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13 Resources Defense Council, Inc.

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 IN AND FOR COUNTY OF LOS ANGELES – CENTRAL DISTRICT

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

21 Petitioners,

22 v.

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

Respondents,

DOES 1 through 40, INCLUSIVE,

Real Parties in Interest.

CASE NO.:

BS109618

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
ORDER TO SHOW CAUSE AND
APPLICATION FOR TEMPORARY
RESTRAINING ORDER;
DECLARATIONS IN SUPPORT
THEREOF**

Date: June 26, 2007

Time: 8:30 A.M.

Dept: 85 or 86

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1 **I. INTRODUCTION AND SUMMARY OF ARGUMENT**

2 The Los Angeles Metropolitan Transit Authority (“MTA”) enacted significant bus-
3 fare increases (over 140% in some cases) on May 24, 2007 without any study whatsoever of
4 the environmental impacts of its decision. Petitioners repeatedly informed MTA that
5 environmental review of the proposed fare increases was required under the California
6 Environmental Quality Act (“CEQA”) because the increases will cause increased air
7 emissions and traffic congestion. But MTA refused, claiming exemption from CEQA.

8 In fact, the fare increases are not exempt from CEQA because part or all of them will
9 go to fund new MTA capital projects. The CEQA Guidelines expressly provide that a transit
10 fare increase “to fund capital projects for the expansion of a system” is *not* exempt from
11 CEQA. (14 C.C.R. section 15273(b).) MTA’s fiscal year 2008 budget, published after the
12 May 24, 2007 hearing, shows that MTA will generate almost \$100 million in revenue in
13 excess of its projected increases in bus operating expenses – *before accounting for the*
14 *projected \$32 million increase in revenue from the bus fare hikes that give rise to this*
15 *application*. To put it simply: MTA can afford to operate the bus system without raising
16 fares.

17 But statements of MTA’s officials show that they want to spend the additional \$132
18 million on new capital projects, not buses. Rather than the “structural deficit” that MTA
19 claims as a rationale to increase bus fares, MTA is suffering from a common sense deficit by
20 choosing to increase bus fares substantially to fund costly, inefficient new rail and highway
21 projects preferred by MTA officials – and doing so without complying with CEQA.

22 The bus-fare increases carry significant human and environmental consequences. As
23 a result of rate increases ranging from 44% to 141%, tens of thousands of bus riders will be
24 displaced. Working-class families will be hardest hit, losing access to affordable public
25 transportation. Some bus riders who have access to cars will use inexpensive, high-polluting
26 vehicles when the cost of public transportation exceeds the cost of automobile ownership.
27 The extra miles traveled in those vehicles will cause significant increases in air pollution that
28 will exceed MTA’s own environmental thresholds and, once emitted, can never be recovered.

1 This is exactly why CEQA requires environmental review of fare increases intended
2 for non-operational expenses: the impacts are immediate and real. By this application for a
3 TRO, Petitioners seek to prevent this public harm from occurring pending a trial on the
4 merits of this case.

5 **II. TEMPORARY RESTRAINING ORDER STANDARD OF REVIEW**

6 Code of Civil Procedure Section 1094.5(g) provides in part that this Court:
7 “[M]ay stay the operation of the administrative order or decision pending the
8 judgment of the court, or until the filing of a notice of appeal from the
9 judgment or until the expiration of the time for filing the notice, whichever
10 occurs first. However, no such stay shall be imposed or continued if the court
11 is satisfied that it is against the public interest.”

12 Courts will readily issue stays of administrative decisions when the public interest
13 warrants. *See, e.g. Laurel Heights Improvement Assn. v. Regents of Univ. of California*, 47
14 Cal.3d 376, 424 (1988) (court enjoined further construction of UCSF biomedical campus
15 facility until a new EIR was certified). In addition, courts look to the provisions of the Code
16 of Civil Procedure Section 526(a) in deciding whether to issue a TRO or a preliminary
17 injunction. Under Section 526(a), courts have used a two-pronged test, analyzing: 1) the
18 likelihood that petitioner will prevail on the merits and 2) the interim harm that the petitioner
19 is likely to sustain if the injunction were denied, as compared to the harm that the respondent
20 is likely to sustain if the injunction were issued. *See Readylink Healthcare v. Cotton* 126
21 Cal.App.4th 1006, 1016 (2005), citing *Whyte v. Schlage Lock Co.*, 101 Cal.App.4th 1443,
22 1449-1450 (2002). In this analysis, courts have considered the likelihood of irreparable harm
23 to the environment, as well as harm to petitioners. *See, e.g. People v. Tahoe Regional*
24 *Planning Agency*, 766 F.2d 1308, 1316-1319 (9th Cir. 1985).

25 In addition, it is well-established that the more likely it is that petitioners will prevail,
26 the less severe the interim harm that petitioners must show to obtain interim relief,
27 particularly where (as here) the proposed TRO maintains, rather than alters, the status quo.
28 *King v. Meese*, 43 Cal.3d 1217, 1227-1228 (1987); *see also Transcentury Properties, Inc. v.*

1 *State of California*, 41 Cal.App.3d 835 (1974). Indeed, many cases hold that where the
2 showing of the likelihood of success is sufficient, petitioner need not show that the balance of
3 harms tips in his or her favor at all. *See, e.g. Common Cause of California v. Board of*
4 *Supervisors*, 49 Cal.3d 432, 447 (1989); *Pleasant Hill Bayshore Disposal v. Chip-It*
5 *Recycling*, 91 Cal.App.4th 678, 696 (2001).

6 **III. PETITIONERS ARE LIKELY TO SUCCEED ON THE MERITS**

7 CEQA is to be interpreted “in such manner as to afford the fullest possible protection
8 to the environment within the reasonable scope of the statutory language.” *Friends of*
9 *Mammoth v. Board of Supervisors*, 8 Cal.3d 247, 259 (1972). The California Supreme Court
10 has emphasized that “[i]n enacting CEQA, the Legislature declared its intention that all
11 public agencies responsible for regulating activities affecting the environment give prime
12 consideration to preventing environmental damage when carrying out their duties.”
13 *Mountain Lion Foundation v. Fish and Game Commission*, 16 Cal.4th 105,112 (1997). Here,
14 to fulfill CEQA’s mandate for full disclosure and consideration of environmental effects,
15 Petitioners will show that (a) the bus fare increase is not statutorily or otherwise exempt from
16 CEQA, and (b) there is a fair argument that the bus fare increase will have a direct physical
17 impact on in the environment in the form of increased air pollution and traffic.

18 **A. The Bus Fare Increase Is Not Exempt from CEQA**

19 Public Resources Code Section 21065 provides in part that a “project” under CEQA
20 means: “an activity which may cause either a direct physical change in the environment, or a
21 reasonably foreseeable indirect physical change in the environment,” which includes “an
22 activity directly undertaken by any public agency. . . .” In addition, a public agency action
23 that will not have an immediate effect on the environment, but that will culminate in a
24 physical impact on the environment, is a project under CEQA. *Fullerton Joint Labor Union*
25 *High School Dist., v. State Bd. of Educ.*, 32 Cal.3d 779, 795 (1982); *see also Shawn v.*
26 *Golden Gate Bridge, Highway & Transp. Dist.*, 60 Cal.App.3d 699 (1976) (requiring a bus
27
28

1 fare increase to be analyzed under CEQA).¹ Petitioners do not understand MTA to claim that
2 the bus fare increases are not a “project” within the scope of CEQA.

3 Below, Petitioners demonstrate that the bus fare increases will cause increased air
4 pollution and traffic congestion, and thus will have a physical impact on the environment.
5 Briefly summarized, MTA approved rate hikes of 44% for a cash fare, 141% for a daily pass,
6 71% for a weekly pass, 73% for a monthly pass, 75% for a senior monthly pass, 75% for a K-
7 12 monthly pass, and 73% for a college monthly pass. Declaration of David Pettit (“Pettit
8 Decl.”) at ¶ 7, Exh. C.

9 MTA has not disputed that the fare increases are a “project” under CEQA or that
10 there will be significant environmental impacts resulting from the project, claiming instead
11 that the fare increase is statutorily exempt from CEQA under Public Resources Code Section
12 21080(b), which provides in part that CEQA does not apply to:

13 (8) The establishment, modification, structuring, restructuring, or approval of
14 rates, tolls, fares, or other charges by public agencies which the public agency
15 finds are for the purpose of (A) meeting operating expenses, including
16 employee wage rates and fringe benefits, (B) purchasing or leasing supplies,
17 equipment, or materials, (C) meeting financial reserve needs and
18 requirements, (D) obtaining funds for capital projects necessary to maintain
19 service within existing service areas, or (E) obtaining funds necessary to
20 maintain those intracity transfers as are authorized by city charter.²

21 However, CEQA Guidelines Section 15273(b) provides an exception to the
22 statutory exemption above whereby fare increases enacted for the purpose of funding system-
23 expanding capital projects are not exempt from CEQA:

24 (b) Rate increases to fund capital projects for the expansion of a system
25

26 ¹ The Plaintiffs in *Shawn* alleged that the fare increase “would cause bus passengers to resort
27 to use of their private automobiles, thus adversely affecting the environment by increasing
28 traffic congestion, air pollution, and unnecessary and excessive consumption of hydrocarbon
fuels.” 60 Cal.App.3d at 701.

² Pub. Res. Code Section 21080(b) was enacted after the decision in *Shawn*.

1 remain subject to CEQA. The agency granting the rate increase shall act either
2 as the Lead Agency if no other agency has prepared environmental documents
3 for the capital project or as a Responsible Agency if another agency has
4 already complied with CEQA as the Lead Agency.

5 (c) The public agency shall incorporate written findings in the record of any
6 proceeding in which an exemption under this section is claimed setting forth
7 with specificity the basis for the claim of exemption.

8 Here, there is strong evidence that the fare increases meet the test of Guidelines Section
9 15273(b) because the purpose of the fare increases, in whole or in part, is to fund capital
10 projects for the expansion of the MTA's rail and highway systems.

11 Preliminarily, MTA conceals its purpose in enacting the fare increases by claiming it
12 has a "structural deficit." It is a misnomer to call the MTA's increased expenses, based on
13 the desire to fund future capital projects, "structural." Rather, it is the result of deliberate and
14 reversible choices that MTA now purports to pay for. The public record is replete with
15 statements by MTA officers that the fare increases are a response to future capital projects
16 that MTA and certain elected officials would like to build. This is no more "structural" than
17 a college student running out of money because he decided to spend his student loans on a
18 trip to Europe.

19 Moreover, the existence of a "structural deficit" is not supported by MTA records or
20 statements by MTA officials. For example, MTA's fiscal year (FY) 2008 budget projects
21 that bus operating expenses will increase by a total of \$22 million over FY 2007.³ However,
22 in contrast, the bus fare increases will bring in an additional \$32 million, and other sources
23 will bring in *another* \$75 million *for the bus system alone*.⁴ That is a total of \$107 million or,
24 in other words, \$75 million more than increased bus operating expenses. Thus, according to
25 MTA's own records, it can well afford to operate the bus system *without* raising fares. This
26 is also supported by MTA's 2001 Long Range Transportation Plan for Los Angeles County,
27 which projects that MTA will have \$11.2 billion in "uncommitted funds" during FY 2000 –

28 ³ Pettit Decl. at ¶ 34.

⁴ Pettit Decl. at ¶ 34.

1 2025.⁵ It is no surprise where MTA wants the extra millions to go.

2 MTA's officials admit that the fare increases will be used to pay for, or "free up"
3 funds for, future capital projects. On April 4, 2007, MTA spokesman Marc Littman is
4 reported in a Los Angeles Downtown News article as stating, "the operating gap for MTA
5 threatens to impair future service, especially as costly projects like the Gold Line extension
6 and the new Expo Line come to fruition..."⁶ The article further states "[t]he proposal also
7 coincides with MTA plans to study a possible \$3 billion underground tunnel connecting the
8 710 and 210 freeways."⁷

9 On April 27, 2007, a Los Angeles Times opinion editorial piece authored by MTA
10 Chief Executive Officer Roger Snoble stated: "Metro's huge operating deficit is siphoning
11 local funds that could be used to match bond money and other state and federal funds to fast-
12 track critical highways and transit system projects."⁸

13 On May 26, 2007, Mr. Snoble is reported in the Los Angeles Times as stating that,
14 after the bus fare increases, MTA can afford to *complete* and operate the Culver City and
15 East Los Angeles rail lines, but "other transit projects now being considered, including one
16 busway extension, could face significant delays."⁹ Mr. Snoble further notes, "[t]here has
17 been a big expectation that we will get it done sooner than is financially possible . . . this
18 whole experience shows we need to be realistic about our expectations . . . It may delay some
19 projects."¹⁰

20 MTA has an extensive list of future construction/expansion projects that it wants to
21 fund. MTA's current Short Range Transportation Plan states that \$19.3 billion is needed to
22 fund the Plan's priorities through 2009, including "the costs of operating the current system
23

24 _____
25 ⁵ Pettit Decl. at ¶ 32.

26 ⁶ Pettit Decl. at ¶ 13.

27 ⁷ Pettit Decl. at ¶ 13.

28 ⁸ Pettit Decl. at ¶ 14.

⁹ Pettit Decl. at ¶ 15.

¹⁰ Pettit Decl. at ¶ 15; see also Pettit Decl. at ¶ 16, Exh. K (letter to MTA Board from Mayor Villaraigosa).

1 and funding new transportation solutions.”¹¹ One of the “highlights” of the Short Range
2 Transportation Plan is to “expand the County’s light rail system.” In addition, each year,
3 MTA sends out a “Call for Projects” which is also posted on MTA’s website.¹² MTA’s 2007
4 “Call for Projects” states, in part: “Through a competitive process, Cities, the County,
5 Transit Operators and other public agencies that provide transportation within Los Angeles
6 County may submit grant application(s) for regional capital transportation funding.”¹³ More
7 recent documents show that MTA intends to fund over \$200 million of these projects in FY
8 2008.¹⁴

9 Ultimately, the question of the need for and use of funds from the bus fare increases
10 will be resolved by this Court at a hearing. For purposes of preliminary relief, Petitioners
11 have made more than a sufficient showing that the bus fare increase is a project that is not
12 exempt from CEQA.

13 **B. *The Bus Fare Increase Will Have a Physical Effect on the Environment***

14 In *Shawn v. Golden Gate Bridge*, 60 Cal.App.3d 699 (1976), the court held that an
15 increase in bus fares is not a continuing administrative activity but a project requiring
16 environmental review.¹⁵ The *Shawn* decision was premised on the finding that the fare
17 increase “would cause bus passengers to resort to use of their private automobiles, thus
18 adversely affecting the environment by increasing traffic congestion, air pollution, and
19 ‘unnecessary and excessive consumption of hydrocarbon fuels.’” *Shawn*, 60 Cal.App.3d at
20 701. The *Shawn* court found this to be “particularly true” given that a project is defined “as
21 ‘the whole of an action which has a potential for physical impact on the environment, directly
22 or ultimately’ and in light of the allegations of the complaint that specific impacts of this sort
23

24 ¹¹ Pettit Decl. at ¶ 17.

25 ¹² Pettit Decl. at ¶ 17.

26 ¹³ Pettit Decl. at ¶ 17.

27 ¹⁴ Pettit Decl. at ¶ 18.

28 ¹⁵ The Legislature subsequently adopted a statutory exemption for rate adjustments – the exemption at issue here – except when those rate increases are for the purpose of funding capital projects for the expansion of a system. See Pub. Resources Code § 21080(b)(8) and (b)(9); Stats. 1978, Ch.356, § 1 (Senate Bill No. 1733).

1 do exist.” *Id.* at 702.

2 Just as the plaintiffs in *Shawn* alleged, many displaced MTA bus riders, facing severe
3 financial restraints and seeing that auto transportation has become cheaper than bus fares,
4 will migrate toward more cost-effective means of transportation as a way of reducing
5 expenses. These riders will seek inexpensive vehicles as the cost of public transportation
6 exceeds the cost of automobile ownership.¹⁶ Still others fortunate enough to have access to
7 automobiles—family or personally-owned—will increase use of those vehicles, either
8 soliciting rides from relatives or reverting back to single-passenger travel.¹⁷ The displaced
9 bus riders will substitute travel in older model cars, which emit more pollutants than buses or
10 newer cars, but are more affordable than buses that require the increased fares.¹⁸ The
11 aggregate effect of the bus-fare increases will be a larger number of high-polluting vehicles
12 on the roads and highways, exacerbating not only traffic and congestion, but resulting in
13 more harmful emissions when compared to the more efficient and cleaner MTA buses.¹⁹

15 ¹⁶ Decl. of Thomas Allen ¶ 4; Decl. of Amada Guzman ¶ 4; Decl. of Isaac Harris ¶ 4; Decl.
16 of Houtan Noushmehr ¶ 3; Decl. of Mircea Lemus ¶ 4; Decl. of Lizbeth Ruiz ¶ 4; Decl. of
Antonia Sian ¶ 4; Decl. of Cynthia Moss ¶ 5.

17 ¹⁷ Decl. Of Maria Medina ¶ 4; Decl. of Velia Segura ¶ 4; Decl. of Myron Andrewin ¶ 4; Decl.
18 of Joseph Brown ¶ 3; Decl. of Karen Barragan ¶ 5; Decl. of Jaqueline Boateng ¶ 4; Decl. of
Andrew Claycomb ¶ 4; Gillian Claycomb ¶ 4; Decl. of Richard Drapier ¶ 5; Decl. of Gina
19 Evans ¶ 3; Decl. of Julio Garcia ¶ 4; Decl. of Stephanie Hammonds ¶ 4; Decl. of Maria
Macias ¶ 5; Decl. of Rob McRoberts ¶ 3; Decl. of Famarz Nabavi ¶ 4; Decl. of Emmanuel
20 Ruiz ¶ 5; Decl. of Michelle Rolih ¶ 5; Decl. of Stephen Wu ¶ 5; Decl. of Ellis Wilson ¶ 5.

21 ¹⁸ Decl. of Amada Guzman ¶ 4 (will likely purchase an older car); Decl. of Houtan
22 Noushmehr ¶ 3 (will purchase a used car); Decl. of Mircea Lemus ¶ 4 (will purchase a used
car); Decl. of Lizbeth Ruiz ¶ 4 (planning to purchase a used car); Decl. of Antonia Sian ¶ 4
23 (will purchase a used car); Decl. Of Maria Medina ¶ 4 (2001 Ford); Decl. of Myron
Andrewin ¶ 4 (1989 Chevy Camaro); Decl. of Joseph Brown ¶ 3 (1993 Ford Thuderbird);
24 Decl. of Karen Barragan ¶ 5 (2001 Honda Passport); Decl. of Jaqueline Boateng ¶ 4 (1993
Honda Accord); Decl. of Andrew Claycomb ¶ 4 (1994 Volvo); Decl. of Gillian Claycomb ¶ 4
25 (2002 Honda Civic); Decl. of Richard Drapier ¶ 5 (1996 Pontiac Sunfire); Decl. of Julio
Garcia ¶ 4 (1997 Cadillac); Decl. of Stephanie Hammonds ¶ 4 (1995 Volkswagen Passat);
26 Decl. of Maria Macias ¶ 5 (1989 Toyota Station Wagon); Decl. of Rob McRoberts ¶ 3 (2001
Jeep Cherokee); Decl. of Famarz Nabavi ¶ 4 (1995 Volvo); Decl. of Emmanuel Ruiz ¶ 5
27 (2003 Acura); Decl. of Michelle Rolih ¶ 5 (1998 Oldsmobile); Decl. of Stephen Wu ¶ 5 (1994
Toyota Corolla); Decl. of Ellis Wilson ¶ 5 (2000 Ford Escort).

28 ¹⁹ Declaration of Eric Mann (“Mann Decl.”) at ¶¶ 11-15.

1 The bus-fare increases will significantly impact traffic and congestion. There are
2 numerous scholarly studies of fare elasticity, measuring the impact fare variations have on
3 demand for bus services. In general, a ten percent increase in bus fares is assumed to result
4 in a 4 percent decrease in ridership.²⁰ Application of this metric to the MTA fare increases
5 shows that over 100,000 bus riders may be displaced.²¹ MTA's own estimate in its June 13,
6 2007 Board Workshop presentation on the FY 2008 Proposed Budget is that boardings will
7 decline by nearly 17 million (or 3.4%) in FY 2008.²² This is in contrast to MTA's
8 previously published FY 2008 budget, which predicted an increase in boardings of nearly 2
9 million. This net loss of 19 million boardings translates into over 21,000 fewer riders.²³

10 Whatever elasticity metric is chosen, it can be safely predicted that the bus-fare
11 increases will result in many tens of thousands of displaced daily bus-riders, significantly
12 reducing MTA's current 500,000 daily bus ridership. That is exactly what happened in the
13 past when MTA increased fares.²⁵ The displaced bus-riders will substitute public
14 transportation with automobile travel, increasing traffic and exacerbating Los Angeles
15 County's transportation woes.²⁶ Simply put, the bus-fare increases will put more vehicles on
16 the road.

17 The result of an increased presence of vehicles will be an immediate, negative impact
18 on Southern California air quality, including increased emissions of oxides of nitrogen (an
19 ozone precursor), carbon monoxide, and carbon dioxide. Nitrogen oxides (NO_x) are typically
20 created during combustion processes, and are a major contributor to smog formation and acid
21 deposition. In addition, NO_x may result in numerous adverse health effects, including
22 aggravation of chronic respiratory disease and respiratory symptoms. NO_x also contributes

23 _____
24 ²⁰ See, e.g., American Public Transportation Association, *Fare Elasticity and its Application*
25 *to Forecasting Transit Demand* (1991)

26 ²¹ Pettit Decl. at ¶ 20.

27 ²² Pettit Decl. at ¶ 20.

28 ²³ Pettit Decl. at ¶ 20.

²⁵ Mann Decl. at ¶¶ 8-10; see also Pettit Decl. at ¶ 18, n.1, Exh M..

²⁶ See *supra* note 18.

1 to ozone, as they react with volatile organic compounds (VOCs) in the air to create ground
2 level ozone.²⁷ Harmful ground-level ozone forms when NO_x and VOCs interact in the
3 presence of sunlight. Ozone causes irreversible changes in lung structure, leading to
4 premature aging of the lungs and/or chronic respiratory illnesses such as emphysema and
5 chronic bronchitis. Children and adults who work outdoors and individuals with respiratory
6 illnesses such as asthma are among those most at risk. Ozone also damages trees and other
7 natural vegetation, reduces agricultural productivity, and reduces visibility.²⁸

8 Carbon monoxide (CO) is a colorless, odorless gas resulting from the incomplete
9 combustion of hydrocarbon fuels. CO interferes with the blood's ability to carry oxygen to
10 the body's tissues and results in numerous adverse health effects.²⁹ Over 80% of the
11 CO emitted in urban areas is contributed by motor vehicles.³⁰ Carbon dioxide (CO₂) is a
12 colorless, odorless gas that occurs naturally in the Earth's atmosphere. Significant quantities
13 are also emitted into the air by fossil fuel combustion. CO₂ is a greenhouse gas that
14 contributes to climate change. Climate change has many adverse environmental impacts,
15 including sea level rise, shrinking glaciers, changes in the range and distribution of plants and
16 animals, trees blooming earlier, lengthening of growing seasons, ice on rivers and lakes
17 freezing later and breaking up earlier, and thawing of permafrost. These changes disrupt and
18 destroy ecosystems, and result in irreversible changes to the human and natural
19 environment.³¹

20 _____
21 ²⁷ U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards,
22 *NOx: How Nitrogen Oxides Affect the Way We Live and Breathe* (EPA 456-F-98-005, Sept.
23 1998), available at <http://www.epa.gov/air/urbanair/nox/noxfldr.pdf>.

24 ²⁸ U.S. Environmental Protection Agency, National Center for Environmental Assessment,
25 *Air Quality Criteria for Ozone and Related Photochemical Oxidants* (Feb. 2006), available
26 at <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=149923>.

27 ²⁹ U.S. Environmental Protection Agency, Office of Mobile Sources, *Automobiles and*
28 *Carbon Monoxide* (EPA 400-F-92-005), available at <http://www.epa.gov/otaq/consumer/03-co.pdf>.

³⁰ California Air Resources Board: Glossary of Air Pollution Terms (last updated June 4,
2007), available at <http://www.arb.ca.gov/html/gloss.htm>.

³¹ Intergovernmental Panel on Climate Change, *Climate Change 2007, The Physical Science Basis: Summary for Policymakers* (Switzerland February 2007), available at <http://ipcc-wg1.ucar.edu/wg1/wg1-report.html>.

1 Although it failed to do so in this case, MTA typically uses quantitative thresholds of
2 environmental significance for air pollution, originated by the South Coast Air Quality
3 Management District, in analyzing projects under CEQA. For example, if only 2,800 of the
4 21,000 or more displaced bus riders are forced to commute 30 miles per day in older cars
5 rated 2 on the EPA's vehicle air quality rating scale of 0 to 10,³² the MTA's threshold of
6 environmental significance will be exceeded.³³ If MTA had conducted an EIR, it would be
7 able to quantify the effect on the environment of the bus-fare increases and adopt mitigation
8 measures, as CEQA requires. But MTA did not.

9 **IV. THE BUS-FARE INCREASES WILL RESULT IN IRREPARABLE HARM**
10 **TO PETITIONERS AND TO THE ENVIRONMENT**

11 The bus-fare increases will cause two types of irreparable harm: to the environment
12 and to the displaced bus riders. Once the extra pollutants caused by the fare increases are
13 emitted, they can never be recovered.

14 For instance, Myron Andrewin is a 19 year old man who uses the bus to get to his job
15 as a security officer five days a week. Decl. of Myron Andrewin, ¶ 2. To commute to work
16 is 20 miles roundtrip for him, and takes him about an hour and a half each way. *Id.* ¶ 3.
17 Because he is starting college soon, it's important for him to save money, and it will cost him
18 less in gas than to buy his bus passes after the increases. *Id.* ¶ 4. The car he will use is
19 readily available -- his parents have already bought him a 1989 Chevy Camaro. *Id.* He is
20 studying to take the driver's test and get his license so he can begin using his car, because at
21 \$5 a day, it's simply cheaper for him to drive. *Id.*

22 The fare increases will also put the Macias family car on the road for about 220 extra
23 miles per week. Decl. of Maria Macias ¶ 5. Maria Macias is a 43 year old mother of four
24 children who currently use the bus system as their primary means of transportation. *Id.* ¶¶ 2,
25 3. The children use the bus to get to school (approximately 32 miles roundtrip), and she uses
26

27 ³² Pettit Decl. at ¶ 26, Exh. P. Using the same metrics, 11,890 cars rated 6 and driven an
28 extra 30 miles per day will exceed the MTA environmental threshold.

³³ Pettit Decl. at ¶ 26.

1 the bus for errands and doctor's visits. *Id.* With the fare hike, it will be cheaper for the
2 family to drive than buy monthly passes. *Id.* ¶ 5. Maria's oldest son will use their 1989
3 Toyota Station Wagon to drive the other children to school and drive himself to college- a 44
4 mile roundtrip every day. *Id.*

5 Even people who prefer riding the bus will be forced back into their polluting cars by
6 the increases. Joseph Brown is a 52 year old man who uses the bus to get to work 5-7 days a
7 week, traveling 28 miles roundtrip each time. Decl. of Joseph Brown ¶ 2. He already owns a
8 1993 Ford Thunderbird, but hasn't been using it because it needed fixed and he "liked riding
9 the bus." *Id.* ¶ 3. However, due to the fare increase he is cutting his budget so that he can fix
10 his car and start driving again. *Id.*

11 Moreover, as the attached declarations of 37 bus riders show,³⁴ many hard-working,
12 transit-dependent citizens of Los Angeles County cannot afford the fare increases but cannot
13 arrange for substitute travel. Burdened by high rents and food costs and without a financial
14 safety net, they will suffer a broad range of significant economic and personal hardships to an
15 extent that weighs heavily in favor of a stay. For instance, Trinidad Juarez is a 52-year-old
16 widow currently supporting herself and the youngest child (of 5) on a monthly income of
17 \$600. Decl. of Trinidad Juarez ¶ 2. Mrs. Juarez does not own a car and is wholly
18 "dependant on public transportation to get around the city." *Id.* Mrs. Juarez is employed as a
19 homecare worker for elderly people and has looked for a second job but, as a monolingual
20 and elderly applicant, finds that "many employers are not interested in hiring [her]." *Id.*
21 After paying expenses, Ms. Juarez has "no money left at the end of the month." *Id.* ¶ 3. In
22 order to pay for the increased bus fares, Ms. Juarez "will have to cut from electricity or from
23 food" and will no longer be able to give her youngest son "the \$2/day [she] give[s] him when

24 _____
25 ³⁴ See Declarations of Thomas Allen, Myron Andrewin, Joseph Brown, Karen Barragan,
26 Jaqueline Boateng, Andrew Claycomb, Gillian Claycomb, Trinidad Juarez, Yolanda Cruz,
27 Richard Drapeir, Gina Evans, Julio Garcia, Amada Guzman, Stephanie Hammonds, Isaac
28 Harris, Maria Macias, Houtan Noushmehr, Mircea Lemus, Rob McRoberts, Faramoz Nabavi,
Emmanuel Ruiz, Michelle Rolih, Lizbeth Ruiz, Velia Segura, Antonia Sian, Stephen Wu,
Ellis Wilson, Charity Colbert, Carlos Fernandez, Blanca Gonzalez, Willa Gusheloff, Rosa
Miranda, Cynthia Moss, Eudocia Rosa, Maria Medina, Blanca Gonzalez, and Rosa Perez.

1 he leaves for school.” *Id.* ¶ 4.

2 The fare increase will also cause significant hardship to Carlos Fernandez, a 50-year-
3 old disabled man—suffering from arthritis, asthma, and prostate cancer—who uses public
4 transportation to visit his doctor, pharmacist and chiropractor. Decl. of Carlos Fernandez ¶ 2.
5 Mr. Fernandez receives a little over \$1000/month and, after rent and medication expenses, is
6 “left with \$45, which [he] use[s] to buy [his] disabled pass and clothes.” *Id.* Mr. Fernandez
7 acknowledges that “this increase in the passes will devastate me.” *Id.* ¶ 3. Mr. Fernandez
8 has “already cut out [his] phone service because [he] could not pay for it.” *Id.* After the fare
9 increases, he asks, “[h]ow am I supposed to live?” *Id.*

10 The fare increases will also adversely impact the Miranda family, which includes
11 Rosa Miranda, her husband and their 3 children. Decl. of Rosa Miranda ¶ 2. In a typical
12 month, the Miranda family—who do not own a car—spend \$100 on transportation and the
13 “remainder of the money goes for food, clothes, household needs, and school supplies.” *Id.* ¶
14 3. Mrs. Miranda finds that on “[m]onths when we really tighten our budget we are able to
15 save \$100, but usually we are not able to save at all.” *Id.* The first fare increase will cost the
16 Miranda family an additional \$20/month and the second will cost an additional \$173-
17 237/month. *Id.* As a result of the fare increases, Mrs. Miranda acknowledges that “[w]e will
18 need to cut all our spending, including food to pay for the increased cost of transportation.”
19 The Miranda family is now considering moving their son “to a neighborhood school that is
20 worse than his [current] school” in an effort to save money. *Id.* ¶¶ 3-4. In the words of Mrs.
21 Miranda, the “fare increase will make my family’s life more difficult.” *Id.* ¶ 4.

22 The impacts of the bus-fares increases on Ms. Juarez, Mr. Fernandez and the Miranda
23 family are instructive of the hardships to be borne by thousands of Los Angeles County
24 residents and their families.³⁵ Unless enjoined by this Court, in less than a week from the
25 filing of this Memorandum the cost of a day pass will increase by \$2 (67%), a weekly pass
26 by \$3 (21%), a monthly pass by \$10 (19%), a K-12 student pass by \$4 (20%), and the bi-

27
28 ³⁵ Mann Decl. at ¶¶ 11-15.

1 monthly pass will be eliminated. For a bus rider paying those fares five days per week, 50
2 weeks per year, the increases as of next week (per year) will total \$500 for a day pass, \$150
3 for a weekly pass, \$120 for a monthly pass, and \$48 for a K-12 pass.

4 By July 1, 2011, fares will have increased 44% for a cash fare, 141% for a daily pass,
5 71% for a weekly pass, 73% for a monthly pass, 75% for a senior monthly pass, 75% for a K-
6 12 monthly pass, and 73% for a college monthly pass. For a bus rider paying those fares five
7 days per week, 50 weeks per year, as of July, 2011, the increases (per year) will total \$1,062
8 for a day pass, \$520 for a weekly pass, \$456 for a monthly pass, and \$180 for a K-12 pass. A
9 bus rider who pays the increased fares five days per week, 50 weeks per year, from July 1,
10 2007 through June 30, 2012, will have paid an extra \$3,562.50 for a day pass, \$1,400 for a
11 weekly pass, \$1,248 for a monthly pass, and \$492 for a K-12 pass, over today's fares.³⁶

12 In contrast, there will be no harm to MTA, taking the huge revenue increases in its
13 FY 2008 budget at face value, during the short period of time between the issuance of
14 injunctive relief and the trial on the merits of Petitioners' CEQA claims.

15 **V. A STAY IS IN THE PUBLIC INTEREST**

16 It cannot be doubted that the public interest is served by the prevention of air
17 pollution and the prevention of release of greenhouse gases. Government agencies at the
18 state and federal level devote substantial budgets to these purposes – and even so, Southern
19 California has the worst air quality in the nation.³⁷ The public interest in having healthy air
20 vastly outweighs the MTA's interest in buffing up its \$100 million surplus for bus
21 operations.

22 **VI. THE COURT SHOULD ONLY REQUIRE A NOMINAL BOND, IF ANY**

23 If the Court is inclined to impose a bond to support preliminary relief, its amount
24 should be nominal. The authors of the leading CEQA treatise believe that: "taken together,
25 [C.C.P.] sections 529, 529.1, and 529.2 suggest that courts retain "common law discretion" to
26

27 ³⁶ Pettit Decl. at ¶¶ 6-8.

28 ³⁷ American Lung Association, *State of Our Air: 2007* (released May 2007), available at
http://www.lungusa2.org/embargo/sota07/ALA_SOTA_07.pdf.

1 waive undertakings, or to require only nominal undertakings, in meritorious environmental
2 lawsuits.” Remy, et al, *Guide To CEQA* (11th ed., 2006), at 893.³⁸ This is particularly apt
3 here, where MTA staff did not make public any fare elasticity or similar study and so there is
4 no way for MTA to state the (alleged) amount of fare box revenue it will lose in the short
5 time that preliminary relief may be in effect in this case.

6 **VII. CONCLUSION**

7 For the reasons presented herein and in the accompanying declarations, the Court
8 should issue a temporary restraining order and preliminary injunction enjoining MTA from
9 implementing its May 24, 2007 fare increase plan pending the trial of this matter on the
10 merits.

11
12 Respectfully submitted,

13 Dated: June 26, 2007

14 Joel Reynolds
15 David Pettit
16 Tim Grabel
17 NATURAL RESOURCES DEFENSE COUNCIL

18 By:


19 DAVID PETTIT

20 Attorneys for Petitioners
21
22
23
24
25

26 ³⁸ The Remy treatise is often cited as authority by California courts. *See, e.g., California*
27 *Farm Bureau Federation v. California Wildlife Conservation Board*, 143 Cal.App.4th 173,
28 177, 179, 190 (2006).

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:

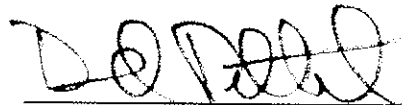
**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
ORDER TO SHOW CAUSE AND APPLICATION FOR TEMPORARY
RESTRAINING ORDER; DECLARATIONS IN SUPPORT THEREOF**

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

1 Joel Reynolds, SBN 85276
jreynolds@nrdc.org
2 David Pettit, SBN 67128
dpettit@nrdc.org
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1314 Second Street
6 Santa Monica, CA 90401
7 Tel: 310/434-2300 • Fax: 310/434-2399

8 Attorneys for Petitioners
9

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;
LABOR/COMMUNITY STRATEGY CENTER,
15 a non-profit corporation; NATURAL
16 RESOURCES DEFENSE COUNCIL, INC., a
non-profit corporation,

17 Petitioners,

18 v.

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

24 Respondents,

25 DOES 1 through 40, INCLUSIVE,
26

27 Real Parties in Interest.
28

CASE NO.: BS109618

**DECLARATION OF DAVID
PETTIT IN SUPPORT OF
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE RE PRELIMINARY
INJUNCTION**

Date: June 26, 2007

Time: 8:30 A.M.

Dept: 85 or 86

1 I, David Pettit, declare as follows:

2 1. I am an attorney employed by Natural Resources Defense Council, Inc.
3 (“NRDC”), counsel of record for all Petitioners in this matter. I make this Declaration based
4 on my own personal knowledge, and if called to testify as a witness could and would testify
5 truthfully to the contents hereof.

6 **Petitioner Natural Resources Defense Council**

7 2. NRDC is a national non-profit organization of scientists, lawyers and
8 environmental specialists dedicated to protecting public health and the environment. NRDC
9 has more than 1.2 million members and e-activists nationwide, including more than 165,000
10 members in the State of California, many of whom are bus riders in Los Angeles County and
11 so are directly affected by the bus-fare increase and bus-service reduction, and accompanying
12 increases in air pollution from intensified automobile travel. NRDC actively pursues
13 effective enforcement of environmental laws and regulations, and the reduction of air
14 pollution in California, on behalf of its members. In particular, NRDC has a long history of
15 advocacy with respect to the Los Angeles county bus system, working successfully to
16 convert the bus fleet to cleaner-burning alternative fuels and fighting to keep the bus system
17 affordable as a rapid transit alternative to automobiles. NRDC was involved in obtaining the
18 1996 Consent Decree on behalf of the Bus Riders Union, as described in the accompanying
19 Declaration of Eric Mann.

20 **Notice to MTA that the Fare Increase Is Subject to CEQA**

21 3. On May 16, 2007, I sent via facsimile and first-class mail a letter to the Los
22 Angeles County Metropolitan Transportation Authority (“MTA”) Board of Directors and
23 Chief Executive Officer on behalf of NRDC, the Bus Riders Union, and the
24 Labor/Community Strategy Center (collectively “Petitioners”) explaining why the MTA’s
25 proposed bus-fare increases are subject to the California Environmental Quality Act
26 (“CEQA”) such that an environmental impact report (“EIR”) is required before the bus-fare
27 increases can go into effect. A true and correct copy of my letter is attached hereto as
28 Exhibit A.

1 4. On or about May 23, 2007, I received in return a letter from counsel for MTA,
2 claiming in part that "Metro's fair [sic] revenues, even with the proposed fare increase, are
3 insufficient to fully support Metro's operating expenses, let alone subsidize new capital
4 projects." A true and correct copy of MTA counsel's letter is attached hereto as Exhibit B.

5 **The May 24, 2007 Fare Increase Hearing**

6 5. I attended the MTA fare increase hearing on May 24, 2007 and testified
7 before the MTA Board for my allotted sixty seconds. I told the Board that the proposed fare
8 increases are subject to CEQA and that an EIR needed to be prepared. As far as I could tell,
9 no one on the Board paid any attention to my remarks.

10 6. At the end of the hearing on May 24, 2007, MTA voted to implement a
11 staggered escalation of bus fares, with the first increase to occur on July 1, 2007, the second
12 on July 1, 2009, and the third on July 1, 2011. In less than a week from the filing of this
13 Declaration, the cost of a day pass will increase by \$2 (67%), a weekly pass by \$3 (21%), a
14 monthly pass by \$10 (19%), a K-12 student pass by \$4 (20%), and the bi-monthly pass will
15 be eliminated. For a bus rider paying those fares five days per week, 50 weeks per year, the
16 increases as of next week (per year) will total \$500 for a day pass, \$150 for a weekly pass,
17 \$120 for a monthly pass, and \$48 for a K-12 pass.

18 7. By July 1, 2011, fares will have increased 44% for a cash fare, 141% for a
19 daily pass, 71% for a weekly pass, 73% for a monthly pass, 75% for a senior monthly pass,
20 75% for a K-12 monthly pass, and 73% for a college monthly pass. For a bus rider paying
21 those fares five days per week, 50 weeks per year, as of July, 2011, the increases (per year)
22 will total \$1,062 for a day pass, \$520 for a weekly pass, \$456 for a monthly pass, and \$180
23 for a K-12 pass. A table showing the increases appears as Exhibit C hereto.

24 8. A bus rider who pays the increased fares five days per week, 50 weeks per
25 year, from July 1, 2007 through June 30, 2012, will have paid an extra \$3,562.50 for a day
26 pass, \$1,400 for a weekly pass, \$1,248 for a monthly pass, and \$492 for a K-12 pass, over
27 today's fares.

28 9. The MTA regularly records its Board meetings. Petitioners obtained from

1 MTA five audiotapes comprising the entirety of the May 24, 2007 hearing. I had these
2 audiotapes copied onto CDs, one of which is attached hereto as Exhibit D. The MTA
3 Board's deliberations occupy approximately the last 45 minutes of the CD.

4 10. On or about May 29, 2007, MTA filed a Notice of Exemption from CEQA
5 with respect to the fare increases. A true and correct copy of MTA's Notice of Exemption is
6 attached hereto as Exhibit E. MTA did not conduct an initial study or an EIR under CEQA;
7 in fact, MTA did not conduct any environmental review of the proposed fare increases.

8 **Public Statements by MTA**

9 11. MTA's website states: "Without a fare change, Metro was facing a projected
10 \$1.8 billion operating deficit over the next 10 years that would have severely impacted
11 service for thousands of riders and stymied the transit agency's efforts to provide new transit
12 service in an era of rising gas prices and growing traffic congestion." A true and correct
13 printout of this webpage is attached hereto as Exhibit F. *See also* Los Angeles County
14 Metropolitan Transportation Authority, *Metro Adopts New Fare Structure*, available at
15 <http://www.mta.net/fares.htm>.

16 12. Before the May 24, 2007 hearing, MTA's website stated: "Metro's massive
17 operating deficit is siphoning monies that could be leveraged with other state and federal
18 funds to fast track critical relief for our congested highways as well as the bus and rail
19 system." That language has now been replaced with an explanation for the fare increases
20 referencing "the transit agency's efforts to provide new transit service" A true and
21 correct printout of this new webpage is attached hereto as Exhibit G.

22 13. On April 4, 2007, MTA spokesman Marc Littman is reported in a *Los Angeles*
23 *Downtown News* article as stating that "the operating gap for MTA threatens to impair future
24 service, especially as costly projects like the Gold Line extension and the new Expo Line
25 come to fruition..." The article further states "[t]he proposal also coincides with MTA plans
26 to study a possible \$3 billion underground tunnel connecting the 710 and 210 freeways." A
27 true and correct printout of this article is attached hereto as Exhibit H.

28 14. On April 27, 2007, a *Los Angeles Times* opinion editorial piece authored by

1 MTA Chief Executive Officer Roger Snoble stated: "Metro's huge operating deficit is
2 siphoning local funds that could be used to match bond money and other state and federal
3 funds to fast-track critical highways and transit system projects." A true and correct copy of
4 Mr. Snoble's editorial is attached hereto as Exhibit I.

5 15. On May 26, 2007, Mr. Snoble is reported in the *Los Angeles Times* as stating
6 that, after the bus-fare increases, MTA can afford to complete and operate the Culver City
7 and East Los Angeles rail lines, but "other transit projects now being considered, including
8 one busway extension, could face significant delays." Mr. Snoble further notes that "[t]here
9 has been a big expectation that we will get it done sooner than is financially possible . . . this
10 whole experience shows we need to be realistic about our expectations . . . It may delay some
11 projects." A true and correct copy of the May 26, 2007 *Times* article is attached hereto as
12 Exhibit J.

13 16. Mayor Villaraigosa, who is also on the MTA Board, wrote a letter to the other
14 Board members on May 21, 2007. A true and correct copy of the Mayor's letter is attached
15 hereto as Exhibit K. In that letter, the Mayor said that the MTA Board should use a number
16 of principles "to frame the issue of a potential fare increase," including: "MTA should
17 continue to develop new transit systems and expand service, including rail projects, to
18 increase mobility options and provide viable alternatives to driving."

19 17. For new capital projects, MTA's current Short Range Transportation Plan
20 states that \$19.3 billion is needed to fund the Plan's priorities through 2009, including "the
21 costs of operating the current system and funding new transportation solutions." *See Los*
22 *Angeles County Metropolitan Transportation Authority, Short Range Transportation Plan*
23 *for Los Angeles County (2003)*, p. 8, available at
24 http://www.metro.net/images/2003_SRTP.pdf (as of June 19, 2007). One of the "goals" of
25 the Short Range Transportation Plan is to "expand the County's light rail system." *Id.* at 7.
26 In addition, each year, MTA sends out a "Call for Projects" which is also posted on MTA's
27 website. MTA's 2007 "Call for Projects" states, in part: "Through a competitive process,
28 Cities, the County, Transit Operators and other public agencies that provide transportation

1 within Los Angeles County may submit grant application(s) for regional capital
2 transportation funding.” See also Memorandum from Carol Inge, Chief Planning Officer
3 Countywide Planning and Development, to City Managers (Aug. 25, 2006), available at
4 http://www.metro.net/projects_programs/call_projects/call_projects_memo07.pdf (as of June
5 19, 2007).

6 18. MTA’s estimate in its June 13, 2007 Board Workshop presentation on the FY
7 2008 Proposed Budget is that it will fund \$206 million in “prior years call for projects” and
8 \$236 million for “bus and rail capital program.” It also proposes to “initiate or continue”
9 planning studies, including for “Crenshaw Transit Corridor.”¹

10 **Petitioners’ Written Request To Counsel For MTA For A Stay**

11 19. On June 7, 2007, I spoke by telephone with Deputy County Counsel Ronald
12 Stamm, who represents MTA. I asked Mr. Stamm if MTA would stipulate to a stay of its
13 May 24, 2007 decision pending resolution of the CEQA case in the Los Angeles County
14 Superior Court that NRDC intended to file. He said that he would check with Deputy
15 County Counsel Charles Safer and get back to me. I confirmed this discussion with Mr.
16 Stamm in writing; a true and correct copy of my confirming letter is attached hereto as
17 Exhibit N. As of this writing, I have not had any response from Mr. Safer or Mr. Stamm.

18 **Physical Effects On The Environment**

19 20. Numerous studies speak to fare elasticity, measuring the impact fare
20 variations have on demand for bus services. In general, a 10% increase in bus fares will
21 result in a 4% decrease in ridership. See, e.g., American Public Transportation Association,
22 *Fare Elasticity and its Application to Forecasting Transit Demand* (1991). Utilizing this
23 formula, over 100,000 current MTA bus riders may be displaced by 2011. MTA’s own
24

25 ¹ A true and correct copy of MTA’s June 13, 2007 Board Workshop presentation on the FY
26 2008 Proposed Budget is attached hereto as Exhibit L. In 2003, when MTA was considering
27 a fare increase smaller than the 2007 increases, MTA staff estimated “an initial drop in
28 ridership of about 2.0 percent.” See Attachment A to the MTA staff report of May 22, 2003,
a true and correct copy of which is attached hereto as Exhibit M.

1 estimate in its June 13, 2007 Board Workshop presentation on the FY 2008 Proposed Budget
2 is that boardings will decline by nearly 17 million (or 3.4%) in FY 2008. This is in contrast
3 to MTA's previously published FY 2008 budget, which predicted an increase in boardings of
4 nearly 2 million. This net loss of 19 million boardings translates into nearly 21,000 fewer
5 daily riders, using the 2.5-to-1 rule of thumb that MTA generally uses to relate numbers of
6 boardings to numbers of riders. Many of these displaced bus-riders will substitute public
7 transportation with automobile travel, increasing traffic and exacerbating Los Angeles
8 County's transportation woes.

9 21. According to MTA's staff report for its May 24, 2007 hearing, the median
10 income of its bus riders is \$12,000. A true and correct copy of MTA's May 24, 2007 staff
11 report is attached hereto as Exhibit O. As a result of the primarily low-income ridership in
12 Los Angeles County, it can be anticipated that displaced bus riders will tend to substitute
13 travel in older vehicles. The U.S. Environmental Protection Agency publishes expected
14 emission levels for vehicles by emission standards, with older vehicles being significantly
15 more polluting than newer vehicles. *See, e.g.,* U.S. Environmental Protection Agency, *Green*
16 *Vehicle Rating: Air Pollution*, available at <http://www.epa.gov/greenvehicle/rating.htm> (as of
17 June 19, 2007). Therefore, the result of an increased presence of older vehicles will be an
18 immediate, negative impact on Southern California air quality, including increased emissions
19 of oxides of nitrogen (an ozone precursor), carbon monoxide, and carbon dioxide.

20 22. Nitrogen oxides (NO_x) are typically created during combustion processes, and
21 are a major contributor to smog formation and acid deposition. In addition, NO_x may result
22 in numerous adverse health effects, including aggravation of chronic respiratory disease and
23 respiratory symptoms. NO_x also contributes to ozone, as they react with volatile organic
24 compounds in the air to create ground level ozone. *See, e.g.,* U.S. Environmental Protection
25 Agency, Office of Air Quality Planning and Standards, *NO_x: How Nitrogen Oxides Affect the*
26 *Way We Live and Breathe* (EPA 456-F-98-005, Sept. 1998), available at
27 <http://www.epa.gov/air/urbanair/nox/noxfldr.pdf>.

28

1 23. Harmful ground-level ozone forms when NO_x and VOCs interact in the
2 presence of sunlight. Ozone causes irreversible changes in lung structure, leading to
3 premature aging of the lungs and/or chronic respiratory illnesses such as emphysema and
4 chronic bronchitis. Children and adults who work outdoors and individuals with respiratory
5 illnesses such as asthma are among those most at risk. Ozone also damages trees and other
6 natural vegetation, reduces agricultural productivity, and reduces visibility. *See, e.g.,* U.S.
7 Environmental Protection Agency, National Center for Environmental Assessment, *Air*
8 *Quality Criteria for Ozone and Related Photochemical Oxidants* (Feb. 2006), available at
9 <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=149923>.

10 24. Carbon monoxide (CO) is a colorless, odorless gas resulting from the
11 incomplete combustion of hydrocarbon fuels. CO interferes with the blood's ability to carry
12 oxygen to the body's tissues and results in numerous adverse health effects. Over 80% of the
13 CO emitted in urban areas is contributed by motor vehicles. *See, e.g.,* U.S. Environmental
14 Protection Agency, Office of Mobile Sources, *Automobiles and Carbon Monoxide* (EPA
15 400-F-92-005), available at <http://www.epa.gov/otaq/consumer/03-co.pdf>; California Air
16 Resources Board: Glossary of Air Pollution Terms (last updated June 4, 2007), available at
17 <http://www.arb.ca.gov/html/gloss.htm>.

18 25. Carbon dioxide (CO₂) is a colorless, odorless gas that occurs naturally in the
19 Earth's atmosphere. Significant quantities are also emitted into the air by fossil fuel
20 combustion. Carbon dioxide is a greenhouse gas that contributes to climate change. Climate
21 change has many adverse environmental impacts, including sea level rise, shrinking glaciers,
22 changes in the range and distribution of plants and animals, trees blooming earlier,
23 lengthening of growing seasons, ice on rivers and lakes freezing later and breaking up earlier,
24 and thawing of permafrost. These changes disrupt and destroy ecosystems, and result in
25 irreversible changes to the human and natural environment. *See, e.g.,* Intergovernmental
26 Panel on Climate Change, *Climate Change 2007, The Physical Science Basis: Summary for*
27 *Policymakers* (Switzerland, February 2007), available at [http://ipcc-wg1.ucar.edu/wg1/wg1-](http://ipcc-wg1.ucar.edu/wg1/wg1-report.html)
28 [report.html](http://ipcc-wg1.ucar.edu/wg1/wg1-report.html).

1 26. MTA uses quantitative thresholds of environmental significance for air
2 pollution, originated by the South Coast Air Quality Management District, in analyzing
3 projects under CEQA. For example, if only 2,800 of the 21,000 or more displaced bus riders
4 are forced to commute 30 miles per day in older cars rated 2 on the EPA's scale of 0 to 10,
5 the MTA's threshold of environmental significance will be exceeded. A copy of calculations
6 showing this result is attached hereto as Exhibit P.

7 **The MTA Fiscal Year 2008 Proposed Budget**

8 27. MTA receives the proceeds of three sales taxes: the 1980 Proposition A (one-
9 half cent), the 1990 Proposition C (one-half cent), and the 1971 State Transportation
10 Development Act (one-quarter cent). *See* Los Angeles County Metropolitan Transportation
11 Authority, *Metro Funding Source Guide (2006)*, pp. 5, 9-12, *available at*
12 http://www.metro.net/about_us/images/Funding_Sources_Guide_06.pdf (as of June 19,
13 2007). Together, these taxes bring in \$1,741.8 billion for FY 2007, or almost 60% of MTA's
14 \$3 billion annual budget. *See* Los Angeles County Metropolitan Transportation Authority,
15 *Adopted Budget (FY 2007)*, p. II-9, *available at*
16 http://www.metro.net/other_info/budget_online/images/Budget_adopted_FY07.pdf (as of
17 June 19, 2007). Although certain restrictions apply on the use of portions of these funds, and
18 on a number of the grant funds that MTA receives from other sources, MTA has discretion
19 over how the majority of these funds are to be utilized. For example, 40% of the Proposition
20 A funds are discretionary, and 40% of the Proposition C funds are dedicated to construction
21 and operation of the bus transit and rail system. *See*
22 http://www.metro.net/about_us/finance/propositions.htm.

23 28. The MTA Fiscal Year 2008 Proposed Budget can be found online at:
24 http://www.mta.net/other_info/budget_online/images/budget_proposed_fy08.pdf. A true and
25 correct copy of the MTA Fiscal Year 2008 Proposed Budget is attached hereto as Exhibit Q.

26 29. After the May 24, 2007 Board hearing, MTA published to its website a one
27 page document entitled "Addendum to Proposed FY08 Budget." Paragraphs B, C and D of
28 the Addendum show that MTA is spending an additional \$43.1 million on bus operations,

1 even before accounting for the additional \$32 million it expects in fare increases. A true and
2 correct printout of the MTA's "Addendum to Proposed FY08 Budget." is attached hereto as
3 Exhibit R.

4 30. At page 33 of the Proposed FY 2008 Budget, MTA identifies increases in Bus
5 Service Improvement Plan ("BSIP") and Municipal Operators Service Improvement Plan
6 ("MOSIP") funds of \$54,125,000 for FY 2008. Upon information and belief, these funds are
7 taken from Proposition C discretionary funds and can be given by MTA to other transit
8 operators, or kept by MTA for bus operations.

9 31. At page 3 of the Proposed FY 2008 Budget, MTA states under the heading
10 "Budget Assumptions" that fuel expenditures will decrease by \$5 million.

11 32. In addition, MTA's June 13, 2007 Board Workshop presentation on the FY
12 2008 Proposed Budget states that Proposition C "Discretionary Funds" will increase by \$90
13 million. Similarly, MTA's 2001 Long Range Transportation Plan for Los Angeles County
14 projects that MTA will have \$11.2 billion in "uncommitted funds" during FY 2000-2025.
15 See Los Angeles County Metropolitan Transportation Authority, *Long Range Transportation*
16 *Plan for Los Angeles County (2001): Executive Summary* (approved on April 26, 2001), p. 1,
17 available at http://www.metro.net/images/lrtp_execsummary.pdf (as of June 19, 2007).

18 33. Adding the \$43,100,000 from its "Addendum" with the \$54,125,000 from the
19 BSIP and MOSIP programs results in \$97,225,000 of new monies available for bus
20 operations in FY 2008, without consideration of the May, 2007 fare increases or the
21 additional \$90 million in Prop. C discretionary funds.

22 34. In contrast, MTA states that bus operation expenses will increase by only
23 \$22,042,000 in FY 2008 (including the Orange Line). See FY 2008 Proposed Budget at 22
24 ("Modal Operating Statistics"). Subtracting MTA's own figures for increased bus expenses
25 in FY 2008 from MTA's expected new funding for bus operations - before adding in the fare
26 increases - in FY 2008 leaves a positive balance of \$75,183,000. This means that MTA will
27 have already secured more than three times the new revenue it needs to cover its anticipated
28 FY 2008 increases in bus operating expenses - without increasing bus fares one penny.

1 26. MTA uses quantitative thresholds of environmental significance for air
2 pollution, originated by the South Coast Air Quality Management District, in analyzing
3 projects under CEQA. For example, if only 2,800 of the 21,000 or more displaced bus riders
4 are forced to commute 30 miles per day in older cars rated 2 on the EPA's scale of 0 to 10,
5 the MTA's threshold of environmental significance will be exceeded. A copy of calculations
6 showing this result is attached hereto as Exhibit P.

7 **The MTA Fiscal Year 2008 Proposed Budget**

8 27. MTA receives the proceeds of three sales taxes: the 1980 Proposition A (one-
9 half cent), the 1990 Proposition C (one-half cent), and the 1971 State Transportation
10 Development Act (one-quarter cent). *See* Los Angeles County Metropolitan Transportation
11 Authority, *Metro Funding Source Guide (2006)*, pp. 5, 9-12, *available at*
12 http://www.metro.net/about_us/images/Funding_Sources_Guide_06.pdf (as of June 19,
13 2007). Together, these taxes bring in \$1,741.8 billion for FY 2007, or almost 60% of MTA's
14 \$3 billion annual budget. *See* Los Angeles County Metropolitan Transportation Authority,
15 *Adopted Budget (FY 2007)*, p. II-9, *available at*
16 http://www.metro.net/other_info/budget_online/images/Budget_adopted_FY07.pdf (as of
17 June 19, 2007). Although certain restrictions apply on the use of portions of these funds, and
18 on a number of the grant funds that MTA receives from other sources, MTA has discretion
19 over how the majority of these funds are to be utilized. For example, 40% of the Proposition
20 A funds are discretionary, and 40% of the Proposition C funds are dedicated to construction
21 and operation of the bus transit and rail system. *See*
22 http://www.metro.net/about_us/finance/propositions.htm.

23 28. The MTA Fiscal Year 2008 Proposed Budget can be found online at:
24 http://www.mta.net/other_info/budget_online/images/budget_proposed_fy08.pdf. A true and
25 correct copy of the MTA Fiscal Year 2008 Proposed Budget is attached hereto as Exhibit Q.

26 29. After the May 24, 2007 Board hearing, MTA published to its website a one
27 page document entitled "Addendum to Proposed FY08 Budget." Paragraphs B, C and D of
28 the Addendum show that MTA is spending an additional \$43.1 million on bus operations,

1 **MTA's Notice of Exemption**

2 35. MTA's Notice of Exemption does not claim that the May 24, 2007 fare
3 increases are not a "project" under CEQA. Instead, it gives the following reasons why the
4 "fare restructuring plan" is exempt from CEQA: "CEQA does not apply to the restructuring
5 of Metro fares which metro will use to: meet operating expenses, including employee wage
6 rates and fringe benefits; purchase or lease supplies, equipment or material; meet financial
7 reserve needs and requirements; or obtain funds for capital projects, necessary to maintain
8 service within existing service areas." In contrast, the MTA staff report for the May 24, 2007
9 hearing, a true and correct copy of which is attached hereto as Exhibit "N," states: "Metro's
10 proposed fare increases will be used solely to pay its operating expenses, including wages
11 and fringe benefits, fuel costs and insurance reserves." However, as shown in paragraphs 27-
12 34 above, MTA's FY 2008 budget shows that the fare increase is not, in fact, needed for any
13 of those reasons.

14 **Procedural Matters**

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

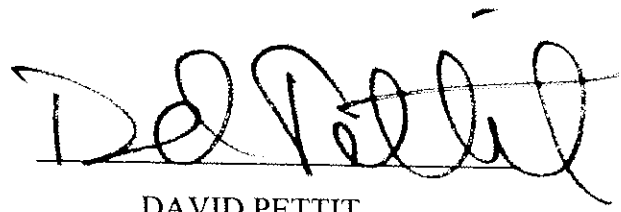
19 37. Petitioners have complied with the requirements of Public Resources Code
20 section 21167.6 by concurrently filing a request that MTA certify the record of proceedings
21 relating to the subject of this action.

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

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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.



Handwritten signature of David Pettit in black ink, written over a horizontal line.

DAVID PETTIT

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3 increases are not a "project" under CEQA. Instead, it gives the following reasons why the
4 "fare restructuring plan" is exempt from CEQA: "CEQA does not apply to the restructuring
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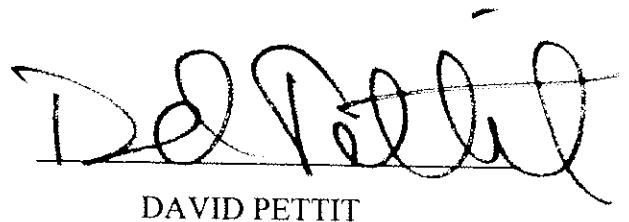
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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



DAVID PETTIT

1 Joel Reynolds, SBN
2 jreynolds@nrdc.org
3 David Pettit, SBN 06728
4 dpettit@nrdc.org
5 Tim Grabel, SBN 231045
6 tgrabel@nrdc.org
7 Natural Resources Defense Council
8 1314 Second Street
9 Santa Monica, CA 90401
10 Tel: 310/434-2300 • Fax: 310/434-2399

11 Attorneys for Petitioners Bus Riders Union,
12 Labor/Community Strategy Center, and Natural
13 Resources Defense Council, Inc.

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15
16 IN AND FOR COUNTY OF LOS ANGELES – CENTRAL DISTRICT

17 BUS RIDERS UNION, a non-profit corporation;
18 LABOR/COMMUNITY STRATEGY CENTER, a
19 non-profit corporation; NATURAL RESOURCES
20 DEFENSE COUNCIL, INC., a non-profit
21 corporation,

22 Petitioners,

23 v.

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

Respondents,

DOES 1 through 40, INCLUSIVE,

Real Parties in Interest.

CASE NO.: BS109618

**DECLARATION OF ERIC MANN
IN SUPPORT OF ORDER TO
SHOW CAUSE AND APPLICATION
FOR TEMPORARY RESTRAINING
ORDER**

Date: June 26, 2007

Time: 8:30 A.M.

Dept: 85 or 86

1 I, Eric Mann, declare as follows:

2 1. I am the Executive Director of the Labor/Community Strategy Center
3 ("LCSC") and am a member of the Planning Committee of the Bus Riders Union ("BRU"). I
4 have served in the first capacity since 1989, when the LCSC was first formed, and I have
5 been with the BRU since its formation in 1991. The facts set forth in this Declaration are
6 based on my own personal knowledge. If called upon to do so, I could and would
7 competently testify thereto.

8 **The LCSC And The BRU.**

9 2. The LCSC is a multiracial, multicultural and multilingual "think tank/act
10 tank" building social movements to address the totality of urban life in Los Angeles, a
11 megacity of 10 million people. The Strategy Center's work focuses on public health, mass
12 transportation, environmental justice, civil rights and anti-racism, with an emphasis on low-
13 income families, communities of color, women and immigrants.

14 3. The BRU is a multiracial, working class-based membership organization
15 operating at the intersection of mass transit, the environment and public health, and civil
16 rights. The BRU was initiated in 1991 as the Labor/ Community Strategy Center's
17 Transportation Policy Group and soon began organizing bus riders in the Billions for Buses
18 Campaign to confront and defeat the transit discrimination reflected in the policies of the Los
19 Angeles County Metropolitan Transportation Authority ("MTA"). From 1994 to the present,
20 the BRU has grown rapidly, and now, with over 3,000 dues-paying members and 50,000 on
21 the bus supporters, it is the largest grassroots, mass transit advocacy organization. I regularly
22 attend BRU meetings, rallies and events and have talked to thousands of BRU members and
23 supporters over the years.

24 **BRU Is The Class Representative In The Federal Court Civil Rights Case**

25 4. In 1994, I was the representative of LCSC and BRU (among other plaintiffs)
26 who retained the NAACP Legal Defense and Educational Fund and brought the original civil
27 rights class action in United States District Court in Los Angeles. In that case, Judge Terry
28 Hatter issued a Temporary Restraining Order and permanent injunction against the MTA's

1 effort to finance its rail system by raising fares and cutting service on the bus system. This
2 case was *Labor/Community Strategy Center, et al v. Los Angeles County Metropolitan*
3 *Transportation Authority*, Case No. Case No. 94-5936 TJH (MCx) in the United States
4 District Court, Central District of California..

5 5. BRU and LCSC were approved as class representatives in the federal case. I
6 was the head of the BRU negotiating committee during the negotiations that led to the
7 signing and approval of a Consent Decree between plaintiffs LCSC and BRU and defendant
8 MTA. The federal Consent Decree was approved by the District Court on October 29, 1996.
9 I have also served on behalf of the BRU as the co-chair of the Joint Working Group from the
10 approval of the Consent Decree to the present.

11 6. The Consent Decree was a mutually agreed upon court supervised decree that
12 established the improvement of bus service as MTA's highest priority. Concretely, the
13 Consent Decree had four major provisions: 1) protection of the unlimited monthly bus pass
14 (our class action lawsuit was sparked by the MTA Board's decision to eliminate the
15 unlimited monthly bus pass) and the principle of maintaining equitable fares, 2) the reduction
16 of overcrowding by adding new service, through mutually agreed upon and court supervised
17 overcrowding reduction targets, 3) the creation of new bus service to facilitate access to
18 county-wide job, education and health centers and 4) the establishment of a joint working
19 group, a body that would be composed of MTA officials and representatives of the Bus
20 Riders Union to monitor and work toward achieving the objectives of the Consent Decree.

21 7. The Consent Decree was to be enforced by the federal courts through an
22 initial period of 10 years, from October 1996 to October 2006, with the court retaining
23 jurisdiction over parts of the Consent Decree until 2010. The Court terminated jurisdiction
24 over much of the Consent Decree in October, 2006; BRU and LCSC are appealing that
25 decision to the Ninth Circuit.

26 **Past Fare Increases Have Caused Decreases In Ridership**

27 8. From 1980 to 1982 there was an 11% decrease in bus ridership when the
28 Rapid Transit District (the predecessor of the MTA) approved a fare increase from 55 cents

1 to 85 cents. From 1983 through 1985 fares were lowered from 85 cents to 50 cents after the
2 passage of Proposition A by county voters. This fare decrease led to a 40% increase in
3 ridership. After 1985, fare increases led to a steadily decrease by 20% in ridership over a
4 period of five years. *Learning from Los Angeles, Rail and Transportation Equity* by Tom
5 Rubin, Tech Transfer Newsletter, Spring 2000, UC Berkeley Institute of Transportation
6 Studies.

7 9. The BRU entered this debate and negative policy trend in 1994, when the
8 MTA Board approved the elimination of the monthly bus pass and the raising of the one-way
9 fare from \$1.10 to \$1.35. This decision led to the BRU's original civil rights lawsuit in 1994.
10 Because of the Consent Decree, there was a stabilizing of fares and an improvement in
11 service, which eventually led to an increase in ridership by 12%.

12 10. On January 1, 2004 the MTA increased the price of monthly, bi-weekly and
13 weekly transit passes by approximately 25%. This increase led to a system wide drop in
14 ridership from 430 million riders in 2003 to 394 million in 2004, a decrease of 8%. While
15 ridership increased by 2005 and has been steadily increasing throughout the last couple of
16 years, history suggests that the May 2007 fare increase will have a negative impact on
17 ridership. Indeed, the MTA June 13, 2007 Powerpoint presentation at its public budget
18 workshop predicts 16,900 fewer boardings in FY 2008 than in FY 2007.

19 **The Effect Of The Fare Increases On The Dire Economic Status Of Many BRU**
20 **Members**

21 11. I attended the MTA's May 24, 2007 hearing. More than 1,500 people
22 attended that hearing and final vote, and more than 350 people testified strongly against any
23 fare increase.

24 12. Based on my long experience working with bus riders in Los Angeles County,
25 and the public testimony at the May 24, 2007 MTA hearing, I believe that the recently
26 approved fare increase will have an enormous impact on the vast majority of transit
27 dependant bus riders and their families. Many bus riders testified that at the end of the month
28 after paying for all the essential family expenses, only \$10 or \$20 remains in the family's

1 pocket. This is backed by MTA's own figures that show the overwhelming majority of bus
2 riders have annual family incomes of \$12,000 to \$17,000. Los Angeles Metropolitan
3 Transportation Authority FY 2002 On-Board Bus Weekday Survey Report.

4 13. On July 1, 2007, monthly bus fares will increase from \$52 a month to \$62 a
5 month – an annual increase of \$120. The daily bus pass, presently at \$3, will jump to \$5 on
6 July 1, 2007 – an increase of 67% -- and will be increased to \$6 by July 2009. This will
7 especially discourage discretionary users from using public transportation. The currently
8 approved fare increase will also do away entirely with the bi-weekly bus pass, which serves
9 as a lifeline for many families who do not have enough funds to purchase a monthly pass at
10 the beginning of a month.

11 14. Many families have two wage earners and three, four or five members of the
12 family depending on public transit, many of whom now rely on the monthly bus pass. For a
13 family of five, the monthly fare increase will be \$50 a month or \$600 a year - moreover,
14 aggregate, the total amount of out of pocket costs is now \$310 a month or \$3,720 in annual
15 cost.

16 15. Many transit dependent families are not completely cut off from access to a
17 car. In many cases, the majority of family members depend on public transportation, but the
18 household either owns or has access to a family car. This new fare increase will force many
19 families to increase the number of trips and mileage for these household cars, often driving
20 more people to work, schools and other errands before getting to their final destination.

21 **Planned Service Reductions Will Also Hurt BRU Members**

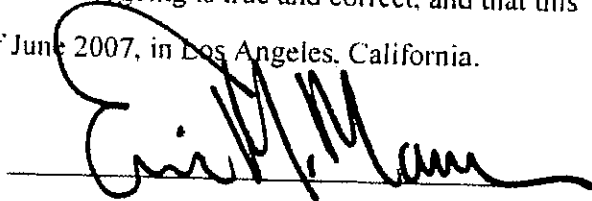
22 16. There have been important strides to improve and expand bus service over the
23 last 12 years. Federal court orders have been issued to enforce the Consent Decree
24 overcrowding standards, expand MTA's fleet and provide new service to facilitate access to
25 job, education and health care centers. Still, MTA has never complied with Consent Decree
26 overcrowding reduction standards and now will have no incentive to comply because that
27 portion of the Consent Decree has been terminated and MTA has already reassigned its load
28 factor overcrowding monitoring team. BRU is appealing the District Court's decisions not to

1 extend the federal Consent Decree and not to resolve the issue of MTA's compliance with
2 the Consent Decree's overcrowding standards.

3 17. In addition, MTA is planning to reduce bus service hours from the current bus
4 system service levels. The MTA's 10-year bus system service forecast projects the reduction
5 of close to 60% of bus service hours from current service levels. MTA's 10-Year Forecast
6 (FY07-FY 17) - Baseline Final was provided to LCSC and BRU by MTA during a Joint
7 Working Group meeting held July 17, 2006. Especially troubling is the final approved fare
8 increase motion in which MTA Directors directed MTA staff to provide an analysis of the 25
9 "worst performing lines" and to provide a restructuring or consolidation mechanism for cost-
10 effectiveness purposes. MTA's past practice to improve so-called "low performing lines"
11 has meant the elimination of off-peak and weekend service, as well as entire bus lines.

12 18. In my experience with MTA policy, the bus lines that will be targeted as the
13 "25 worst performing" will be in outlying communities throughout LA County.
14 Unfortunately, these lines often serve as essential links for residents to major transit
15 corridors. The elderly, students and disabled riders heavily patronize these lines, often as
16 their only option in areas with very sparse transit service. In the past, bus service on such
17 lines has either been completely eliminated, forcing many people to walk longer to other bus
18 lines and increasing overall travel time, or given to other municipal operators leading to
19 higher transit cost by paying additional fares.

20 I declare under penalty of perjury that the foregoing is true and correct, and that this
21 Declaration was executed on this 22 day of June 2007, in Los Angeles, California.



ERIC MANN

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:

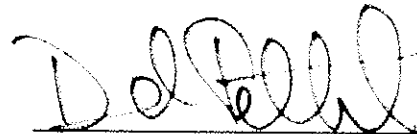
DECLARATION OF ERIC MANN IN SUPPORT OF ORDER TO SHOW CAUSE AND APPLICATION FOR TEMPORARY RESTRAINING ORDER

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

1 Joel Reynolds, SBN
2 jreynolds@nrdc.org
3 David Pettit, SBN 06728
4 dpettit@nrdc.org
5 Tim Grabel, SBN 231045
6 tgrabel@nrdc.org
7 Natural Resources Defense Council
8 1314 Second Street
9 Santa Monica, CA 90401
10 Tel: 310/434-2300 • Fax: 310/434-2399

11 Attorneys for Petitioners Bus Riders Union,
12 Labor/Community Strategy Center, and Natural
13 Resources Defense Council, Inc.

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 IN AND FOR COUNTY OF LOS ANGELES – CENTRAL DISTRICT

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

21 Petitioners,

22 v.

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

Respondents,

DOES 1 through 40, INCLUSIVE,

Real Parties in Interest.

CASE NO.:

BS109618

**PETITIONERS' EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION;
MEMORANDUM OF POINTS AND
AUTHORITIES AND SUPPORTING
DECLARATIONS; DECLARATION
OF DAVID PETTIT RE NOTICE TO
RESPONDENTS**

Date: June 26, 2007

Time: 8:30 A.M.

Dept: 85 or 86

1 **EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND**
2 **ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION**
3

4 **TO RESPONDENTS AND TO THEIR ATTORNEYS OF RECORD:**

5 Petitioners BUS RIDERS UNION, LABOR/COMMUNITY STRATEGY CENTER,
6 and NATURAL RESOURCES DEFENSE COUNCIL, INC., hereby apply to this Court for
7 an Order to Show Cause why a preliminary injunction should not issue restraining
8 Respondents, during the pendency of this action, from implementing or enforcing the bus-
9 fare increases and associated bus service reductions enacted on May 24, 2007 by Respondent
10 Los Angeles Metropolitan Transportation Authority ("MTA") without full compliance with
11 the California Environmental Quality Act and without further order of this Court.

12 Pending hearing on the Order to Show Cause referenced above, Petitioners apply for
13 a Temporary Restraining Order restraining Respondents from implementing or enforcing the
14 bus-fare increases and associated bus service reductions enacted on May 24, 2007 by
15 Respondent Los Angeles Metropolitan Transportation Authority.

16 This application is made on the grounds that a) Petitioners, their members, and the
17 environment will suffer irreparable injury if the bus fare increases enacted by MTA on May
18 24, 2007, go into effect on July 1, 2007 as planned, and b) MTA's May 24, 2007 bus fare
19 increases are illegal in that they were enacted in violation of the California Environmental
20 Quality Act, Public Resources Code 21000 et seq.

21 The application is based on this Ex Parte Notice, the Petition for Writ of Mandate,
22 Memorandum of Points and Authorities and Declarations filed herewith, and on such
23 argument as may be had at the hearing on the application and the hearing on the Order to
24 Show Cause set by the Court.

25 Petitioners have not made any previous application for similar relief.
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Respondents are located at One Gateway Plaza, Los Angeles, California 90012.

Respondents are represented by: Charles M. Safer, Assistant County Counsel,
Transportation Division, One Gateway Plaza, Los Angeles, California 90012, phone: 213-
922-2511, fax: 213-922-7432.

Respectfully submitted,

Dated: June 26, 2007

Joel Reynolds
David Pettit
Tim Grabel
NATURAL RESOURCES DEFENSE COUNCIL

By: 
DAVID PETTIT

Attorneys for Petitioners

1 Joel Reynolds, SBN
ireynolds@nrdc.org
2 David Pettit, SBN 06728
dpettit@nrdc.org
3 Tim Grabiell, SBN 231045
tgrabiell@nrdc.org
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7 Attorneys for Petitioners Bus Riders Union,
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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR COUNTY OF LOS ANGELES – CENTRAL DISTRICT

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16 Petitioners,

17 v.

18 LOS ANGELES COUNTY METROPOLITAN
19 TRANSPORTATION AUTHORITY; BOARD OF
20 DIRECTORS OF THE LOS ANGELES COUNTY
21 METROPOLITAN TRANSPORTATION
AUTHORITY; and DOES 1 through 40,
INCLUSIVE,

22 Respondents,

23 DOES 1 through 40, INCLUSIVE,

24 Real Parties in Interest.
25
26
27
28

CASE NO.:

**[PROPOSED] TEMPORARY
RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION**

**Date: June 26, 2007
Time: 8:30 A.M.
Dept: 85 or 86**

1 Good cause appearing therefor, **IT IS HEREBY ORDERED** as follows:

2 **ORDER TO SHOW CAUSE**

3 Respondents LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION
4 AUTHORITY and BOARD OF DIRECTORS OF THE LOS ANGELES COUNTY
5 METROPOLITAN TRANSPORTATION AUTHORITY are hereby ordered to show cause,
6 if any they may have, on _____, 2007 at 8:30 A.M. in Department __ of the
7 above-entitled Court, why a preliminary injunction should not issue restraining Respondents,
8 during the pendency of this action, from implementing or enforcing the bus-fare increases
9 and associated bus service reductions enacted on May 24, 2007 by Respondent Los Angeles
10 Metropolitan Transportation Authority ("MTA") without full compliance with the California
11 Environmental Quality Act and without further order of this Court.

12 **TEMPORARY RESTRAINING ORDER**

13 Pending the _____, 2007 hearing on the Order to Show Cause in this
14 matter, Respondents are restrained from implementing or enforcing the bus-fare increases
15 and associated bus service reductions enacted by Respondents on May 24, 2007.

16 **SERVICE ON THE RESPONDING PARTIES**

17 Petitioners' Petition for Writ of Mandate, Ex Parte Application for OSC/TRO,
18 Memorandum of Points and Authorities and supporting Declarations, and this Order, must be
19 served on Respondents no later than _____, 2007 at _____ AM/PM. Proof of
20 such serviced shall be filed with this Court by _____, 2007.

21 **BRIEFING SCHEDULE**

22 Respondents' response, if any, to this Court's Order To Show Cause must be filed
23 and personally served on counsel for Petitioners no later than _____, 2007 at
24 _____ AM/PM. Petitioners' reply, if any, must be filed and personally served on counsel for
25 Respondents no later than _____, 2007 at _____ AM/PM.

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UNDERTAKING

No bond or undertaking is required in connection with the TRO issued herein.

Dated: June 26, 2007

JUDGE OF THE SUPERIOR COURT

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:

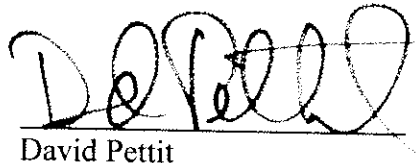
**PETITIONERS' EX PARTE APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION; MEMORANDUM OF POINTS AND
AUTHORITIES AND SUPPORTING DECLARATIONS; DECLARATION OF
DAVID PETTIT RE NOTICE TO RESPONDENTS**

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