2011) 51 Cal.4th 310, 321.) Where the language of the provision or statute is clear and a reasonable application would not result in absurd results, the court presumes the voters intended the meaning on the face of the initiative, and accordingly the plain meaning of the language at issue shall govern. (*Professional Engineers* at p. 1037.)

Notwithstanding the foregoing, the Court of Appeal failed to acknowledge the plain language of Article XIII A, which explicitly places the burden on the State to prove that a levy or charge is not a tax in the first instance. (See Cal. Const., art. XIII A, § 3(d).) As a result, the State Water Board was not required to prove the stormwater fee qualifies for an exception to the general rule that all new and increased levies and charges are to be considered taxes subject to approval only after being approved by a two-thirds vote of each house of the Legislature. (See *id.* at § 3(a).) Further, the Court of Appeal's reliance on inapplicable law validated the stormwater fee without first requiring the State Water Board to satisfy two other mandates added to Article XIII A by Proposition 26. Specifically, if the State affirmatively proves that a new or increased levy or charge qualifies for an exception, Article XIII A then requires the State to also prove that the levy or charge is no more than necessary to fund the regulatory program and that the levy or charge is fairly or reasonably related to payors' burdens on or benefits from the regulatory program. (See *id.* at § 3(d).) Neither the Superior Court nor the Court of Appeal required the State Water Board to prove that the stormwater fee satisfied these mandates. Their failure to do so effectively weakens Article XIII A and

undermines the tax relief voters intended to achieve by enacting Proposition 26.

C. The State Water Board's Arguments That Proposition 26 Does Not Apply to the Stormwater Fee Are Incorrect

The State Water Board argues that Proposition 26 and the provisions it added to the Constitution to strengthen the restriction on new and increased taxes does not apply to the stormwater fee because the fee is not a product of any change in state statute. (State Water Board Answer Brief on the Merits at pp. 17, 30-31.) In pertinent part, Article XIII A provides: "Any change in state statute which results in any taxpayer paying a higher tax must be imposed by an act passed by not less than two-thirds of all members elected to the two houses of the Legislature..." (Cal. Const., art. XIII A, § 3(a).) The State Water Board is incorrect in asserting that Proposition 26 and the restriction on new and increased taxes do not apply to the stormwater fee because the fee was, in fact, enacted pursuant to a change in statute – the Budget Act.

Given that the State Water Board imposes the stormwater fee by emergency regulation (see Wat. Code, § 13260(f)(1)), the State Water Board claims Proposition 26 and the constitutional restriction do not apply. (State Water Board Answer Brief on the Merits at pp. 30-31.) However, the Water Code's express language requires the State Water Board to set the fee at "an amount equal to the revenue levels set forth in the Budget Act" and to "automatically adjust the annual fees each fiscal year to conform with the revenue levels set forth in the Budget Act[.]" (Wat. Code, § 13260(f)(1); see also State Water Board Answer Brief on the Merits at pp. 15, 16.) The Budget Act is a statute enacted each year by the Governor and the Legislature itemizing recommended expenditures and estimating revenues. (See Cal. Const., art. IV, § 12.) Therefore, although

the State Water Board sets the fee by adopting a regulation, it is the annual change in the Budget Act that results in Petitioner's members and other stormwater feepayors paying an increased stormwater fee.

The State Water Board's reliance on precedent in support of its argument is misplaced. In *Western States Petroleum Assn. v. Bd. of Equalization* (2013) 57 Cal.4th 401, this Court held that the constitutional restriction did not apply to tax increases that resulted from a Board of Equalization rule that reclassified certain property and fixtures as real property and thus subject to taxation. (*Id.* at pp. 423-424.) This Court explained: "By its terms, article XIII A, section 3(a) applies only to a 'change in *state statute* which results in any taxpayer paying a higher tax.' It does not apply to an agency's decision to modify an administrative rule in response to substantial evidence that such modification is reasonably necessary to faithfully implement an existing statute." (*Ibid.*, emphasis in original.) Similarly, in *Southern California Edison Co. v. Public Utilities Com.* (2014) 227 Cal.App.4th 172, the Court of Appeal held that the constitutional restriction did not apply to the Public Utilities Commission's Electric Program Investment Charge because it was imposed pursuant to a valid regulation rather than a statute. (*Id.* at p. 198.)

This case and the stormwater fee are distinguishable. In both *Western States Petroleum Assn. v. Bd. of Equalization, supra,* and *Southern California Edison Co. v. Public Utilities Com., supra,* this Court and the Court of Appeal's conclusions that Proposition 26 and the constitutional restriction did not apply rested on findings that the charges at issue were not imposed pursuant to a change in statute. As demonstrated above, however, the stormwater fee is adjusted annually based directly on changes made to a state statute, the Budget Act. (See Wat. Code, § 13260(f)(1).) The Court of Appeal and the State Water Board admit as much in the Appellate Decision and the Answer Brief on the Merits. The Court of

Appeal explained: "The Board responded that the permit program lost much of its general fund subsidy, and *the Board had to increase all fees*, including the stormwater discharge fee, *to cover the program's cost as established in the budget act*." (Appellate Decision at pp. 1452-1453, emphasis added.) Similarly, in its Answer Brief on the Merits, the State Water Board explains: "The Board designed its 2011-2012 fee schedule to generate only the amount of revenue required by that year's *budget act* to help pay for the waste discharge permit program... The *budget act dictated* that the Board would increase its spending from the [Waste Discharge Permit] Fund to offset cuts in the program's general fund subsidy." (State Water Board Answer Brief on the Merits at pp. 18, 19, emphasis added.) Although the State Water Board adopted the stormwater fee by emergency regulation, the enactment of the Budget Act caused the fee increase. Therefore, the precedent cited by the State Water Board is distinguishable and should not apply.

In the alternative, the State Water Board argues that Proposition 26 and the constitutional restriction do not apply because the stormwater fee qualifies for an exception to the definition of a "tax." (Appellate Decision at pp. 27-30.) Specifically, the State Water Board argues that the fee is a "charge imposed for a specific benefit conferred or privilege granted..." and "a charge imposed for the reasonable regulatory costs to the State incident to issuing licenses and permits..." (State Water Board Answer Brief on the Merits at p. 28, emphasis omitted; see also Cal. Const., art. XIII A, § 3(b)(1), (3).) However, neither the Superior Court nor the Court of Appeals made any finding of fact or law that the stormwater fee qualifies for either exception because, as explained above, they analyzed the validity of the fee under inapplicable law rather than the express language of Article XIII A. (Appellate Decision at pp. 1452-1455.) Accordingly, the State Water Board cannot now argue that the stormwater

fee qualifies for an exception. Even assuming *arguendo* that it did qualify for an exception, Article XIII A requires the State Water Board to prove (1) that the fee was no more than necessary to fund the stormwater program, and (2) that the fee was fair and reasonable in relation to Petitioner's members and other stormwater feepayors' burdens on or benefits from the stormwater program. (See Cal. Const., art. XIII A, § 3(d).) As explained above, however, neither the Superior Court nor the Court of Appeal required the State Water Board to do so. (See generally Appellate Decision at pp. 1452-1455.) Therefore, the stormwater fee remains subject to Proposition 26's general rule that all new or increased levies and charges are "taxes" subject to approval only upon a two-third vote of each house of the Legislature. (See Cal. Const., art. XIII A, § 3(a), (b).) To hold otherwise would allow the State Water Board to shirk its constitutional responsibilities and risk lessening the tax relief California voters intended to achieve by enacting Proposition 26.

II. CONCLUSION

For the foregoing reasons, the California Dairy Campaign, the Milk Producers Council, and Western United Dairymen respectfully request that the Court reverse the Court of Appeal's decision in this matter and remand to the Superior Court with instructions to require the State Water Board to justify the stormwater fee in light of the amendments made to Article XIII A by Proposition 26.

Date: January 20, 2016

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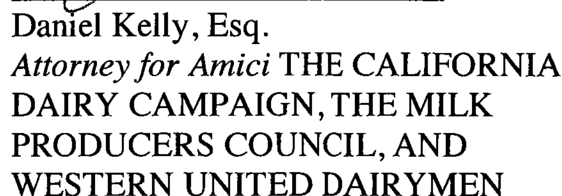

By ______________________
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Attorney for Amici THE CALIFORNIA DAIRY CAMPAIGN, THE MILK PRODUCERS COUNCIL, AND WESTERN UNITED DAIRYMEN

CERTIFICATION OF WORD COUNT

The text of this application and brief consists of 4,756 words as counted by the Microsoft Word program used to generate this application and brief. (Cal. Rules of Court, rule 8.204(c)(1).)

Date: January 20, 2016

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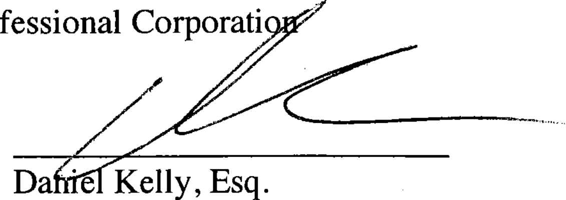

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CERTIFICATE OF SERVICE

California Building Industry Association vs. State Water Resources Control Board

California Supreme Court Case No. S226753

I, Michelle Bracha, declare:

I am a resident of the state of California and over the age of eighteen years, and not a party to the within action. My business address is Somach Simmons & Dunn, 500 Capitol Mall, Suite 1000, Sacramento, California 95814. On January 20, 2016, I served the within document:

APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF AND [PROPOSED] BRIEF OF *AMICI CURIAE* CALIFORNIA DAIRY CAMPAIGN, THE MILK PRODUCERS COUNCIL, AND WESTERN UNITED DAIRYMEN IN SUPPORT OF PETITIONER CALIFORNIA BUILDING INDUSTRY ASSOCIATION

By placing a true copy in an enclosed sealed envelope in a designated area for outgoing mail at the offices of Somach Simmons & Dunn with the correct amount of postage. The mail was placed in the designated area and is deposited that same day, in the ordinary course of business, in a United States mailbox in the City of Sacramento, California. The parties served are addressed as set forth below.

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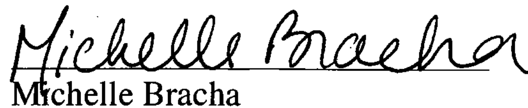
350 McAllister Street
San Francisco, CA 94102

First Appellate Case No. A137680

Clerk
San Francisco County Superior Court
400 McAllister Street, Room 103
San Francisco, CA 94102-4514

Superior Court Case No. CGC-11-516510

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 20, 2016, at Sacramento, California.



Michelle Bracha