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Jacob L. Snow,  
General Manager

September 19, 2011

John Walker  
State Environmental Commission  
901 S. Stewart Street, Suite 4001  
Carson City, NV 89701-5249

RE: Petition for a Variance to NRS/NAC Chapter 486A

Dear Mr. Walker:

In the matter to be heard on October 5, 2011 by the State Environmental Commission (SEC), the Regional Transportation Commission of Southern Nevada (RTC) is requesting a one-year long variance for its transit fleet vehicles based on NAC 486A.200(1)(b):

*"Would result in financial hardship to the owner or operator of a fleet"*

As required under NAC 233.B, the RTC is waiving any pre-notification requirements.

We look forward to presenting our case at the hearing on October 5, at 0930 and understand that no video conferencing is available and that a representative must be present to testify. The Petition for a Variance following the format of SEC Form #6 is attached for the Commission's consideration.

Sincerely,

JACOB L. SNOW  
GENERAL MANAGER

JLS:ss

cc: Zev Kaplan, RTC  
Sandra Stanko, RTC  
File

September 15, 2011

State Environmental Commission  
901 S. Stewart Street, Suite 4001  
Carson City, NV 89701-5249

Petition for a Variance to NRS/NAC Chapter 486A

The Regional Transportation Commission of Southern Nevada (RTC) is requesting a variance for its transit fleet vehicles based on NAC486A.200(1)(b):

*Due to Financial Hardship*

- ✓ **The length of time requested for variance:**
  - One year from date of Variance approval and notification of fuel supplier, estimated to be October 10, 2011 to October 9, 2012.
- ✓ **The portion of the fleet to which the request applies:**
  - All diesel fueled vehicles used in Fixed Route and Paratransit service. The current fleet size for Fixed Route is 360 and Paratransit is 151 for a total of 511 vehicles.
- ✓ **A description of the nature and extent of the financial hardship experienced by the agency and the financial impact that would be experienced by the agency as a result of compliance with the alternative fuels program. Also indicate what has changed to bring about this financial hardship (e.g. loss of revenue, change in market price for alternatives fuels, etc.):**
  - The Fixed Route and Paratransit services are funded by sales tax revenue. The recession has deeply cut the revenue that the RTC receives, and that means that there isn't enough funding to meet the demand for service.
  - At a time when revenue is declining, demand for Paratransit service is soaring. The State of Nevada has made deep cuts to its Medicaid program, and that has meant double-digit increases in the demand for Paratransit service. Demand rose by 22 percent from July 2010 to July 2011. The cost of providing service has increased 30 percent from fiscal year 2010 when compared to the projected costs for the next fiscal year.
  - The RTC estimates that it will purchase 5,355,616 gallons of diesel fuel during the period of July 1, 2011 through June 30, 2012.

- Although it is uncertain at this time if the \$1 Federal tax credit for B100, which will expire on December 31, 2011, will be approved by Congress, even taking this into consideration, the price of biodiesel is still significantly higher than diesel.
- The RTC is being forced to cut Fixed Route service to offset the budget crisis created by reduction in sales tax revenue, increased Paratransit demand, and higher fuel costs.
- ✓ **The budgetary savings that the fleet expects to realize if the variance is granted. Savings should be broken down by fuel expenditure savings, vehicle acquisition savings, maintenance savings, or any other savings expected.**
- The estimated annual fuel savings is \$696,230
- The price today for B5 is \$3.10 per gallon, and the \$1.00 tax credit has already been factored into the delivery price. If we could purchase just regular diesel, the invoice price today is \$2.97 per gallon. Of course, the price of diesel fluctuates, and the price of B5 is equally unpredictable, but it has shown no signs of being below the price of diesel, not even close. So, a reasonable daily savings of .13 cents per gallon or appropriately \$696,230 budgetary savings annually is pretty much a given, and could be higher if diesel drops below \$2.97.
- ✓ **Documentation showing that the applicable local air pollution control agency agrees that granting of the variance would not cause a significant adverse impact to a State Implementation Plan (SIP) control strategy.**
- Attach email from Dennis Ransel, Clark County,DAQEM:
- The following is provided as follow-up to our earlier conversation regarding the biodiesel waiver issue. As I understand it, concerns relate to the variance language in the proposed revisions to NAC 486A, specifically 486A.200.3 where it says "The Commission shall not issue a variance ..... if it determines that such a variance would have a significant adverse effect on a control measure or contingency measure." A control or contingency measure is understood to be from an EPA approved SIP, which means that the measure would be federally enforceable and thus not waivable by the Commission. We do not currently have any such SIP control measures in force, and do not anticipate addressing new mobile source emissions control measures until we are required to prepare a SIP (possibly by Dec 2013) for the newly proposed ozone standard. And, in the SIP development process, we would not put a control measure in a SIP, whether from 486A or other rule, without the participation and cooperation of the RTC and other affected agencies. The reason the air agencies (NDEP, DAQEM, and Washoe AQD) support the proposed variance language is that if 486A or some portion of 486A is adopted as a control measure for achieving needed emission reductions to attain an air quality standard, the SEC would not waiver that requirement. Removal/revision of a SIP approved control measure would first require a SIP revision approved by EPA.
- DAQEM confirmed that a waiver posed no conflict with the CO SIP.

- ✓ **A discussion of any alternatives considered that would mitigate the need for the variance.**
- The RTC is not opposed to using B5, and when the market price is lower than that for diesel, we look forward to using the maximum level of diesel / B100 blend approved for transit vehicles, currently B20. This budgetary crisis has resulted from the economic downturn. The intended purpose of Fixed Route is to remove vehicles from the road, thus improving air quality. The RTC has had to cut its Fixed Route service by 5% for the past three years, approximately 200,000 hours of service, contributing to a reduction in annual ridership of 8 million passengers. Another significant service cut of 60,000 hours is looming in May 2012. RTC's service hour rate is \$62.00; therefore, any savings results in less service cuts. The delta between the price of diesel and B5 equates to 11,230 service hours, still a significant impact on the Fixed Route service level affecting more than 750 riders per day. All measures to maintain Fixed Route service are necessary for the wellbeing of transit dependent citizens and the overall impact that transit has on the quality of life for residents of Clark County.
- ✓ **A description of how and to what degree financial conditions would have to change before the variance would no longer be needed and the expected time frame for such changes to occur.**
- As the President and Congress ceaselessly debate and the economic recovery is delayed, the outlook for a speedy resolution of the sales tax shortfall, as precipitated by high unemployment and hesitancy to spend currently plaguing the American consumer, does not appear to be capable of resolution for at least a year and more likely two or more years. Accordingly, the currently requested one-year waiver may have to be revisited and further extended until an actual economic recovery has reduced unemployment significantly, boosted consumer spending, and increased sales tax revenue.