



JIM GIBBONS
Governor

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
1263 S. Stewart Street
Carson City, Nevada 89712

(775) 888-7000 FAX (775) 888-7201

EI -18216
CG

SUSAN MARTINOVICH, P.E., *Director*

May 27, 2010

In Reply Refer to:

DesertXpress
Att: Andrew Mack
Vice President
6750 Via Austi Parkway, Ste. 250
Las Vegas, Nevada 89119

RE: **Comments - Non-Urbanized (Stateline to St. Rose Parkway):**

Dear Mr. Mack,

The Nevada Department of Transportation (NDOT) has been meeting with several entities to fully understand the impact the proposed DesertXpress alignment will have on the I-15 corridor so that areas of concern can be identified and appropriate mitigation actions be put into motion. Summaries of meetings held with Bureau of Land Management (BLM), Regional Transportation Commission of Southern Nevada (RTC), Caltrans, Federal Highway Administration (FHWA) – Nevada division were forwarded to you and the Federal Railroad Association (FRA) on March 22, 2010. The following comments for the non-urbanized area are based on the meetings listed above, review of the information provided to NDOT by DesertXpress; information provided by the Federal Aviation Administration (FAA) and additional meeting held between NDOT, DesertXpress, RTC and our (NDOT and DesertXpress) meeting on May 4, 2010.

NDOT very much supports the development of alternative modes of transportation. We have worked through several issues but still have few to go. The following is a list of concerns that need to be addressed before NDOT can entertain a letter of support for DesertXpress to cohabitate within the designated I-15 highway corridor. The comments in "blue" represent comments incorporated from follow-up notes provided by Andrew Mack on 5/13/10.

Non-Urbanized (Stateline to St. Rose Parkway):

In the non-urbanized area, nearly all of the I-15 right-of-way from stateline to St. Rose Parkway is an easement dedicated from the Bureau of Land Management (BLM) to the Nevada Department of Transportation for highway purposes via the federal oversight of FHWA. NDOT is verifying our Right-of-way maps with BLM maps.

- 1- Provide confirmation in writing from BLM (Las Vegas) the availability or non-availability of additional BLM right-of-way:
 - This was requested on January 20, 2010 at the meeting between NDOT (Susan Martinovich, Eric Glick, Matt Furedy, via teleconference Tracy Larkin Thomason, Dennis Taylor, and Kent Cooper) and DesertXpress (Tom Stone and Andrew Mack), Susan Martinovich requested DesertXpress to contact BLM



regarding the possible use of additional right-of-way adjacent to NDOT's I-15 right-of-way. DesertXpress verified widths of NDOT's BLM easement but never approached BLM regarding additional right-of-way.

- Talk to the Las Vegas BLM office requesting the availability of 40-60 feet of additional right-of-way for withdrawal. Provide written documentation from the Las Vegas BLM office of the unavailability of right-of-way if that is the case.
 - DesertXpress did provide a summary of the NDOT's I-15 BLM easement (from 508 ft. width from Stateline to Sloan). The submitted cross-section for this area shows after full build out there is 157' of right-of-way left on the west/north side of I-15 and DesertXpress utilizing 86' on the east/south side of I-15. The 157' of right-of-way is tortoise habitat and because of its environmental sensitivity would be difficult for any entity including NDOT to utilize this area without extensive mitigation. The proposed footprint of DesertXpress should be moved out from the built-out I-15 facility to allow for a clear zone (approximately 40' for 80 mph) as per AASHTO standards. This removes the hazard introduced by the rail to the traveling public on I-15 allowing errant vehicles more chance to recover instead of hitting rail and being re-directed into traffic.

Per the DesertXpress/ NDOT meeting held May 4, 2010, DesertXpress will provide a letter from BLM regarding their policy to encourage multi-use corridors wherever possible and to the extent the primary lease holder is not adversely affected. In addition this letter should state why BLM will not entertain giving additional right-of-way for this project. As stated above this is not a new request.

Per our contacts with the Las Vegas BLM office, they were willing to look at additional land withdrawals for this project. NDOT Director Susan Martinovich, specifically requested DesertXpress investigate this on 1/20/2010. To date we are unaware that DesertXpress has approached BLM in Las Vegas regarding requesting additional right-of-way.

The NDOT will need to justify to our Transportation partners why we are giving public right-of-way to a private enterprise.

Discussions with our Environmental Division indicate that right-of-way on the freeway side of the right-of-way fence will have to be cleared. The Memorandum of Understanding (MOU) provided by Greg Gilbert on 5/14/10 indicates that per a declaratory order issued by the Surface Transportation Board (STB) on June 25, 2007 in Finance Docket No. 34914 finding that the proposed construction and operation of the interstate high-speed passenger rail system is not subject to state and local environmental review because of the preemption of such requirements under Federal law established by 49 U.S.C. 10501(b). Does that mean that DesertXpress does not need to mitigate our environmental concerns or NEPA? NDOT participates in the Multiple Conservation Habitat Plan. This plan deals with southern Nevada and how critical and endangered species are dealt with when implementing projects and for development. This is a federally approved process. Is DesertXpress exempt from this?

2- Provide confirmation from Federal Aviation Administration (FAA) in writing that the alignment conflicts with the Ivanpah airport have been addressed.

- FAA has some runway concerns for the DesertXpress alignment on east side of I-15. There are two areas of penetration by DesertXpress that need to be addressed. This is based on the analysis completed by the Clark County's airspace consultant ASRC and provided by FRA.

DesertXpress has stated that they have extensively coordinated with the FAA and CCDOA, and submitted Form 7460-1 to confirm there are no horizontal or vertical conflicts between the DesertXpress project and McCarran Airport or Ivanpah Valley Airport.

3- Please provide confirmation in writing from FHWA that the Access Justification Request has been approved or that this requirement is not needed. (This requirement is typical and would be expected of any encroachment into interstate highways.)

DesertXpress has expressed that they provided clarification to the FHWA team in Washington DC on April 15, 2010. DesertXpress will not require any modifications to the exiting freeway system and therefore, an Access justification report is not required. All access to the trackway for maintenance and inspection will be provided from local roads, not from I-15. We (DesertXpress) will continue coordination efforts with FHWA and welcome your support.

We (NDOT) appreciate that this issue has been dealt with, but need a written confirmation (email would be fine) from your FHWA team in DC. A copy of this in our files will alleviate any further questions regarding this matter. This must include the temporary access to construct DXE, as well as operate and maintain all related infrastructure (including emergency access).

4- Identify in writing and/or mapping the environmental impacts that the alignment will affect. Noise mitigation needs to be addressed.

DesertXpress stated that impacts and potential mitigation measures are all outlined in the draft Environmental Impact Statement and the required measures will be listed in the Final EIS. NDOT will want to insure that our environmental section has reviewed and provided comments. NDOT will request that NDOT Environmental engineers sign off on any environmental mitigation within the existing I-15 right-of-way.

As indicated in item number 1 does the declaratory order issued by STB negate the need for DesertXpress to mitigate NDOT's environmental concerns?

5- Identify drainage conflicts with DesertXpress. Need additional information regarding existing and proposed drainage structures, and impacts to flood zones, watersheds, and distribution of flows along the NDOT right-of-way with its cumulative impacts.

DesertXpress stated that this will be addressed as the design build progresses and that

DesertXpress will continue to work with NDOT throughout the process regarding impacts to the system. NDOT will request that NDOT Hydrology engineers sign off on any drainage plans for the project within the existing I-15 right-of-way.

- 6- NDOT adopted an aesthetic plan for the I-15 corridor in 2005. Confirmation in writing is needed that DesertXpress is aware of this plan and as part of its encroachment will work with NDOT to satisfy this requirement. This plan is contained in the original and new Highway Interface Manuals provided

A copy of the I-15 aesthetic plan has been sent to Mitchell Trageton of Marnell Corrao Associates. Please advise if another copy should be sent to another address.

- 7- NDOT is reviewing the plans and documents forwarded from Marnell Architecture.

- 8- Coordination with other local entities such as Clark County, City of Henderson, City of Las Vegas, and RTC is needed. The high speed rail will redefine the way Las Vegas and the communities along I-15 will grow.

Per our conversation (Tracy Larkin Thomason and Andrew Mack) 5/26/10 It is NDOT's understanding that DesertXpress met with Denis Cedarburg and Jacob Snow (5/25/10) and will be briefing County commissioners over the next few days.

- 9- The draft MOU provided by Greg Gilbert on 5/14/10 is being reviewed by our Legal Department.

NDOT will continue to work with DesertXPress to resolve these issues. The region is looking forward to high speed rail connecting two major urban areas. As always you may contact me at (775) 888-7440 or tlarkin@dot.state.nv.us.

Sincerely,

Tracy Larkin Thomason, P.E.
Asst. Director - Planning

cc: Susan Martinovich, P.E., NDOT
Susan Klekar, FHWA Nevada Division
John Terry, P.E., NDOT

Wendy Messenger, FRA
Jacob Snow, RTC of Southern Nevada