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June 24, 2011

VIA E-MAIL AND U.S. MAIL

John B. Walker
Executive Secretary
State Environmental Commission
901 S. Stewart Street, Suite 4001
Carson City, NV 89701

**Re: Request for the SEC to issue subpoenas on behalf of Refuse, Inc. in the
Appeal of Operating Permit No. AP4953-1148.01**

Dear Mr. Walker:

Refuse, Inc. ("RI") requests that the State Environmental Commission ("SEC") issue a subpoena to the Nevada Department of Environmental Protection-Bureau of Air Pollution Control ("NDEP-BAPC") for the production of documents described in this letter and identified in the attached subpoena. This request is made pursuant to NAC § 445B.892 and is related to RI's appeal of Operating Permit No. AP4953-1148.01. Counsel for RI and NDEP-BAPC have previously discussed the documents that RI is requesting in this letter. RI submits this letter in response to NDEP-BAPC counsel's request that RI obtain these documents through a SEC subpoena.

As you are aware, NAC § 445B.892(2) authorizes the SEC to issue subpoenas requiring the production of documents on behalf of parties to an administrative appeal. As the appellant in this proceeding, RI requests the SEC subpoena the following four categories of documents as they are necessary for RI to adequately prepare its case for the appeal.

1. All documents created and/or held by NDEP-BAPC, covering all aspects of NDEP-BAPC's decision making (including all notes, analyses, and evaluations) related to Permit No. AP4953-1148.01.
2. All documents relating to all other instances that NDEP-BAPC has required a facility operator to install and operate CEMS as part of an air quality permit. For each identified facility, RI requests that NDEP-BAPC provide all documents describing:

- The type of emission unit, i.e., boiler, internal combustion engine, etc.;
- Size rating of the facility, i.e., mmbtu/hr, horsepower rating, material throughput, etc.;

John B. Walker
June 24, 2011
Page Two

- Fuel type;
- Emission limits;
- The pollutant for which the CEMS is required;
- NDEP-BAPC's reasoning for requiring CEMS;
- Legal authority for requiring monitoring (including whether monitoring was imposed pursuant to (i) compliance assurance monitoring in accordance with 40 C.F.R. Pt. 74, (ii) periodic monitoring pursuant to NAC 445B.3405.1(c)(3), or (iii) other reasons); and
- Copies of all permits for all facilities that NDEP-BAPC has imposed CEMS requirements.

3. A list of all sources in the Truckee River Corridor subject to an air quality permit and the relevant air quality permit for each of these sources. In the event that NDEP-BAPC does not have such a list for the Truckee River Corridor, NDEP-BAPC must still produce the air quality permits (Class I and Class II operating permits to construct or operating permits) for all sources that operate in the Truckee River Corridor. For purposes of this request, the "Truckee River Corridor" shall be consistent with the area evaluated in the report prepared for NDEP-BAPC by Tetra Tech EM Inc., *Revised Air Quality Modeling Report, Assessment of PSD Increment in the Fernley Area and Truckee River Corridor* (Aug. 2003) and shall be inclusive of hydrographic areas 76, 83 and 85 (HA76, HA83, AND HA85). The referenced report may be found at <http://ndep.nv.gov/baqp/planmodeling/docs/TruckeeReport-Final.pdf>.

4. To the extent not produced in the categories listed above, RI requests that the SEC issue a subpoena compelling the production of all Class I operating permits or operating permits to construct issued by NDEP-BAPC regardless of where located.

For your convenience, I have attached a (Proposed) State Environmental Commission Subpoena for the Production of Documents to the NDEP-BAPC.

Thank you for your consideration in this matter.

Sincerely,

Parsons Behle & Latimer


Richard J. Angell

cc: Jasmine K. Mehta, Deputy Attorney General for the State of Nevada

Attachment

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BEFORE THE STATE ENVIRONMENTAL COMMISSION

STATE OF NEVADA

In Re:

Appeal of Air Operating Permit: Class I
Operating Permit No. AP4953-1148.01 by
Refuse, Inc.

**(PROPOSED) STATE
ENVIRONMENTAL COMMISSION
SUBPOENA FOR THE PRODUCTION
OF DOCUMENTS**

To: Nevada Department of Environmental Protection-Bureau of Air Pollution Control, and its
counsel of record, Jasmine K. Mehta, of the Nevada Attorney General’s Office, 110 North
Carson Street, Carson City, NV 89701

YOU ARE COMMANDED, for good cause shown by Refuse, Inc. (“RI”) and pursuant to
Nevada Administrative Code § 445B.892, to produce the following documents and electronically
stored information:

A. All documents, in whatever form they exist (including electronically stored,
digitally recorded, and hard copy documents), relating to the issuance of air quality permit
number AP4953-1148.01. The documents covered by this subpoena includes all documents
created by, received by, or in the possession of NDEP-BAPC covering any aspect of NDEP-
BAPC’s permitting decision related to the above-referenced air quality permit. All documents
reflecting the basis, which necessarily includes all notes, analyses, and evaluations, for the
NDEP-BAPC’s decision in issuing the above-referenced permit must be disclosed as part of this
subpoena.

B. All documents relating to any and all instances that NDEP-BAPC required a
facility operator to install and operate continuous emissions monitoring systems (“CEMS”) as
part of an air quality permit. NDEP-BAPC is specifically required to disclose documents relating
to (1) the type of emission unit subject to CEMS, (2) the size of the facility (for example, heat
input rating, horsepower rating, material throughput rate etc.), (3) the fuel type used by the
facility, (4) emission limits imposed on the facility, (5) the pollutants for which CEMS are

1 required, (6) the NDEP-BAPC's reasoning for requiring CEMS, (7) legal authority for requiring
2 monitoring (including whether monitoring was imposed pursuant to (i) compliance assurance
3 monitoring in accordance with 40 C.F.R. Pt. 74, (ii) periodic monitoring pursuant to NAC
4 445B.3405.1(c)(3), or (iii) other reasons) and (8) copies of the air quality permits for all facilities
5 that NDEP-BAPC has imposed CEMS requirements.

6 C. A list of all sources in the Truckee River Corridor subject to an air quality permit
7 and the relevant air quality permit for each of these sources. In the event that NDEP-BAPC does
8 not have such a list for the Truckee River Corridor, NDEP-BAPC must produce the air quality
9 permits (Class I and Class II operating permits to construct or operating permits) for all sources
10 that operate in the Truckee River Corridor. For purposes of this request, the "Truckee River
11 Corridor" shall be consistent with the area evaluated in the report prepared for NDEP-BAPC by
12 Tetra Tech EM Inc., *Revised Air Quality Modeling Report, Assessment of PSD Increment in the*
13 *Fernley Area and Truckee River Corridor* (Aug. 2003) and shall be inclusive of hydrographic
14 areas 76, 83 and 85 (HA76, HA83, AND HA85). The referenced report may be found at
15 <http://ndep.nv.gov/baqp/planmodeling/docs/TruckeeReport-Final.pdf>.

16 D. To the extent not produced above, all Class I operating permits or operating
17 permits to construct issued by NDEP regardless of where located.

18 The documents that are subject to this subpoena shall be produced to RI, care of Richard
19 J. Angell and Michael J. Tomko, Parsons Behle & Latimer, One Utah Center, 201 S. Main Street,
20 Suite 1800, Salt Lake City, UT 84111. These documents are to be produced the by following
21 date and time: _____.

22 DATED this ____ day of June, 2011.

26 By: _____
27 State Environmental Commission