In the Supreme Court of the State of California

CALIFORNIA BUILDING INDUSTRY ASSOCIATION,

Plaintiff and Appellant,

v.

STATE WATER RESOURCES CONTROL BOARD,

Defendant and Respondent.

Case No. S226753

First Appellate District, Division Two, Case No. A137680
San Francisco County Superior Court, Case No. CGC-11-516510
The Honorable Curtis E. A. Karnow, Judge

DEFENDANT AND RESPONDENT'S MOTION FOR JUDICIAL NOTICE

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Pursuant to rule 8.54 of the California Rules of Court, Evidence Code section 452, subdivisions (c) and (h), and Evidence Code section 459, defendant and respondent State Water Resources Control Board move for judicial notice of the following facts:

1. Proposition 25 was approved with 5,262,052 affirmative votes in the 2010 general election.

2. Proposition 26 was approved with 4,923,834 affirmative votes in the same election.

MEMORANDUM OF POINTS AND AUTHORITIES

This motion seeks judicial notice of statewide election results regarding the 2010 general election. The particular results that are the subject of this motion are attached to this motion and available on the Secretary of State's website at http://www.sos.ca.gov/elections/prior-elections/statewide-election-results/.

These results are proper subjects for judicial notice because they are maintained and published as official acts of the Secretary of State. (Evid. Code, § 452, subd. (c).) The results also are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (Evid. Code, § 452, subd. (h).)

These election results were available at the time this matter was heard by the trial court but were not presented to the trial court or the Court of Appeal. The election results are relevant because if the two initiatives are found to conflict, the initiative with the greatest number of affirmative votes will prevail. (Cal. Const., art. II, § 10, subd. (d); accord, Ballot Pamp., Gen. Elec. (Nov. 2, 2010), text of Proposition 26, § 4, reprinted at Historical Notes, 2B West's Ann. Cal. Const. (2013 ed.) foll. art. XIII A,

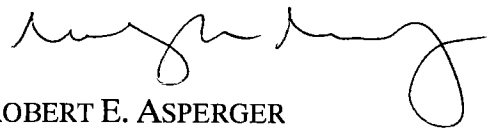
p. 297.) This matter is addressed in the Board's answer to brief of amici curiae at page 10.

For those reasons, the Board respectfully requests that the court grant this motion for judicial notice.

Dated: March 29, 2016

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GAVIN G. MCCABE
MOLLY K. MOSLEY
Supervising Deputy Attorneys General



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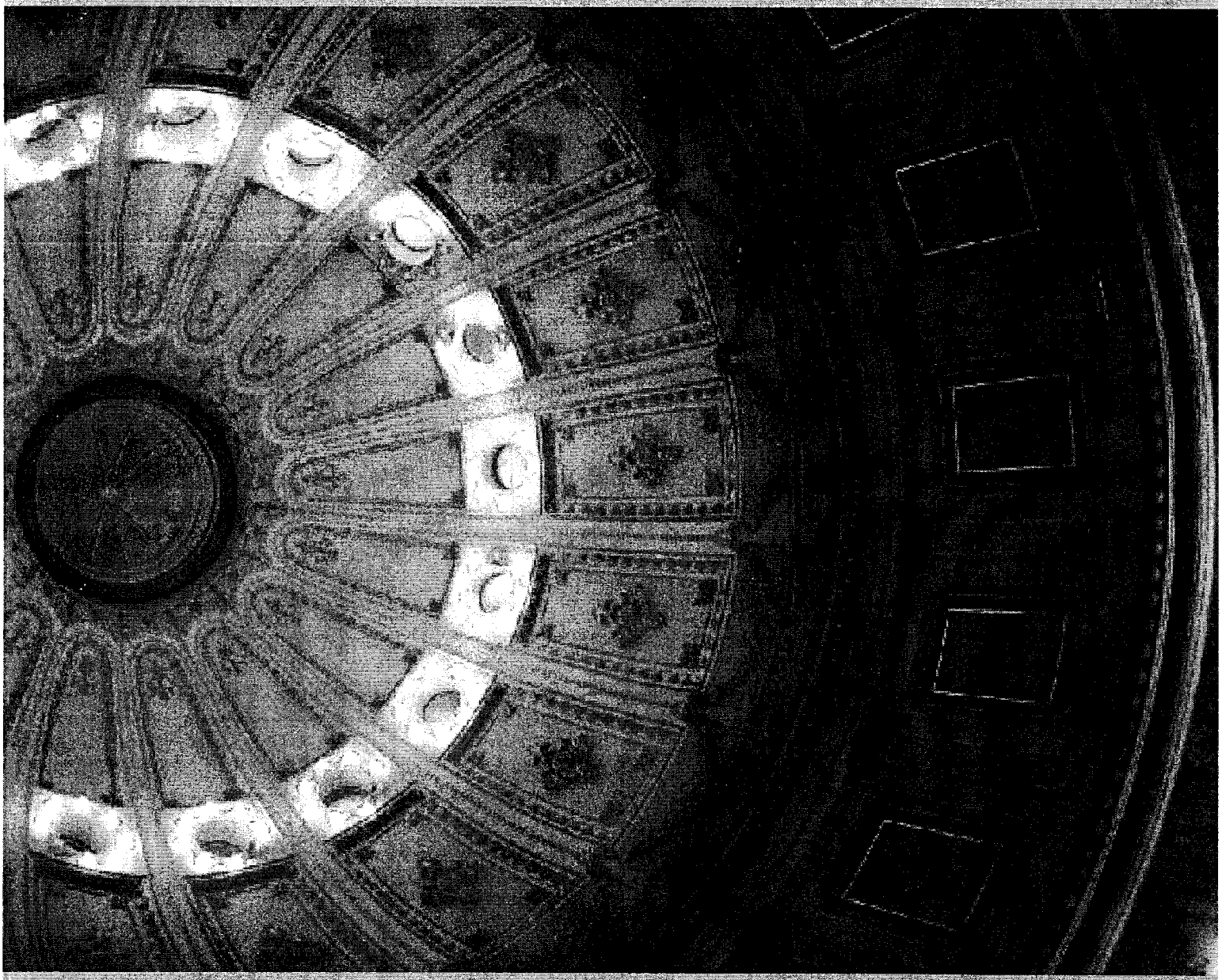
ATTACHMENT 1

Statement of Vote

November 2, 2010, General Election



California Secretary of State Debra Bowen

Revised January 6, 2011

ATTACHMENT 2

VOTES FOR AND AGAINST
NOVEMBER 2, 2010, STATEWIDE BALLOT MEASURES

State Ballot Measure Number	For		Against	
	Votes	Percent	Votes	Percent
19	4,643,592	46.5	5,333,230	53.5
20	5,743,069	61.3	3,636,892	38.7
21	4,190,643	42.7	5,615,595	57.3
22	5,733,755	60.7	3,725,014	39.3
23	3,733,883	38.4	5,974,564	61.6
24	3,947,502	41.9	5,470,477	58.1
25	5,262,052	55.1	4,292,648	44.9
26	4,923,834	52.5	4,470,234	47.5
27	3,736,443	40.5	5,468,703	59.5

Effective Date of State Ballot Measures

"An initiative...approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise... If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail." California Constitution, Article II, Section 10

"A proposed [legislative] amendment or revision shall be submitted to the electors and if approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If a provision of two or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail." California Constitution, Article XVIII, Section 4

Bond proposals submitted to the electors by the Legislature and approved by a majority of votes thereon take effect the day after the election. California Constitution, Article XVI, Section 1

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **California Building Industry Assoc. v. State Water Resources Control Board**
No.: **S226753**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On March 29, 2016, I served the attached **DEFENDANT AND RESPONDENT'S MOTION FOR JUDICIAL NOTICE** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

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Case No. A137680
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San Francisco, CA 94102

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San Francisco County Superior Court
Case No. CGC-11-516510
Civic Center Courthouse
400 McAllister Street
San Francisco, CA 94102

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 29, 2016, at Sacramento, California.

Nickell T. Mosely
Declarant

Nickell Mosely
Signature

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