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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11

12 IN AND FOR COUNTY OF LOS ANGELES – CENTRAL DISTRICT

13  
14 BUS RIDERS UNION, a non-profit corporation;  
15 LABOR/COMMUNITY STRATEGY CENTER,  
16 a non-profit corporation; NATURAL  
17 RESOURCES DEFENSE COUNCIL, INC., a  
18 non-profit corporation,

19 Petitioners,

20 v.

21 LOS ANGELES COUNTY METROPOLITAN  
22 TRANSPORTATION AUTHORITY; BOARD  
23 OF DIRECTORS OF THE LOS ANGELES  
24 COUNTY METROPOLITAN  
25 TRANSPORTATION AUTHORITY; and  
26 DOES 1 through 40, INCLUSIVE,

27 Respondents,

28 DOES 1 through 40, INCLUSIVE,

Real Parties in Interest.

**CONFIRMED COPY**  
OF ORIGINAL FILED  
Los Angeles Superior Court

JUN 26 2007

John A. Clarke, Executive Officer/Clerk

By \_\_\_\_\_, Deputy

CASE NO.: BS109618

**VERIFIED PETITION FOR  
WRIT OF MANDATE UNDER  
THE CALIFORNIA  
ENVIRONMENTAL QUALITY  
ACT**

[California Code of Civil Procedure §  
1094.5; Public Resources Code §  
21000 *et seq.*]

1 Pursuant to California Code of Civil Procedure section 1085, Petitioners BUS  
2 RIDERS UNION, LABOR/COMMUNITY STRATEGY CENTER and the NATURAL  
3 RESOURCES DEFENSE COUNCIL (collectively "Petitioners") bring this action on their  
4 own behalf, on behalf of their members, on behalf of the general public and in the public  
5 interest in order to enforce the California Environmental Quality Act ("CEQA") and to  
6 protect the County of Los Angeles and residents from unanalyzed and unmitigated adverse  
7 environmental impacts. Petitioners allege as follows:

### 8 INTRODUCTION

9 1. Los Angeles County is in a transportation crisis. Our highways suffer from  
10 gridlock, and our nascent rail system is underutilized and inefficient. Even as the Los  
11 Angeles County Metropolitan Transportation Authority and its Board of Directors  
12 (collectively "MTA") continues to allocate scarce funds toward expensive rail and highway  
13 capital projects, our traffic gets worse with no meaningful congestion relief in sight. In light  
14 of the intractable automobile traffic and minimal rail service, Los Angeles County's bus  
15 system fills a critical transportation void, providing affordable and flexible service to over  
16 half a million Angelenos every day. Of all the public transportation options available in Los  
17 Angeles County, the bus system is the only wide-ranging rapid transit system and the most  
18 cost-efficient and adaptable to Los Angeles County's sprawling environment.

19 2. Yet, on May 24, 2007, despite the success of the bus system and its critical  
20 function, and without any environmental review, MTA – the public agency responsible for  
21 planning, designing, building, and operating Los Angeles County's transportation system –  
22 approved substantial, multi-year bus-fare increases which will decrease bus ridership and  
23 cause significant environmental impacts in the form of air pollution, greenhouse gas  
24 emissions and traffic congestion. In addition, a last-minute motion also adopted by MTA  
25 further directed MTA staff to "restructure" downtown bus service and begin the necessary  
26 steps to "restructure" or "consolidate" (read: reduce) bus service of the so-called "worst-  
27 performing bus lines", even though these bus lines may be more efficient than rail.

28 3. In effect, by a 9 to 4 vote of its Board of Directors, MTA hit bus riders with a

1 double whammy, increasing bus fares and reducing bus service, effectively foreclosing the  
2 bus system as a viable transportation option for tens of thousands of Los Angeles County  
3 residents. The purpose underlying these actions is readily apparent: a portion of the revenue  
4 generated from increased fares and reduced service will fund new capital-intensive rail and  
5 highway projects, to the detriment of Plaintiffs, their members, and Los Angeles County  
6 residents who are dependent on, or choose to ride, MTA buses.

7       4.       The bus-fare increases and bus-service reductions carry significant human and  
8 environmental consequences. Bus riders and families teetering on the brink of financial  
9 solvency are ill-positioned to bear such increases. These riders will face unconscionable  
10 decisions in maintaining necessities such as food, clothing, and shelter. Still others facing  
11 severe financial restraints, no longer able to afford MTA fares, will migrate toward more  
12 cost-effective means of transportation as a way of reducing expenses. These riders will seek  
13 inexpensive vehicles as the cost of public transportation exceeds the cost of automobile  
14 ownership. And yet others fortunate enough to have access to automobiles—family or  
15 personally-owned—will increase use of those vehicles, either soliciting rides from relatives  
16 or reverting back to single-passenger travel. The displaced bus riders will substitute travel in  
17 older model cars, which are higher polluting than buses or newer cars, but more affordable  
18 than buses after the increased fares. The aggregate effect of the bus-fare increases and bus-  
19 service reductions will be a larger number of high-polluting vehicles on the roads and  
20 highways, exacerbating not only traffic and congestion, but resulting in more harmful  
21 emissions when compared to the efficient and cleaner MTA buses.

22       5.       California law imposes upon MTA a clear, present and mandatory duty to  
23 prepare an environmental impact report (“EIR”) for discretionary projects that may  
24 significantly affect the environment. Although narrow exemptions exist, California law  
25 always requires environmental review of rate increases where, as here, the increases are  
26 intended to fund, in whole or in part, new capital projects. By increasing bus fares and  
27 reducing bus service for system-expanding purposes and then unlawfully claiming these  
28 actions are exempt from CEQA, MTA is depriving itself and the public of much-needed

1 information on which to base a sound decision about the environmental impacts of the bus-  
2 fare increases and bus-service reductions. Further, MTA is depriving the public of its right to  
3 know and participate in decisions that are critical to protecting human health and the  
4 environment. This action challenges the decision by MTA to increase bus fares and reduce  
5 bus service in order to fund rail and highway capital projects without *any* environmental  
6 review.

### 7 JURISDICTION AND VENUE

8 6. This Court has jurisdiction to issue a Writ of Mandate to set aside the May 24,  
9 2007 MTA fare increases under California Code of Civil Procedure sections 1085 and  
10 1094.5, and Public Resources Code sections 21168 (alternately 21168.5) and 21168.9.

11 7. Venue is proper in this Court because the causes of action alleged in this  
12 Petition arose in Los Angeles County where MTA is headquartered and where most of the  
13 bus riders affected by the bus-fare increases live.

14 8. Petitioners have complied with the requirements of Public Resources Code  
15 section 21167.5 by serving a written notice of Petitioners' intention to commence this action  
16 on Respondents prior to filing this action. A copy of the written notice and proof of service  
17 is attached hereto as Exhibit A.

18 9. Petitioners have complied with the requirements of Public Resources Code  
19 section 21167.6 by concurrently filing a request that MTA certify the record of proceedings  
20 relating to the subject of this action.

21 10. Petitioners have served the California Attorney General with a copy of the  
22 present petition along with a notice of its filing, in compliance with Public Resources Code  
23 section 21167.7, and are including the notice and proof of service as Exhibit B.

24 11. Petitioners have performed any and all conditions precedent to filing this  
25 instant action and have exhausted any and all available administrative remedies to the extent  
26 required by law.

27 12. Petitioners have no plain, speedy or adequate remedy in the course of ordinary  
28 law unless the court grants the requested writ of mandate to require MTA to set aside the

1 approval of the bus-fare increases. In the absence of such remedies, MTA's approval will  
2 remain in effect in violation of state law, Petitioners and their members will suffer irreparable  
3 harm, and the people who ride buses in Los Angeles County, drive on County streets, walk  
4 on County sidewalks or play outdoors in schools or parks will suffer from the significant  
5 environmental and public health impacts of the bus-fare increases. Once the additional  
6 emissions of nitrogen oxides (an ozone precursor), carbon monoxide, and carbon dioxide  
7 permitted by the bus-fare increases occur, they can never be recovered.

8 **THE PARTIES**

9 13. Petitioner Bus Riders Union ("BRU") is a multiracial, working-class based  
10 membership organization operating at the intersection of mass transit, the environment and  
11 public health, and civil rights. Soon after its inception in 1992, BRU began organizing bus  
12 riders in the "Billions for Buses" campaign to confront and defeat the transit discrimination  
13 reflected in the policies of MTA. Since 1994, BRU has grown rapidly, and with currently  
14 over 3,000 dues-paying members and 50,000 on-the-bus supporters, it is the nation's largest  
15 grassroots, mass-transit advocacy organization. The BRU is the court-appointed class  
16 representative in the civil rights Consent Decree settlement won in October 1996 in the case  
17 *Labor/Community Strategy Center, et al v. Los Angeles County Metropolitan Transportation*  
18 *Authority*, Case No. Case No. 94-5936 TJH (MCx) in the United States District Court,  
19 Central District of California.

20 14. Petitioner Labor/Community Strategy Center ("LCSC") is a multiracial,  
21 multicultural and multilingual "think tank/act tank," building social movements to address  
22 the totality of urban life in Los Angeles. LCSC works to combat the systemic racism that  
23 Los Angeles' disenfranchised communities face in areas such as mass transit and  
24 environmental justice.

25 15. The Natural Resources Defense Council, Inc. ("NRDC") is a national  
26 non-profit organization of scientists, lawyers and environmental specialists dedicated to  
27 protecting public health and the environment. NRDC has more than 1.2 million members  
28 and e-activists nationwide, including more than 165,000 members in the State of California,

1 many of whom are bus riders in Los Angeles County and so are directly affected by the bus-  
2 fare increases and bus-service reduction, and accompanying increases in air pollution from  
3 intensified automobile travel. NRDC has a long history of advocacy with respect to the bus  
4 system, working successfully to convert the bus fleet to cleaner-burning alternative fuels and  
5 fighting to keep the bus system affordable as a rapid transit alternative to automobiles.  
6 NRDC actively pursues effective enforcement of environmental laws and regulations, and the  
7 reduction of air pollution in California on behalf of its members.

8         16.     Petitioners BRU, LCSC and NRDC and their members have a direct and  
9 beneficial interest in MTA's compliance with CEQA and the CEQA Guidelines. That  
10 interest will be directly and adversely affected by the bus-fare increases, which violate  
11 provisions of law as set forth in this Petition and which would cause substantial and  
12 irreversible harm to the environment. The maintenance and prosecution of this action will  
13 confer a substantial benefit on the public and the members of these organizations by  
14 protecting the public from the environmental and other harms alleged herein. Each Petitioner  
15 and/or its members submitted written and/or oral comments to MTA objecting to and  
16 commenting on the Project and requesting that an EIR be prepared.

17         17.     Respondent Los Angeles County Metropolitan Transportation Authority is a  
18 public entity organized and existing under and by virtue of the laws of the State of California.  
19 MTA serves as planner, designer, builder and operator for one of the country's largest, most  
20 populous counties. More than nine million people—one-third of California's residents—live,  
21 work, and play within its 1,433-square-mile service area. Besides operating over 2,000 peak-  
22 hour buses on an average weekday and averaging 500,000 riders per day, MTA also  
23 designed, built and now operates 73.1 miles of rail service. The rail system consists of the  
24 Metro Red Line subway system, the Metro Blue Line, the Metro Green Line, and the Metro  
25 Gold Line. In total, the rail system serves sixty-two rail stations stretching from Long Beach  
26 to downtown Los Angeles to Hollywood, Universal City and North Hollywood in the San  
27 Fernando Valley, from downtown Los Angeles to Pasadena and from Norwalk to El Segundo  
28 and all points in between. In addition to operating its own service, MTA funds a wide array

1 of transportation projects and highway improvements.

2 18. Under CEQA Guidelines Section 15273(b), if the CEQA review process had  
3 been commenced, MTA would be the lead agency for the EIR for the bus-fare increases.

4 19. Petitioners do not know the true names and capacities, whether individual,  
5 corporate, associate or otherwise, of Respondents and Real Parties in Interest DOES 1  
6 through 40, inclusive, and therefore sue said Respondents and Real Parties in Interest under  
7 fictitious names. Petitioners will amend this Petition to show their true names and capacities  
8 when the same have been ascertained.

9 20. Each of the Respondents is the agent and/or employee of each other  
10 Respondent, and each performed acts on which this action is based within the course and  
11 scope of such Respondent's agency and/or employment.

12 **PROJECT BACKGROUND AND SETTING**

13 21. The bus riders of Los Angeles County are 86% persons of color with an  
14 annual median income of \$12,000. Any increase in bus fares or reduction of bus service will  
15 have disproportionate socio-economic impacts, making bus transit too expensive for many  
16 working-class bus riders who travel for work, health, school, family or other needs, and  
17 forcing them to explore alternative and less-efficient means of transport. For many riders,  
18 the bus system is their only means of access to work, medical services, school, family and  
19 other needs. The effect of the bus-fare increases is a severe restriction on their ability to  
20 move about Los Angeles County. For others, especially families facing financial restraints  
21 seeking to cut expenses, the bus-fare increases will divert them to automobile travel. These  
22 riders will cajole family members to give a lift or purchase inexpensive vehicles as the cost  
23 of public transportation exceeds the cost of automobile ownership. In Los Angeles County's  
24 sprawling environment, options will be few and hardships will be many for working-class  
25 residents and families of color. The effect is a disruption of secular, professional, and  
26 religious life that disproportionately impacts these communities.

27 22. On May 24, 2007, MTA voted to implement a staggered escalation of bus  
28 fares, with the first increase to occur on July 1, 2007, the second on July 1, 2009, and the

1 third on July 1, 2011, with further increases expected to come. As of July 1, 2011, fares will  
2 have increased 44% for a cash fare, 141% for a daily pass, 71% for a weekly pass, 73% for a  
3 monthly pass, 75% for a senior monthly pass, 75% for a K-12 monthly pass, and 73% for a  
4 college monthly pass. A table showing the increases appears as an exhibit to MTA's Notice  
5 of Exemption and is reproduced in Exhibit C to this Petition. In addition, MTA directed staff  
6 to implement the "restructuring" or reduction of downtown bus service. MTA is expected to  
7 reduce service on twenty-five service lines. A copy of the implementing motion passed by  
8 MTA on May 24, 2007 is attached hereto as Exhibit D.

9 23. The purpose of the bus-fare increases and bus-service reductions is to provide  
10 funds, in whole or in part, for new rail lines and highways, or the extension of existing rail  
11 lines and highways. MTA's use the newly-generated revenue to fund such projects, to  
12 "release" other discretionary funds for such projects, or to provide matching funds to secure  
13 state and federal transportation dollars is supported by MTA admissions, the facts and  
14 circumstances surrounding the bus-fare increases and bus-service reductions, and  
15 independent budgetary analysis.

16 24. To justify the bus-fare increases and bus-service reductions, MTA ostensibly  
17 claims that it will suffer from a \$1.8 billion projected operating deficit for Metro over the  
18 next ten years. But this argument is not supported by the facts. The bus-fare increases will  
19 more than offset the increases to its operating deficit, thereby freeing up funds for system-  
20 expanding rail and highway projects. Moreover, according to the MTA, the bus-fare  
21 increases will also free up other unrestricted funds that are currently used on bus services,  
22 again creating funds for system-expanding rail and highway projects. As a result, the bus-  
23 fare increases free up funds that MTA intends to use, in part, to fund capital projects  
24 expanding the rail and highway systems.

25 25. The California Legislature has stated that bus-fare increases for certain  
26 purposes, such as meeting operating expenses, satisfying financial reserve requirements, or  
27 maintaining service within existing service areas, are to be exempt from CEQA review. *See*  
28 Public Resources Code Section 21080(b)(8). But as the plain meaning of that exemption

1 indicates, and the California Resources Agency confirms, when the purpose of the rate  
2 increase is to fund, in whole or in part, capital projects *expanding* a system, CEQA review is  
3 compelled. This is a recognition of the real-world trade-offs of fare increases, which  
4 decrease ridership and force displaced patrons to seek alternative forms of transport, such as  
5 automobiles, adversely impacting human health and the environment.

6 ***Admissions by MTA Confirm Intended Use of Fare-Increase Funds***

7 26. MTA's website admitted, prior to the May 24, 2007 hearing, that funds from  
8 the bus-fare increases will be allocated toward rail and highway transit systems:

9 Metro's massive operating deficit is siphoning monies that could be leveraged  
10 with other state and federal funds to fast track critical relief for our congested  
11 highways as well as the bus and rail system.

12 27. On April 4, 2007, MTA spokesman Marc Littman is reported in a Los  
13 Angeles Downtown News article as stating that "the operating gap for MTA threatens to  
14 impair future service, especially as costly projects like the Gold Line extension and the new  
15 Expo Line come to fruition..." The article further states "[t]he proposal also coincides with  
16 MTA plans to study a possible \$3 billion underground tunnel connecting the 710 and 210  
17 freeways."

18 28. On April 27, 2007, a Los Angeles Times opinion editorial piece authored by  
19 MTA Chief Executive Officer Roger Snoble stated: "Metro's huge operating deficit is  
20 siphoning local funds that could be used to match bond money and other state and federal  
21 funds to fast-track critical highways and transit system projects."

22 29. On May 26, 2007, Mr. Snoble is reported in the Los Angeles Times as stating  
23 that, after the bus-fare increases, MTA can afford to complete and operate the Culver City  
24 and East Los Angeles rail lines, but "other transit projects now being considered, including  
25 one busway extension, could face significant delays." Mr. Snoble further notes that "[t]here  
26 has been a big expectation that we will get it done sooner than is financially possible . . . this  
27 whole experience shows we need to be realistic about our expectations . . . It may delay some  
28 projects."

1 ***Discretionary Budget Decisions Underscore Purpose of Bus-Fare Increases***

2 30. MTA intends to expend a significant share of discretionary funding on future  
3 capital projects expanding rail and highway systems.

4 31. MTA receives the proceeds of three sales taxes: the 1980 Proposition A (one-  
5 half cent), the 1990 Proposition C (one-half cent), and the 1971 State Transportation  
6 Development Act (one-quarter cent). Together, these taxes bring in \$1,741.8 billion for FY  
7 2007, or almost 60% of MTA's \$3 billion annual budget. Although certain restrictions apply  
8 on the use of portions of these funds, and on a number of the grant funds that MTA receives  
9 from other sources, MTA has discretion over how the majority of these funds are to be  
10 utilized. For instance, MTA's 2001 Long Range Transportation Plan for Los Angeles  
11 County projects that MTA will have \$11.2 billion in "uncommitted funds" during FY 2000 –  
12 2025.

13 32. For new capital projects, MTA's current Short Range Transportation Plan  
14 states that \$19.3 billion is needed to fund the Plan's priorities through 2009, including "the  
15 costs of operating the current system and funding new transportation solutions." One of the  
16 "highlights" of the Short Range Transportation Plan is to "expand the County's light rail  
17 system." In addition, each year, MTA sends out a "Call for Projects" which is also posted on  
18 MTA's website. MTA's 2007 "Call for Projects" states, in part: "Through a competitive  
19 process, Cities, the County, Transit Operators and other public agencies that provide  
20 transportation within Los Angeles County may submit grant application(s) for regional  
21 capital transportation funding."

22 33. The bus-fare increases are significantly larger than what would be required to  
23 protect MTA's operating and maintenance budgets from the effects of inflation. MTA's FY  
24 2008 budget shows that MTA will have over \$75 million in new bus-related revenues  
25 available to pay for MTA's projected \$22 million increase in bus operating expenses – *before*  
26 *consideration of any fare increase*. The bus-fare increases will be used by MTA, wholly or  
27 in part, to subsidize the cost of expensive new rail and subway projects that are significantly  
28

1 less efficient in terms of costs per passenger mile and convenience than buses.

2 34. Rapid transit fare increases that are used only for *operating costs of existing*  
3 *services* are exempt from review under the California Environmental Quality Act (“CEQA”).  
4 But, where, as here, the proceeds from a fare increase are to be used to fund future capital  
5 projects, and to release other unrestricted MTA funds for the same purpose, CEQA applies.  
6 As such, requisite CEQA environmental review must be undertaken by MTA. That did not  
7 happen here, notwithstanding express written notice and public testimony from Petitioners  
8 that it must.

9 35. MTA’s action in approving the bus-fare increases is unlawful in that it  
10 violated the California Environmental Quality Act (“CEQA”), Public Resources Code §  
11 21000 et seq., and the CEQA Guidelines, Title 14, California Code of Regulations, § 15000  
12 et seq., by failing to prepare an Environmental Impact Report (“EIR”) for the bus-fare  
13 increases and bus-service reductions.

14 **THE FARE INCREASES WILL SIGNIFICANTLY**  
15 **IMPACT THE ENVIRONMENT**

16 36. Without the benefit of environmental review, MTA and the public do not have  
17 information necessary to render informed decisions that intelligently take into account  
18 environmental consequences. As a result, the bus-fare increases will result in significant—  
19 yet unanalyzed and unmitigated—traffic, transportation, air quality, and socio-economic  
20 impacts.

21 37. Numerous studies speak to fare elasticity, measuring the impact fare  
22 variations have on demand for bus services. In general, a 10% increase in bus fares will  
23 result in a 4% decrease in ridership. *See, e.g., American Public Transportation Association,*  
24 *Fare Elasticity and its Application to Forecasting Transit Demand* (1991). Utilizing this  
25 formula, over 100,000 current MTA bus riders may be displaced by 2011. MTA’s own  
26 estimate in its June 13, 2007 Board Workshop presentation on the FY 2008 Proposed Budget  
27 is that boardings will decline by nearly 17 million (or 3.4%) in FY 2008. This is in contrast  
28 to MTA’s previously published FY 2008 budget, which predicted an increase in boardings of

1 nearly 2 million. This net loss of 19 million boardings translates into nearly 21,000 fewer  
2 daily riders, using the 2.5-to-1 rule of thumb that MTA generally uses to relate numbers of  
3 boardings to numbers of riders. Many of these displaced bus-riders will substitute public  
4 transportation with automobile travel, increasing traffic and exacerbating Los Angeles  
5 County's transportation woes.

6 38. Moreover, MTA's planned reductions in bus service will also decrease  
7 ridership, further contributing to the total number of displaced bus riders. These displaced  
8 bus-riders will substitute public transportation with automobile travel, increasing traffic and  
9 exacerbating Los Angeles County's transportation woes. In other words, the bus-fare  
10 increases will put more cars on the road.

11 39. As a result of the primarily low-income ridership in Los Angeles County,  
12 displaced bus riders will tend to substitute travel in older vehicles. The U.S. Environmental  
13 Protection Agency publishes expected emission levels for vehicles by emission standards,  
14 with older vehicles being significantly more polluting than newer vehicles. Therefore, the  
15 result of an increased presence of older vehicles will be an immediate, negative impact on  
16 Southern California air quality, including increased emissions of oxides of nitrogen (an  
17 ozone precursor), carbon monoxide, and carbon dioxide.

18 40. Nitrogen oxides (NO<sub>x</sub>) are typically created during combustion processes, and  
19 are a major contributor to smog formation and acid deposition. In addition, NO<sub>x</sub> may result  
20 in numerous adverse health effects, including aggravation of chronic respiratory disease and  
21 respiratory symptoms. NO<sub>x</sub> also contributes to ozone, as they react with volatile organic  
22 compounds in the air to create ground level ozone. *See, e.g.,* U.S. Environmental Protection  
23 Agency, Office of Air Quality Planning and Standards, *NO<sub>x</sub>: How Nitrogen Oxides Affect the*  
24 *Way We Live and Breathe* (EPA 456-F-98-005, Sept. 1998), available at  
25 <http://www.epa.gov/air/urbanair/nox/noxfltr.pdf>.

26 41. Harmful ground-level ozone forms when NO<sub>x</sub> and VOCs interact in the  
27 presence of sunlight. Ozone causes irreversible changes in lung structure, leading to  
28 premature aging of the lungs and/or chronic respiratory illnesses such as emphysema and

1 chronic bronchitis. Children and adults who work outdoors and individuals with respiratory  
2 illnesses such as asthma are among those most at risk. Ozone also damages trees and other  
3 natural vegetation, reduces agricultural productivity, and reduces visibility. *See, e.g., U.S.*  
4 *Environmental Protection Agency, National Center for Environmental Assessment, Air*  
5 *Quality Criteria for Ozone and Related Photochemical Oxidants* (Feb. 2006), *available at*  
6 <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=149923>.

7 42. Carbon monoxide (CO) is a colorless, odorless gas resulting from the  
8 incomplete combustion of hydrocarbon fuels. CO interferes with the blood's ability to carry  
9 oxygen to the body's tissues and results in numerous adverse health effects. Over 80% of the  
10 CO emitted in urban areas is contributed by motor vehicles. *See, e.g., U.S. Environmental*  
11 *Protection Agency, Office of Mobile Sources, Automobiles and Carbon Monoxide* (EPA  
12 400-F-92-005), *available at* <http://www.epa.gov/otaq/consumer/03-co.pdf>; California Air  
13 Resources Board: Glossary of Air Pollution Terms (last updated June 4, 2007), *available at*  
14 <http://www.arb.ca.gov/html/gloss.htm>.

15 43. Carbon dioxide (CO<sub>2</sub>) is a colorless, odorless gas that occurs naturally in the  
16 Earth's atmosphere. Significant quantities are also emitted into the air by fossil fuel  
17 combustion. Carbon dioxide is a greenhouse gas that contributes to climate change. Climate  
18 change has many adverse environmental impacts, including sea level rise, shrinking glaciers,  
19 changes in the range and distribution of plants and animals, trees blooming earlier,  
20 lengthening of growing seasons, ice on rivers and lakes freezing later and breaking up earlier,  
21 and thawing of permafrost. These changes disrupt and destroy ecosystems, and result in  
22 irreversible changes to the human and natural environment. *See, e.g., Intergovernmental*  
23 *Panel on Climate Change, Climate Change 2007, The Physical Science Basis: Summary for*  
24 *Policymakers* (Switzerland, February 2007), *available at* [http://ipcc-wg1.ucar.edu/wg1/wg1-](http://ipcc-wg1.ucar.edu/wg1/wg1-report.html)  
25 [report.html](http://ipcc-wg1.ucar.edu/wg1/wg1-report.html).

26 44. The MTA uses quantitative thresholds of environmental significance for air  
27 pollution, originated by the South Coast Air Quality Management District, in analyzing  
28 projects under CEQA. For example, if only 2,800 of the 21,000 or more displaced bus riders

1 are forced to commute 30 miles per day in older cars rated 2 on the EPA's scale of 0 to 10,  
2 the MTA's threshold of environmental significance will be exceeded. Similarly, only 11,890  
3 cars, ranked 6 on EPA's scale, driven an additional 30 miles per day will exceed MTA's  
4 environmental threshold. If MTA had conducted an EIR, it would be able to quantify the  
5 effect on the environment of the bus-fare increases and adopt mitigation measures, as CEQA  
6 requires. But MTA shirked its legal duty under CEQA.

7 **MTA FAILED TO CONDUCT ENVIRONMENTAL REVIEW**

8 45. MTA claims that the May 24, 2007 bus-fare increases are statutorily exempt  
9 from CEQA. MTA filed a Notice of Exemption on or about May 29, 2007; a copy of the  
10 Notice of Exemption is attached hereto as Exhibit E. Thus, prior to approval on May 24,  
11 2007, MTA did not prepare an initial study, draft EIR, or final EIR for the bus-fare increases  
12 and bus-service reductions.

13 46. The claimed statutory exemption removes from the purview of environmental  
14 review a modification or restructuring of fares by a public agency "for the purpose of (A)  
15 meeting operating expenses, including employee wage rates and fringe benefits, (B)  
16 purchasing or leasing supplies, equipment, or materials, (C) meeting financial reserve needs  
17 and requirements, [and] (D) obtaining funds for capital projects, *necessary to maintain*  
18 *service within existing areas...*" Public Resources Code section 21080(b)(8)(emphasis  
19 added). The exemption further requires that the public agency "incorporate written findings  
20 in the record of any proceeding in which the exemption is claimed setting forth with  
21 *specificity* the basis for the claim of exemption." *Id.* (emphasis added).

22 47. The California Resources Agency published CEQA Guidelines, which, having  
23 the force of law, clarifies Public Resources Code section 21080(b)(8) to exclude rate  
24 increases that fund system-expanding capital projects: "Rate increases to fund capital  
25 projects for the expansion of a system *remain* subject to CEQA." 14 C.C.R. section 15273.  
26 Consequently, if a public agency increases fares for the purposes of funding, in whole or in  
27 part, a capital project that expands rail or highway systems, the fare increase is not exempt.

28 48. The language of the statutory exemption and implementing regulation, by its

1 plain meaning and narrow application, indicates a legislative recognition that the decision to  
2 raise funds for capital projects has tradeoffs—such as decreased ridership, traffic  
3 implications and air quality impacts—that must be duly considered by the public and the  
4 decision-maker.

5 **FIRST CAUSE OF ACTION**

6 (Writ of Mandate, Public Resources Code section 21168.5)

7 VIOLATIONS OF CEQA, PUBLIC RESOURCES CODE SECTION 21080(a), FOR  
8 ILLEGAL EXEMPTION FROM CEQA

9 49. Petitioners hereby re-allege and incorporate paragraphs 1 through 48,  
10 inclusive.

11 50. The California Public Resources Code imposes upon MTA a clear, present  
12 and mandatory duty to prepare an initial study for any discretionary project to determine if  
13 the project may have a significant effect on the environment and to prepare and consider an  
14 EIR if the project may have such effect on the environment. The duty to prepare an EIR is  
15 triggered when there is substantial evidence in the record to support a fair argument that a  
16 discretionary project may have a significant effect on the environment.

17 51. The bus-fare increases are a project within the meaning of CEQA, and are not  
18 exempt from CEQA because some or all of the funds resulting from bus-fare increases will  
19 be used by MTA to subsidize the cost of new rail or subway projects.

20 52. Approval of the bus-fare increases is a discretionary action subject to CEQA.

21 53. There is substantial evidence in the record to support a fair argument that the  
22 bus-fare increases will have a significant effect on the environment by causing increased air  
23 pollution and traffic congestion in the Los Angeles County area.

24 54. MTA violated CEQA by failing to conduct any environmental review of the  
25 bus-fare increases and bus-service reductions.

26 55. As a result of the foregoing defects, MTA prejudicially abused its discretion,  
27 failed to proceed in a manner required by law, and exceeded its jurisdiction by enacting the  
28 bus-fare increases without first conducting environmental review. As such, MTA's

1 enactment of the bus-fare increases and bus-service reductions is invalid as a matter of law.

2 **SECOND CAUSE OF ACTION**

3 (Writ of Mandate, Public Resources Code section 21168.5)

4 VIOLATIONS OF CEQA, PUBLIC RESOURCES CODE SECTION 21080(b), FOR  
5 FAILURE TO INCORPORATE SPECIFIC WRITTEN FINDINGS

6 56. Petitioners hereby re-allege and incorporate paragraphs 1 through 55,  
7 inclusive.

8 57. The California Public Resources Code imposes upon Respondents a clear,  
9 present and mandatory duty to prepare an initial study for any discretionary project to  
10 determine if the project may have a significant effect on the environment and to prepare and  
11 consider an EIR if the project may have such effect on the environment. The duty to prepare  
12 an EIR is triggered when there is substantial evidence in the record to support a fair argument  
13 that a discretionary project may have a significant effect on the environment.

14 58. The bus-fare increases are a project within the meaning of CEQA, and are not  
15 exempt from CEQA because some or all of the funds resulting from bus-fare increases will  
16 be used by MTA to subsidize the cost of new system-expanding rail or highway projects.

17 59. Assuming *arguendo* that the bus-fare increases are exempt from CEQA, MTA  
18 nevertheless failed to incorporate written findings in the record of the Fare Restructuring  
19 Plan proceedings setting forth with *specificity* the basis for the claim of exemption. Public  
20 Resources Code section 21080(b)(8); 14. C.C.R. section 15273(c). The requirement of  
21 *specific* written findings ensures that the public has a sufficient basis on which to review and  
22 comment on the alleged allocation of fare increases for purposes of determining compliance  
23 with CEQA. MTA offered only boilerplate language in its May 24, 2007 motion and in its  
24 Notice of Exemption – language that is internally inconsistent and contradicted statements in  
25 MTA's FY 2008 proposed budget.

26 60. As a result of the foregoing defects, MTA prejudicially abused its discretion,  
27 failed to proceed in a manner required by law, and exceeded its jurisdiction by enacting the  
28 bus-fare increases and bus-service reductions without first conducting environmental review.

1 As such, MTA's enactment of the bus-fare increases and bus-service reductions is invalid as  
2 a matter of law.

3  
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Petitioners pray for relief as follows:

6 1. For a temporary stay, temporary restraining order, and preliminary and  
7 permanent injunctions restraining MTA and their agents, servants, and employees, and all  
8 others acting in concert with them on their behalf, from enforcing the bus-fare increases and  
9 associated bus service reductions without full compliance with CEQA and without further  
10 order of this Court;

11 2. For alternative and peremptory writs of mandate directing MTA to  
12 vacate and set aside the May 24, 2007 motion approving bus-fare increases and any other  
13 actions approving those or similar bus-fare increases;

14 3. For alternative and peremptory writs of mandate directing MTA to  
15 vacate and set aside the May 24, 2007 motion approving bus-service reductions and any  
16 other actions approving those or similar "restructurings" or "consolidations;"

17 4. For alternative and peremptory writs of mandate directing MTA to  
18 comply with CEQA and other applicable laws, to prepare an EIR, and take any other action  
19 as required by CEQA before reconsideration or re-approval of the bus-fare increases;

20 5. For a declaration that MTA's actions in approving the bus-fare  
21 increases violated CEQA as set forth above;

22 6. For costs of suit;

23 7. For attorneys fees as authorized by California Code of Civil Procedure  
24 Section 1021.5 and other provisions of law; and

25 8. For such other and further relief as the Court deems just and proper.

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Respectfully submitted,

Dated: June 26, 2007

Joel Reynolds  
David Pettit  
Tim Grabel  
NATURAL RESOURCES DEFENSE COUNCIL

By:   
DAVID PETTIT

Attorneys for Petitioners

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**VERIFICATION**

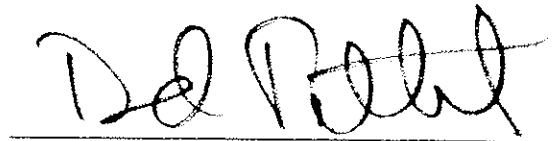
I, David Pettit, am an attorney in good standing, duly admitted and licensed to practice law in this State. My office is located at 1314 Second Street, Santa Monica, CA 90401.

I am the attorney of record for Petitioner Natural Resources Defense Council in this action. I make this verification because I am familiar with all of the facts in this petition.

I have read the foregoing petition and know the contents thereof. The same is true of my own personal knowledge, except for those allegations based on information and belief; as to those allegations, I believe them to be true and correct.

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

Executed at Santa Monica, California this 26th day of June 2007.



David Pettit

**EXHIBIT A**



NATURAL RESOURCES DEFENSE COUNCIL

June 22, 2007

*Via Federal Express*

Metropolitan Transportation Authority  
1 Gateway Plaza  
Legal Services, 3<sup>rd</sup> Floor  
Los Angeles, CA 90012

**Re: *Notice of Intent to File Verified Petition for Writ of Mandate for Violations of the California Environmental Quality Act Concerning Bus-Fare Increases in Los Angeles County***

Dear Madam:

The Bus Riders Union ("BRU"), Labor/Community Strategy Center ("LCSC"), and Natural Resources Defense Council ("NRDC") hereby provide you with notice of intent to commence legal action against the Los Angeles County Metropolitan Transportation Authority for failure to observe the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 *et seq.*, in the administrative process that culminated in approval of a three successive bus-fare increases in Los Angeles County beginning on July 1, 2007.

BRU, LCSC, and NRDC will base their petition on the following allegations. Where the proceeds from a fare increase are to be used to fund future capital projects, environmental review under CEQA must be conducted. Although the funds from this fare increase will be used, in whole or in part, to fund future capital projects, MTA unlawfully failed to conduct an Environmental Impact Report ("EIR") before approving it. Because the increase is expected to have significant harmful impacts on the environment and the health of the public from increased use of old, emission-heavy cars, an EIR is essential. The bus-fare increases are therefore invalid as a matter of law under CEQA, and approval must be set aside.

This notice is given pursuant to Public Resources Code section 21167.5.

Sincerely,

Tim Grabel  
Project Attorney

**PROOF OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is: 1314 Second Street, Santa Monica, California 90401.

On June 22, 2007, I served the within documents described as:

**Notice of Intent to File Verified Petition for Writ of Mandate for Violations of the California Environmental Quality Act Concerning Bus Fare Increases in Los Angeles County**

on the interested parties by causing such envelope to be delivered by mail (via Federal Express) to the office of the addressees as indicated below:

Metropolitan Transportation Authority  
1 Gateway Plaza  
Legal Services, 3<sup>rd</sup> Floor  
Los Angeles, CA 90012

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

Executed on June 22, 2007 at Santa Monica, California.

  
\_\_\_\_\_  
Penny Primo

**EXHIBIT B**



NATURAL RESOURCES DEFENSE COUNCIL

June 26, 2007

*Via Federal Express*

Attorney General Jerry Brown  
Office of the Attorney General  
300 S. Spring Street, Suite 1700  
Los Angeles, CA 90013-1230  
(213) 897-2000

Office of the Attorney General  
Attn: Stacy Boulware-Eurie  
Government Section  
1300 "I" Street  
Sacramento, CA 95814-2919  
(916) 445-9555

**Re: Notice of Challenge to Failure to Comply with the California  
Environmental Quality Act for Bus-Fare Increases in Los Angeles  
County; *Bus Riders Union et al. v. Los Angeles County Metropolitan  
Transportation Authority***

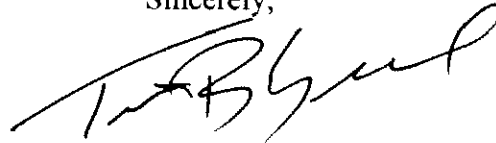
Dear Attorney General Brown:

Enclosed please find a copy of the Verified Petition for Writ of Mandate under the California Environmental Quality Act whereby the Bus Riders Union ("BRU"), Labor/Community Strategy Center ("LCSC"), and Natural Resources Defense Council ("NRDC") challenge the approval of a significant bus-fare increases by the Los Angeles County Metropolitan Transportation Authority ("MTA") without first conducting adequate environmental review as required under the California Environmental Quality Act ("CEQA"). Where the proceeds from a fare increase are to be used to fund future capital projects, environmental review under CEQA must be conducted, but here the Metropolitan Transportation Authority unlawfully failed to do an environmental impact report ("EIR") before approving the bus-fare increases. These bus-fare increases will reduce ridership, boost automobile use and increase air pollution, adversely impacting the human and natural environment in Los Angeles County. Therefore, the bus fare increase is invalid as a matter of law, and must be set aside.

Office of the Attorney General  
June 26, 2007  
Page 2 of 2

The petition is provided to you in compliance with Public Resources Code section 21167.7 and Code of Civil Procedure section 388. Please do not hesitate to contact me if you have any questions at (310) 434-2300 or [tgrabiel@nrdc.org](mailto:tgrabiel@nrdc.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Grabel", written in a cursive style.

Tim Grabel  
Project Attorney  
Natural Resources Defense Council

**PROOF OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is: 1314 Second Street, Santa Monica, California 90401.

On June 26, 2007, I served the within documents described as:

**Notice of Challenge to Failure to Comply with the California Environmental Quality Act for Bus-Fare Increases in Los Angeles County**

**Verified Petition for Writ of Mandate under the California Environmental Quality Act (Courtesy Copy for Attorney General)**

on the interested parties by causing such envelope to be delivered by mail (via Federal Express) to the office of the addressees as indicated below:

Office of the Attorney General  
300 S. Spring Street  
Suite 1700  
Los Angeles, CA 90013-1230

Office of the Attorney General  
Attn: Stacy Boulware-Eurie  
Government Section  
1300 "I" Street  
Sacramento, CA 95814-2919

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

Executed on June 26, 2007 at Santa Monica, California.

  
Penny Primo

**EXHIBIT C**



**EXHIBIT D**

**Motion by Directors Molina, Fasana, O'Connor, and Yaroslavsky**

**We move that the Board of Directors:**

1. Adopt the attached fare schedule for fiscal years 2008 through 2012.
2. Authorize the implementation of the first phase of fare restructuring in 2008 and the second phase in 2010 as outlined in the attached fare schedule.
3. Implement a 25 cent off-peak fare for disabled and seniors 65 years and older. The fare shall be valid between the hours of 9:00 AM and 3:00 PM and after 7:00 PM on all weekdays and all day Saturday, Sunday and Federal holidays. The only proof of eligibility required for seniors shall be a medicare card.
4. Direct the CEO to work with City of Los Angeles to implement the restructuring of downtown bus service and bus only peak-hour lanes as identified by the Mayor of Los Angeles in his letter to the Board dated May 21, 2007.
5. Instruct Metro's legislative advocates to aggressively pursue Metro's share of the 2007 State spillover funds estimated to be up to \$110 million.
6. Instruct Metro's legislative advocates to lobby for the reauthorization of the CNG tax credits scheduled to sunset in 2009.
7. Direct the CEO to prepare a comprehensive plan for checking fares on the Orange line and all rail lines and report back to the Board within 60 days with an implementation plan that can begin within 60 days thereafter.
8. Direct the CEO to perform an analysis of the 25 worst performing bus lines and report back to the Board within 90 days for review. The analysis should contain an assessment of how the lines could be restructured or consolidated in order to improve their performance and make them more cost effective.
9. Direct the CEO to come back to Board within two years with:
  1. An analysis of TAP data and possible future alternative fare structures including distance based fares, peak and off-peak fares, and premium fares for train and express service.
  2. Status of the cost savings from the restructuring of downtown service and the implementation of bus only lanes in partnership with the City of Los Angeles.
10. Direct the CEO to report to the Board quarterly on the ridership and revenue outcomes due to fare restructuring.

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3		Current	FY08	FY10	FY12
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5	Cash	\$1.25	\$1.25	\$1.50	\$1.80
6	Day	\$3.00	\$5.00	\$6.00	\$7.25
7	Week	\$14.00	\$17.00	\$20.00	\$24.00
8	Month	\$52.00	\$62.00	\$75.00	\$90.00
9	EZ Pass	\$58.00	\$70.00	\$84.00	\$100.00
10					
11	Sr Cash	\$0.45	\$0.55	\$0.65	\$0.75
12	Sr Day	\$1.50	\$1.80	\$2.15	\$2.55
13					
14	Sr Month	\$12.00	\$14.00	\$17.00	\$21.00
15	Sr EZ	\$29.00	\$35.00	\$42.00	\$50.00
16	K-12	\$20.00	\$24.00	\$29.00	\$35.00
17	College	\$30.00	\$36.00	\$43.00	\$52.00
18					
19	Token	\$1.10	\$1.25	\$1.50	\$1.80
20	Night/Owl/Off peak	\$0.75	\$1.25	\$1.50	\$1.80
21	Reg Cash Ea Zone	\$0.50	\$0.60	\$0.70	\$0.85
22	Reg/EZ Monthly Ea Zone	\$15.00	\$18.00	\$22.00	\$26.00
23	Metro-Muni	\$0.25	\$0.30	\$0.35	\$0.40
24	Sr Cash Ea Zone	\$0.25	\$0.30	\$0.35	\$0.40
25	Sr/EZ Monthly Ea Zone	\$7.50	\$9.50	\$9.50	\$9.50
26	Sr Metro-Muni	\$0.10	\$0.10	\$0.10	\$0.15
27	Semi Month	\$27.00	Eliminate	Eliminate	Eliminate
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**EXHIBIT E**

Notice of Exemption

Form D

To: [ ] Office of Planning and Research
PO Box 3044, 1400 Tenth Street, Room 212
Sacramento, CA 95812-3044

[x] County Clerk
County of Los Angeles

From: (Public Agency) Los Angeles County Metropolitan
Transportation Authority (Met
One Gateway Plaza
Los Angeles, California 90012-2952
(Address)

ORIGINAL FILED

MAY 29 2007

LOS ANGELES, COUNTY CLERK

Project Title: Fare Restructuring Plan

Project Location - Specific:

Project Location - City: Every City in which
Metro operates bus or Project Location - County: Los Angeles, Orange
rail service and Ventura

Description of Project:

Effective July 1, 2007, Metro will implement a new fare structure, with further
changes to be effective July 1, 2009 and July 1, 2011. Attached as Exhibit "A"
hereto is Metro's new Fare Restructuring Plan.

Name of Public Agency Approving Project: Los Angeles County Metropolitan Transportation Authority

Name of Person or Agency Carrying Out Project: Los Angeles County Metropolitan Transportation
Authority

Exempt Status: (check one)

- [ ] Ministerial (Sec. 21080(b)(1); 15268);
[ ] Declared Emergency (Sec. 21080(b)(3); 15269(a));
[ ] Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
[ ] Categorical Exemption. State type and section number:
[x] Statutory Exemptions. State code number: Public Resources Code §21080(b)(8)

Reasons why project is exempt:

CEQA does not apply to the restructuring of Metro fares which Metro will use to:
meet operating expenses, including employee wage rates and fringe benefits; purchase
or lease supplies, equipment or materials; meet financial reserve needs and require-
ments; or obtain funds for capital projects, necessary to maintain service within
existing service areas.

Lead Agency

Contact Person: Terry Matsumoto Area Code/Telephone/Extension: (213) 922-2473

If filed by applicant:

- 1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? [ ] Yes [ ] No

Signature: Gwyneth Doyle Date: 5/29/2007 Title: Senior Environmental
Specialist

[x] Signed by Lead Agency

Date received for filing at OPR:

[ ] Signed by Applicant

January 2004

Governor's Office of Planning and Research

**PROOF OF SERVICE BY HAND DELIVERY**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is: 1314 Second Street, Santa Monica, California 90401.

On June 26, 2007, I served the within documents described as:

**VERIFIED PETITION FOR WRIT OF MANDATE UNDER THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

on the interested parties by causing such document to be hand delivered at 111 N. Hill Street, Los Angeles, California to:

Office of the County Counsel  
Metropolitan Transportation Authority  
1 Gateway Plaza  
Los Angeles, California 90012

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

Executed on June 26, 2007 at Los Angeles, California.



David Pettit