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July 11, 2005

VIA HAND DELIVERY - RETURN COPY

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW (7th fl.)
Washington, DC 20423-0001

ENTERED
Office of Proceedings

JUL 12 2005

Part of
Public Record

Dear Secretary Williams:

This refers to STB Docket No. MC-F-21008, East West Resort Transportation, LLC, and TMS, LLC, d/b/a Colorado Mountain Express-Petition for Declaratory Order-Motor Carrier Transportation of Passengers in Colorado, and to the Amended Notices of Deposition, served by the Colorado Public Utilities Commission on Mr. Christopher Jarnot and Ms. Susan Rubin-Stewart of Vail Resort Management Company, copies of which are attached.

Among other things, the Amended Notices direct Mr. Jarnot and Ms. Rubin-Stewart to bring to their depositions, scheduled for Thursday, July 14, 2005, "all records and other documents that were identified in the Colorado Public Utilities Commission's First Petition for Issuance of Subpoena to Appear at Deposition and Produce Documents . . ."

The Amended Notices infer that the Board had granted CPUC's request for the issuance of a subpoena duces tecum, when in fact the Board did not rule on the request, which had been opposed by Vail Resort Management Company by its letter, filed May 27, 2005. Indeed, the Board, in its Decision, served June 1, 2005, specifically stated, "[A] subpoena ordering the production of documents will not be issued at this time." The Board continued, "The parties are encouraged to work together voluntarily to come to an agreement regarding that issue." Evidently, this has not been done.

As counsel for CME, on whose behalf Mr. Jarnot had submitted a Verified Statement attached to CME's Petition for Declaratory Order, filed September 24, 2004, I earlier today sent an e-mail message to counsel for CPUC, who had been on a brief vacation, asking that the Amended Notices promptly be withdrawn or be clarified so that all of the records and other

Hon. Vernon A. Williams
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documents the production of which had been requested by CPUC need not be produced at Thursday's depositions. No response has been forthcoming.

The Board's Canon of Ethics deplore such action as counsel for CPUC has taken. 49 C.F.R. 1103.27(a) specifically states:

The conduct of practitioners before the Board and with other practitioners should be characterized by candor and fairness. The practitioner shall observe scrupulously the principles of fair dealings and just consideration for the rights of others.

49 C.F.R. 1103.27(b) explains, "It is not candid or fair for a practitioner knowingly to misstate . . . [the] effect of a decision . . ."

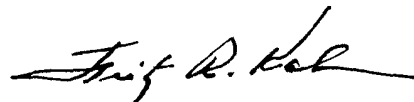
I regret cluttering the Board's docket with unnecessary filings, but I felt obliged to bring this matter to the Board's attention.

Ten copies of this letter are enclosed to permit your circulation of it. An additional copy is enclosed for you to stamp to acknowledge your receipt of it and to return to me via the messenger.

I certify I this day have served copies of this letter upon the Colorado Public Utilities Commission by mailing by prepaid first-class postage and facsimile transmitting copies to its counsel.

If you have any question concerning the foregoing which you believe I may be able to answer or if I otherwise can be of assistance, please let me know.

Sincerely yours,



Fritz R. Kahn

enc.

cc: David A. Beckett, Esq.
Edward D. Greenberg, Esq.
Mark Manley, Esq.
Thomas J. Burke, Jr., Esq.

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC.
AND TMS, LLC, d/b/a
COLORADO MOUNTAIN EXPRESS
-PETITION FOR DECLARATORY ORDER-
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN COLORADO

COLORADO PUBLIC UTILITIES COMMISSION'S
AMENDED NOTICE OF DEPOSITION OF MR. CHRISTOPHER JARNOT

TO: Christopher Jarnot, Vice President for Marketing and Sales
Vail Resorts Management Company
P.O. Box 7
Vail, CO 81658

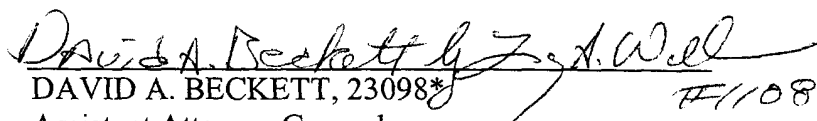
PLEASE TAKE NOTICE that commencing on Thursday, July 14, 2005, at the hour of 9:00 a.m. and continuing thereafter until completed, at the offices of Vail Resorts Management Company located at 137 Benchmark Road, Avon, Colorado 81260, the deposition of Mr. Christopher Jarnot will be conducted by counsel for The Public Utilities Commission of the State of Colorado; before a court reporter, pursuant to 49 Code of Federal Regulations § 1114.21-31.

The deponent, Mr. Jarnot, is directed to bring with him to the deposition all records and other documents that were identified in the Colorado Public Utilities Commission's First Petition

For Issuance of Subpoena to Appear at Deposition and Produce Documents, a copy of which was previously provided to him.

Dated this 6th day of July, 2005.

JOHN W. SUTHERS
Attorney General


DAVID A. BECKETT, 23098*
Assistant Attorney General
Business and Licensing Section

Attorneys for the Public Utilities Commission of
the State of Colorado

1525 Sherman Street, 5th Floor
Denver, CO 80203
Telephone: (303) 866-5135
Fax: (303) 866-5395
Email: david.beckett@state.co.us
*Counsel of Record

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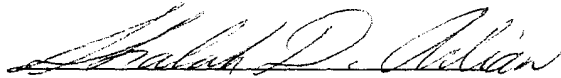
CERTIFICATE OF SERVICE

This is to certify that I have duly served the within COLORADO PUBLIC UTILITIES COMMISSION'S AMENDED NOTICE OF DEPOSITION OF MR. CHRISTOPHER JARNOT upon all parties herein by electronic mail and depositing copies of same in the United States mail, first class postage prepaid, or as otherwise indicated, at Denver, Colorado, this 6th day of July, 2005, addressed as follows:

Thomas J. Burke Jr.
Jones & Keller
1625 Broadway, Suite 1600
Denver, CO 80202

Fritz R. Kahn
Fritz R. Kahn P.C.
1920 N Street NW 8TH Floor
Washington, DC 20036-1601

Mark E. Manley
Associate General Counsel
The Vail Corporation
P.O. Box 7
Vail, CO 81658



BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC.
AND TMS, LLC, d/b/a
COLORADO MOUNTAIN EXPRESS
-PETITION FOR DECLARATORY ORDER-
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN COLORADO

COLORADO PUBLIC UTILITIES COMMISSION'S
AMENDED NOTICE OF DEPOSITION OF MS. SUSAN RUBIN-STEWART

TO: Susan Rubin-Stewart, Director of Reservations
Vail Resorts Management Company
P.O. Box 7
Vail, CO 81658

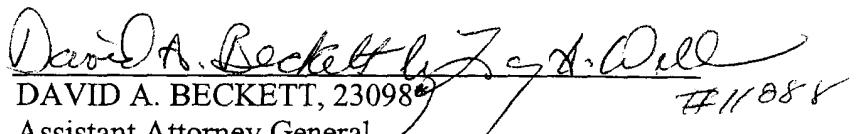
PLEASE TAKE NOTICE that commencing on Thursday, July 14, 2005, at the hour of 12:00 p.m. and continuing thereafter until completed, at the offices of Vail Resorts Management Company located at 137 Benchmark Road, Avon, Colorado 81260, the deposition of Ms. Susan Rubin-Stewart will be conducted by counsel for The Public Utilities Commission of the State of Colorado; before a court reporter, pursuant to 49 Code of Federal Regulations § 1114.21-31.

The deponent, Ms. Rubin-Stewart, is directed to bring with her to the deposition all records and other documents that were identified in the Colorado Public Utilities Commission's

First Petition For Issuance of Subpoena to Appear at Deposition and Produce Documents, a copy of which was previously provided to her.

Dated this 6th day of July, 2005.

JOHN W. SUTHERS
Attorney General


DAVID A. BECKETT, 23098
Assistant Attorney General #11088
Business and Licensing Section

Attorneys for the Public Utilities Commission of
the State of Colorado

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Denver, CO 80203
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*Counsel of Record

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