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CONFRONTING FREIGHT CHALLENGES IN SOUTHERN CALIFORNIA

(111–9)

JOINT FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON
HIGHWAYS AND TRANSIT
AND THE
SUBCOMMITTEE ON
RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS
OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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CONTENTS

TESTIMONY

PREPARED STATEMENTS SUBMITTED BY WITNESSES

SUBMISSIONS FOR THE RECORD

ADDITIONS TO THE RECORD

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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February 19, 2009

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Highways and Transit, Subcommittee on Railroads, Pipelines, and Hazardous Materials

FROM: Subcommittee on Highways and Transit and Subcommittee on Railroads, Pipelines, and Hazardous Materials staff

SUBJECT: Hearing on "Confronting Freight Challenges in Southern California"

PURPOSE OF HEARING

The Subcommittee on Highways and Transit and the Subcommittee on Railroads, Pipelines, and Hazardous Materials will meet on February 20, 2009, to examine freight challenges in Southern California. The Subcommittees will hear testimony from the Executive Directors of the Port of Long Beach and the Port of Los Angeles, representatives from three local and regional governmental groups, a labor representative for workers at the ports, trucking industry representatives and independent owners and operators, as well as representatives from the two largest railroad operators serving the ports.

The Subcommittees will also consider the ports' efforts to reduce emissions from port-related activities, including from trucks that provide drayage services at the ports. Specifically, the hearing will examine the ports' effort to invest in infrastructure to increase efficiency and expand transportation options for moving freight through the ports and the region. The hearing will also examine the ports' adoption of the San Pedro Bay Ports Clean Air Action Plan, including the Plan's "Clean Trucks" program.

BACKGROUND

As the economy and population of the United States have grown, so has the nation's dependence on surface transportation infrastructure. This is particularly true for the growth in freight movement. Since 1970, imports to the U.S. have more than tripled as a share of GDP, while exports have more than doubled. In 2002, U.S. freight carriers moved over 19 billion tons of freight valued at more than $13 trillion, and traveled over 4.4 trillion ton miles over the nation's transportation network. The U.S. Department of Transportation estimates that by 2035, the volume of freight shipped on the U.S. intermodal transportation system will increase to 33.7 billion metric tons, worth more than $38 trillion—an increase of more than 48 percent.

Over the course of the past few decades, the United States has witnessed substantial increases in international trade volumes. According to the International Trade Administration, U.S. exports of goods and services grew by 12 percent in 2008 to $1.84 trillion, while imports increased by 7.4 percent to $2.52 trillion. Exports accounted for 13.1 percent of U.S. Gross Domestic Product in 2008. To put that in historical context, just five years earlier exports were 9.5 percent of GDP, and forty years ago they were 5.3 percent in 1968.

The growth in trade between the U.S. and China is one of the greatest developments driving the increase in overall U.S. trade. According to the U.S. Department of Commerce, in 2008 the United States imported $337.79 billion worth of goods from China, more than was imported from any other country including Canada. Meanwhile, exports to China in 2008 totaled $71.46 billion, behind just Canada and Mexico. The combined value of goods traded between the U.S. and China increased by 56 percent just from 2002 ($147.2 billion) to 2008 ($409.25 billion). Since 1981, total U.S.-China trade has grown from $5.7 billion to its current levels over $400 billion, 71 times the level recorded in 1981.

<u>Overview of the San Pedro Bay Ports</u>

The Ports of Los Angeles and Long Beach are adjacent port facilities located on San Pedro Bay in southern California. Together, they constitute the fifth busiest port complex in the world, moving some $260 billion in total trade, including handling 14.33 million 20-foot containers (commonly referred to as twenty foot equivalent units or TEUs) in 2009. This represented approximately 40 percent of all the containers entering the United States.

In 2007, the Alameda Corridor Transportation Authority ("ACTA") released a comprehensive trade impact study which highlighted the role played by the ports of Los Angeles and Long Beach in the regional, national and global economy. The ACTA study found that more than 886,000 jobs in California are directly or indirectly related to the international trade activities at the ports. Furthermore, the report found that trade activities at these two ports generated 3.3 million jobs nationwide.

<u>The Port of Los Angeles</u>

The Port of Los Angeles is the busiest container port in the United States and the 13th busiest container port in the world. Its port facilities cover approximately 7,500 acres along 43 miles of waterfront property; these facilities employ approximately 16,000 people. The Port of Los Angeles is a department of the City of Los Angeles; it is managed by an executive director and administered by a five-member Board of Harbor Commissioners.

In calendar year 2008, the Port of Los Angeles handled 7.85 million TEU containers – which was a slight decline below the port's container traffic in 2007. The highest annual level of container traffic was recorded in 2006 when 8.4 million TEU containers passed through the Port of Los Angeles. In fiscal year 2008, the port handled a total of 170 million metric revenue tons of cargo, of which 161.9 million metric tons was general cargo.

Trade with nations in the Far East accounted for 87.5 percent of the total volume of trade at the port in 2007. The top containerized imports in 2007 were furniture, apparel, and automotive parts. The top containerized exports were paper, paperboard and wastepaper followed by scrap metal, grains, wheat, and soybean products. In 2007, the port's largest trading partner was China, with imports and exports valued over $115 billion moving through the Port of Los Angeles. Japan (with goods valued at $39.2 billion) and Taiwan (at $14.6 billion) were the next biggest trading partners.

The Port of Long Beach

The Port of Long Beach is the second busiest port in the United States. It encompasses 10 piers located on more than 3,200 acres of land. In 2008, the port handled roughly 6.49 million TEU containers and a total of 87 million metric tons of cargo valued at $140 billion. On average, roughly 19,900 TEUs move through the port each day.

Operations at the Port of Long Beach support approximately 371,000 jobs in California and 1.4 million jobs nationwide. The port accounted roughly 13 percent of all containers going through the nation's ports. East Asian trade accounts for more than 90 percent of the shipments through the Port of Long Beach, with China, Japan, and South Korea ranking as the lead trade partners. The top import products going through the port were petroleum, electronics, and plastics. Meanwhile, petroleum and petroleum coke, waste paper, and chemicals represented the largest export products.

Freight Rail Service at the Ports of Los Angeles and Long Beach

Rail is an important transportation mode to move goods in and out of the Ports of Los Angeles and Long Beach ("the Ports"). The Alameda Corridor Transportation Authority reports that 41% of all marine containers received in the Ports go directly onto rail (this includes on-dock and near-dock), 23% are taken to a warehouse and then put on rail, and 36% are either consumed in the Southern California region or leave by truck to nearby locations.

The Ports are served by three railroads: a short line railroad, the Pacific Harbor Line ("PHL"); and two Class I railroads, the Union Pacific Railroad ("UP"), and the BNSF Railway ("BNSF"). Of the 13 terminals at the San Pedro Bay, 11 have access to nine on-dock rail facilities. If the terminal does not have access to an on-dock facility, the container goes to an off-terminal rail yard, either the UP's Intermodal Container Transfer Facility or the BNSF's Hobart facility, where it will then be loaded onto a train and sent to its next stop.

PHL provides rail switching services for the nine on-dock intermodal terminals and schedules and oversees all train movements within the 7,500 acre Ports complex (a total of 18 route miles or 59 track miles). PHL will crew UP and BNSF trains at the Ports' entrance, switch locomotives with UP or BNSF trains, or coordinate UP or BNSF trains operating to and from Port intermodal and bulk terminals. The tracks in the Ports complex are owned by the Ports.

Ports of Los Angeles and Long Beach Direct Intermodal Rail Volumes
2003-2007
(Marine Containers per Year)[1]

	2003	2004	2005	2006	2007
On-Dock[2]					
BNSF	591,280	781,715	977,945	1,285,111	1,181,911
UP	456,299	534,870	652,527	827,051	821,070
Total On-Dock	1,047,579	1,316,585	1,630,472	2,112,162	2,002,981
As % of Total Throughput	15.9%	18.1%	20.7%	24.1%	23.0%
Off-Dock[3]					
BNSF	760,237	774,336	781,980	808,096	789,656
UP	777,534	771,562	757,598	826,802	812,502
Total Off-Dock	1,537,771	1,545,898	1,539,578	1,634,898	1,602,158
As % of Total Throughput	23.4%	21.2%	19.5%	18.7%	18.4%
Total On & Off-Dock	2,585,350	2,862,483	3,170,050	3,747,060	3,605,139
As % of Total Throughput	39.3%	39.3%	40.2%	42.8%	41.4%
Total Port Throughput	**6,576,147**	**7,278,496**	**7,885,801**	**8,755,677**	**8,704,169**

Key Rail Facilities at the Ports of Los Angeles and Long Beach

The Ports of Los Angeles and Long Beach contain a number of rail facilities to handle the movement of freight containers to and from the ports.

- *Intermodal Container Transfer Facility ("ICTF").* The ICTF, operated by UP, is a near-dock rail yard[4] located approximately five miles from the Ports. The ICTF opened in 1986 as a multi-user facility serving numerous shipping lines. It is an important component to UP's transcontinental rail service, and relays marine cargo containers between the Ports and major rail yards near Los Angeles. The ICTF sits on over 250-acres, with on-site storage for more

[1] Source: BNSF and UP for on-dock and off-dock volumes; Ports of LA and LB for total port throughput.

[2] Cargo can be placed directly onto trains at the marine terminals' "on-dock" rail yards. On-dock rail yards are operated by marine terminals. This method of transportation is the most environmentally friendly, as it reduces truck traffic and air pollution generated by goods movement.

[3] Off-dock rail yards are used to coordinate rail deliveries to non-local destinations. Containers are delivered here by truck, then sorted and grouped by final destination. These rail yards handle Port cargo as well as domestic cargo from other sources.

[4] Cargo is often transported by truck to larger "near-dock" rail yards close to the Port. This requires a shorter local truck trip than "off-dock" rail yards or long-distance truck trips. Near-dock railyards serve multiple marine terminals.

than 3,000 containers and six rail tracks for loading, at lengths varying from 3,800 feet to 5,000 feet that can accommodate a total of 95 double-stack railcars. An adjacent storage yard can handle up to 100 double-stack railcars. The ICTF handles 100 lifts per man-hour and accommodates 70 eastbound and 70 westbound trains per week.

- *Hobart Yard.* BNSF's Hobart Yard is the largest intermodal rail yard in the United States, handling the distribution of international containers to destinations such as Chicago and Memphis. It is a 245-acre facility located in the City of Commerce, California, approximately twenty miles from the Ports. It covers 245 acres and consists of a locomotive classification yard, intermodal facilities and administrative and equipment maintenance buildings. BNSF is currently working to increase its container capacity for the Ports by developing the Southern California International Gateway ("SCIG"), a proposed near dock cargo facility estimated to handle 1.5 million TEUs[5] per year. The SCIG will increase the BNSF's use of the Alameda Corridor, eliminating millions of truck miles annually from the 710 and other local freeways, reducing congestion, improving air quality and traffic safety.

- *Global Gate Way South.* The Global Gateway South is a container facility at Pier 300 on Terminal Island. It is the largest complex of its kind in North America. The facility includes an on-dock rail yard, which offers eight loading rail tracks, each approximately 2700 feet long, and capable of handling a total of 64 five-platform double-stack railcars; 10 rail-mounted, electrically-powered intermodal cranes; a special-use rail line along the four shipping berths for the direct transfer of oversized cargo, such as heavy machinery, between ships and railcars; fully automated switching and derailing points; and a compressed-air system to charge railcar brakes.

- *Maersk On-Dock Rail Yard.* The Port of Los Angeles' largest on-dock rail yard is located at the Port's largest container terminal, the 484-acre Pier 400, operated by APM Terminals (a subsidiary of the Danish shipping line, Maersk). The Maersk Rail Yard is a 40-acre intermodal facility that includes 12 2,500 foot long loading tracks, with each track capable of handling eight 305-foot-long double-stack railcars, for a total capacity of 96 rail cars. The rail yard also has six adjacent storage tracks, each 6,400 feet long and capable of handling 21 305 foot-long double-stack railcars for a total capacity of 126 railcars.

- *Terminal Island Container Transfer Facility ("TICTF").* Two major container terminals operate out of the Terminal Island: the 162-acre Terminal Island Container Facility operated by Evergreen America Corp. and the 185-acre container terminal operated by Yusen Terminals Inc. TICTF's features include four loading rail tracks, each approximately 2,300 feet long, and capable of handling a total of 28 five-platform double-stack rail cars; five adjacent storage rail tracks, each approximately 2,300 feet long, and capable of handling a total of 35 five-platform double-stack rail cars; dedicated arrival rail track with a 28 five-platform rail car capacity; and dedicated departure rail track with a 28 five-platform rail car capacity.

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[5] A TEU, or Twenty-foot Equivalent Unit, is an inexact unit of cargo capacity often used to describe the capacity of container ships and container terminals. It is based on the volume of a 20-foot long shipping container, a standard-sized metal box which can be easily transferred between different modes of transportation, such as ships, trains and trucks.

> *Yang Ming/China Shipping On-Dock Rail Yard.* Yang Ming Line, a Chinese transportation company, operates a 130-acre container terminal in the Port of Los Angeles. The container facility includes three loading rail tracks, each approximately 3,000 feet long, and capable of handling a total of 27 five-platform double-stack railcars; three adjacent storage rail tracks, each approximately 3,000 feet long, and capable of handling a total of 27 five-platform double-stack railcars; dedicated departure rail track with a 27 five-platform railcar capacity; and dedicated rail track to facilitate switching between loading and storage rail tracks.

Freight Rail Congestion at the Ports

Freight rail congestion is a growing problem at the Ports. For example, BNSF's Hobart Yard is nearing capacity, necessitating the development of the Southern California International Gateway, which is described above. The primary cause of freight rail congestion at the Ports is due to the failure of freight rail infrastructure investment to keep pace with growing exports and imports at the Ports.

Additionally, the US rail system has decreased in size, resulting in a situation where there are just two major Class I railroads serving the West (UP and BNSF) and two major Class I railroads serving the East (CSX and Norfolk Southern). The mileage of Class 1 track has also dropped, due to abandonments and spin-offs to regional and short line railroads. In 1970, there were 206,000 route miles of Class I track; today there is 161,114 route miles of track. According to Drewry Supply Chain Advisors, the railroads have increased their prices rather than invest in more capacity.[6] The situation is exacerbated by domestic traffic – notably coal and food – which is also seeking to shift to rail, putting more pressure on supply.

The rail network, too, experiences operational inefficiency that can constrain freight mobility. The Government Accountability Office reported that private rail companies might be able to serve their customers more efficiently if they instituted collaborative operational processes, such as sharing terminal facilities for a fee, which could allow more rail companies' access to customers near specific terminals or reciprocal switching.[7] For example, one rail company could deliver, for a fee, railcars to another rail company's customers. The Alameda Corridor Transportation Authority also reported that some ocean going container traffic is being diverted to other ports due to increases in long-haul intermodal rail rates.[8]

While container traffic volumes into the Ports are expected to continue to grow, the importance of rail to the Ports may diminish. Many goods currently delivered to the Ports are delivered to the East Coast. This is because cargo ships originating in Asia cannot compete with rail in delivering goods to the East Coast or Europe.

However, the Panama Canal is increasing its capacity to accommodate cargo ships from a maximum of 4,800 TEUs to over 13,000 TEUs. This is a significant development since previously

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[6] Drewry Supply Chain Advisors, "U.S. Transpacific Intermodal Today and Tomorrow" Sept. 2008.

[7] Government Accountability Office, "Freight Railroads: Industry Health Has Improved, but Concerns about Competition and Capacity Should Be Addressed." http://www.gao.gov/new.items/d0794.pdf

[8] Moffatt & Nichols Economic Group, "West Coast Trends," Alameda Corridor Transportation Authority, August 14, 2008. http://www.calchamber.com/caltrade/Documents/081408-ACTA-diversion-and-lovolume-study_minArt13.pdf

many cargo ships were too large to navigate the Panama Canal. If the Canal's increased capacity occurs, hardly any ships will be too big for the Canal. As a result, many cargo ships will bypass the Ports of Los Angeles and Long Beach for different destinations.

According to Drewry Supply Chain Advisors, if the Canal succeeds in getting 13,000 TEU ships through its new locks, then the Ports of Los Angeles and Long Beach will only be cost competitive to destinations are far west as Denver, Albuquerque and El Paso, since it will be just as cost effective for a shipper to deliver goods to the East Coast Ports and then send them east – being halfway between the West and Gulf coasts, inland costs will largely cancel each other out.

COMMUNITY IMPACTS OF FREIGHT VOLUME AT THE PORTS

While the San Pedro Bay Ports provide the Southern California region with tremendous economic activity, job creation, and tax revenues, the region pays a heavy price for serving as the nation's largest trade terminal. Heavy congestion on the region's roadways along with exposure to goods movement related pollution present serious threats to the region's mobility and environment.

Impacts on Congestion

Port-related commerce is connected directly and indirectly with tens of billions of dollars in industry sales each year throughout the region, which translates into hundreds of thousands of local jobs and billions of dollars in wages, salaries, and taxes. However, freight traffic also imposes costs upon the broader region. The Alameda Corridor Transportation Authority (ACTA) estimates that two million TEUs per year travel from the ports to the Inland Empire, the heavily-populated portion of Riverside and San Bernardino counties that is home to over 350 million square feet of warehousing. Most of this port-related freight traffic is transported on the heavily-traveled I-710, I-10 and I-60 freeways, adding to regional traffic congestion.

The 2007 Urban Mobility Report by the Texas Transportation Institute provides us with a grim illustration of the impact of this failure to invest in our surface transportation network. The wasted fuel and time translated into a total congestion cost of $78.2 billion in 2005—$5.1 billion higher than a year earlier. Overall, congestion in 2005 caused a total of 4.2 billion hours of travel delay that resulted in an additional 2.9 billion gallons of fuel being used while shippers, travelers and commuters are stranded in traffic and not moving.

Commuters in the Los Angeles-Long Beach-Santa Ana area spent an average of 72 hours a year stuck in congestion while wasting an annual average of 57 gallons of fuel. That is the highest levels in any major metropolitan area of the country and over 20 percent higher than the second most congested area of San Francisco-Oakland for both figures. Since 1982 the average annual time spent stuck in congestion for the region has increased by 60 percent. In 2005, commuters in this region wasted 490.5 million hours in travel delays and consumed an unnecessary 384 million gallons of fuel at a total congestion cost to the region of $9.325 billion.

Los Angeles is also home to the worst physical bottleneck in the United States located at the intersection of US 101 and I-405. At this location alone, drivers face 27.144 million hours of delay annually. Overall, Los Angeles is home to five of the top thirteen worst physical bottlenecks in the country with a total of 103.452 million annual hours of delay in 2004.

Impacts on Air Quality and Public Health

Air pollution from international goods movement activities at the ports is a major public health problem for the Southern California area. The Southern California region has consistently ranked as having the worst air quality and congestion in the nation. California's transportation sector is the leading source of greenhouse gas (GHG) emissions in the state, contributing over 40 percent of the state's annual GHG emissions.

Local criteria air pollutants, toxic air contaminants and GHG emission pose a serious threat to the health of southern California's residents, communities and the quality of the region's environment. The communities surrounding these ports are burdened with the environmental damages and degraded air quality produced by the heavy traffic of trucks, railroads, and shipping vessels associated with trade traffic at the ports.

A report presented by the California Air Resources Board assessed small particle ("PM2.5") health effects and found an extreme disproportionate exposure in the South Coast Air Basin relative to other parts of the state and the rest of the country. Port activities are estimated to contribute roughly 25 percent of overall PM2.5. The report found that as a result of high exposure levels in the region, every year 5,400 residents die prematurely, 2,400 are hospitalized, 140,000 experienced asthma and lower respiratory symptoms, and workers in the region lost 980,000 work days.

EFFORTS TO ADDRESS FREIGHT MOVEMENT CHALLENGES IN SOUTHERN CALIFORNIA

To mitigate the growing congestion levels on the Southern California roadways and environmental damages threatening local health and safety, state, local and regional governments have undertaken a number of policy and infrastructure initiatives. These range from investments in expanded highway and freight rail infrastructure capacity to innovative initiatives to reduce emissions from port related vehicles.

The Alameda Corridor

The Alameda Corridor is a 20-mile-long rail cargo expressway linking the ports of Long Beach and Los Angeles to the transcontinental rail network near downtown Los Angeles. It is a series of bridges, underpasses, overpasses and street improvements that separate freight trains from street traffic and passenger trains, facilitating a more efficient transportation network. The project's centerpiece is the Mid-Corridor Trench, which carries freight trains in an open trench that is 10 miles long, 33 feet deep and 50 feet wide between State Route 91 in Carson and 25th Street in Los Angeles. Construction on the Corridor began in April 1997, and it opened for operation in April 2002. With its opening, the Corridor replaced over 200 at-grade highway/rail crossings, and it has served to significantly reduce traffic congestion and air and noise pollution previously caused by idling trains, trucks and cars.[9]

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[9] Alameda Corridor Transportation Authority (www.acta.org)

The Alameda Corridor is the primary conduit to move rail freight into and out of the Ports of Los Angeles and Long Beach. It handles an average of 37.6 trains per day, moving 10,536 TEUs daily. The UP and BNSF share the Alameda Corridor through trackage rights with the Authority. In addition to the Alameda Corridor, BNSF can also move freight rail between the transcontinental rail network and the Ports via a BNSF branch line that loops west of Los Angeles. Further, the UP also has access to a branch line that loops east of Los Angeles to the Ports.

In addition to its operational and environmental benefits, the Alameda Corridor is also notable for the innovative structure through which it was financed. The Corridor was built by the Alameda Corridor Transportation Authority (ACTA), a joint powers authority governed by the cities of Los Angeles and Long Beach, the ports of Los Angeles and Long Beach, and the Los Angeles County Metropolitan Transportation Authority. The Corridor was funded with a complex financing package that depended upon a combination of bond proceeds, State and local grants, and the Department of Transportation's (DOT) issuance of a $400 million direct loan with a variety of favorable conditions (including a flexible repayment structure and a subordinate lien). The project was completed on time and under budget, and ACTA repaid its DOT loan in full. This successful use of Federal credit assistance served as a model for the subsequent Transportation Infrastructure Finance and Innovation Act (TIFIA), through which DOT was authorized to provide various forms of Federal credit support for major transportation investments of critical national significance.

The Alameda Corridor-East (ACE) Project

The Alameda Corridor-East (ACE) Project, currently under construction, is designed to extend the Alameda Corridor over 70 miles of mainline railroad in the San Gabriel Valley. The ACE Project includes a number of different construction projects, ranging from safety upgrades and traffic signal measures to grade separations at highway/rail crossings. The project received $155 million in Congressionally-directed funding through the Projects of National and Regional Significance (PNRS) Program authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). However, with an estimated total project cost of over $1 billion, the ACE Project still requires additional funding.

To date, ACE has completed safety improvements at 39 crossings. Construction is complete for the first four grade separations, and underway or funded for the next six of 20 planned grade separation projects. The remaining 10 grade separations are on hold pending availability of funding.[10]

Funding Infrastructure Investment Needs In and Around the Ports

The Ports of Los Angeles and Long Beach have identified extensive infrastructure needs in and around the port facilities, including the Gerald Desmond Bridge Replacement,[11] the SR-47 Expressway, the Navy Way/Seaside Avenue Interchange, the South Wilmington Grade Separation, the I-110 Connectors Program, and the development of an on-dock rail system.

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[10] Alameda Corridor-East Construction Authority (www.theaceproject.org).

[11] The Gerald Desmond Bridge received $100 million in Congressionally-directed funding through the PNRS Program. However, the estimated cost of replacing the bridge exceeds $800 million, leaving the project still in need of significant additional funding.

In an effort to generate revenue to support the development of this infrastructure, the Ports of Los Angeles and Long Beach have approved an "infrastructure cargo" fee that will be applied to containers moving through the ports. Additionally, the State of California considered, but ultimately rejected, legislation that would have created a container fee at the Ports of Los Angeles, Long Beach, and Oakland to support infrastructure projects and projects intended to mitigate the environmental impacts of port operations. These fees are described in more detail below.

Ports of Los Angeles and Long Beach Infrastructure Fees

Beginning July 1, 2009, the ports of Los Angeles and Long Beach will each assess an "infrastructure cargo" fee on containers moving through the ports to support the construction of designated infrastructure projects. The fees approved by ports are expected to be $6 per 20-foot TEU in 2009, but the fees can fluctuate based on the funding needs of infrastructure projects in progress. The fees were originally proposed to be levied at $15 per TEU, and to be imposed beginning on January 1, 2009. However, in December 2008 the two ports reduced the fees and delayed their implementation in response to the continued economic downturn and a recognition that the projects that would be funded with the fees were likely to require additional time to complete their required planning and environmental reviews. A fact sheet authored by the Port of Los Angeles anticipates that the fee will grow to $18 in 2010 and 2011 but could fall to $14 in 2012.

California State Container Fee

During its 2006 and 2008 sessions the California state legislature considered bills that would have established State-imposed container fees and used their proceeds to fund freight and environmental projects. The legislature passed such a bill in 2006, which was vetoed by Governor Arnold Schwarzenegger. After revising the bill in response to objections by the Governor and Southern California lawmakers, the legislature passed another version of a container fee bill in August 2008. This bill would have would required the Ports of Los Angeles, Long Beach, and Oakland to begin collecting a container fee of up to $30 per 20-foot TEU by January 1, 2009, and would have split the fee proceeds between freight transportation projects and projects to mitigation port-related air pollution.

Governor Schwarzenegger vetoed the latest container fee bill on September 30, 2008, arguing that it "does not provide necessary assurances that projects [funded by the fee] will achieve the greatest cost-effectiveness, emission reductions, and public health protection … does not adequately provide the San Joaquin Valley with access to funds to reduce pollution … and would not provide any mechanism for the coordination and integration of infrastructure projects." The primary author of both the 2006 and 2008 bills, Senator Alan Lowenthal (D-Long Beach), has indicated that he will not re-submit a similar bill in the upcoming legislative session.

2006 Infrastructure Bond Bill

In 2006 California voters approved the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, typically referred to as "Proposition 1B." Proposition 1B authorized the State to issue almost $20 billion in general obligation bonds, including $2 billion in bonds to establish a Trade Corridor Improvement Fund (TCIF), which would be used to support freight transportation projects. These funds, administered by the California Transportation

Commission, may be for freight projects in a variety of transportation modes, including state highway improvements and projects to improve the freight rail system, the capacity and efficiency of seaports, and airport ground access. According to the California Legislative Analyst's Office, a non-partisan fiscal and policy advisor to the State legislature, the TCIF approach represents a substantial change from California's traditional program for funding transportation. Prior to Proposition 1B, the State had not funded projects such as freight rail improvements, and had not dedicated funding specifically to trade corridor mobility.[12]

In addition to the TCIF, Proposition 1B also authorized the issuance of $1 billion to fund projects to reduce emissions and improve air quality in trade corridors. The California Air Resource Board is responsible for administering the use of this funding.

San Pedro Bay Ports Clean Air Action Plan

Together, the Ports of Los Angeles and Long Beach have adopted a plan, titled the San Pedro Bay Ports Clean Air Action Plan, for reducing polluting air emissions at the ports. Full implementation of the plan's components is expected to require the combined expenditure of billions of dollars from all participating sources, including the ports, the State of California, and industries that work in and around the ports of Los Angeles and Long Beach. The plan's components are expected to cut emissions of particulate matter from port-related sources by 47 percent within five years. The plan will also reduce emissions of nitrogen oxides by 12,000 tons per year and reduce emissions of sulfur oxides by 8,900 tons per year.

The specific components of the plan include the following:

- Requiring the use of clean diesel trucks at the ports (the "Clean Truck" initiative).
- Requiring the use of low sulfur fuels during transits close to the ports and requiring reductions in transit speeds – and providing shore-side electricity to vessels docked at ports (so that they do not have to idle their engines to generate electricity).
- Replacing or retrofitting cargo-handling equipment to meet stricter air emissions standards.
- Requiring the use of cleaner locomotives in the port complexes, including requiring the use of cleaner fuels and equipment that treats the exhaust produced by locomotives.

Clean Truck Programs

One of the centerpieces of the Clean Air Action Plan are the implementation by the Port of Los Angeles and the Port of Long Beach of Clean Truck programs, which are designed to reduce the emissions of trucks used in port properties by more than 80 percent below current emissions levels. The programs will achieve these reductions by replacing (or retrofitting) as many as 16,000 trucks by the year 2012.

The Clean Truck programs developed by each of the Ports of Los Angeles and Long Beach are described in more detail below. The two plans are similar – but not identical – and individual

[12] Legislative Analyst's Office analysis of the California 2008-2009 Budget bill.

trucking companies wishing to carry cargo in each port must enter into a separate concession agreement with each port.

Port of Los Angeles Clean Truck Program

Under the terms of its Clean Truck program, since October 1, 2008, the Port of Los Angeles has forbidden the entrance of trucks built before 1989. Beginning January 1, 2010, the Port will ban the entrance of all trucks built before 1993 and all trucks built between 1994 and 2003 that have not been retrofitted with emissions control technologies. Beginning January 1, 2012, the Port will ban the entrance of any truck, regardless of age, that is not in compliance with the 2007 Federal Clean Truck Emissions Standard.

According to data issued by the Port of Los Angeles, there are approximately 1,000 Licensed Motor Carriers (LMCs) currently coordinating the drayage provided by 17,000 owner-operator truckers in the Port of Los Angeles. The Port states that this is "a financially unstable, inefficient system that perpetuates the use of cheap, high-polluting and poorly maintained trucks." The Clean Truck Program seeks to remedy this problem by limiting port access to trucks operating under concession agreements with the Port, and offering these concession agreements only to LMCs who have "direct control over employee drivers." The concession plan will phase in its new employment requirements between 2008 and 2012. Individual truck owner operators that are not LMCs and not subject to a concession agreement currently retain their eligibility to operate at the Port. However, they will lose this eligibility once the employment requirements are fully phased into effect.

Under the terms of the concession plan, LMCs will be required to pay $2,500 for a five-year concession and to pay an annual fee of $100 for each truck they operate. Concessionaires will also be required to meet specified safety and security standards and hold required licenses and insurance policies. In exchange for complying with these requirements, concessionaires will be eligible to receive grants from the Port of Los Angeles Clean Truck Fund (described below) to cover up to 80 percent of the cost of purchasing a truck that complies with the new 2007 emissions standards. Entities that do not receive funding for the purchase of a new truck will be eligible to receive $5,000 for every truck built prior to 1989 that they turn in for scrapping. Additionally, certain older trucks will be eligible to receive funding to cover the installation of equipment that will make emissions compliant with the 2007 emissions standards.

Beginning February 18, 2009, the Port of Los Angeles will collect a "Clean Truck Fee" of $35 from cargo owners for each TEU of containerized cargo loaded in the port; this fee will not apply to cargo moving on a train or cargo moved from one terminal to another terminal within the port complex. Collection of the Clean Truck Fee was originally scheduled to begin in November 2008, but was delayed twice due to extended Federal Maritime Commission (FMC) review.[13] The fee will be collected until 2012, when the entire fleet of trucks serving the Port of Los Angeles will be required to meet 2007 emissions standards. The funds collected from this fee will be deposited in a Clean Truck Fund and will be used to assist LMCs in purchasing clean trucks. Trucks privately

[13] The FMC is an independent regulatory agency responsible for enforcing U.S. shipping laws. The FMC reviews agreements made by ports, liner services, and other maritime entities – many of which enjoy some immunity from anti-trust provisions – to assess their compliance with U.S. law, including whether they may result in an unreasonable increase in transportation costs or a decrease in transportation services.

funded by LMCs that meet the requirements of the Clean Truck program will be exempted from the container fee.

Port of Long Beach Clean Truck Program

Since October 1, 2008, the Port of Long Beach has banned the entry of trucks of model year 1988 and older as part of the Port's Clean Trucks Program. Beginning January 1, 2010, trucks of model year 1993 and older will be forbidden from serving the Port of Long Beach – together with trucks from model years 1994 through 2003 that have not been retrofitted with emissions control technology. Beginning January 1, 2012, any truck not meeting the model year 2007 federal truck emission standard will be forbidden from serving the Port of Long Beach.

Under the Port of Long Beach's Clean Truck program, only LMCs holding concessions issued by the Port of Long Beach will be able to provide drayage services at that port. However, in Long Beach, unlike at the Port of Los Angeles, LMCs holding a concession agreement will be allowed to dispatch either employee-operators or owner-operators to serve the Port. Owner-operator truck drivers serving the port will be required to enter their truck in the Port Drayage Truck Registry.

LMCs seeking a concession will be required to pay an application fee of $250 for a concession lasting 5 years; they will also be required to pay a fee of $100 per year for each truck they operate at the port. Concessionaire employees and owner-operators dispatched by concessionaires will be offered financial assistance through two different programs to assist them in purchasing clean trucks. Concessionaires can participate in a lease-to-own program, through which they can trade in an old truck and make monthly payments ranging between $500 and $600 for the lease of a new diesel truck or make monthly payments ranging between $500 and $1000 for the lease of a new liquefied natural gas (LNG) powered truck. These leases will last for seven years. At the end of the lease period, concessionaires will be eligible to purchase their leased truck by paying half of the remaining cost of the truck. Conversely, concessionaires can trade in an old truck and receive a grant that will cover up to 80 percent of the purchase cost of a new clean truck.

Like the Port of Los Angeles, on February 18, 2009, the Port of Long Beach is scheduled to begin collecting a $35 fee for each 20-foot TEU ($70 per 40-foot TEU) loaded in the port. The fee will not be applied to containers that move through the port by train. These container fees will be collected in a fund that will be utilized to pay for concessionaires' lease-to-own program and truck purchase grants.

Containers carried on privately financed LNG-powered trucks will not be charged a container fee. Containers carried on privately financed diesel-powered trucks will pay half the standard container fee. For each privately financed clean truck that entered service after October 1, 2008, the truck's owner will be required to provide proof that they have removed from service another truck that did not meet the 2007 federal emissions standards.

Lawsuit Challenging Clean Truck Programs

On July 28, 2008, the American Trucking Associations (ATA) filed a complaint for declaratory judgment and injunctive relief in the U.S. District Court for the Central District of California against the Board of Harbor Commissioners of the City of Los Angeles, the Board of

Harbor Commissioners of the City of Long Beach, the cities of Los Angeles and Long Beach, and the Harbor Department of the City of Long Beach. The ATA alleged that the concession plans approved by the Ports of Los Angeles and Long Beach would "unlawfully re-regulate the federally-deregulated trucking industry and, effective October 1, 2008, bar more than one thousand licensed motor carriers from continuing to enter and service routes in interstate commerce directly to and from the ports of San Pedro Bay."

The suit alleged that the Ports of Los Angeles and Long Beach have violated the Federal Aviation Administration Authorization Act, P.L. 103-305, which states that a "State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier." The suit further alleged that the concession plans impose unreasonable burdens on interstate commerce under the Commerce Clause of the U.S. Constitution and 49 U.S.C. §14504a.

Importantly, the ATA lawsuit challenged only the concessions portion of the Clean Truck programs. The suit did not challenge the schedule for banning older trucks from the ports.

In August 2008 the U.S. District Court of California ruled in affirmation of the two ports' right to implement their Clean Truck Plan. The ATA is currently seeking from the U.S. Court of Appeals both a reversal of the lower court ruling and in injunction to stop the Clean Truck Plan from being implemented. Oral arguments in that case are scheduled to begin on March 4.

PREVIOUS COMMITTEE ACTION

The Subcommittee on Highways and Transit previously held a hearing on June 24, 2008 to examine the role of the surface transportation network in moving people and freight.

The Subcommittee on Highways and Transit previously held a hearing on April 24, 2008 to examine freight mobility issues facing the nation's surface transportation system.

The Subcommittee on Highways and Transit previously held a hearing on April 9, 2008 to examine transportation challenges of metropolitan areas.

The Subcommittee on Highways and Transit previously held a hearing on June 7, 2007 to examine the issues of congestion and mobility on the nation's surface transportation system.

WITNESSES

PANEL I

Dr. Geraldine Knatz
Executive Director
Port of Los Angeles
San Pedro, CA

Mr. Richard D. Steinke
Executive Director
Port of Long Beach
Long Beach, CA

Mr. Hasan Ikhrata
Executive Director
Southern California Association of Governments
Los Angeles, CA

The Honorable Anne Bayer
President, Board of Directors
Gateway Cities Council of Governments
Paramount, CA

The Honorable David Spence
President, Board of Directors
San Gabriel Valley Council of Governments
Pasadena, CA

Ms. Anne Mayer
Executive Director
Riverside County Transportation Commission
Riverside, CA

PANEL II

Mr. Nate Asplund
Director of Public-Private Partnerships
Burlington Northern Santa Fe Corporation
Fort Worth, TX

Mr. Robert W. Turner
Senior Vice President - Corporate Relations
Union Pacific Corporation
Omaha, NE

Mr. Randall J. Clifford
Chairman
Ventura Transfer Company
Long Beach, CA

Mr. Joe Rajkovacz
Regulatory Specialist
Owner-Operator Independent Drivers Association
Grain Valley, MO

Mr. Chuck Mack
Vice President, Western Region
International Brotherhood of Teamsters
Washington, DC

FIELD HEARING ON CONFRONTING FREIGHT CHALLENGES IN SOUTHERN CALIFORNIA

Friday, February 20, 2009

HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT AND
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS
Los Angeles, CA

The Subcommittee met, pursuant to call, at 10:00 a.m., in the Third Floor Board Room at the Los Angeles Country Metropolitan Transportation Authority at One Gateway Plaza, Hon. Peter A. DeFazio [Chairman of the Subcommittee] presiding.

Mr. DEFAZIO. Let us get settled down. We have a time limit on the room and we have quite a few witnesses to get through. We want to give them all an opportunity and we want to give the panel members time to ask good questions.

This is a joint hearing between the Highways and Transit Subcommittee and Chairwoman Brown's Subcommittee on Railroads, Pipelines, and Hazardous Materials. I will keep my opening remarks very brief.

We had an opportunity yesterday by both boat and air and surface to tour and get a look at a number of the challenges confronting freight movement in this area. It is an awesome challenge but I am impressed at what has been done and what is planned.

I guess where I find substantial agreement with everyone here is that the federal government needs to play a more significant role and have more of a national plan for freight movement since it is so important to our nation in terms of our international competitiveness, just-in-time delivery, the result from more efficient movement of freight in addition to the potential fuel savings and environmental benefits. I look forward to hearing your ideas today. With that I would turn to Chairwoman Brown for her opening remarks.

Ms. BROWN. First of all, let me thank the Chairman for inviting the Subcommittee on Railroads, Pipelines, and Hazardous Materials to join you today for this important hearing. The American way of life relies on the U.S. transportation system to move goods and services effectively and efficiently, and with the new transportation reauthorization bill, we are going to be giving America's transportation system the facelift it desperately needs.

Unfortunately, congestion has become a major problem across all modes of surface transportation, including our railways. The U.S.

Department of Transportation predicts that the demand for freight rail transportation will increase 88 percent by 2035.

As the Chair of the Rail Subcommittee I clearly see freight and passenger rail as a solution to increasing gridlock on our nation's roads, as well as the environmental and economic problems that our nation is facing.

If you watched last year's Super Bowl, you would have heard that freight railroads have made major gains in fuel efficiency through training and improved locomotive technology. A single intermodal train can take up to 240 trucks off our highway.

Today, one gallon of diesel fuel can move a ton of freight an average of 414 miles, a 76 percent improvement since 1980.

And last year, General Electric unveiled the world's first hybrid locomotive. So it is easy to see why rail will continue to play a major role in confronting the freight challenges being faced in Southern California and across the U.S.

I am glad we have panelists that we have representing here today. I also want to thank Mrs. Napolitano and Ms. Richardson, both on my Committee. I am looking forward to hearing their testimony today and looking forward to move forward with our reauthorization bill coming up.

Thank you, Mr. Chairman.

Mr. DEFAZIO. Thank you, Chairwoman.

Do either of the local Members have brief opening statements?

Ms. NAPOLITANO. I would like to start.

Mr. DEFAZIO. Okay.

Ms. NAPOLITANO. I would like to thank both Subcommittee Chairs for coming and putting more of an emphasis on the issues of Southern California. I certainly want to thank the fire chief for providing us a copter tour yesterday which Corrine had already experienced a year ago.

There are many issues and this complicated issue and hopefully with your being able to be understanding by being here talking to the people involved you can understand how the local governments are having a problem because the money is infused in the state or the county or other areas and they do not get their share sometimes to take on the responsibility of the impact they have because of the increase in traffic whether it is the rail or the highway. Thank you both and look forward to a great hearing.

Ms. RICHARDSON. Thank you, Mr. Chairman and Ms. Chairwoman.

Let me first of all just say that government is at work and this is a good day. When we turn on the news we hear all the things of what is not working about government but what I hope people will feel who are here today is that this is what we should be doing and unfortunately we don't hear enough about.

We are in the process of hearing testimony about one of the largest revenue generating opportunities we are going to have strictly for transportation which we have all been talking about for months now. I think you are going to be able to see what the stimulus package did not fully complete. You are going to see this authorization to be that second leg on that chair that is desperately crumbling underneath us when you consider really the aging infrastructure that we have across this nation.

I want to almost say we could almost go home, Mr. Chairman, because in your opening comments when you said that you acknowledge the national significance that we have. We haven't always had that said so clearly and up front without us having to beg and plead and almost use two by fours. I think today is a good day.

I look forward to the testimony and I look forward even further to working with our two Members of Congress here, our Chairman and Chairwoman and, of course, my colleague Ms. Napolitano as we ensure that what we talk about today will be evident in the results which will be the dollars that we need desperately. I think that rang true of what I saw yesterday and I think we are in store for better days. Thank you very much.

Mr. DEFAZIO. I always like to encourage the use of two by fours since I have a number of manufacturers in my district so whatever we can to get the attention of the Department of Transportation and some of our colleagues on this issue.

We are going to do this a little different than many hearings are done. You have all provided substantial testimony. I thank you for that. It will be part of the record. I have read it all. I would assume that other members of the panel have also and have questions. What I would like to encourage is that each of you summarize briefly.

They did have a very ominous one-minute counter up here. We won't be quite that stringent but summarize in much less than five minutes your best points. And/or if someone who is either preceding you on the panel or someone who you anticipate being on the panel has an item with which you take issue or you disagree or you want to comment, feel free and we will also give you opportunities as we move along to do that.

We will go in the order which was published and we would begin with Dr. Knatz, Executive Director, The Port of Los Angeles.

Dr. Knatz.

TESTIMONY OF GERALDINE KNATZ, EXECUTIVE DIRECTOR, PORT OF LOS ANGELES; RICHARD D. STEINKE, EXECUTIVE DIRECTOR, PORT OF LONG BEACH; HASAN IKHRATA, EXECUTIVE DIRECTOR, SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS; THE HONORABLE ANNE BAYER, PRESIDENT, BOARD OF DIRECTORS, GATEWAY CITIES COUNCIL OF GOVERNMENTS; THE HONORABLE DAVID SPENCE, PRESIDENT, BOARD OF DIRECTORS, SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS; ANNE MAYER, EXECUTIVE DIRECTOR, RIVERSIDE COUNTY TRANSPORTATION COMMISSION.

Dr. KNATZ. Thank you, Chairman DeFazio, Chairwoman Brown, and Members of the Subcommittee. We here at the local and regional level are all about solving the freight challenges in Southern California and we are starting to make some real progress on the infrastructure and environmental challenges that come with being America's No. 1 trade corridor.

As problem solvers we established our own container fee to fund infrastructure and to help clean up trucks but we can't do it all alone. We need the federal government to be our partner with funding and policy changes. Congress needs to make goods movement the centerpiece of federal transportation policy and commit sufficient funds to implement while at the same time moving quicker to address environmental issues associated with goods movement.

Our five year Clean Air Action Plan delivered a 20 percent reduction in particulate emissions in its first year. With our clean truck program we will achieve over 80 percent reduction in emissions from trucks in just a few short years. We even went and built an all-electric heavy-duty truck that is just about to start rolling off the assembly line but we need national leadership to accelerate emission reductions from federal sources.

On behalf of the Port of Los Angeles and the American Association of Port Authorities, which I currently chair, we share the view that the economic stimulus legislation is the first step but the real solution is reauthorization. Surface transportation reauthorization must happen this year and it must create the national strategic vision.

Someone has to keep their eye on the big picture. We can't continue to expect that a funding process where all the money goes to the state or the local MPOs will be enough to deliver multi-jurisdictional projects of national significance.

We have a lot of catching up to do on infrastructure. I call the stimulus our father's infrastructure. We need to plan for our grandchildren as well. Why? Because we need to keep America competitive. Canada is aggressively marketing itself as the gateway to America's heartland.

Canada's federal government is spending $7 million on a marketing campaign in Asia as we sit here. They want to be America's port but we, and a lot of people in this room, we are really America's gateway and if we want to help the economy recover and create jobs and stay competitive we need to invest in infrastructure.

My written testimony has got a lot more detail. I look forward to answering your questions. More importantly, I look forward to working with you.

Mr. DEFAZIO. Thank you.

Mr. STEINKE. Thank you, Mr. Chairman, Chairwoman Brown, Members of the Subcommittee. As referenced in the written testimony, there are a number of impacts to freight mobility in Southern California that include congestion, failing infrastructure, lack of sufficient rail facilities, in addition to the forecasted increase in cargo volumes expected to move through the port complex over the coming years.

In order to improve the freight infrastructure system the goods movement system and to meet future mobility needs we recommend that Congress adopt the National Freight Policy to identify system-wide projects that will reduce congestion, improve safety, remove bottlenecks, mitigate emissions, as well as establish an investment fund to pay for these much-needed freight-related projects.

As America's gateway for U.S. Asian trade significant investments must be made in the port's infrastructure. According to a trade impact study released in 2007 the San Pedro Ports complex remains a vital asset to Southern California and the rest of the nation providing millions of jobs and sales tax revenues to states throughout the country.

But our freight system is in need of repair. We cannot continue to operate business as usual with a transportation and rail system that is outdated. If we do we risk loosing that business at other ports, as Ms. Knatz just mentioned, countries outside of the United States are working on and are making investments in their goods movement system allowing them the ability to move freight much faster.

Along with 19 other port and transportation agencies in Southern California National Freight Collaboration a group assembled to advance projects that will improve mobility we are committed to finding solutions to meet our freight mobility needs but we need help.

Specifically the upcoming transportation bill needs to focus a great deal of attention on developing a comprehensive list of national priority projects and make a greater commitment to provide a more significant amount of funding for freight mobility projects.

The port's commitment to system-wide improvement projects like the Alameda Corridor and the Gerald Desmond Bridge, a project that will improve traffic safety, move goods efficiently and create jobs speaks to our dedication to finding solutions to our freight challenges.

The port looks forward to working with Members of the Committee and other stakeholders to develop and implement a national freight policy that will meet emerging needs of seaports throughout the Nation. Thank you again for this opportunity and I look forward to discussing these issues and answering any questions you might have.

Mr. DEFAZIO. Thank you, Mr. Steinke. I mispronounced it the first time. Please feel free to correct my pronunciation.

Now we have an even more challenging name perhaps. I would next recognize Mr. Hasan Ikhrata. Is that close? Okay. Executive Director, Southern California Association of Governments.

Mr. IKHRATA. Thank you, Chairman, Chairwoman, Members of the Subcommittee, good morning. Thanks for having me here to testify in front of you. Your leadership and interest in hearing key transportation agency staff is very much appreciated as you embark on the SAFETEA-LU re-authorization.

SCAG is a federally designated Metropolitan Planning Organization for six counties, 188 cities and 19 million people. We very much hope for a continued federal transportation partnership because it is essential to the health, mobility and economic vitality of our region.There needs to be a defined federal role for goods movement infrastructure and establishment of a freight trust fund that I detailed in my presentation.

I just want to repeat that we are the gateway for the country. Forty-three percent of our goods that come to the United States move through these ports. You see behind you on the chart the growth is tremendous both in containers. This is the DOT, Department of Transportation, estimates that the volumes at the ports will quadruple to 60 million from about 15 million today.

In addition, truck volume is going to be more than double on our freeways. One freeway that many of you have probably driven is the 710. It handles about 40,000 today and is going to go to 80,000 in the future. We know that trade creates jobs and we appreciate that and we like that. The jobs are in the hundreds of thousands and there is going to be more of it but with that comes challenges. 1,200 premature deaths are attributed to emissions from goods movement. 80 percent of Californians who are exposed to emissions from the ports live here in Southern California.

Fifty percent of the total U.S. population exposed to particulate matter live here in Southern California. We would like to ask you as you embark on the reauthorization to look at the dedicated trust fund for goods movement. It is not there right there and that fund should have principles that are clear. We outlined the principles. There are nine of them in my presentations. I will ask you to make sure that the firewall is sustained and it comes with funding for infrastructure and mitigation for the infrastructure. We also outline that the sources for these funds could be great.

I want to also remind you that in Southern California the issues and the challenges and goods movement does not stop at the port's gates. It is throughout Southern California. This is a region that has 1.5 billion square foot of warehousing all across the region. Trucks have to move to these warehouses.

We look forward to working with you and be a resource to you as you embark on this important reauthorizations principles. Thank you very much again for having us and I will be happy to answer any questions.

Mr. DEFAZIO. Excellent. Thank you very much.

Next I would recognize the Honorable Anne Bayer, President of the Board of Directors, Gateway Cities Council of Governments.

Ms. BAYER. Thank you and thank you for holding this hearing on this important topic. My name is Anne Bayer, President of the Gateway Cities Council of Governments representing 27 cities of Southeast Los Angeles County in California.

Gateway Cities has a population of 2.2 million people who live and work in the epicenter of the goods movement in this nation. The nation's largest port complex is located at the southern end of out subregion and all freight leaving these facilities travels through our communities by two things, by rail or highway.

The freight challenges for our communities are probably the most significant of any other place in the country. Approximately 43 percent of the goods entered into this country go through these two ports. About 75 to 85 percent of those good leave Southern California bound for the remainder of the nation.

Community issues and challenges from moving freight through our subregion can best be summarized as follows:Air Quality and Health Risks. The residents along the I-710 freeway have some of the highest asthma and cancer rates in the states. Highway safety, the I-710 has the highest truck related accident rates in the country. We have achieved progress with the I-5 Freeway Project which is the Gateway Cities colleagues' top priority.

The Orange County segment is nearly complete and the Southern LA County portion from the I-605 to the county line is fully funded and will commence construction within the next two years. We are actively seeking funds to complete the environmental work for the I-5 from the I-605 to the I-710.

Our communities and our regional partners have taken a leadership role in examining new ways to address goods movement challenges including looking at advance technologies with zero emissions, intelligent transportation systems, and alternative regional freight corridors. We cannot meet these national challenges alone. We need your help, we need your support and, most of all, we need your funding. Thank you so much.

Mr. DEFAZIO. Thank you. Right to the point.

We turn now to the Honorable David Spence, President, Board of Directors, the San Gabriel Valley Council of Governments.

Mr. SPENCE. Thank you, Chairman DeFazio and Chairwoman Brown for having us here and the rest of the Members of the Committee.

I am a local government guy. I am the Mayor of La Canada Flintridge four times, on the City Council, President of the San Gabriel Valley Council of Governments as you said, which is the parent agency of the Alameda Corridor-East Construction Authority.

The interstate highway 710 and the Alameda Corridor Rail Expressway together carry almost all container traffic from the San Pedro Bay ports which remain the busiest container ports in the nation despite the global trade slowdown. Both the 710 freeway and the Alameda Corridor end immediately west of the San Gabriel Valley which is at ground zero for freight traffic as it continues eastward on the transcontinental rail and highway system to the rest of the nation.

Created more than a decade ago to strengthen safety and alleviate congestion at the 54 at-grade rail crossings in the valley the ACE project is well on the way toward completing the first half of its program of 20 great separations securing commitments of nearly $1.5 billion in federal, state, local and railroad funds. Far from your conventional highway project share of 80 percent federal funding, the federal funding share of the Alameda Corridor-East projects stands at just under 15 percent.

ACE's progress has been remarkable. Safety improvements are complete at 39 grade crossing. Five grade separation projects are open to traffic. Three grade separation projects are under construction and two separation projects will start construction this year and a trench grade separation project will start in 2011 in San Gabriel.

Another six ACE grade separation projects remain unfunded. ACE is pursuing federal economic stimulus funding for three grade separation projects which together would create 11,220 jobs one of which the $498 million San Gabriel trench project is already approximately 70 percent funded from nonfederal sources.

The other two projects are the $68.1 million Baldwin Avenue grade separation project in El Monte which will create 783 jobs. The $81.8 million Nogales Street grade separation project in the city of industry which is estimated to create 1,473 jobs.

In addition to supporting the efforts to establish state or port cargo container user fees ACE will seek funding from $1.5 billion federal grant programs for nationally and regionally significant surface transportation projects that was established in the economic recovery bill approved by Congress and signed by the President this week.

As Congress drafts transportation program authorization legislation this year, we urge the establishment of a freight trust fund similar to the highway trust fund but specifically for freight projects which have difficulty competing with traditional highway projects for funding.

Again, I say thank you very much for hearing us. It is nice to see Congresswoman Napolitano who taught me how to be a council member about 16 years ago.

Mr. DEFAZIO. We will have to hear that story.

We will next go to Ms. Anne Mayer, Executive Director, Riverside County Transportation Commission.

Ms. MAYER. Thank you and good morning Chairpersons and Members of the Committee. We do so much appreciate you not only visiting Southern California for also allowing Riverside County and the Inland Empire to be represented today on your agenda.

Riverside County is the fourth largest in population in California. Although we are currently the epicenter of national foreclosure and a real estate crisis census projections have Riverside County as second only to Los Angeles County in population by 2050.

Concurrently the ports of LA and Long Beach will grow exponentially and this is significant because both the UP and BNSF railroads cross through our county in our most populated areas impacting our cities by cutting traffic circulation and emitting tons of pollutants while cars idle behind trains. This mixture of rapid urbanization and equally rapid international trade growth presents a mixed blessing to Southern California.

While we benefit from and absolutely need the employment created by goods movement, our communities and local commerce suffers. Solutions to the problems must be regional and national. In the next authorization bill Congress must address goods movement as a national infrastructure network that includes communities beyond the ports.

We can't talk about rail issues in Southern California without also talking about the co-existence of commuter rail traffic and freight traffic. Those two systems share the same infrastructure and it is absolutely essential that we address them collectively.

RCTC is one of the five Member agencies of the Southern California Regional Rail Authority also known as Metrolink. We are committed as an agency to ensuring safety along our commuter rail lines as well as working with our rail partners to make sure that we both have the capacity that we need to be successful.

Thank you again. I look forward to our dialogue.

Mr. DEFAZIO. Thank you. Thanks for that good summary of your testimony.

We will now turn to questions from members of the panel, or direct to members of the panel from us. There seems to be substantial consensus we need more money and a number of ways of perhaps raising that money. We have got to deal in some fairly concrete terms here so to speak, not to make a bad pun about infrastructure. Specific suggestions and how would such suggestions potentially interact with the fees that the two ports have already levied?

Dr. Knatz.

Dr. KNATZ. Mr. Chairman, there has been a number of suggestions that the port committee has put forward, including dedicating some of the Customs receipts, gas tax, and container fees have been discussed. I think from the port's perspective having experience with the ad valorem tax on the value of cargo that goes to fund the Army Corps of Engineers and the fact that we pay a lot and don't get a lot back.

What really is important to us is that the money comes back to the region and so we have established a local container fee and we are working with the regional transportation agencies to look at what needs to be done in the region. If a national container fee is added to that, that again could affect our competitive situation. I understand container fees will be looked at. I think we just have to recognize that some areas may have already done that and put things in place.

Mr. DEFAZIO. Just to expand that, you have the local fee. For instance, in the BNSF testimony they talked about their saying that there could be user fees today or in the near future of up to $120 per TEU. If there was a national fee added, I mean, you have already got theoretically a competitive disadvantage because of some of these fees.

Dr. KNATZ. Right. Right. That is what Canada is using against us right now.

Mr. DEFAZIO. Right. So you would think we might just reach some tipping point with the addition of a national fee on top of your fees.

Dr. KNATZ. I think with what we have done here, yes, we would reach that tipping point. I think the thing that gives us the ability to fund things that are outside our jurisdiction. We have to create the nexus. If we look at a grade separation on the Alameda Corridor-East, a certain volume may be associated with port traffic but there is other volume that also uses that Corridor as well.

While we may be able to make a contribution under a regional fee structure for Alameda Corridor-East we can't pay the whole bill because it is not all port related traffic that would use those grade separations or what have you. They are still going to be needing other sources of funds for those projects.

Mr. DEFAZIO. Just one last one and then I will let others. Any fee we are going to add, I mean, we can't impose fees in Canada.

Dr. KNATZ. Right.

Mr. DEFAZIO. If we are looking at Canada as a competition, you still have your local fees per container. If we went to a higher Customs fee, I mean, while I suppose that ultimately the goods coming into Canada would have to come into the U.S. so perhaps the Customs fee could ameliorate some of that problem. They wouldn't pay it at the port but they would pay it when they entered on the rail.

Dr. KNATZ. Right. I think what the port community has suggested is Customs receipts, a portion of that being dedicated for the freight infrastructure.

Mr. DEFAZIO. Any other members have ideas?

Mr. STEINKE. Mr. Chairman, Members of the Committee, I would only add to Ms. Knatz' comments that there are other fees that the federal government are charging. She made reference to the harbor maintenance trust fund. Right now there is a $4 billion surplus in that fund and it is a good example of donor ports contributing to the fund and not getting those resources back.

I would further suggest that there might be a way to look at freight fees like airport improvement fees that we all pay passenger taxes on when we are going through an airport and those are basically invisible to the consumer that is buying the airfare.

Those airport improvement funds go right back into improving runways and airport garages and those types of things so that methodology has been in place for several years allowing airports to make much needed improvements to capacity. That might be a theory that is looked at in terms of either ad valorem tax or some kind of fee that would be added to either Customs revenues or harbor maintenance tax to supplement the ability for local ports to make the needed infrastructure improvements that we need to do.

Mr. DEFAZIO. The harbor maintenance tax is probably a sore point with each of the four members here. Unfortunately, there is no $4 billion surplus. There are $4 billion worth of IOUs in the harbor maintenance trust fund. I would like to see that converted into something more akin to the highway trust fund so that Congress isn't constantly dipping into it and borrowing the money and spending it on something else and then underspending to make the deposit reduction with a dedicated tax that isn't dedicated so I agree with you there. I won't get into the airport fees. I actually served on the Committee and helped originate that program. It doesn't work exactly that way and it goes to slightly different things but there is some point there.

Yes.

Mr. IKHRATA. Chairman, I just want to say that the County Transportation Commission in Southern California with SCAG, Caltrans, and SANDAG commissioned to study a couple of years ago the Multi-County Goods Movement Study that identified $50 billion worth of needs. This is needs to both put the right infrastructure to accommodate the growth and mitigate the community impacts and their quality impacts.

Now, the ports are doing a great job in getting some of that money. The state passed a 1B bond, $2 billion and $1 billion for the quality. The stimulus package gets some money. That is important but that is a small step to addressing the real need.

Any other question about what sources there could be many sources, small reactor fees, container fees. It could be a combination of those but the need is so great. When we talk about the tipping point the SCAG Commission studied with UC Berkeley a couple of years ago and talked about what is the tipping point in fees. I don't think we are there yet.

I will take an issue about we are getting there because if you want to continue the growth and if you want to gain the benefit you need to mitigate the impacts. The tipping point is — frankly, the tipping point should be when we completely mitigate the impact and build the right infrastructure to bear the benefits of this job growth that we are talking about.

Mr. DEFAZIO. So is there a conflict between basically the idea that we want to fully mitigate the impacts, or much more substantially mitigate the impacts? Would you be raising — you would raise fees to a point at which there may be some increment of traffic that would intentionally be shifted. You wouldn't be looking at infinite growth.

Mr. IKHRATA. Let me just point out that when we talk about traffic shifting these are the two ports, one of four in the world that has deporters. We have $1.5 billion square foot of warehousing. We have $19 million people that needs goods to be shipped regardless of what port. The theory of shifting, yes, if you charge a lot more than we are charging now maybe there will be some shift but the growth is so tremendous that I don't believe the shift is a discussion at this point because we are not at the tipping point.

Mr. DEFAZIO. Okay. Anybody else want to comment on that.

Dr. KNATZ. I would like to.

Mr. DEFAZIO. We will come back to you very briefly. I am running out of time.

Ms. BAYER. I would just like to say that six of us came here today with just different problems that will impact us nationally. We are willing to work on our levels, the rail, the ports, the cities. We need your help to do our projects because our projects will make it easier to get goods and services to the nation.

If we have a bottleneck here, that is where we need to use most of the money to make that flow so that we can get it out of the port, we can get it out of LA, we can get it to the rest of the nation. We are only getting 20 percent of the needs filled here. If there were no growth tomorrow and we still had to maintain what we have, we would still have a problem here. It is a problem that all of us here at this table are going to have to face together with your help.

Mr. DEFAZIO. Okay. Dr. Knatz.

Dr. KNATZ. I just wanted to make it clear that I think moving forward the competition among ports is going to be much greater. We can't assume in the future that everything is going to come here. I kind of remember the SCAG study and it identified a $200 swing here per TEU.

When you add the $100 for the Pier Pass Fee, which pays for the extra labor at night, the $70 FEUs for the clean truck program that we have got, and then right now we have the local infrastructure fee that could go up to $30. We are at the $200 breaking point already that was identified that would cause diversion.

Mr. DEFAZIO. Right. All the assumptions, the chart we had up earlier seems to assume that the canal is going to have little or no impact.

Dr. KNATZ. The numbers in the chart are not exactly correct. I think the 2020 value is 36 million TEUs on that chart up to a high of 42. They had a number for us of 59 million TEUs. I think it may be the West Coast number or something that was put there for Los Angeles and Long Beach.

The Panama Canal, you know, it will open in 2014. Right now all the ports on the East Coast don't have the channels to handle the big ships so there are a lot of infrastructure needs on the East Coast as well. Overall moving forward the port environment is going to be more competitive. We have to be more strategic about the things we do. We can't assume if we build it they will come.

Mr. DEFAZIO. Okay.

Mr. STEINKE. I would just add one more point and then I will get off the subject. We are starting to see diversion right now and it is very price sensitive. I think a lot of it is based on what the economy is. Shippers are requiring carriers to move cargo based on cents on a dollars. That is how sensitive that is right now. There is some elasticity or, at least, there was but I think we are getting closer to that tipping point now than we have ever been before.

Mr. DEFAZIO. Okay.

Dr. KNATZ. We are lowering our fees.

Mr. DEFAZIO. Last quick one.

Mr. IKHRATA. I just want to say that let us say today we have 15 million annual containers or 14, whatever the number is. When we talk about the growth in the future, when we are talking about 40 million or 60 million, that is a huge growth. We are having problem with the 14 and 15 million we are handling today so whatever growth is going to come is going to have to be dealt with so if the growth is 42 million like the capacity for Casa Del Port or the deal here it is going to be tremendous growth either way.

Mr. DEFAZIO. Thank you.

Ms. Brown.

Ms. BROWN. Mr. Ikhrata, your map, can you put it back up? I was just wondering why my area wasn't included. We have the big port there in Jacksonville.

Mr. DEFAZIO. I have a port that didn't show up in Portland.

Ms. BROWN. In the future just keep that in mind.

Mr. DEFAZIO. Know your audience.

Ms. BROWN. It is not there and I was just confused about that. The question we were talking about was funding, particularly The Honorable Mr. Spence. You mentioned the lack of funding that you received from the Federal Government for your particular project. Short of a freight trust fund what are some of the recommendations that you have because when this issue is raised, I found that the railroads are not interested in a trust fund but, you know, we really need a dedicated source of revenue for the freight port type of projects.

Mr. SPENCE. I did not come with any specific recommendations for establishing funds. We were hoping that you were looking at breaking up some of the federal money to be included in a freight trust fund along with the highway trust fund. I wasn't coming with a recommendation for how these specific funds are created.

Ms. BROWN. The trust fund primarily come from gasoline tax.

Mr. SPENCE. Correct.

Ms. BROWN. Which, you know, when you go to Europe or other places they laugh at us because they don't fund their transportation that way. We have got to come out of the box and come up with additional ways that we can partner and help enhance our revenue. This is the challenge.

Mr. SPENCE. It is a challenge. We certainly don't want to increase taxes to reduce employment or harm the quality of life of the hardworking residents in the South Bay area and the ones that are working at the port. We are concerned about, as mentioned, particulate matter, especially with all the trucks going to the San Gabriel Valley which is a little more than 2 million people. That is not a great answer to your question. We are just looking to have you guys come up with a way to give us funds that come from a specific focus for freight movement rather than just all transportation.

Ms. BROWN. Yes, but the bottom line is when we talk about the funds it is all of the same funds.

Mr. SPENCE. Correct.

Ms. BROWN. The federal government funds, the local and state. It is still pretty much the same pot.

Mr. SPENCE. Correct.

Ms. BROWN. Ms. Mayer.

Ms. MAYER. Thank you. I think we have the same challenge whether it is at the local, state, or national level in that everyone needs more money. We all need more. We can't print it. We have to find a way to achieve our goals and at the same time recognizing we can't keep growing the pot.

That is why one of the things that we have been focusing on we were really quite excited by some of the findings from the 1909 commission that talked about doing things different than the way we have done in the past but there is an opportunity now with authorization to look at the existing programs and if there are some that don't make sense, then maybe they should be revised, abolished, new ones put in place.

I think there is some real opportunity in the existing processes to make sure that we are streamlining processes, spending money on projects, not process. Possibly that is another way to look at it because we can't just keep adding container fees. We can't go back to the voters and say just increase sales taxes again. We can't go to the developers and say we are going to increase your fees on every rooftop. We are running out of ways to create money. We would recommend that there is a focus in authorization on looking at ways of doing things differently.

Ms. BROWN. I agree. I was talking to one of the Transit Authority persons last night and they indicated that part of it how long it takes to do the permitting and maybe we could have some kind of a one stop everybody in the room so that it doesn't take years to get a project authorized and funded. That is part of the problem.

Ms. MAYER. Absolutely.

Mr. SPENCE. My colleague makes a great point and I would like to offer that our COG has an extremely talented group of young students from the University of Southern California who have focused on freight movement. We would be very happy to put these young minds to work with your help to study the issue of how we can become more efficient rather than say this program is here so we have to keep it.

Maybe it is not working well. I would offer that as a possible grant that you could fund and I believe we would come up with some very positive answers that would be very effective for the whole region, not only her COG and my COG and all the others in the Southern California area. It might help national information.

Ms. BROWN. Last comment.

Mr. IKHRATA. Congresswoman, if I may, what we would like you to consider is that we don't create a dedicated freight trust fund. That means the freight investment is going to compete with the highway investments and the highway investment doesn't have enough money to cover the highway needs. Right now we have no indicated freight investment at the freight level.

When we talk about a separate freight trust fund, there are many sources to look at and we would love to work with you. In my testimony there are detailed ideas of how to go about it. It is very critical that we don't say let's fund the freight infrastructure need from the highway trust fund because that takes away from other things that the region very badly needs.

Ms. BROWN. Thank you. Mr. Chairman.

Mr. DEFAZIO. Ms. Napolitano.

Ms. NAPOLITANO. Thank you, Mr. Chairman. I am glad that some of these issues are coming forth. There are many challenges but any solution has to include the impact on cities not directly affected but indirectly affected. I specifically am talking about the Alameda Corridor-East.

Dr. Knatz, you mentioned the Army Corps of Engineers funding. What amount is that in and what is it for?

Dr. KNATZ. Well, what I was referring to was the ad valorem tax on the value of cargo.

Ms. NAPOLITANO. And the amount?

Dr. KNATZ. Yes. That then goes into a pot of money to fund ——

Ms. NAPOLITANO. Amount.

Dr. KNATZ. Of the amount? I don't remember the exact amount. It is some piece of a penny on the value of cargo. Because it is on value Los Angeles and Long Beach pay the greatest into that fund and then it is doled out to do ——

Ms. NAPOLITANO. Pardon me because I run out of time real quickly. That brought something else to mind. Many of your containers are not checked for the content so they pay a certain tariff that may not be commensurate to what it is worth. What are you doing about being able to then understand that you can do spot checking of some of those containers and go back to those chippers and check them until they do what they are supposed to be doing and pay the correct amount of tariff?

Dr. KNATZ. That is really a better question to the Customs Service but, as far as I know, what it is in the container is known by Customs so that they can charge the appropriate duty on it.

Ms. NAPOLITANO. They do not know what is in it. Congressman Dwyer one time told me that if every container were checked every U.S. individual would have seven lawnchairs. Really. That is his statement to me. I think maybe we need to have the ports a little more involved in what you are shipping so that then you can have possibly more funding to be able to put into the programs that we are talking about.

Mr. Ikhrata, your health report I am very interested in. I would love to have a copy and maybe the panel would like to have a copy of the Berkeley report because I think that may begin to shed a little light on the questions that we are talking with you about. Certainly maybe we can propose some funding to do the USC report so that we then have a better look at it.

Ms. Bayer, you talk about the bottleneck and the great separation, Ms. Bayer. The bottleneck is in my area because no matter what you do at the port, you may facilitate, you may expedite, you run over there and you have 54 great crossings of which only two are finished and those trains are going to slow down so that while you made one on-time delivery and promise on-time maybe Prince Rupert, and maybe that is another idea that Transportation can look at, is being able to see what makes those shippers come to this area versus going to another area and then work on being able to provide them with whatever it is that they need.

Mr. Spence, I don't know where I got involved in your career but thank you for your comment. The gas tax. Now, we are all talking about relying on funding that is coming from the gas tax on all vehicles. With hybrids going to be more and more utilized you are going to have less tax to rely on so what are we looking at to be able to supplement that because that is going to be another impact within the next 10 years. That is a certainty. Anybody.

Mr. IKHRATA. I would say it will be a great discussion to have to actually look at different forms of taxes like the VMT, vehicle mile travel tax, which doesn't matter what fuel you are using, you are paying a tax.

Ms. NAPOLITANO. Corrine. Yeah.

Mr. IKHRATA. Here is the issue with the tax. Whatever form of tax you are going to have to make sure that you build into the system a way to maintain those funds into the future.

Ms. NAPOLITANO. But you hit the most vulnerable when you do a per vehicle fee, per mile fee simply because a lot of people who may not be able to get a job are going to have to travel 50, 60 miles and you are penalizing the ones that can worst afford it.

Mr. IKHRATA. I am not saying necessarily it has to be a vehicle mile travel tax. It has to be somehow indexed so it maintains the growth.

Ms. NAPOLITANO. So maybe something in consideration in looking at the whole picture rather than just certain segments of it.

I could go on, Mr. Chair, because, as you well know, I am always having a lot of questions. To Mr. Spence and Ms. Bayer, do you feel you have your fair share of federal economic recovery funds once they trickle from the state and MTA?

Ms. BAYER. We can hold onto them and they are not delegated out away from us.

Ms. NAPOLITANO. Delegated how?

Mr. SPENCE. Go ahead.

Ms. BAYER. People that above us take what they want for their section and we are left with the rest where we should be getting most of the proceeds we are paying most of the proceeds. It should be coming back to our specific area and it is not.

Mr. SPENCE. That is a great question. I believe that in this region the local governments are going to be penalized because everything goes through the MTA board, the MTA operation. We have to convince them that our shovel-ready projects are the ones that they should fund. It is very difficult. We submitted a list. All of the cities in my COG submitted lists and all of them have to go through the MTA to get approved. We are not sure that is the right way to go.

Ms. MAYER. There has been a lot of discussion in California about how to distribute the funds and the California Transportation Commission met yesterday to talk about that. We are trying to get to a point where there is consensus as best we can get it to funnel most of the money that is coming to California to have 30 percent of it go to the state to decide what to do with it and then have the rest flow to the regions. As was mentioned, it will be coming to the regional transportation planning agencies such as RCTC and LA Metro.

I think the biggest challenge for all of us in a distribution is that it is not going to be near enough money. We talk about the list. The Riverside County list is a half a billion dollars worth of projects that can be delivered in the next year and a half. We are going to see maybe 35 to 70 million depending on how the formulas come down and it is simply not enough.

We are going to be challenged to just focus the money on a couple of key projects by the deadline to make sure that we spend our money. I think the challenge is going to be expectations are very high that everyone is going to get their piece of the pie and it won't be there.

Ms. NAPOLITANO. Thank you.

Thank you, Mr. Chair.

Ms. BROWN. I just want to say to the gentlelady that if you yield for a second, the Homeland Security passed the bill saying that all of the containers had to be checked as they come into port. I guess I want to ask the port director what is the status of the program?

Dr. KNATZ. Yes. That legislation requires that by 2012 all of the containers coming into the U.S. are scanned. That is a big deal to finish by 2012. I know from the perspective of the Port of Los Angeles we have been working with the four major terminal operating companies in the world which control about 80 percent of the containers to look at something that we can develop, you know, working with them to actually get a good chunk of it done.

Mr. DEFAZIO. I just want to follow up for a second on the point about Riverside. You said how much you could do in an 18-month timeline, or get started?

Ms. MAYER. Almost half a billion dollars worth of projects. That was the wish list.

Mr. DEFAZIO. But it was not just a wish list. I mean, these are things that have been through environmental review?

Ms. MAYER. Yes. Absolutely.

Mr. DEFAZIO. And that was half a billion dollars.

Ms. MAYER. Yes.

Mr. DEFAZIO. And you expect your allocation to be $30 to $40 million.

Ms. MAYER. Yes.

Mr. DEFAZIO. All right. Just one of my major criticisms of the so-called stimulus. Thank you for reinforcing my prejudices.

Ms. Richardson.

Ms. RICHARDSON. Thank you, Mr. Chairman. It is so hard being a sophomore and being last. My first comment is going to be to my colleagues and then I'm going to end with the question to two folks that I have worked with now for over 10 years.

I have worked on the issue of container fees for now 10 years. Since I was on the city council we looked at the possibility of doing it. When we asked the question our city attorney opined that it was unconstitutional because it was a discussion of interstate commerce versus intrastate commerce. That was the council doing it, not the ports.

Then, you know, I went onto the state assembly and Senator Lowenthal brought up his legislation which is in our packets here. Then when I went to Congress it was the first thing that I said I was going to work on and it was going to be my number one piece of legislation.

Well, I was a good team member last night and didn't get a chance to give my Chairman the briefing that I had intended but myself and my staff have worked over a year and a half on this very issue. Some of the things I would like to share with you is regarding the whole issue of where the fee should come from.

I am encouraged that what I have heard everyone here say is that we need, number one, a national freight program and, number two, we need a dedicated source of funds to be able to pay for these projects. I completely agree that taking the money from the highway trust fund is not the answer because we don't have enough money there to provide the needs for our streets and the other implications that we have.

The tremendous amount of work that we have done with Committee staff, with transportation staff in Washington, we have found to be the following. Number one, it is, in fact, potentially unconstitutional to provide to assess a container fee for two reasons. One, we can't do it on exports. It is unconstitutional.

Number two, when you are assessing a fee or a tax for something that currently does not exist, i.e., a road or a highway, you run into some very questionable issues which is why we in California have had the issues that we have had as we have attempted to apply these fees. The work that we have done with the T&I staff has been to consider looking at it through Customs.

You already have a system in place in terms of how the fees are collected, how the fees are assessed. I won't use this hearing to be able to go through the entire bill. But what I will say is that what we have found that the business community has said there is no objection that there needs to be a greater role within the importers business community of solving our infrastructure problem.

There is no disagreement with that. The issue is, as my two colleagues here from the port said, number one, any solution we bring forward the money has to stay in the region where the money was generated. It can't be stolen, borrowed, transferred, held, whatever, which we have seen with the HMT. We also have to apply it nationally.

Otherwise, we run the risk of insuring that some ports are not competitive and if we don't look at a solution of inland and also ports, then we are going to have cargo diffusion. I actually have a great piece of legislation that I am looking forward to bringing forward to the Chairman and to my colleagues that will address this.

One thing I would like to point out about the HMT. In 1986 the Water Resources Development Act it was only .04 percent. In 1990 it was raised to .125 percent. There was a 350 increase. We really haven't done anything significantly since then. I think that is a key area that absolutely this Committee and our joint Committees are going to have to consider because, as has already been said, the gas tax is going down and other things. We have to look at other potential revenue sources to solve this problem.

In light of that my question that I am going to end now with my former colleagues here is would you be supportive of federal legislation, a national freight program, a freight trust fund program if you were unsure that the money was dedicated to your region?

What I proposed is 90 percent within a 40-mile radius and only 10 percent extending to 150-mile radius. If it was committed it would not be stolen, transferred, or loaned if it was applied and if it was applied to inland ports as well. Would that be something you would be supportive of?

Ms. MAYER. I think we would look very seriously at something like that. I think that what we don't want to do is sort of charge our customers twice for the same thing so even when Senator Lowenthal was proposing his legislation, if it had gotten through we would have had to back down on some of our fees so that they don't pay twice for the same thing. The key point, and you made it, it has got to deliver the infrastructure.

When we work with industry from a bottoms-up approach they agreed they want that bridge and that bridge and this street and it cost this much and we need this much money so they are going to pay three dollars for this and two dollars for that. We built up to actually generate the amount of the fee and they bought into it and they supported it. We didn't get any lawsuits or anything over it.

Ms. RICHARDSON. Mr. Steinke.

Mr. STEINKE. Congresswoman Richardson, I would agree with everything Geraldine said and add the fact that it needs to be equitable. I think you hit the nail on the head. To the extent that it is applied nationwide to all ports that doesn't place San Pedro Bay ports at a competitive disadvantage, that it affords the ability for other ports to make infrastructure improvements and deal with intermodal connectors and the things that we have all been talking about I think is a very, very good idea. I think it has been something, as Geraldine said, we have worked with the shippers. If they can see the direct nexus to what they are paying for, I think they understand that is money well spent.

When they see things like the harbor maintenance trust fund and they recognize that it is supposed to be for harbor maintenance dredging and harbor maintenance dredging isn't taking place in America and these sea ports that are collecting the revenues that go into the trust fund are going to pay for what we would call donee boards, to a certain extent that is great but they don't have much trust in trust funds at this point. I think it is a key that needs to be looked at in the establishment of any bill.

Ms. RICHARDSON. The other point that I would say, Mr. Chairman, is that I think part of why you have seen locations like California, like Washington, like New York having these discussions and applying these fees is because we from a national perspective have not provided that direction.

When you consider the incredible load that we are supplying out of the San Pedro complex, 36 percent is either in our own report here for this Committee, 36 percent is either consumed in the Southern California region, or leaves by truck to nearby locations.

Clearly there is the role of interstate commerce versus intrastate. I just want to applaud you. My point is I am excited that we are finally getting to the point that people are saying, "Yes, we have to take this leadership role."

With that I just have one more question that I would like to ask. I think I am well within my ——

Mr. DEFAZIO. That is fine.

Ms. RICHARDSON. Thank you, Mr. Chairman. Just one thing I wanted to ask of my two port colleagues here. I think it is good news that everyone in this Committee needs to hear. We are hearing a lot about the truck emissions but a large part of the health issues is not just truck emissions, it is the ship emissions. I know you have done a lot of work with cold ironing. We saw of that yesterday.

I know I have seen some demonstrations of hoods coming over the ships themselves. Could you just give us a very brief background of where technology is with that and what we could do. You asked us not only for funding but you asked us for policy so what can we do as policy makers to enact these sorts of technologies across the board to improve our environment?

Mr. STEINKE. I will mention a couple of them and Geraldine will pick up where I left off. You mentioned some of the new technologies that we are looking at, ship to shore power which both ports are doing. A couple of very exciting programs that both ports are doing is vessel speed reduction program where vessels slow down their speeds. We provide an incentive for these vessels and reduced charges if they sustain that for a period of years. It has been very successful. About 90 percent of the vessels are slowing down to 12 knots when they get to 20 nautical miles to the two ports.

The other things that the two ports did was a low-sulfur fuel incentive program where we would pay the difference between the regular bunker price and the low-sulfur price. Those have tremendous air quality benefits for the region. They have been very well received by the ocean-going carriers. Cold ironing, sock on a stack technology that Congresswoman Richardson was talking about, they all have a dramatic impact on air quality. That is on the ocean-going vessel side.

I will turn it over to Geraldine.

Dr. KNATZ. We have completely turned over the locomotives for our shortline railroad that serves both ports. We have the cleanest shortline railroad in the world. One of the big things about our Clean Air Action Plan is the technology advancement program. We are funding new technologies and that is how we actually built this all electric truck with enough torque to hold a fully loaded container.

It has a niche moving back and forth to the nearby warehouses. We are really looking at moving toward some of these emission free strategies because we are focusing on health risks now but then we'll have greenhouse gases and other things we need to deal with in the future.

We need help on some of the mainline locomotives in terms of what the federal plan is and how we need to be a little bit more aggressive in our region. Also, ship emissions require support for control action at the international level, by the IMO.

Ms. RICHARDSON. Thank you, Mr. Chairman.

Ms. BROWN. Just one quick comment. As we think through this, keep in mind that the ports compete against each other. I noted earlier that my port didn't even make your map but Savannah and Brunswick, Georgia only have two ports. Florida have 14 so the question is are we competing and that is healthy but then how do we fund the infrastructure that is needed that we can still keep the competition in place.

As we think through this we have to think through it. Even the West Coast is competing with the East Coast and we are trying to get our ports down to the depth so that they won't come here. Of course, you know, the competition is very healthy but as we try to come up with a system to fund the infrastructure how do we do that?

Dr. KNATZ. I think it is really looking at the map and seeing where freight flows are going. You need to make the best investment in Los Angeles and Long Beach area. Yeah, you have got to look to the future and say, hey, you know, the South Atlantic area is going to be what Los Angeles and Long Beach is today and they have got to be prepared.

Mr. DEFAZIO. I thank the gentlelady. The staff has just pointed out that perhaps the reason you were omitted, and I was omitted and some others, was that was a Bush DOT map.

Mr. SPENCE. Mr. Chairman, I just had one brief comment. One of the major advantages of the underground crossings in the Alameda Corridor-East construction authority is reducing the amount of automobiles and trucks that are sitting at the grade crossings idling for 15, 18 minutes while a train goes by. Congresswoman Napolitano knows that amount of particulate matter is harming the schools and the local communities and that is why it is so important to have these underpasses put in.

Congresswoman Richardson, you stated about your bill. I think it is a very positive bill. I would hope that the funding would be allocated based on the percentage of the freight that comes through the ports so that is something you might want to consider.

I promise you, Congresswoman Brown, that we will take Hasan back and spank him at SCAG's headquarters for not putting your port in.

Mr. DEFAZIO. Ms. Napolitano had a quick follow-on question.

Ms. NAPOLITANO. Very quick. This is to Mr. Ikhrata. California stands to get a good chunk of the stimulus package and gives it to LAMATA working with SCAG but how will SCAG and MTA prioritize the projects and decide what projects to construct and are you consulting with the COGs and will you ensure that the money is distributed equally to each area of the country and will you ensure each city has an input how the money is spent and where it is spent?

Mr. IKHRATA. We are going to do our best to do all of that to ensure the COGs and the cities, mainly MTA, and they will make sure that the COGs and the cities are participating in their location.

Ms. NAPOLITANO. I would hope so, sir, because I belonged to SCAG many, many years ago and at that time the big cities had the bigger portion of the pie and the little cities got the crumbs. I think that has to be addressed simply because they are the ones who make up the most or the bulk of the county itself or in the affected area.

Ms. Knatz, you pay for low-sulfur fuel difference. Can't they be incentives instead of you paying them for coming into delivery cargo that we have to accept?

Dr. KNATZ. Well, you know, the amount of emissions from the ships coming into the port is so huge that we felt it was worth it to pay the difference back to the companies, the carriers, for the differential in fuel. We implemented that program for one year to get them used to using the clean fuel, to make sure that they were sourcing clean fuel to make it available. Ultimately CARB has a rule that will go into effect at the time our incentive ends. Which will be when?

Mr. STEINKE. July 2010.

Ms. NAPOLITANO. Thank you. Thank you, Mr. Chair.

Mr. DEFAZIO. What is CARB?

Ms. NAPOLITANO. Oh, sorry.

Mr. STEINKE. California Air Resources Board.

Mr. DEFAZIO. We don't have a national rule on this?

Mr. STEINKE. No. Well, the IMO has a rule which is much higher. The limits of sulfur are much higher than what we are asking for with our vessel speed reduction program and CARB's rule that will be coming into effect. The sulfur content is much less than the IMO rule currently is.

Ms. NAPOLITANO. Mr. Chair, you might consider looking at it so that you might look at the ports implementing something to be able to clean up those areas that are impacted.

Mr. DEFAZIO. Well, I have long been a critic of how we deal with or through the IMO and we still do have nation and state rights and we could just prohibit any ship coming to America to use it. We don't have to give in to any international covenant to have that. I think we ought to look at that because that way we don't put any of our ports at a competitive disadvantage.

Dr. KNATZ. One of the things you may not be aware of, Mr. Chairman, is that in April I believe the federal EPA is applying to the IMO for a North America ECA (Emission Control Area). If that is approved and it goes through a long process, that would help bring down the vessel emissions for all of—the West Coast Region. I guess Canada and the U.S. are working together on this and that would really help us.

Mr. DEFAZIO. Right. I guess my problem is you used the word apply to the IMO.

Dr. KNATZ. Right.

Mr. DEFAZIO. Which is an organization where imaginary countries get as much clout as we do.

Dr. KNATZ. Right.

Mr. DEFAZIO. I mean, like the great port cities of the registry states. I have spent a lot of time on these issues and on that Committee and the way the whole thing runs is not in the best interest of the United States or other developed nations who want to have higher standards across the board on maritime commerce to tie ourselves to Liberia. How do they even choose their representative, you know, and things like that. It is just absurd.

Dr. KNATZ. I agree with that. EPA could do the same thing.

Mr. DEFAZIO. Right, and we should think about that. Just to follow up and raise this question because I did hear a little decent when we were talking about the money flowing through MTA. Then I believe, in particular, Mr. Spence and perhaps Ms. Mayer raised some concerns about how those funds ultimately — how the priorities are set.

Mr. SPENCE. Well, one of the problems is that the city of Los Angeles controls the MTA. They have the most votes. They have the clout so when the projects come through that are in the regional areas, the smaller cities, if they don't like them, they don't approve it and that hurts.

You know, the local cities, 20,000, 30,000, 50,000, 60,000 population cities work extremely efficiently. A lot of us in Southern California are members of the Contract Cities Association. When the federal government or the state government asks for shovel-ready projects we have them. Our staff knows where they are. We can put that money out in 60 to 90 days.

We don't lie to anybody. We function very efficiently and I think the federal government is missing the boat by allowing these big regional agencies to control everything. In the LA basin specifically we lose a lot of control because the MTA board has all the votes and LA City has all the votes and it is a problem.

Ms. BROWN. Mr. Chair, in our discussion in Transportation when we were discussing this we were trying to figure out what was the quickest and best ways to get the money to the — you know, in some areas when you get it to the governor it never gets down so we tried to come up with as many ways as we could to get the money to the local areas.

For example, the money will go directly to the Transit Authorities of different areas. If you have some better ideas of how we can best as we move forward with the authorization to get money to the area, you know, to the lowest common denominator then that will be helpful because many of the members just want the money to go to the governess which is ludicrous because it goes to Tallahassee or Sacramento and that is the end.

Mr. SPENCE. I promise you that our COG will send you some opinions of the local government and some ideas on how to resolve that issue.

Mr. DEFAZIO. Excellent. Excellent.

Ms. BROWN. My last question. You mentioned that we only the 80/20 ratio on the funding and we were only giving you 15 percent for the Alameda Corridor. Was it 15 percent? Yes, that is correct. The local and state came up to the plate and increased it more. My question to you is why did they do it and how could we expand this kind of participation in other areas?

Mr. SPENCE. That is a good question. I don't rally have the answer off the tip of my tongue right now. I know that our staff has worked very hard through our congressional delegation in Southern California and we have received federal funds but we have also received funds from the local government, the local cities, the local communities, and the county government. It is all tied in. I don't have all the answers exactly as you ask right at the moment but we can get them for you.

Ms. BROWN. Thank you.

Mr. DEFAZIO. Do you have a succinct question or comment?

Ms. RICHARDSON. Sure.

Mr. DEFAZIO. Okay. Go ahead.

Ms. RICHARDSON. Mr. Chairman, yesterday, if you recall, when we were on the bus I asked for LAMTA to provide us with a list of what they were proposing with the stimulus package. I think it is my intention to work with both of our Chairmen here to ensure that the stimulus occurs as it should.

As Mr. Spence has said, here in Los Angeles the majority of the votes do swing to the City of LA so all the surrounding cities, although they work together do not have enough votes to overthrow that majority and so it is upon us to work with you but there are some issues here and I commit to work with the Chairmen to help on that.

Mr. SPENCE. That is great to hear. Thank you very much.

Mr. DEFAZIO. We would be interested in that.

Okay. Anybody on the panel have something you really wished you had said and didn't say? Okay.

Ms. BAYER. Thank you for listening to us.

Mr. DEFAZIO. Okay. Well, thanks very much for being here. Appreciate your time. We will get ready for the next panel now.

We are going to take a five-minute break before the second panel. Five minutes so at 11:25 by that clock over there.

[Whereupon, at 11:20 a.m. the Subcommittee recessed to reconvene at 11:31 a.m.]

Mr. DEFAZIO. Okay. Thanks. We will now move on with our second panel. We would start with Mr. Nate Asplund, Director of Public-Private Partnerships, Burlington Northern Santa Fe Corporation.

TESTIMONY OF NATE ASPLUND, DIRECTOR OF PUBLIC-PRIVATE PARTNERSHIPS, BURLINGTON NORTHERN SANTA FE CORPORATION; ROBERT W. TURNER, SENIOR VICE PRESIDENT, CORPORATE RELATIONS, UNION PACIFIC CORPORATION; RANDALL J. CLIFFORD, CHAIRMAN, VENTURA TRANSFER COMPANY; JOE RAJKOVACZ, REGULATORY SPECIALIST, OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION; CHUCK MACK, VICE PRESIDENT, WESTERN REGION, INTERNATIONAL BROTHERHOOD OF TEAMSTERS.

Mr. ASPLUND. Thank you for the opportunity to speak this morning. I'm with BNSF Railway, based out of our Fort Worth, Texas Headquarters. I head up our Public Private Partnership team on our network basis. LaDonna DiCamillo and our Southern California team are here with me as well. They are going to come up with some kind of hand codes if I say something wrong. If you see the hand code behind me, if you could please let me know, I would appreciate it.

Freight rail PPP's are a collaborative partnership with the public sector. They are growing. They are in their infancy. They are getting developed in many locations throughout our network. Today typically we work mainly with state and local governments, not much with the federal government yet. What these projects do is allow us to produce substantial public benefits for projects where the freight railroads are unable to fund completely on their own.

BNSF is committed to doing our part to confront the freight mobility challenges here in Southern California. In the last four years we have invested about $700 million in California for capacity expansion and maintenance. Between 2003 and 2007 we have added almost 180 miles of new second track to our Transcon line that runs from Los Angeles to Chicago.

In 2008 we opened up the Cajon Pass project. That was an $80 million project for triple track up on the Cajon Pass that increased the capacity in that former choke point by 50 percent. We advocate both economic growth and a healthy environment and these goals we feel require the government and industry to work together to find the most effective and efficient solutions to environmental challenges.

Both BNSF and UP entered into a memorandum of understanding starting in 1998 with the California Air Resources Board to reduce locomotive emissions in the south coast basin. The goal was to expedite the emission reductions that would be produced faster than what is facilitated by EPA with the new locomotive tier fleet requirements coming on board. We are on target to have that reduced by 67 percent by 2010.

In 2005 we went to another step of a second MOU with the Air Resources Board to take additional measures to reduce emissions from yard operations through the adoption of health risk assessments, low-sulfur fuel, and installation of train idling control technology throughout our fleet here in California.

Future improvements include SCIG, Southern California International Gateway, which is a multi-hundred million dollar near-dock facility that would utilize the latest technologies to deliver proven state of the art technology and eliminate millions of truck miles from the 710 and other local freeways.

In the bigger picture, as I am sure your previous panel said, and said quite well, this is the perfect place in Southern California to observe the local and international importance of freight and the unintended consequences of a lack of a national freight policy. In its absence Californians have had to resort to Self-Help from taxing freight to floating bonds.

Without a national policy that partners financially with the region and with the private sector to improve trade flows, ultimate commerce will be dislocated and diverted.

My testimony talked about our concerns with the proliferation of local fees. One reason we continue to hear from customers about why they are and will continue to divert freight away from the San Pedro Bay ports is a climate of uncertainty as to how many new fees will be established, costs and new regulations, etc., and the uncertainty that potentially could impact more than 500,000 direct jobs in this region that depend on international trade.

Finally, there is a lot of discussions on the national freight program. We believe freight rail improvements should receive a variety of sources of funding given the benefits they convey including reduced highway wear and tear, greenhouse gas emissions and reduced fuel usage.

If Congress were to establish a national freight fee, we feel it is important that Commerce is not burdened, particularly in this economic environment. We feel strongly about creating performance-based accountable and transparent links between a freight fee and the selection and funding of projects that facilitate growing trade-driven freight volumes which would include improved velocity, improved capacity and reliability, all of which benefit both the public and private stakeholders.

In the absence of a strong link between funding the freight projects and the fee we would have a hard time supporting it. Thank you for your time and I look forward to your questions.

Mr. DEFAZIO. Thank you.

Mr. Turner, Senior Vice President, Corporate Relations, Union Pacific Corporation.

Mr. TURNER. Chairman DeFazio, Chairwoman Brown, thank you for the opportunity to be here today. I would like to highlight four items from my submitted testimony for emphasis here. The first is while this hearing is about the freight mobility in and out of the San Pedro Bay ports, our company has an enormous footprint in other businesses here in Southern California.

In fact, about 10 percent of our entire business either starts or finishes in Southern California having nothing to do with the port. As we talk about issues of congestion and putting more freight on the rails and less on the highway, it is a broader story than simply the movement of international goods through this part of the world.

The testimony also shows that our company, too, has invested heavily not only in Southern California for freight mobility but further downstream and across the country. It does no good to move things quickly through Southern California and have them not be able to go to the markets across this country.

Third, there really is no greener way to move freight than by rail. Our company and others have not only met the obligations that my colleague from BNSF just mentioned, but in our case our company has added over 100 ultra-low emissions switch locomotives in yards here in Southern California which are just part of our larger story of investing in green technology.

To the point of what government can do to assist the movement of freight, I have two suggestions. One, streamline the permitting process. Many of you had a chance to tour our facility over on Long Beach near the ports. For three years we have been in the permitting process on a project that would reduce the emissions from that facility by 80 percent while doubling its through-put.

Finally, when public money is being applied towards freight-related projects the best use is to put that money towards things that the public benefits from and let our companies continue to invest in those that benefit our customers. Thank you very much.

Mr. DEFAZIO. Thank you. Thank you for being quite succinct.

We will now turn to Mr. Randall J. Clifford, Chairman, Ventura Transfer Company.

Mr. CLIFFORD. Thank you very much, Mr. Chairman, Ms. Chairman. My name is Randy Clifford, as indicated by the Chairman. I am Chairman of the Ventura Transfer Company which is a local trucking company founded in Southern California 140 years ago. It's been in our family for the last 52 years and it's really a family business. I feel a little bit overwhelmed by the nature of the other people here. I am just a trucker and it is an honor to be here to share a few things.

Our particular company focuses on the movement of bulk commodities such as plastic pellets and powders, chemicals, those kinds of things, throughout the basin and the rest of the state as well as local states. In and out of the ports we haul containers, liquid containers. Most of our business is transloaded from the rail from these gentlemen's companies onto our trucks for local delivery throughout the area. We are very much involved with covering Southern California and the state as a whole both in and out of the ports as well as just throughout the railheads and everywhere else.

There are three areas in which the American Trucking Association, which I am representing today, would like to highlight. One is certainly congestion is no longer a local program. It is a nationwide problem. Certainly when a bottleneck is broken it tends to move downstream and so unless there is a multi-jurisdictional approach to solving the problem, it just perpetuates the problem.

We are looking for the federal government, as some of the speakers said in the first panel, to really take a leadership role in oversight of a national plan and develop a highway freight corridor initiative with the ATA and other stakeholders to identify where the corridors are and really focus scarce funds on the areas that need it most.

The second area that we would like to discuss is full funding of the pilot parking program. There is a real shortage of truck parking along the highways, particularly here in California. For the safety of our drivers, the cargo, and the motoring public at large there is really a need to have adequate parking for our drivers.

The last area has to do with the STAA, the access to the federal highway system, the 48-foot rule versus the 53-foot trailers that are on the roads. Apparently there is a problem with harmonization between the states and the federal regulations regarding providing protection for 53-foot trailers.

Those protections have not been put into place throughout the states and so there are several areas in which we can't use the larger trailers to access the STAA routes.

The last item in my testimony had to do with the ports of LA and Long Beach. I am in and out of there with my trucks everyday so I am very familiar with the situation.

The position of the association and the industry at large is that we are all for the environmental benefits of the plans. Our people live and work in these areas, I live and work in these areas, and I breathe the air and I recognize the need for these changes and we anxiously look forward to some solutions.

However, the focus of the litigation that the American Trucking Associations has with the ports has nothing to do with the environmental benefits of the plan. It affects what we believe is unnecessary and overly intrusive re-regulation of the industry.

To consider that the industry would be re-regulated community by community, state by state, school district by school district, whatever jurisdiction the precedent might establish is frightening at best. We hope that we are able to work through those issues. I look forward to the opportunity to answer any questions you might have.

Mr. DEFAZIO. Thank you.

Joe, you are going to have to help me with your last name.

Mr. RAJKOVACZ. Rajkovacz.

Mr. DEFAZIO. Okay, Rajkovacz. All right. Mr. Joe Rajkovacz, Regulatory Specialist, Owner-Operator Independent Drivers Association.

Mr. RAJKOVACZ. Good morning, Chairman, Chairwoman, and Members of the Subcommittee. As was just stated, my name is Joe Rajkovacz, Regulatory Affairs Specialist with the Owner-Operator Independent Drivers Association out in Kansas City. I am pleased to be here to answer your questions regarding the challenges confronting the freight movement in Southern California.

I spent over two decades trucking produce out of the state back into the upper midwest with my own equipment. I was an owner-operator. I also hauled out of Oakland, the ports of Oakland, Long Beach, San Diego, as well as many other ports in this country.

Building a modern and efficient and environmentally sustainable freight system is going to require a lot of creative thinking outside the box. I certainly heard today everybody is going to talk about funding. We certainly think there is other low-hanging fruit that can be gotten that can help out the situation without throwing gobs of federal dollars at it.

Some of the issues that I certainly like to talk about is highway congestion, mitigation. As my colleague Mr. Clifford just talked about truck parking, big issue. I have been working on it out here in California with Caltrans. Just last month I met with Supervisor Antonovich's staff about truck parking here in LA and related to members of ours that are having problems parking their trucks here in LA County.

FMCSA just issued a report on efficiency in trucking. The number one area of efficiency that everybody seems to turn a blind eye to is the waste of a driver's time at docks with loading and unloading. There is literally billions of dollars laying on the ground right there. It is going to take a federal solution for the supply chain to get knocked up side the head and do the right thing. I look forward to answering your questions.

Mr. DEFAZIO. Thank you.

Last will be Mr. Chuck Mack, Vice President, Western Region, International Brotherhood of Teamsters.

Mr. MACK. Chairman, Chairwoman, Members of the Committee, I thank you for the invitation to be here today to present our views on what we think are some of the goods movement challenges in Southern California. I want to point out that the freight challenges we see must be defined by more than just building the physical infrastructure. While the right infrastructure is needed, and we don't question that, that is only half the equation.

In defining our freight challenges we must also address the abusive working conditions and lack of any voice on the job for most freight transportation workers. Outside of longshore and rail workers most freight transportation, trucking warehouse in particular, these jobs are poverty level. They are nonunion. They have no health or retirement benefits.

Because most trucking and warehouse workers are contingent workers or hired as independent contractors, they are provided with no basic protections of employment law and certainly don't have the ability to bargain collectively to change the circumstances that they find themselves in.

These challenges must also address the public health and environmental cost that an unregulated freight system produces. Port communities in Southern California and across the country suffer from diesel particulate pollution in terms of greatly increased asthma and cancer rates. Goods movement is also a significant source of greenhouse gas emissions that are contributing to adverse climate change.

There is a great example here in Los Angeles of how to tackle the labor, the public health, and environment problems that is making green growth possible at the Port of Los Angeles. That is the LA Clean Trucks Program. The program is creating good green jobs by requiring trucking companies to clean up their trucks and take responsibility for the drivers by employing them and making them employees as opposed to independent contractors. The Teamsters are proud to have been part of the solution through our participation in the Clean and Safe Ports Coalition which actively supports LA's program.

Now, some of the panelists here, I think, would have a problem with what I might have to say but deregulation of freight transportation is really at the root of this broken system that pollutes the air, exploits communities, and abuses workers. We prefer that the federal government provide leadership on this issue by enacting some national needed reforms and I even dare say national standards. Until there is national leadership we are going to continue to work with ports here and across the country to advocate for reform and to bring about change.

Let me close just with an example, a rather tragic example of the difference in programs like the LA Clean Trucks Program, what a difference a program like that can make. Two to three weeks ago here in Southern California a truck driver named Pablo Garcia was killed, crushed on the ground while he was walking around looking for a chassis, to pick up a chassis.

Another worker employed in the port was moving the chassis with a forklift, did not see Pablo and drove him up against the set of chassis and crushed him, killed him. Pablo was the father of three children, 36 years old. About two months prior to that Pablo was an independent contractor and worked really on his own on the waterfront. He went to work for a company called Meritek that has a collective bargaining agreement with the Teamsters Union.

If he had been killed, crushed as an independent contractor, there wouldn't have been a Cal OSHA investigation of his death. There wouldn't have been worker compensation benefits paid to his family. There wouldn't be benefits from the Union contractor paid to his family. He would be another lost statistic in the drivers that have been killed on waterfronts around the country.

I hope the Committee looks for ways to support efforts like the LA Clean Truck Program. That is really the answer to the problems that we have got out there, the lack of regulation, the lack of oversight, and it starts with the drivers themselves. Those drivers are undercapitalized. Is it any surprise they are driving trucks that are 15, 20 years old? They have no bargaining power. They can't join the union. They can't bargain collectively.

The program we advocate does not mean automatic union membership as some in Southern California have suggested, notably Bob Foster out of Long Beach. What it means is that workers have a choice. If they want to belong to the union, they have the right to join the union and they have a right to bargain collectively. If they don't want to belong, they don't have to belong.

If we correct that model, we put the capital in for that trucking system. It then takes on the appearance of other businesses across this country that have employees that accept responsibility for those employees. We deal with the worker abuses. We deal with the environmental issues. We deal with the port security issues knowing who is driving the truck on that waterfront and fixing that responsibility and holding somebody accountable. I dare say we make a system that is going to be much more efficient and effective going forward. Thank you.

Mr. DEFAZIO. Thank you.

I will now turn to questions. I think it was Mr. Turner, it may have been Mr. Asplund, talked about differentiating between investments the railroads have to make in their interest and where the public money flows. I was a little confused by that because it seems that in looking at these corridor issues there are substantial benefits both to the public in terms of health issues, surface transportation issues that conflict with the rail corridors and to the railroad in terms of being able to move your freight out more expeditiously.

In particular we looked at Colton Crossing. My understanding is that you are looking for public funds to solve that which seems contradictory to the idea because that just affects two railroads but, of course, railroads ultimately I suppose back up and block streets. I was just kind of puzzled how we would make the determination what is public and what is private. In that case, I mean, you are actually apparently looking for substantial public funding to deal with a rail bridge which will directly benefit rail but also will have some other benefits for the public.

Mr. ASPLUND. That is a very good question. Typically when we talk about one of these choke point facilities like Colton Crossing, we have another one that we are working on in California called the Tehachapis which is between the San Joaquin Valley, Northern California and Southern California. Typically these are old legacy chokepoints. The Tehachapis dates back to 1889.

I don't know when Colton was originally constructed. What the problem is for the railroads to self-fund the remedies to those chokepoints 100 percent we will do that at some point in the future but because we are so capital intensive about almost 20 cents or 17 percent of our revenue has to go right back into the plant.

Because of that capital intensivity those projects that are very high dollar are put off until we absolutely have to do them. Your question was how do you determine the benefit. The response to that is you do a cost benefit evaluation and those are getting much better. The state of Virginia has been a leader on those. Caltrans worked on them with the TCIF program, etc.

That is the way on a transparent basis with the state DOT or the public partner as well as ourselves as a private participant you look at the project in its entirety and you sort out what are the public benefits, what are the private benefits. The private benefits will pay for and we ask for the public to consider whether it is a good spend of their money for the level of public benefit that would come from them matching up to provide that investment.

Mr. DEFAZIO. Okay. Mr. Turner, do you have anything?

Mr. TURNER. I largely agree with what he said. There is a way to calculate it when the public pays. In the Colton Crossing project our companies had both agreed to put money into that project to speed up the timing of when it gets done. We agree at some point that will get done when it gets sorted out against other priorities if it is left just to us.

Mr. DEFAZIO. Okay. I think maybe we have some grounds for some discussion here that could be interesting. Mr. Clifford, I was a bit puzzled in discussing, and we are not going to get deep into the Clean Trucks Program here because that is not the purpose of the hearing but, I mean, fees and there are a whole lot of things that are flowing from congestion so ultimately all these things are relevant.

You said that somehow the ports are engaged in re-regulation. I was kind of puzzled by that because I'm not sure that I understand that and I will give you a chance to answer that in a second. Then it seems to me that Mr. Mack and Mr. Rajkovacz are saying, in fact, that we could solve some of these problems with some degree of regulation.

In particular, there is something that I am not familiar with which apparently is something that predates my study of these issues is in Mr. Rajkovacz' testimony about federally mandated detention regulation when you talk about the amount of time that drivers are having to waste at loading docks and places like that. I guess I would like to have a little discussion here why do you think this is regulation and isn't there perhaps some role for regulation.

If you have a broker who is engaging a trucker, the broker is just trying to get the delivery to a certain point and they could care less like what that imposes ultimately on the time of that trucker. That is not their problem.

I mean, someone took their bid and they are delivering the product so I see very little incentive unless it is a major company which has a major incentive to move its trucks more efficiently and make sure they aren't sitting around a lot. There are other people who don't control their own brokerage and are much more subject to these many hundreds or, I don't know, thousands of independent drivers. We had a little hearing about brokers.

Mr. Clifford.

Mr. CLIFFORD. Well, there is a fundamental difference between a freight broker and a motor carrier absolutely in their incentives. I can't speak for the brokerage industry. I am not in that industry. I can say that I have Teamster drivers that work for me and I have owner/operators that work for me and I know how I deal with them and how they deal with me and it works fine. I have four Teamster agreements and a mechinist agreement so I am very familiar with dealing in a labor intensive bargaining unit environment and I am very comfortable with that.

The issue with regulation for the association and certainly for me is if it is the decision of the Congress to re-regulate the trucking industry, then that is their decision to do that but we don't think it is appropriate for the ports or the municipality and I think the termination act for the ICC specifically prohibits subdivisions of states to do any kind of regulations.

Mr. DEFAZIO. What is the regulatory action here?

Mr. CLIFFORD. It is restricting the rates, routes, and services of motor carriers. If I am a licensed motor carrier to operate in interstate commerce, I have to meet a number of criteria now to be able to go into the ports of LA and Long Beach, particularly the port of Los Angeles. That is interstate traffic and as long as I meet all the requirements the Federal Motor Carrier Safety Administration has on me and the Department of Transportation, that is supposed to give me access to the ports or to any interstate traffic.

Mr. DEFAZIO. Elsewhere in your testimony you said the port had the Clean Truck Program and it wasn't about that but it seems to be. What you are saying is the Clean Truck Program is a violation of the Interstate Commerce Act.

Mr. CLIFFORD. No. We support ——

Mr. DEFAZIO. You support the idea of clean trucks but not the way they are getting there?

Mr. CLIFFORD. Not the way it is. Let us take, for example ——

Mr. DEFAZIO. I said we were not going to get too deep into it.

Mr. CLIFFORD. Well, the Los Angeles mandate, for example, about an employee versus an owner/operator. We don't see the connection, the nexus between those. As I said, there doesn't seem to be a problem. The issues with safety, for example, or equipment maintenance, all of those issues that are being addressed in the concessionaire agreements are addressed through the Federal Motor Carrier Safety Administration, the TWIC cards which are already in implementation and will be fully implemented next month.

All of those issues are sort of regulation of work that is already being accomplished by other agencies at the state and federal level and it just adds cost, it adds bureaucracy, it adds complications, and is a barrier to entry to an industry where there is already capacity constraints. When the economy does turn around, and it certainly will, a lot of truckers have already left the industry. There are going to be much worse capacity problems when the industry finally begins to recover so we are very concerned about that.

Mr. DEFAZIO. Mr. Rajkovacz, in particular, could you address this federally mandated detention regulation issue.

Mr. RAJKOVACZ. The detention regulation was something that was unique. I started driving in 1977 hauling beer out of the breweries in Milwaukee and the shipper gives you the appointment time, tells you what time to show up. I would show up and after two hours if they were still lollygagging the law kicked in. They would have to pay for the truck and trailer.

There is something really unique about a system like that is that it is a real disincentive to abuse human capital and equipment. That law was sunsetted under the Reagan Administration in 1982 as part of the laissez faire attitudes that were pretty prevalent at the time. I trucked for all these years, especially out of here, Dole up in Marina, a lot of facilities in California.

The issue appointments or hold systems by appointments. I would show up at 6:00 p.m., the sun would go down and the sun would come up the next morning and I would still be parked at their dock standing there watching each pallet come into the trailer because they didn't care. My time does not represent the cost within the supply chain. If we are going to deal effectively as a society with a lot of these issues, there has to be a question that is attached to the time of a driver.

Billions of dollars are wasted and that impacts highway safety. FMCSA does some of these studies and sometimes as I read them you are not making the correlations that a lot of us intrinsically know are there. When you are sitting there on a dock all night long what happens under the existing hours of service because you are not paid? Drivers don't account for it on their log books. Guess what? We did back then. We accounted for our time on our log books because we got paid for it. It is a real disincentive for everyone out there to abuse a driver's time if they have got to pay for it.

Mr. DEFAZIO. Well, Mr. Clifford mentioned the potential and we held a hearing on the future availability of drivers and capacity and there are some real concerns out there last year. Are you saying that if there was some incentive to the shippers to use drivers more, do you think that makes the whole system for efficient and would actually enhance capacity because you wouldn't have a lot of people idle waiting for load?

Mr. RAJKOVACZ. Not precisely. I can just give a real specific example. I would usually come into the LA basin out of Minneapolis and I would reload. Especially nine months out of the year the produce center shifts up to Salinas Valley. Well, there is an opportunity in that 350 miles to generate revenues. Nobody does it. It is because by the time you get done at whatever warehouse you are at, you don't even know what time you are going to get out there.

What I would always try to do is make my appointment up there as late at night as possible because I might get held up for six, seven, eight hours unloading down here in the LA basin. That is a huge opportunity. That gets to the second part of the FMCSA's study. The second part is all the empty miles. I could have converted those into revenue miles if my time wasn't getting abused but because I had to empty out and get 350 miles up the road, I deadheaded up there. I ran up there empty.

There is so much inefficiency in the system because everybody will say it is the free enterprise system. Kind of funny. It is free enterprise for everybody else but not the trucker. We are obligated to give away our time and nobody compensates for it. If you make it more efficient, you might need less trucks to handle the existing capacity. There is no maybe about it, you would. We have an aging population.

The ATA has talked constantly about a driver shortage which, of course, our economic times have really softened that. When our economy comes back if we don't get more efficient than how we use a driver's time, yeah, that stuff is really going to be on the charts in this country, not enough drivers, a capacity shortage. Shippers and receivers have got to be brought into account.

Mr. DEFAZIO. Okay. Mr. Mack, you want to add anything to that?

Mr. MACK. Well, my experience leads me to believe there is no driver shortage. If you pay the wages and you provide the benefits, there are going to be enough truck drivers and rough individuals that come forward to drive trucks. The same thing with the industry, with trucks operating in the industry.

If there is a market out there, if there is an opportunity, you are going to find entrepreneurs that are willing to jump in and take advantage of that opportunity. I think that has been grossly overstated. What you have got is companies that don't want to pay adequate levels of compensation so they are not able to attract people to the jobs. If you pay and you provide the benefits you will get people to the jobs.

I am not the biggest market enthusiast in the world. I have gone through all of these de-regulation battles in trucking. We are not talking about the economic re-regulation of this industry as we had it before where you had rates that were in place that guaranteed adequate returns so you could pay decent wages. What you are talking about in Los Angeles is after a study and an analysis of what the problems are in their port trucking industry a decision to move forward and to require, to put certain requirements, standards in place in the port.

One of those standards is employee status because the port in that economic analysis recognized that these drivers as independent contractors were completely undercapitalized, didn't have the ability because they are not like real owner/operators. They don't have that ability to negotiate with the companies they haul for or the beneficial cargo owners.

It is on a take it or leave it basis. Some owner/operators pull with one company, constantly work for the same company day in and day out, day in and day out. Some companies have no employees. How could you be a company with no employees. All they have are independent contractors and owner/operators pulling for them. That is the thing that needs to be changed and LA is on the right track doing that.

Mr. DEFAZIO. Okay. Thank you.

Ms. Brown.

Ms. BROWN. Thank you, Mr. Chairman.

Mr. Asplund, as you know, Panama Canal is expected to be completed by 2015 to increase its capacity that would allow accommodation for larger cargo ships that it cannot accommodate today. How did this development at the Panama Canal impact the competition in the ports of Los Angeles and Long Beach as a gateway for rail to develop goods across the country?

Mr. ASPLUND. That is a very good question. I don't know if anybody definitively knows the answer yet. We are going to have to wait until 2014 when the Canal opens but we do have some indications. First, we believe that if we can take care of a lot of the intermodal connectivity problems that exist here in the Inland Empire and the LA basin, that combined with the double track that we have already established 90 percent of the way to Chicago.

Union Pacific, as Mr. Turner will speak of, has also got a very solid system. The timeliness, the cost effectiveness, and the reliability of that network once we fix some of the problems here we think is quite superior.

The U.S. East Coast ports, as mentioned in the last panel, will have to complete the dredging and they also have inland connections, a lot of the same problems that this region is working out, but they are going to have many years to solve. We think that will be a constraint for the growth and the expansion of those flows coming in all via the East Coast.

Ms. BROWN. Mr. Turner.

Mr. TURNER. I essentially agree. There is another factor in this and that is the ship rotation that brings the product from Asia to the West Coast or, in this case, through the Canal. If you model current shipping times the goods that could move to the West Coast on five vessels require nine vessels given the longer steaming time to East Coast ports from Asia.

Also, it takes longer from a timing perspective than to bring them in here and move them across by rail. There are a number of factors. I don't think we will know until the Canal is open. I think in the end it will be an economic decision by the beneficial owners of the cargo who, as they said in the earlier panel, are very, very focused on the cost of moving goods ultimately from where they are produced to where they are sold.

Ms. BROWN. What are the intermodal connection problems?

Mr. ASPLUND. In our view we have continuously increased our use of on-dock here in San Pedro. We have probably gone up almost 200 percent in the last several years. We are up to about 67 percent of our loadouts in 2008 that were on-dock. The problem we have is that in the future with the projected growth. Even conservative estimates of the growth at the San Pedro Ports, there is not the ability for the on-docks, the space, or the advancement of those projects to accommodate the growth.

One problem we have is for customers to come to alternative facilities if they can not load at an on-dock location. One of them is our Hobart Facility. That is a 20-mile dray up the 710 so that is the basic premise of why we are supporting the construction of the SCIG operation, which would be a near dock about four miles away with dedicated truck lanes, etc., to give that additional capacity.

Ms. BROWN. In your written testimony BNSF believes in larger federal partnership and role in facilitating the flow of national and international commerce is what is needed here in California and elsewhere around the country. Please say more about that.

I want Mr. Turner to respond to this. Do you believe the federal role should be limited to financial support? Anyone else can respond to that.

Mr. ASPLUND. The panel before us spoke a lot about these funding challenges. Where do you come up with the funding from the federal side? How do we take care of this problem? I would like to add that one of the questions really is what is the criteria for funding. How can you look at the benefits that would drive, have performance-based criteria based on the national freight strategy of what the local communities need to have remedied to mitigate the impact, what we need for the flow of goods to be efficient to benefit the economy and the shippers.

I think the need of that federal partnership here in Southern California is probably greater than any other single international location in the country. Forty percent of the freight that comes into the states comes through these ports. Without the federal partnership the state, the ports have had to resort to self help.

The previous panel talked about these problems with diversion and the impacts of these user fees, etc. The State of California has put in billions of dollars in a bond program called Prop1B which the voters voted for. They committed to mitigating freight. They committed to improve fluidity. Then with the existing financial situation it is a very big challenge to float those bonds, so, on the federal side, this is a national and international supply chain that is very vital to our economy.

Ms. BROWN. Mr. Turner, would you like to?

Mr. TURNER. It is a national challenge. There really are a number of local tensions versus national needs. That is really a role that the federal government can assist with. Our concern on a trust fund, which got a lot of conversation on the prior panel, is if we are taxed or expected to pay into such a fund, you are taking dollars that we have to earn from our customers that we are presently investing in infrastructure and put it into the fund.

If that is not spent properly, spent on real efficient movement or freight, then you are going to have less efficiency and, in fact, you may end up with less freight investment. Secondly, if there were such a fund diverting into passenger and commuter rail operations would be a huge temptation. Again, you are talking about taking revenue from freight and moving it towards another use.

Ms. BROWN. Let us just think about that for a second because we are not just talking about taking it and giving it to a commuter rail highspeed rail. The point is in order to make it most efficient we need in the future think about how we can separate those tracks like they do in Europe. Our competitors are already there. We are the caboose and they don't use cabooses anymore.

Mr. TURNER. There is a need to separate. If there is going to be a robust commuter system or robust passenger system we have a lot of experience in working together with passenger agencies and with the private freight rails. I think there are some basic conclusions that when they are separated they really do work better.

Ms. BROWN. What do you think about the tax credit, the incentive to invest in the infrastructure?

Mr. TURNER. I think it is a way to speed up the investment of private capital into the nation's freight system because the rate of return would be more attractive and that will attract more investment.

Ms. BROWN. Thank you. Thank you, Mr. Chairman.

Mr. DEFAZIO. Ms. Napolitano.

Ms. NAPOLITANO. Thank you, Mr. Chair. I am very interested in how some of these questions are being answered.

Mr. Asplund, in your written testimony one of the key reasons that customers divert from San Pedro is they claim an uncertainty because of questionable fees regulations future. You say you have surveyed. Is it a written survey? Did all participate? Was it something that you could share? If that is the question, then what are they willing to do to help ameliorate the issue?

Mr. ASPLUND. Thank you. I believe that we indicated in conversations we have had with customers. There was no formal survey done but common theme that customers expressed to us is the uncertainty that has resulted from these user fees and some of the other provisions. I think all of us agree the objective is spot on. It is the fact that without a federal role the local ports, the State of California, and the agencies here have had to take Self-Help and it is causing diversion and other negative impacts to this region.

Ms. NAPOLITANO. Then the question to you, Mr. Turner, would be have you done or are you aware of the differences in time delivery between Prince Rupert and Long Beach, Los Angeles. I am sure you have done some kind of serving to find out if they are leaving, are they planning to leave the Long Beach LA port and what is it that I would say is enticing them?

Mr. TURNER. There is a lot of uncertainty in the market today. Even before we got in the economic mess we are in as a country there was a lot of concern about movement of goods that started for us a year ago.

Ms. NAPOLITANO. I am talking about the time frame of delivery between Prince Rupert and LA Long Beach to customers and what impact does that have on your customers' decisions of whether to remain in Long Beach LA or go to the northern part.

Mr. TURNER. Our customers first value reliable delivery time more so than speed of delivery so as long as the delivery is on time, if it moves on schedule they are far less concerned about whether that is a 17-day transit or a 16-day transit.

Ms. NAPOLITANO. You still haven't answered my question. What is the time frame?

Mr. TURNER. I am sorry. I didn't mean to not answer your question.

Ms. NAPOLITANO. Prince Rupert delivery to customer, LA Long Beach delivery to customer, the time.

Mr. TURNER. I don't know. I do not know the actual number of days. Is that what you are asking?

Ms. NAPOLITANO. Well, simply because if it is on-time delivery then you would think they would go up there but it is a matter of other issues, concerns with a price, etc. That was my question. But that leads to my other statement in regard to on-time delivery because railroads have impacted my area tremendously and have a greater increase.

As the Chairman was stating, you are looking for help in addressing choke points. Yet, you have had banner years a few years. I know in my area specifically, and I have been over this with UP ad nauseam, the fact that the infrastructure has not been upgraded for a long time and has caused issues and derailments in my area. That has been my greatest concern.

If you are not going to help us put in additional funding to do the grade separation, and you have heard some of the elected officials concerns in regard to the impact, economic, environmental, safety, all of those, then how are we to then consider your request for additional assistance?

Mr. TURNER. With all due respect, Congresswoman, we have put a lot of money into infrastructure in Southern California in the condition of the rail, condition of the railbed and in safety to reduce and hopefully eliminate derailments, delays, and problems ——

Ms. NAPOLITANO. Haven't seen one for years now so thank you.

Mr. TURNER. I would be happy to work with you and your staff to show you some of those. We should have done a better job of doing that. We believe we are investing. We are working with communities on grade separation projects and will continue to do so.

Ms. NAPOLITANO. Again, I refer back to on-time delivery. You can expedite at a port whether it is working with the Teamster and the personnel or whether working with the carriers, but if you can't get it past the Alameda Corridor-East, then you are still defeating yourselves in being able to have that on-time delivery and that is the kind of tie-in I want to make is we need to address all of it.

Mr. TURNER. Yes.

Ms. NAPOLITANO. So what can we expect from the railroads to be able to be heavier partners in assisting in doing more of those separations to increase that rail speed?

Mr. TURNER. As I know our Chairman commented to you in a hearing in Washington two weeks ago, we have said we will continue to work with you. We will continue to provide the engineering resources appropriately and we will continue to do our share of the benefit that comes out of these projects.

Ms. NAPOLITANO. Thank you. That is good. I am glad to hear that there is an affirmation, if you will. I have had great results recently, or the last few years, in my area in working with UP and with Lupe Valdez and your attorney here in town. He and I have talked about some of the issues that my district has.

What happens here affects the rest of the country so that whatever it is we can do to work together, I am certain that we will do everything we can. I know I will and I know my colleague will. We have the ear of some of our colleagues but they expect us to be able to be forthright with information so they know what the affect is on some of their rail issues and, again, some of their on-time delivery to their customers.

Thank you, Mr. Chairman.

Mr. DEFAZIO. Thank you. Just to follow-up with Mr. Asplund, you very definitively said that the current fee structure is causing diversion. Are you able to quantify that because the ports themselves did not seem to feel there has been diversion at this point?

Mr. ASPLUND. We do watch the volumes through Prince Rupert, for example, and those volumes have gone up pretty significantly over this period. As the overall economy has gotten more difficult their rate of lift through Prince Rupert has gone up, whereas the rate of lift or the volumes for this region have gone down. We can provide you some evaluations of those transient times.

We have done some studies of that and some of the other provisions. There is some talk that the Prince Rupert facility will be expanded. It is about 500,000 TEU capacity now. It is going to be increased to 2 million somewhere around 2010, 2011. They have an eventual goal by 2020 to go up to 9 million TEU's in the British Columbia ports.

Mr. DEFAZIO. Ms. Richardson.

Ms. RICHARDSON. Thank you, Mr. Chairman. First of all, before I ask my questions I would like to introduce in our audience Kathleen Hollingsworth, who is the District Director for Congressman Roybaucher, is here in the audience. A lot of the discussion has been what has covered his particular district and what we saw yesterday. I wanted to make sure to acknowledge that she is present. Mr. Roybaucher is on a congressional delegation in Baghdad and helping us in that effort so I wanted to make sure everyone knew his activity and his involvement.

Two questions that I have. First of all, for Mr. Clifford and Mr. Mack. The trucking industry is a vital part obviously of our freight movement industry itself transporting 69 percent of our freight tonage. Much has been said about the debate of allowing triples and extra heavy trucks on the highways nationwide. Some have said this will destroy our goods movement infrastructure. Is this true or would it in fact reduce the overall trucks on the road? Either one of you, Mr. Clifford or Mr. Mack.

Mr. CLIFFORD. Well, I am not an engineer. What I have been told is that when properly loaded the heavier vehicles spread out over the axles, etc., etc., it will have no worse affect on the roads than currently is the case but I am not an engineer. Logic would tell you by putting more product in larger vehicles you are going to reduce the number of engines.

Granted, if it is a million tons, it is a million tons divided X number of ways but you are going to reduce the number of pieces of power pulling those trailers and that is going to reduce fuel consumption and reduce the environmental affects of smog, etc.

Ms. RICHARDSON. Would you expect any safety ramifications?

Mr. CLIFFORD. Well, again, anectodally it would appear that larger vehicles might be more scary but from what I understand in the states where there are longer combination vehicles in place and they compare the safety results with the conventional equipment there is no difference. In fact, it might even be a little bit better. I don't have all that information. I know I can get it from the American Trucking Associations but that is my understanding that there is no safety ——

Ms. RICHARDSON. I wanted your opinion as one of the individuals working here in our region. I have read that material.

Mr. Mack, did you have a position on that question?

Mr. MACK. We are not in favor of increasing the number and size of vehicles, longer combination vehicles. It is not so much an employment issue here because there are certain areas and certain states where we do have longer vehicles that operate. The idea of a set of triples running down I-5 or coming through 101 in Los Angeles or down to 10 is bizarre and is not going to do anything to ease traffic burdens and not going to do anything to improve highway safety.

There was a cartoon a few years ago. One thing consistent about the industry, and I am not picking on Mr. Clifford here because he has I am sure a very good operation in his company but one thing about the industry consistently, and you see it in Congress, every session they are going to have three trailers, four trailers, Rocky Mountain doubles, double 53s, whatever.

They have all of these ideas. There was a cartoon a few years ago I think that said it best. It had a truck followed by about 25 trailers crossing a rail crossing and the train stopped waiting for the truck and all those trailers to go across the track. I think you are going to hear that. I think there is enough flexibility and enough size in this industry right now that we don't need to increase and go beyond it.

Mr. CLIFFORD. That is why it was a cartoon.

Mr. MACK. Yeah, right.

Ms. RICHARDSON. Thank you very much for both of your opinions.

Mr. Asplund, should Congress set up a railroad trust fund? You heard the first panel and the whole discussion and clearly I know, I have been with Ms. Napolitano and Ms. Brown and there has been much discussion that we can't lose sight of the rail improvements that must be done. In your opinion do you think we should set up a railroad trust fund? Let me add the caveat that would in fact address the rail issues and not funds used in another way.

Mr. ASPLUND. Right. We are opposed to that. Let me give you a quick example. The challenge that we see with the railroad trust fund is currently the railroads are responsible to maintain and expand their own networks. We have to pay the note for everything. As I mentioned in my previous comments, 17 percent of our revenue goes right back into the railroad every year.

In January 2009 BNSF announced we have got about a $2.7 billion investment program. That is only down 5 percent versus 2008 and in this economy largely because we have to keep putting so much money back into our infrastructure, and we want to keep our railroad strong, keep our service up. Why we like to be able to take the money we generate from our customers and invest it in our facilities ourselves is we have tools where we can do analysis to determine where we know right where the biggest bang for the buck occurs. We bring that to the table and we do public private partnerships as well.

The public private where we signed an MOU with Caltrans this past year in September, as I mentioned the Tehachapis Corridor, which is about 64 miles long, we found through modeling and looking at the operation that we could improve the capacity by 70 percent by daylighting a small tunnel here, connecting a siding there, and doing small enhancements.

The total capital expenditure to improve a through-put, a major freight corridor that Union Pacific actually owns and we are attended on, is going to cost $104 million at its full scope of work. We would pay half the money, Caltrans through Prop1B would pay half the money. That delivers about 1.1 million trucks per year that don't have to use SR 58, don't have to use Highway 99, don't have to go up and down I-5. Because of the uniqueness of our network we need to be able to have the ability to direct where that capital goes and that is the concern we have with the railroad freight fund.

Ms. RICHARDSON. And my last question. Are freight railroads still supporting legislation providing a 25 percent rail infrastructure tax credit?

Mr. ASPLUND. Yes, we are. We see one major use of those dollars is the positive train control initiatives. Here in LA and in the Inland Empire if you take a look at a lot of our tracks, our traffic right now only accounts for 50 percent to 64 percent of the daily traffic with many lines shared with Metro and with Amtrak. The estimates of what it is going to cost the industry to install positive train control are very, very large so it is an item that the ITC could apply for. It is something we can bring in right away and help us with that major burden.

Ms. RICHARDSON. Mr. Turner, did you have anything else you want to add on that point or do you agree?

Mr. TURNER. On the investment tax credit?

Ms. RICHARDSON. Yes.

Mr. TURNER. Yes. Absolutely. We believe it is a very efficient way to increase investment and infrastructure and rail in this country.

Ms. RICHARDSON. And the railroad trust fund?

Mr. TURNER. The devil is always in the details. Our model is very similar to BNSF. Money from our customers is reinvested at industry high levels and it has been that way for a number of years. There is all kinds of data that correlates.

Our ability to invest is tied to our ability to earn it. We can put it where we need it. An ethanol facility in Colton, not very far east of here, tied to meeting California's ethanol standard was a business decision that was driven off a business opportunity. Our ability to charge with that and invest in it I think is well known.

Ms. RICHARDSON. I would just ask if you would supply to the Committee if we were, in fact, to have something like that what would be some of the conditions you would like to see? I appreciated your comments and I am going to incorporate them in what we are doing on the truck side in terms of accountability and so on but I would recommend you provide to this Committee if that discussion were to continue what would be some of the groundbreakers you would like to see? Oh, my time has expired so I can't do anymore. I want to stay in good graces with my Chairman.

Mr. DEFAZIO. Go ahead.

Mr. ASPLUND. Mr. Chairman, I think what we need to be clear is to differentiate railroad trust fund versus freight fee. Those are two different things.

Mr. DEFAZIO. Versus what?

Mr. ASPLUND. Versus a freight fee which would be a contributor to a national freight program.

Ms. RICHARDSON. I understood. I was asking specific to the railroad trust fund.

Mr. ASPLUND. Thank you.

Ms. RICHARDSON. Thank you.

Mr. DEFAZIO. I just have one other question on the trucking side. We had a discussion earlier about the inadequacy of the highway trust fund that I believe ATA has taken a position if quantified in supporting an increase in taxation. I just wonder from the three of you if you have any idea of ways we might fund a freight specific mobility program.

Mr. CLIFFORD. The ATA has gone on record to support an increase in the diesel fuel tax for that purpose as long as it could be directed specifically for those purposes.

Mr. DEFAZIO. Yes.

Mr. RAJKOVACZ. I would like to add to that. Truckers aren't Pollyannish about this. They realize there are issues and they are willing to step up to the plate. The most efficient way, though, to collect a tax is through the fuel tax, not a vehicle miles tax. It is very easy. It is done and we don't have to let inside-the-beltway contractors get billions of dollars for tracking equipment on our trucks. Yes, an increase in fuel tax but tied to accountability and how that is used.

Railroad grade crossings. You are in the south land. Yeah, I have sat in Ontario for 20 minutes. That is a worthwhile improvement from the standpoint of a trucker if I don't have to sit there but for me to pay for an upgrade out across the middle of Wyoming I think that is an unfair diversion.

Mr. MACK. I don't know that we have taken a position on that yet, Mr. Chairman.

Mr. DEFAZIO. All right. Anybody else have something they really want to say? Yes, Grace.

Ms. NAPOLITANO. Thank you, Mr. Chair. This question is for Mr. Mack. I ran out of time the last time. The states do play an important role in assisting the Federal Rail Authority with the insuring of the safety along the rail lines.

I agree that the current federal law should continue to prohibit states from creating regulations that burden interstate commerce but should states be allowed to regulate railroads in order to protect against local safety hazards? And do you feel the states should be allowed to regulate them in areas where the federal government does not have authority or has not acted upon?

Mr. MACK. I would think so, yes.

Ms. NAPOLITANO. Anybody else? No comment.

Mr. CLIFFORD. I would say it depends on the specific circumstances.

Ms. NAPOLITANO. The CPUC, California Public Utilities Commission, has been the only means that any community can go and file any claim against a railroad for sitting on a crossing for half an hour or impeding traffic. Some areas there is no way of any redress for the communities and that is my concern.

Mr. CLIFFORD. Wednesday morning, for example, on my way to work, literally because I timed it, I was stuck behind a switch engine going back and forth for 30 minutes. I just couldn't get to my office. I missed a meeting as a result of it.

Ms. NAPOLITANO. Did you file a complaint?

Mr. CLIFFORD. No. The railroads are our friends. We work together so, no, I didn't file a complaint.

Ms. NAPOLITANO. I am teasing. Thank you very much. It is an issue that I think needs to be considered.

Ms. BROWN. I do because as Chair of the railroad I want to be clear that it is a balance between the community but it is commerce and we have got to find a way to, like we said, double track or figure out a way that we can move our country forward. You can't just sit up here and say I almost missed church because the train was going by but it is economic.

We need the overpass so we can go to church another way. We have got to figure out how to fund our system. We cannot have each community developing their own plan. We need your input but we have got to work together as partners. It is a local, state, and federal government working together. Our freight rail is the envy of the world. Every time we go somewhere, and you have been there, they ask us about freight and we are asking them about commuter rail so we have got to figure it out. Thank you.

Ms. NAPOLITANO. I am reclaiming my time, Mr. Chair. I agree. Certainly there are certain things that we are very cognizant of. While you are talking about fast trains, that is one question that we didn't ask and I would like to submit some questions for the record because we do not have any ability to increase our passenger rail because it is competing with the other type of loads that you carry because they make more money for the railroads.

Yet, we in Southern California don't have a mass transit system so we need to consider how do we move them on your rails and be able with the increase expected for the rail traffic from the port how do we work that out. That is something else I would love to be able to have a discussion and we have consideration of. Thank you, Mr. Chair.

Mr. DEFAZIO. Well, I want to thank all the Members of the panel. Thank you for your testimony. I thank the audience. I thank MTA for the use of the facility, their hospitality, and all those who participated in educating the community these two days. I appreciate what you did and hopefully we will come up with some great ideas on how to better address these issues nationally. The Committee is adjourned.

[Whereupon, at 12:36 p.m. the Subcommittee was adjourned.]

Written Statement of Nathan M. Asplund

Before the House Committee on Transportation and Infrastructure

for a Hearing on "Confronting Freight Challenges in Southern California"

Friday, February 20, 2009

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Written Statement

Nathan M. Asplund
Hearing before the House Committee on Transportation and Infrastructure, Subcommittees on Highways and Transit and Railroads, Pipelines, and Hazardous Materials

on Confronting Freight Challenges in Southern California
Third Floor Board Room, LA Metro, One Gateway Plaza, Los Angeles, CA , 10:00 a.m., February 20, 2009

Good morning Chairman DeFazio, Chairperson Brown, Ranking Member Duncan, Ranking Member Shuster, and Members of the Subcommittees. Thank you for the opportunity to appear today to discuss BNSF's perspective on freight challenges in Southern California.

My name is Nate Asplund, and I head up BNSF's Public Private Partnership ("PPP") group. My team works with the public sector to develop and fund projects that fix rail chokepoints and produce other public benefits, such as congestion and air quality improvements, energy savings, and economic development. Freight rail PPP's are a small but growing tool to confront freight mobility challenges. They are collaborative partnerships with the public sector – to date, mostly state and local governments – to advance projects that produce substantial public benefits but from which railroads would not benefit enough operationally to make the investment on their own.

California is taking meaningful steps to develop freight PPP's. There is a realization here that achieving freight mobility benefits, and contending with their extended costs, should no longer be left to shippers, ports, carriers, and local transportation agencies to solve. BNSF believes a larger federal partnership and role in facilitating the flow of national and international commerce is what's needed here in California and elsewhere in the country.

Southern California is the perfect place to observe the local and national importance and costs of freight transportation – and the unintended consequences of the lack of a national freight policy. In its absence, Californians have resorted to substantial self-help efforts – from taxing freight to floating bonds – which I will detail further in my testimony. Moreover, the freight rail industry has stepped up to unprecedented investment levels to support freight moving to and from the state. But without a national policy that partners financially with this region to improve trade flows, commerce ultimately will be dislocated and diverted.

Commercial traffic, like water, seeks the path of least resistance in its flow. One key reason we hear from customers about why they are and will continue to divert away from San Pedro Bay ports is the climate of uncertainty as to how many new fees, costly regulations, etc. they may face in the near future. Whether goods moving to and from the interior of the United States avoid Southern California by going through Mexico, Canada, or the Panama Canal is an important national issue.

This trade should benefit coming through California for a whole host of reasons, such as the half-million direct jobs in Southern California associated with international trade, the enormous existing public and private infrastructure investment and existing over-land trade routes, security, and maintaining a cost effective link to international markets for Southern California consumers and manufacturers. As federal officials, your questions today should be: "How can federal policy facilitate the continued, sustainable growth of the Southern California gateway?" and "How can federal policy advance projects that reduce the local impact of international growth on the region?"

Southern California's mobility situation is well known to the participants in today's hearing. The region leads the country in terms of the economic cost of congestion – more than $9 billion dollars annually - as well as a host of other metrics including excess fuel consumed, travel delays, and delay costs per traveler (Source: Texas Transportation Institute - 2007 Urban Mobility Report). Compounding these challenges, the nation relies heavily on the Southern California gateway within our national and international supply chain. Together, Los Angeles and Long Beach handle approximately 40% of the international container traffic moving into the United States.

Monthly import volume through the Ports of Los Angeles/Long Beach peaked at over 750,000 TEU's in August 2006. For the first quarter of 2009, volumes are expected to average slightly less than 500,000 TEU's per month, a drop of 33% from peak and 12% compared to the same period in 2008. (Source - IHS-Global Insights).

The drop in freight volumes has had a major impact to Southern California's local economy and employment base, particularly for a region that has already lost almost 30% of its manufacturing base since 1990 and with a December 2008 unemployment rate ranging from 9.5% to 10%.

These are difficult times for the region and the country. However, once retail sales rebound we expect a return to the long-term growth of Asia-US trade and West Coast port volumes. The need to manage Southern California's freight challenge is undiminished.

I'd like to briefly outline the scope of investment, highlight a public-BNSF partnership that's taking place in California, and identify what remains to be done in the region.

Within the Southern California region, the $2.4 billion, 22-mile Alameda Corridor is often recognized as a key project to improve efficiency, reduce local impact, and accommodate the nation's increased level of global trade. User fees paid by the railroads are used to generate revenue to pay off bond and federal loan debt used to fund the majority of the construction expense.

Between 2003 and 2007, BNSF added 179 miles of new second main track on our Transcon Corridor running from the Los Angeles Basin to Chicago utilizing our own private capital, and in 2008, we opened the $80 million BNSF Cajon Pass project for 16-miles of third track that increased the capacity in this former chokepoint by 50%.

Examples of future expansion and improvement projects include the BNSF Southern California International Gateway (SCIG). This multi-hundred-million-dollar near dock cargo facility would lead the industry in its use of the latest, proven state-of-the-art environmentally-sensitive technology available while increasing the use of the Alameda Corridor, eliminating millions of truck miles annually from the 710 and other local freeways, reducing congestion and improving traffic safety. If constructed, it is estimated the facility would create up to 22,400 new jobs in Southern California, including 14,600 new jobs in Los Angeles. The project would also improve air quality in the region through the use of environmentally-friendly technology, decreased emissions from fewer trucks and more efficient cleaner-burning locomotives.

The State of California has made a major commitment to address freight challenges as well. In 2008, BNSF in conjunction with our public partners executed agreements for freight PPP's totaling $170 million, and here in California, BNSF and Caltrans signed a MOU to invest up to $54 million each on the Tehachapi's Trade Corridor (TTC), a proposed freight rail project that would eliminate a critical chokepoint that connects Northern California and the Central Valley to Southern California and the national rail network. This represents part of freight projects envisioned by CA Proposition 1B, a $19.9 billion General Obligation transportation bond championed by Governor Arnold Schwarzenegger and approved by voters in 2006.

Proposition 1B features $2 billion for the Trade Corridor Improvement Fund (TCIF) for projects to improve goods movement reduce congestion and improve air quality under both a 100% public funding as well as a public-private partnership basis. Proposition 1B also provides $1 billion in new funding to improve air quality in California which will directly benefit the communities in and around the Ports of Long Beach and Los Angeles. In should be noted, however, that these commitments may be difficult to sustain in today's challenging fiscal and credit market environment.

The Ports of Los Angeles and Long Beach are also making significant infrastructure investments focusing on expansion, congestion, and environmental issues, which other members of the panel can discuss in more detail.

As this Committee is well-aware, funding freight infrastructure projects like those contemplated in the LA Basin is the most significant challenge faced by policy makers. To address the freight mobility issues on and near the ports of LA and Long Beach, these entities have decided to assess local freight fees. BNSF has several concerns with the proliferation of local fees. For shippers wishing to route cargo through the San Pedro Bay ports, they face potential port levied user fees including a $35/TEU clean-truck fee going into effect this week; a $50-per-TEU PierPass fee if a container is trucked to or from port terminals during weekday shifts. Shippers also face another fee of $20/TEU for containers that transit the Alameda Corridor. The Ports have also invoked a $15/TEU infrastructure fee for which the effective date has been delayed until July 2009. Add these all up and shippers pay user fees of up to $120/TEU or $240/FEU - charges not in place at other competitive West Coast ports - either those in the US or in Canada.

There is evidence that the growth in both the number and cost of these charges - as well as significant uncertainty about what future charges may be levied - is making shippers and carriers reconsider routing discretionary cargo through the San Pedro Bay ports. A U.C. Berkeley study conducted in 2005 showed that container fees above $100/TEU could spark mass cargo diversions from Long Beach and Los Angeles to other ports, even with infrastructure improvements that remedy congestion.

As reference, since 2006, over $15 billion (Canadian) in federal, provincial, and private sector funding has been allocated to Canada's Pacific Gateway. The Asia Pacific Gateway Corridor Initiative has a goal to increase West Coast Canadian Port volumes from 2 million TEU's in 2005 to 9 million in 2020.

There has been discussion of how to fund a national freight program. First, freight improvements should receive funding from a variety of sources, given the benefits they convey, including reduced highway wear and tear, greenhouse gas emissions and fuel use. These sources include General Funds, a portion of the existing Customs revenues, and potentially any carbon-related revenues that may result if Congress regulates green house gases. In addition, freight projects should receive funding from other programs – environmental, passenger rail, transit, metropolitan mobility – if they meet the goals of those programs.

BNSF believes that, because international trade is the key driver for these increasing volumes, Customs duties are a particularly appropriate stream of revenue for funding freight projects. Customs duties have the added benefit of not displacing freight between ports of entry, and collection and administration is already established. Dedicating 5% of current Customs duties for investment in freight projects would generate about $1.8 billion annually and $20 billion cumulatively through 2017. Dedicating 10% of current Customs revenues would yield $3.6 billion annually and $49 billion cumulatively through 2017.

Second, were Congress to consider a national freight fee, it is important that commerce not be burdened, especially in this economic environment. At the same time, Congress should ensure that local and state proliferation of such fees – however well-intentioned - is, in general, preempted. In addition, no mode of transportation or port of entry should be unduly advantaged or disadvantaged.

Any fee must be designed to ensure that the ultimate consumer bears the cost and sees the benefit. This means that any freight fee is paid by the beneficial cargo owner, not transportation intermediaries such as steamship, trucking, or rail companies. An issue with fees assessed against carriers is their inability to pass these fees on in a competitive marketplace, which will result in reducing their ability to re-invest. Furthermore, the administrative burden to bill and collect a federal freight fee should not be put on the private sector.

The payors of any such a fee must realize over time the benefit of improved freight flows resulting from projects funded by the freight program. This is a fundamental user fee principle. It is essential to recognize that any freight fee is the shipper's money - private funding – which should be invested in ways that result in increased freight velocity, capacity and additional reliability, all of which can benefit public and private stakeholders

We expect that freight stakeholders and Congress will have a strong debate about specifics of a freight fee and whether a "freight trust fund" should be created to administer it. The rail industry has long been opposed to that concept because there is little "trust" that the funds would flow to projects that meet the goals of an integrated goods-movement strategy – versus the political earmarking process. Congress would have to create an accountable and transparent programmatic linkage between an assessed freight fee and the selection and funding of projects that facilitate growing trade-driven freight volumes.

Conditions placed by Congress around the use of the freight fee will be critical to whether freight stakeholders are able to come to agreement on such a proposal. In the absence of some kind of strong program governance for funding freight projects, BNSF could not support any freight fee.

From our perspective, a federal partnership would do a great deal to help accommodate growth and reduce the impact of freight on the region. For example, improvements include (a) on-dock rail projects; (b) near dock intermodal yard capacity enhancements; (c) mainline capacity improvements; (d) rail grade separations to improve vehicle traffic flows; and (e) line capacity and Positive Train Control (PTC) improvements necessary to support commuter rail operations on shared lines without harming the ability to handle existing and future domestic and international freight traffic growth. We have worked closely with the numerous state and local stakeholders - many represented on your panels today - to demonstrate how the improvements that have already been made benefit the public and meet performance and cost-benefit goals. This is the essence of what federal policy makers should be seeking to do in reauthorization legislation. Much of the groundwork has already been laid right here in Southern California, and Congress can learn a lot from these efforts.

Anticipating your question about what should Congress do in the next surface transportation reauthorization bill, I would direct your attention to the National Surface Transportation Policy and Revenue Study Commission, on which BNSF CEO Matt Rose served. That report outlines the broad parameters of a federal approach to freight transportation policy that will meet the needs of the United States for the twenty-first century. Much of my foregoing statement is premised on the principles embodied in that report. I would also direct you to the GAO's January 2008 report ("National Policy and Strategies Can Help Improve Freight Mobility"). In that report the GAO, like the Policy and Revenue Commission, also concluded that Congress should better define the federal role and national interest in freight transportation, including economically-based and objective criteria to identify areas of national significance for freight transportation and to determine whether federal funds are required in those areas. The GAO pointed out that, absent a national strategy and nationally established criteria by which to choose critical freight projects, public officials at the state and local levels generally will invest federal funding on projects that most benefit their constituencies, not the national interest. Thus, Congress should first determine what is the national interest in freight mobility in crafting a federal role. I would suggest it should include reducing chokepoints so the economy's freight flows are unimpeded, but it is also creating more environmentally sustainable transportation options, and it includes placing a national priority on local freight projects that have national consequences.

In constructing an effective program, GAO has found that criteria-based competition may provide the best opportunity to target federal investment toward achieving a more clearly defined federal role and the objectives of improved freight mobility. The stimulus bill recently passed by the Congress took a step in that general direction by creating a $1.5 billion discretionary fund for which projects of national and regional significance can compete for funding, including freight projects with a rail component, which goes beyond the eligibility Congress established in Projects of National and Regional Significance in SAFETEA-LU. While the concept is promising, we understand the programmatic rules for implementation have yet to be written. Hopefully, the implementation of that program can and will have positive implications for what Congress does in the upcoming reauthorization bill

In addition, as GAO points out in its recently released report ("Surface Transportation: Clear Federal Role and Criteria Based Selection Process Could Improve Three National and Regional Infrastructure Programs" - GAO 09-219), Canada offers an excellent programmatic model to consider. Canada constructed a program to invest in critical freight transportation projects to facilitate the movement of freight from Asia to Canadian and U.S. markets. Transport Canada has developed program criteria based on freight transportation data and program objectives, such as enhancing efficiency and improving and mitigating environmental impacts of freight transportation. GAO reports that Transport Canada's specific, performance-based criteria enabled it to take a disciplined approach to selecting projects and working with state, local and private stakeholders. Canada has funded 20 projects with a federal share between 33% and 50%, leveraging an $860 million federal investment and a non-federal investment of $2.3 billion. In sum, federal policy marshaled and directed a great deal of investment by all stakeholders, and Canada is creating a highly competitive alternative to the U.S. West Coast ports.

Thank you for your time and consideration and I look forward to addressing any of the subcommittees' questions.

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TESTIMONY OF

Anne M. Bayer

President, Gateway Cities Council of Governments

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

Committee on Transportation and Infrastructure's

Subcommittee on Highways and Transit

and

Subcommittee on Railroads, Pipelines, and Hazardous Materials

FIELD HEARING

on

"Confronting Freight Challenges in Southern California"

February 20, 2009

Board Room
Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza, Los Angeles California

Thank you for holding this hearing on this important topic for Southern California My name is Anne Bayer and I am President of the Gateway Cities Council of Governments which represents the 27 cities of Southeast Los Angeles County, California. Gateway Cities has a population of 2.2 million people who live and work at the "epicenter" of goods movement for the nation.

The Nation's largest port complex; the Ports of Long Beach and Los Angeles are located at the southerly portion of our subregion, and all freight leaving these facilities travels through our communities by rail or highway. The freight challenges for our communities are probably the most significant of any other place in the country. Approximately 45% of the goods entering this country go through these two ports and about 75 to 80% of those goods leave Southern California bound for the remainder of the nation.

Historically, the Gateway Cities communities have taken an active role in goods movement from the initiation of the Alameda Corridor rail cargo expressway in the 1980's to addressing the highway freight challenges through corridor improvement projects on the I-710 and the I-5 freeways and studies to commence work on the SR-91/I-605/I-405.

Our issues and challenges for moving freight through Gateway Cities can best be summarized as follows:

We are currently in the environmental process to improve the I-710 corridor, the I-710 freeway handles over half of the trucks leaving the San Pedro Bay Ports. In this process we have refined and indentified the following significant issues.

- Air Quality and Health Risks – The residents along I-710 have some of the highest asthma and cancer rates in the State. This can be traced to diesel particulate pollution from freight movement. Cleaning the air is the communities' highest priority.
- The I-710 freeway has the highest truck related accident rates in the country – current truck volumes exceed 21,000 daily truck trips which translates to too many large trucks traveling in close proximity to area residents and employees on an antiquated freeway designed over 50 years ago There is a "unanimous" position of our communities to improve our air quality and safety through the construction of a modern freeway and freight corridor that separates truck and autos to the greatest extent possible and ultimately utilize alternative technology for the freight movement.
- The I-710 is not the only freeway in Gateway Cities that experiences extraordinary truck volumes, the I-5, SR-91, I-605, SR-60 freeways in Gateway Cities are all nearing or at capacity and need attention.

- the I-5 freeway project is the Gateway Cities highest priority. The Orange County segment is nearly complete, the southern portion (I-605 – County Line) is fully funded, with construction to commence within the next 2 years, the EIR is underway for the portion from the I-605 to the I-710, and we are actively seeking funds to complete this Environmental phase. The I-5/I-710 Interchange is under study with the I-710 environmental process. These freeway to freeway interchanges when redesigned will greatly help with the challenges associated with freight/goods movement, as well as passenger congestion and pollution in the subregion. (see attached summary information)
- The I-710 Environmental Document clearly shows that the railroad system that serves the ports (with the exception of the Alameda Corridor) is at capacity. This applies to rail yards and mainline track through Southern California. We have a severe need to grade separate many, many at-grade crossings throughout Southern California.
- Gateway Cities and its regional partners have taken a leadership role in examining new ways to address the challenges and issues for freight movement by:
    - Exploring the use of Advanced Technology to move containers with zero emissions
    - Planning Intelligent Transportation Systems for Goods Movement in cooperation between the public and private sectors
    - Defining new approaches to truck inspections
    - Examining a regional freight movement corridor

The aforementioned challenges (and solutions) are the highest priorities for our Board of Directors. We have little choice as the San Pedro Bay Ports' container volumes are expected to increase three-fold in the next 20 to 25 years. In speaking here today, I would like you understand the that this a national problem and needs nationwide solutions and input, including funding. We believe Gateway Cities and our other agency partners (both private and public) are developing workable and innovative solutions that will utilize advanced technology and create jobs. We can't meet these challenges alone. We need your help, support and funding.

Statement of

Randall J. Clifford
Chairman, Ventura Transfer Company

Representing the American Trucking Associations, Inc.

before the

Highways and Transit Subcommittee
&
Railroads, Pipelines and
Hazardous Materials Subcommittee
Committee on Transportation and Infrastructure
United States House of Representatives

Field Hearing on
"Confronting Freight Challenges in
Southern California"

February 20, 2009

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Driving Trucking's Success

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Chairwoman Brown, Chairman DeFazio, members of the Subcommittees, my name is Randall Clifford, and I am Chairman of Ventura Transfer Company, located in Long Beach, California. I am appearing here today on behalf of the American Trucking Associations (ATA). ATA is the national trade association for the trucking industry, and is a federation of affiliated state trucking associations, conferences and organizations – including the California Trucking Association – that together have more than 37,000 motor carrier members representing every type and class of motor carrier in the country. Thank you for the opportunity to testify.

Southern California is a major freight generator and a significant gateway for goods moving between the U.S. and our foreign trading partners. In addition to hosting the Los Angeles and Long Beach ports complex, through which more containers move than any other port in the nation, the Southern California region is the third largest manufacturing center in the country.[1] Furthermore, warehouse, distribution, transload, and cross-dock operations occupy approximately 1.5 billion square feet of building space throughout the study area. This represents 15 percent of the nation, and 60 percent of the entire west coast markets.[2] By 2030 freight transportation demand is projected to triple, and warehouse and distribution square footage is expected to grow to 4.5 billion square feet.[3]

The trucking industry is one of California's and the nation's most important sources of employment. Nationwide, trucking-related companies employ 8.8 million people. In California, more than one million people are in trucking-related jobs, and collectively earn nearly $55 billion in wage income.

Considering existing and projected demands on freight transportation in Southern California, the region presents the trucking industry with some of its toughest challenges. We look forward to working with the Subcommittees, state and local government agencies and other stakeholders to ensure that freight transportation in the region is economical, safe and environmentally responsible.

REGIONAL FREIGHT MOBILITY

Every day thousands of trailers and containers, carrying everything from grain to machine parts, flow through our ports, across our borders, and on our rail, highway, air and waterway systems as part of a global multimodal transportation logistics system. It is a complex array of moving parts that provides millions of good jobs to Americans, broadens the choices of products on store shelves and creates new and expanding markets for U.S. businesses. Highways are the key to this system. Trucks move 69 percent of our Nation's freight tonnage, and draw 84 percent of freight revenue; the trucking industry is expected to move an even greater share of freight in the future.[4] In addition, trucks transport 69% of the value of freight moved between the U.S. and our Canadian and Mexican trading partners.[5]

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[1] Wilbur Smith Assoc., et. al. *Multi-County Goods Movement Action Plan*, April 2008
[2] *Ibid.*
[3] *Ibid.*
[4] Global Insight, *U.S. Freight Transportation Forecast to...2018*, 2007.
[5] U.S. Department of Transportation, Bureau of Transportation Statistics *Transborder Freight Data*, 2007.

However, trucks are also crucial to freight moved on rail, in the air and on the water. The highway system connects all of these modes to manufacturing and assembly plants, retail outlets, homes and warehouses. An efficient highway system is the key to a fluid global supply chain, which in turn is a fundamental element of a growing and prosperous economy.

Unfortunately, however, the highway system no longer meets our needs. While the condition of our highways and bridges has steadily improved in recent years, our infrastructure is aging and large sections will have to be repaired or replaced in the coming years, at an enormous cost.

More troubling is the seemingly endless congestion on highways in urban areas. According to the most recent congestion report from the Texas Transportation Institute, in 2005, drivers in metropolitan areas wasted 4.2 billion hours sitting in traffic, burning 2.9 billion gallons of fuel.[6] ATA estimates that if congestion in these areas ceased, 32.2 million tons of carbon would have been eliminated in 2005 and, over a 10-year period, nearly 32 billion gallons of fuel would be saved, reducing carbon emissions by 314 million tons.

The Los Angeles area has had the dubious distinction of ranking first in the TTI study's congestion index since the rankings began to be tabulated in 1982. The study paints a dismal picture of the region's highway system performance. In 2005 85% of vehicle miles traveled (VMT) during peak travel periods in the Los Angeles area occurred under congested conditions. "Rush hour" in Southern California is now eight hours long. In 2005 motorists wasted nearly 384 million gallons of fuel sitting in traffic. Congestion cost area motorists more than $9.3 billion in additional fuel expenditures and lost time that year, an average of $1,374 per person.

As bad as the situation is today, traffic projections suggest that future conditions may be even worse. The Southern California Association of Governments (SCAG) forecasts that average speeds will drop from 35.9 mph in 2005 to 31.9 mph in 2030, resulting in an average of 5.4 million hours of daily delay for all traffic.[7] Truck VMT is expected to increase by over 110% by 2030, growing from a level of 22.4 million VMT in 2000 to 48.4 million VMT by 2030. Some freeways in the region currently handle up to 40,000 trucks per day, and it is projected that these freeways may have to handle up to 80,000 trucks per day by 2025. While a significant amount of freight tonnage in Southern California has an origin or destination outside the region, over 30% of the freight moved in the Los Angeles metropolitan area remained within the region.[8] Virtually all of this freight moved on trucks. Furthermore, approximately 80% of the non-local domestic freight and the majority of the international freight in the region move by truck.[9]

While the TTI study estimated that the national congestion cost due to congestion in urban areas was $78 billion in 2005[10], since the authors do not account for shipper costs, this figure likely underestimates the real costs of an inadequate highway system to the U.S. economy. Since deregulation and completion of the Interstate Highway System over the previous quarter century, the trucking industry has made continuous improvements that have allowed its customers to

[6] Texas Transportation Institute. *2007 Urban Mobility Report.*
[7] Wilbur Smith Assoc., et. al. *Multi-County Goods Movement Action Plan*, April 2008
[8] Federal Highway Administration, Office of Freight Management and Operations. Freight Analysis Framework.
[9] *Ibid.*
[10] Texas Transportation Institute. *2007 Urban Mobility Report.*

significantly reduce inventories and create manufacturing and supply chain efficiencies that have saved the U.S. economy billions of dollars, increased salaries, slowed consumer price increases and created countless jobs. Disruptions to the movement of freight on our nation's highway system due to congestion jeopardize these gains. Congestion slows delivery times, creates unpredictability in supply chains and ultimately makes U.S. businesses less competitive and consumer products more expensive. Indeed, in its 2007 *State of Logistics Report*, the Council of Supply Chain Management Professionals described a logistics system whose costs are rising at triple the pace of general inflation.[11] The report found that business logistics costs rose over 11% in 2006 to $1.3 trillion, an increase of $130 billion over 2005. Trucking costs alone increased by $52 billion. If congestion is not addressed, these costs will continue to rise, and will translate into higher consumer prices and slower job growth, and will weaken the United States' ability to compete in the global economy.

Incremental solutions will not allow us to meet the Nation's current and future transportation needs. The federal surface transportation program in its current form will not suffice. While more resources than are currently available will be necessary to finance the transportation improvements needed to get our country out of traffic gridlock and to make driving less hazardous, we can no longer afford to spend limited federal resources on projects that do not meet our most important national needs. Therefore, federal funds must be invested in a manner that will most effectively address these requirements.

A NEW FEDERAL VISION: FOCUS ON MOVING FREIGHT

When the federal highway program was created, it had a clearly defined mission: to finance construction of the Interstate Highway System. When that mission was complete, the money was still coming into the Highway Trust Fund (HTF), but Congress did not identify a new federal role. With few exceptions, Congress and the states tend to view the HTF and the highway authorization process as simply an opportunity to address state and local interests, without putting these decisions into the context of a broader national vision. What attempts are made to focus on national priorities tend to get lost in the battle for greater state apportionments and earmarks for local projects. In the meantime, critical projects whose failings have national or broad regional implications go unfunded. The ability to plan, from a national perspective, for the transportation challenges of the 21st century, is impossible within this parochial atmosphere.

This is not to suggest that the current federal program is devoid of benefit. Local transportation challenges are necessarily dealt with by state and local governments, and the continued flow of federal resources to address these needs is important. However, because the full benefits of moving freight extend beyond metropolitan and state boundaries, projects which might otherwise receive a higher priority go unfunded, in part because many are extremely expensive and would, by themselves, eat up state budgets.

The failure by planners at all levels of government to identify and fund projects that are important to the movement of freight points to problems in the transportation planning process itself. While federal law requires states and Metropolitan Planning Organizations to identify transportation needs within their own boundaries, vehicle travel is not bounded by lines on a

[11] Council of Supply Chain Management Professionals, 18th Annual *State of Logistics Report*, June 6, 2007.

map. Transportation extends across state and local government borders, but currently the planning process does not. While some states have made great strides toward regional planning, the ability to fund projects outside of their states, even when they are likely to benefit greatly by such decisions, is tempered by political reality. The federal government is the only entity in a position to determine the national and regional benefits of highway projects that facilitate the movement of freight, and is singularly equipped to provide sufficient resources and strong leadership to ensure that these projects are completed.

ATA believes that the federal government must adopt a new mission: to provide the leadership and resources necessary to facilitate the safe and efficient movement of goods on the nation's highway system. Such a program should be segregated from the existing federal surface transportation program, and its source of funding should be walled off within the Highway Trust Fund.

While trucks serve 100 percent of American communities and utilize nearly the entire four million mile road system, freight tends to be concentrated along several major corridors. Many of these corridors are also among the most heavily congested in the nation. This presents both a challenge and an opportunity. The challenge is in finding the will and the resources to make what are often extremely expensive improvements to these corridors in order to ensure that freight does not bog down, thus disrupting supply chains throughout the nation, and causing ripple effects around the world. The great opportunity before us is to not simply keep up with freight transportation demands, but to develop a long-term vision of the transportation system which results in supply chains that are swifter and more predictable than they are today.

Freight Corridors Initiative

A recent study prepared for the Federal Highway Administration (FHWA)[12] identified the highway bottlenecks that cause the greatest amount of delay for trucks. The study estimated that the 326 identified bottlenecks cost the trucking industry 226 million hours of delay in 2006. Using newly available operational cost data,[13] it can be determined that the direct financial cost to the industry and its customers from these delays is approximately $19 billion per year. The study estimates that highway bottlenecks account for 40 percent of congestion, with the remainder caused by accidents, bad weather, construction, special events and poor signal timing.

Of the 35 worst truck bottlenecks nationwide, seven were in Southern California – including the nation's costliest bottleneck – the I-710 and I-105 interchange. This bottleneck alone caused 1.55 million hours of delay in 2006, increasing freight transportation costs by nearly $130 million. Other Southern California bottlenecks identified by the report (with hours of truck delay) were:

- SR 60 at SR 57 (1,259,700)
- I-405 at I-605 (1,221,500)
- I-110 at I-105 (860,000)

[12] Cambridge Systematics for the Federal Highway Administration, *Estimated Cost of Freight Involved in Freight Bottlenecks*, Nov. 2008.
[13] American Transportation Research Institute, *An Analysis of the Operational Costs of Trucking*, Dec. 2008

- SR 91 at SR 55 (816,700)
- SR 134 at SR 2 (598,700)
- I-10 at I-15 (513,600)

Together, these seven bottlenecks caused trucks more than 6.8 million hours of delay in 2006, at a cost of $571 million. These delays increase shipping costs, which in turn boost the price of housing, retail goods, food and every other product shipped on a truck. The increased costs also weaken the ability of American businesses to compete in the global marketplace. Furthermore, congestion at these bottlenecks cause trucks to burn more fuel, increasing our dependence on foreign sources of oil and producing greater emissions of greenhouse and criteria pollutants.

ATA is in the process of developing a new concept – the Freight Corridors Initiative (FCI) – that is designed to fund highway projects which hold the greatest potential for improving the movement of freight. We hope Congress will consider including this new program in the upcoming authorization of a new surface transportation bill. Most of the money would finance those projects identified as providing congestion relief at bottlenecks on corridors which have the most significant impacts on trucking mobility and on the U.S. economy. While details are still being worked out, we anticipate that money will be distributed to States by the U.S. Department of Transportation based on a proposed project's ability to address congestion at the points of congestion identified by USDOT as a national priority.

A smaller percentage of Freight Corridors Initiative money would be distributed to states that do not receive money for bottleneck relief. This revenue would be available for improvements to the states' Interstate Highway System. While much of the nation's attention has focused primarily on congestion in urban areas, many rural highways have inadequate capacity as well. According to the Federal Highway Administration, by 2020 nearly nine percent of rural highways serving the heaviest freight traffic will experience traffic gridlock for at least part of the day. We are confident that this approach will address immediate and long-term needs on major highway freight corridors.

In order to fund this new program, ATA is willing to support an increase in the federal diesel fuel tax. The revenue generated from this increase should be firewalled from the existing program and dedicated exclusively to the FCI.

ATA urges Congress to consider supporting this critical new initiative during the upcoming debate over authorization of a new surface transportation bill.

TRUCK PARKING SHORTAGES

The most recent national study of the availability of long-term truck parking spaces[14] found that California had the largest parking capacity shortage of any State. Overall, demand exceeded supply by more than two to one, and by more than four to one at public rest areas. This problem is in part due to actions by the State to eliminate or scale back rest areas when budget cuts are made. These actions have real and significant consequences. When drivers cannot find safe and legal places to park, they have to make a difficult choice – keep driving when they are fatigued

[14] Federal Highway Administration, *Study of Adequacy of Parking Facilities*, June 2002.

and/or in violation of their federally required hours-of-service limits – or stop on a ramp, shoulder or other illegal and potentially unsafe location.

ATA urges Congress to continue the SAFETEA-LU truck parking pilot program, with significantly greater resources. The current program's $25 million funding level can only support two projects, including one project on Interstate 5 in California. Unfortunately, California is not unique – when States face budget crises – and almost all States currently do – among the first items cut tends to be rest area funding. The federal government has placed a lot of emphasis on addressing truck driver fatigue in recent years, but all of these efforts are for naught if drivers cannot find a safe and legal place to rest for the night.

TRUCK ACCESS ISSUES

The *Surface Transportation Assistance Act of 1982* (STAA) established, among other things, a requirement that all states must allow trucks with 48 foot or shorter trailers access to a National Network (NN) of federally designated highways. Additionally, states must give these vehicles reasonable access from the NN to terminals and facilities for food, fuel, repairs, and rest. Since 1982, every state has changed its regulations to authorize the use of 53 foot trailers, which have become the industry standard. Unfortunately, federal law has not been updated to reflect the modern reality, and continue to apply only to trailers of 48 feet or less. This is especially problematic in California, where the State places severe restrictions on the ability of trucks with 53 foot trailers to access large portions of its highway system. These restrictions are incompatible with the intent of the STAA to promote interstate commerce and uniformity throughout the continental United States. ATA urges Congress to update the STAA requirements to meet the needs of the current trucking fleet by designating a tractor-semitrailer with a 53 foot trailer as a protected vehicle class.

SOUTHERN CALIFORNIA PORT ISSUES

Activities in California often serve to both initiate and shape state and federal programs and policies throughout the nation. For that reason, the debate and legal action surrounding the adoption of the Ports of Los Angeles and Long Beach Clean Truck Programs (CTP) is of utmost importance to motor carriers, shippers, retailers, other port stakeholders and consumers everywhere who depend on our maritime freight transportation system.

According to port estimates, there were approximately 1,300 motor carriers that regularly served the combined Ports complex prior to the October 1 CTP implementation. Those companies collectively deployed nearly 17,000 trucks that regularly serviced the Ports annually. In addition, a larger number of trucks (as many as 25,000) perform infrequent port drayage operations each year.

The vast majority (85% to 98%) of the trucks that regularly service the Ports are not owned by a motor carrier. The trucks are owned by Independent Owner Operators (IOOs) that contract with the motor carriers for port container transport services. Many ATA members, in fact, use only IOO drivers, and they have no employee drivers. From a national perspective, it is important for Subcommittee members to note that IOOs are routinely responsible throughout the trucking industry for supplying the power unit truck tractors – this is not a situation unique to port drayage. It is also important to note that since passage of the *Motor Carrier Act of 1980*, motor carrier transportation has operated under a deregulated, highly competitive, open-entry business model that includes a significant number of small carriers. According to an ATA statistical analysis of motor carrier data released recently by the U.S. Department of Transportation, the vast majority of motor carriers in the U.S. (87.3%) operate six or fewer trucks and 95.9% of the fleets have 20 or fewer trucks. In addition, the motor carrier's decision to utilize IOOs, employee drivers, or a combination of both, is historically, and should remain, a free market business choice made by motor carriers and drivers, not by federal, state or local officials.

Thus, we believe that the ports' CTP plans to reshape and reregulate port truck transportation to favor resource-based operations utilizing much larger companies which own their trucks (and with employee drivers for Los Angeles) is not only illegal and impractical, but is based on a total lack of knowledge regarding both port and truck transportation business operations throughout the country.

What is most often unfortunately lost in the press coverage surrounding the CTP debate is that ATA's pending litigation discussed below is not aimed at and does not interfere with the Ports' clean air efforts to reduce air pollution from the Port truck fleets through the phased-in ban of older trucks which commenced October 1, 2008. Despite the obvious additional costs that the intermodal motor carrier industry will incur to replace trucks that are otherwise "legal" in the rest of California and all other states, the industry strongly supports the Ports' efforts to reduce truck emissions in the Los Angeles basin. ATA also does not oppose the collection of container fees to finance the truck replacement program and in fact, in a letter to the Federal Maritime Commission's (FMC) Bureau of Enforcement, ATA reiterated its support for allowing the Ports to collect a container fee, whose collection ATA noted was crucial to the Ports' ability to accomplish their environmental objectives. On February 11, the FMC announced that the fee collection could start, and the Ports could commence collections on February 18. As a result, the litigation discussed below is challenging only the illegal, intrusive and unnecessary regulatory structure being created under the Concession Plans.

Although the Ports' mandatory concession plans differ somewhat, both impose numerous regulatory requirements – submission of truck maintenance, safety and parking plans; equipment marking and tracking; financial oversight; routing mandates; periodic reviews and audits, etc. – that will dramatically affect motor carriers' operations at the Ports, impacting price, routes, and services. It is important to note that most of these requirements are already in place through other federal and state government agencies, and will add new freight costs without additional benefits. The Ports have expressly notified motor carriers that the grant of a concession is awarded at the sole discretion of the port program administrator and subject to revocation for violations of concession mandates. In addition, there are no published criteria or standards governing the granting or denial of concessions.

The Port of Los Angeles concession also requires a phased-in ban of independent owner operators (IOO) and their trucks over five years and, by 2012, all motor carrier concessionaires will have to use employee drivers. As a result of the IOO ban, motor carrier concessionaires will have to purchase their own trucks to be used by their now mandatory employee driver work force. According to an economic analysis, the ban will cost more than 1,500 driver and back-office jobs.[15]

As stated above, the trucking industry supports the clean air goals of the Ports' CTPs. The Ports' approved clean truck tariffs, which are in fact the only actual mandates that will produce cleaner trucks (by establishing mandatory truck bans which began October 1 for pre-1989 trucks and ending in 2012 when all port trucks must be 2007 engine compliant), have been and are supported by our motor carrier members. However, we believe and assert in our complaint that the "command and control" Concession Plan mechanisms being mandated by both ports are not needed to support the truck retirement and replacement program and the associated clean air benefits otherwise attributable to the CTPs. Moreover, we firmly believe that these concession programs unlawfully re-regulate the port trucking industry to the detriment of motor carriers, shippers, other port stakeholders and the businesses and consumers that depend on the freight and products that move through America's largest port complex. The additional, duplicative re-regulation of the industry will add unnecessary costs, burdening the system and jeopardizing local jobs.

We are particularly concerned with the Port of Los Angeles' concession requirement that will lead to a complete ban of the use of independent contractor/owner operator drivers in servicing that Port's operations within five years. That requirement, which clearly has nothing to do with the clean air goals of the ports, threatens a well-established trucking industry operational practice that provides efficiencies and the flexibility needed for the trucking industry to effectively serve our customers. Since the two San Pedro ports essentially operate as a single entity, this requirement will effectively impact all carriers serving the ports.

In the lawsuit ATA asserts that the Concession Plans are preempted by federal statute. Specifically, under 49 U.S.C. § 14501(c)(1), a political subdivision of a state "may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier." The ports' Concession Plans clearly are intended to control access into the port markets and will have a major impact on motor carrier rates and services. In addition, the L.A. plan to ban owner-operators and require employee-only/company-owned trucks will greatly exacerbate concession impacts for motor carriers operating in both ports. The ban will add unnecessary costs and result in the elimination of local jobs, with no discernable benefit. The litigation also relies heavily on the United States Supreme Court's recent unanimous ruling interpreting that federal preemption provision (*Rowe v. New Hampshire Motor Transport Ass'n*, 128 S.Ct. 989, 995 (2008). Citing to language in that case, ATA asserts that laws like the port concession plans that substitute "governmental commands for 'competitive market forces' in determining the services that a motor carrier will provide" are and will be preempted.

In the lawsuit, ATA has asked the U.S. District Court for a preliminary injunction against the ports' enforcement of the October 1, 2008 imposed operational requirements of the Concession Plans. On September 5, the court heard oral arguments covering the following key issues:

- Do Concession Plans Fall Within Federal Rates, Routes and Services Preemption Scope?

[15] *San Pedro Bay Ports Clean Air Action Plan: Economic Analysis*. Husing, John E. et. al., Sep. 7, 2007.

- Are the Ports Concession Plans Exempt From Preemption because they are acting as
  -As Market Participants?
  -As Sovereign under the Tidelands Act? or
  - Do their activities fall under the Motor Vehicle Safety Exception to federal preemption?

On September 9, the Court found that:

- The Port CTP plans directly impact motor carrier rates, routes, and services;
- ATA likely would prevail on the Market Participant preemption issue, i.e. federal preemption applies;
- ATA likely would prevail on the Sovereign Tidelands preemption issue, i.e. federal preemption applies; and
- The Ports likely would prevail on the Safety Preemption Exception issue, i.e. federal preemption does not apply. Therefore, no preliminary injunction was granted.

On September 10 ATA filed an appeal with the Ninth Circuit Court of Appeals seeking an emergency injunction. The Court on September 24 denied the Emergency Injunction request and ordered the parties to instead file appeal petitions on an expedited schedule, which were completed on December 17.

Oral arguments on this appeal are scheduled for March 4. Following completion of the oral argument, the Court will consider and render a ruling on whether the District Court erred in its application of the motor vehicle safety exemption to the federal preemption law.

It is important to note that on October 20, the Department of Justice filed an *Amicus* brief supporting ATA's position and specifically advised the Court that:

- Its brief was submitted because Congress has delegated to the U.S. Department of Transportation the authority to implement this federal preemption provision;
- The application of the provision "is a matter of critical concern to the federal government…";
- Broad safety exemption construction made by the District Court would "permit the exception to swallow the rule"; and
- Aspects of the Concession Plans clearly have no relationship to motor vehicle safety and squarely fall within the scope of federal preemption;

Finally, as the Subcommittees review the testimony and consider the clean air and transportation impacts of the Ports' CTP plans, they should also consider that under regulations adopted by the California Air Resources Board (CARB) on December 7, 2007, drayage trucks serving California's ports and intermodal rail yards must also meet clean air objectives mirroring the ports' plan, but with a final goal of requiring all port diesel trucks to meet 2007 standards by December 31, 2013, not 2012 as required under the CTP. Unlike the ports' approach, however, the CARB state program does not attempt to interfere with or change port trucking operations; i.e., there are no employee, concession or operational edicts. The Ports are attempting to layer additional, in many cases duplicative, requirements on carriers serving the Ports, without demonstrating how these requirements will do anything other than to make freight transportation more costly and eliminate local jobs.

CONCLUSIONS

Thank you for giving ATA the opportunity to address freight transportation issues in Southern California. The very serious challenges facing the region are not just local problems or California problems – the freight mobility concerns of this region affect the entire country. Therefore, the federal government has an obligation to provide the leadership and resources necessary to help State and local government agencies to overcome these challenges in partnership with private sector stakeholders.

To summarize, these are ATA's recommendations:

- Shift the federal surface transportation program's mission to focus primarily on freight mobility as a national goal. Create a new Freight Corridors Initiative, funded by an increase in the federal diesel tax, to focus resources on projects designed to address congestion on nationally significant highway freight corridors. Dedicate a portion of the new revenue to Interstate Highway projects in States that do not receive FCI funding.
- Continue the SAFETEA-LU parking pilot program. Increase available funding to address a significant and growing safety problem.
- Ensure interstate highway network access by giving tractor-semitrailers with 53' trailers the access protections afforded by the *Surface Transportation Assistance Act of 1982*, effectively bringing federal regulations in line with

We look forward to working with the Subcommittees to address these issues during authorization of the federal surface transportation bill.

SOUTHERN CALIFORNIA

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Testimony Before the

Transportation & Infrastructure Subcommittee on Highways and Transit Subcommittee on Railroads, Pipelines and Hazardous Materials

Field Hearing-Los Angeles, California, February 20, 2009

"Confronting Freight Challenges in Southern California"

Statement of:

Hasan Ikhrata, Executive Director
Southern California Association of Governments
(SCAG)

Honorable Chairman and Members of the Subcommittee:

Your leadership and interest in hearing testimony from key transportation agencies in Southern California as you embark on the re-authorization of SAFETEA-LU legislation is greatly appreciated. The Southern California Association of Governments (SCAG) appreciates the opportunity to provide testimony before the Subcommittee.

I am focusing my testimony on the regional freight challenges in Southern California, the need for a stronger federal partnership, and potential revenue options for establishing a freight trust fund.

SCAG is a federally designated Metropolitan Planning Organization (MPO). Membership is comprised of over 18 million residents, 187 cities and six counties in Southern California (Los Angeles, Orange, Riverside, San Bernardino, Ventura and Imperial County).

The Regional Council is comprised of 83 elected officials representing 187 cities, six counties, five County Transportation Commissions, Imperial Valley Association of Governments and a Tribal Government representative within Southern California

11.19.08

These 187 communities have diverse transportation challenges and priorities; however, SCAG officials have worked diligently to develop a regional collaboration on a number of regional transportation principles concerning the freight challenges we face.

A continued federal transportation partnership is essential to the health, mobility and economic vitality of our communities. My partner agencies here today on the panel will provide testimony regarding suggestions concerning specific programs within SAFETEA-LU for your deliberation on re-authorization legislation.

There needs to be a defined federal role for goods movement infrastructure and establishment of a freight trust fund.

Collectively, the Southern California trade corridor hosts the nation's largest port complex, the busiest intermodal rail hub in the nation and the busiest border crossing between the United States and Mexico. Clearly the region serves a vital role as the nation's premier gateway for trade. These huge volumes of international goods cross our ports and borders and become part of the domestic supply chain. International trade brings much-needed jobs and other economic benefits to our region as well as to the rest of the nation (see attached slides).

There is no dedicated federal funding source for goods movement infrastructure investment in corridors of national interest. The concentrated movement of goods to the rest of the nation also brings serious local challenges.

- Estimates of health impacts to the Southern California region cite 1,200 premature deaths per year due to the effects of pollution generated by the goods movement industry. Equally troubling, health experts have estimated that 80% of Californians who are exposed to dangerous levels of diesel emissions reside in Southern California.

- Modeling for the region forecasts that truck vehicle miles of travel (VMT) will increase by over 110% by 2030, growing from a level of 22.4 million VMT in 2000 to 48.4 million VMT by 2030. Some freeways in the region currently handle up to 40,000 trucks per day, and it is projected that these freeways may have to handle up to

80,000 trucks per day by 2025. As a result of the growth in passenger and truck traffic, the highway system's performance will deteriorate significantly. In fact, by 2030 passenger and freight traffic will experience 5.4 million hours of delay daily. Furthermore, freight rail volume is projected to increase from 112 trains per day in 2000 to 250 trains per day in 2025 along the BNSF and Union Pacific mainline rail network. Taken together, this results in a combined gridlock of our freeway and freight system.

- Over 600,000 jobs in California are supported by trade traffic flowing in and out of Southern California's ports. According to the Los Angeles County Economic Development Corporation, this employment figure will increase by more than 1,000,000 jobs by 2030. Continuing regional economic viability is essential and should not be overlooked in solving the complex national freight goods movement federal infrastructure investments.

Recognizing the need for a regional approach to this issue, Southern California agencies have jointly funded, and approved, a comprehensive goods movement analysis looking at the Southern California trade corridor impacts and benefits (Executive Summary attached). The Multi-County Goods Movement Action Plan Report (MCGMAP) outlines a $50 billion need for an increased federal investment to effectively and efficiently address the overwhelming goods movement challenges facing the 21 million Southern Californians who live and work in the Southern California region represented by our transportation and planning agencies.

The recently completed MCGMAP report, which our agencies (Caltrans, Los Angeles County Metropolitan Transportation Authority, Orange County Transportation Authority, Riverside County Transportation Commission, San Bernardino Associated Governments, Southern California Association of Governments, Ventura County Transportation Commission, and San Diego Association of Governments) jointly prepared, documents a regional solution, and establishes priorities with documentation of need for over $50 billion over the next 25 years to ensure continued economic growth, enhanced mobility and improved air quality.

The above report recommended critically needed short term, intermediate and long term improvements necessary to ensure the flow of goods to the rest of the nation while mitigating regional and community impacts. The report also recommends funding strategies necessary to successfully ensure a strong and reliable goods movement system.

For more detail on national impacts and benefits, this report may be at: **www.metro.net/projects_studies/mcgmap/action_plan.htm**.

Local Efforts Have Not Been Sufficient for Mitigation of Goods Movement Impacts and an Increased Federal Partnership is Needed-To support both the need for mitigation and to improve essential goods movement infrastructure, California has taken independent steps towards dealing with the freight issues it faces.

The Proposition 1B bond issue was strongly supported by California voters in November 2006. In particular, a portion of Proposition 1B, the Trade Corridor Improvement Fund (TCIF) dedicated $2 billion for highway, freight rail, seaport, airport, and border access infrastructure improvements along corridors that have a high volume of freight movement. Another $1 billion was allocated to address air quality and other environmental impacts from goods movement. This represents a small but significant step towards increased resources necessary to improve our infrastructure and reduce negative environmental and congestion impacts to our communities.

Principles For Establishment of Freight Trust Fund- SCAG along with the other key agencies testifying here today as well as other national corridors in Washington, Mississippi, Chicago, Florida, Pennsylvania, New York, and New Jersey are active participants in the Coalition for America's Gateways and Trade Corridors (CAGTC). Our primary mission is to work with your Subcommittee regarding potential funding options of a freight trust fund.

Critical to any effective solution to the goods movement problem is a federal freight policy with the establishment of a dedicated federal fund, such as a Freight Trust Fund (FTF) or similar *dedicated* account, whose revenues are predictable, sustained, firewalled from other uses, and committed to infrastructure that enhances the movement of goods.

The Coalition continues to refine suggested revenue options on how such a fund could be implemented, I have identified below the principles that should drive decisions about the FTF, some thoughts as to how funds might best be used, and some suggestions about the potential sources of revenues.

The FTF should be comprised of existing and new revenue sources. In practice, the FTF should be established either as a separate entity or as a dedicated, firewalled freight account within the HTF to collect fees, retain unexpended balances and liquidate annual appropriations, in order to give assurance to those who pay into the fund that it will be fully used for the *designated* purposes. While some of the traditional Highway Trust Fund sources might be allocated, additional monies could come from beneficiaries of freight infrastructure improvement and be based on the following principles:

1. The price of goods should support and internalize some portion of the cost of expanding related infrastructure, such that growth in demand for moving goods delivers proportional funding for related infrastructure improvement.

2. All potential funding mechanisms and sources should be considered and fees assessed on user benefit.

3. FTF revenue sources should be predictable, dedicated and sustained.

4. The FTF should be financed from a wide variety of user fees, so that no one-user group is disproportionately affected, with the recognition that the consumer is the ultimate beneficiary.

5. Funds should be available to support projects of various size and scope, but with special priority for projects of national significance.

6. Funds should be available to support multi-jurisdictional and multi-state projects selected on the basis of their contribution to national freight efficiency.

7. The current federal gasoline tax should continue to be dedicated to the traditional core programs; however, a small percentage of any future increase in the gas tax could be dedicated to the FTF, reflecting the real benefit to the driving public from freight projects that relieve highway congestion. Certainly, the federal fuel taxes should not be reduced.

8. Fund distribution could be based on objective, merit-based criteria, with higher-cost projects subject to more stringent evaluation than lower-cost efforts.

9. Long-term funding should be made available in a manner similar to the current Transit Full Funding Grant Agreements to ensure that once a project is approved, funds will flow through to completion.

Overall, FTF funds for support of major freight investments should be distributed in a manner consistent with the process and procedures detailed by the Congress in Section 1301 of SAFETEA-LU for Projects of National and Regional Significance (PNRS). Assuming Congress keeps the PNRS program in the next reauthorization and does not earmark the funds, the PNRS criteria, currently the subject of an administrative rulemaking could serve as a formula for discretionary allocation.

<u>**FTF Potential Funding Options**</u>- Contributions to the FTF could come from a variety of independent new sources to supplement existing revenues in a way that will fairly share the burden of cost for system development and maintenance among users/ beneficiaries commensurate with their use of facilities. All users of the freight transportation system should be required to contribute to the FTF. Revenue streams could also be as diverse as practicable to ensure FTF income is resistant to economic cycles and will grow to keep pace with demand for infrastructure and inflation.

At least four types of revenue sources could be considered to provide the equitable, diverse and stable revenue stream necessary:

1. **Motor fuel user fees** – gasoline, diesel, alternatives including gasohol, biofuels, and railroad fuels;

2. **Direct vehicle fees**- <u>new</u> registration, use and sales;

3. **Indirect user fees**- dedicated national sales taxes and proxies based on cargo weight or value such as bill of lading, cargo facility charges or freight consumption fees; customs fees are generated by trade and applying a portion of these monies to support the infrastructure necessary to conduct that trade is a logical and fair use; and,

4. **Longer term fees**-established to offset reductions in fuel taxes as consumption moves away from gasoline and diesel, including carbon emission fees, weight distance taxes of all surface-based vehicles and other vehicle mileage taxes.

Looking beyond the financing mechanisms immediately available, additional sources made possible by the phasing in of new technologies into America's transportation fleet may offer long-term solutions. Chief among these are ton-based fees and ton-mile taxes, which have the added benefit of improved cost allocation.

These new revenue sources could effectively measure "freight consumption" in small increments and be incorporated in the consumer price of goods, reducing public opposition while concurrently removing modal biases and state-by-state equity issues.

At the state and local levels, federal policies should provide transportation planners with the largest toolbox of financing options possible to enable them to move freight projects forward as quickly and efficiently as possible. This is vital to support the development of local projects and connectors, in addition to the necessity of raising funds to match federal FTF monies.

Among the tools federal policy could further enable are: tolling of new freight facilities, innovative financing, private investment and public-private partnerships. Creative solutions are needed to increase capital sources. In addition, general fund allocations are an important tool at the state and local levels and federal FTF funding should be structured to incentivize and reward state and local investment.

Conclusion

Sustainable goods movement lies at the center of the Nation's and Southern California's quality of life, not only for the availability of consumer products, but because of transportation's impact on land use, energy consumption and environmental quality. Improvements to freight infrastructure can result in reduced congestion, better air quality, and less time and fuel wasted.

The anticipated acceleration of trade, combined with domestic growth, has created millions of new job opportunities and a higher standard of living for Americans. But these benefits will last only if we are able to keep goods moving.

It is suggested that the Subcommittee consider a more proactive federal role in:

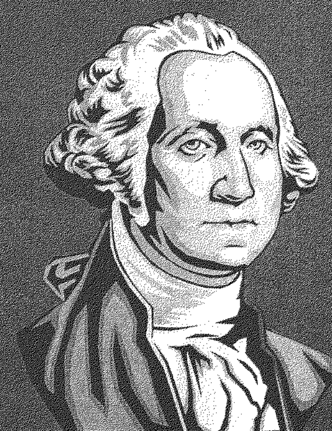
Establishing a federal dedicated freight trust fund to assist with implementation of a national freight program.

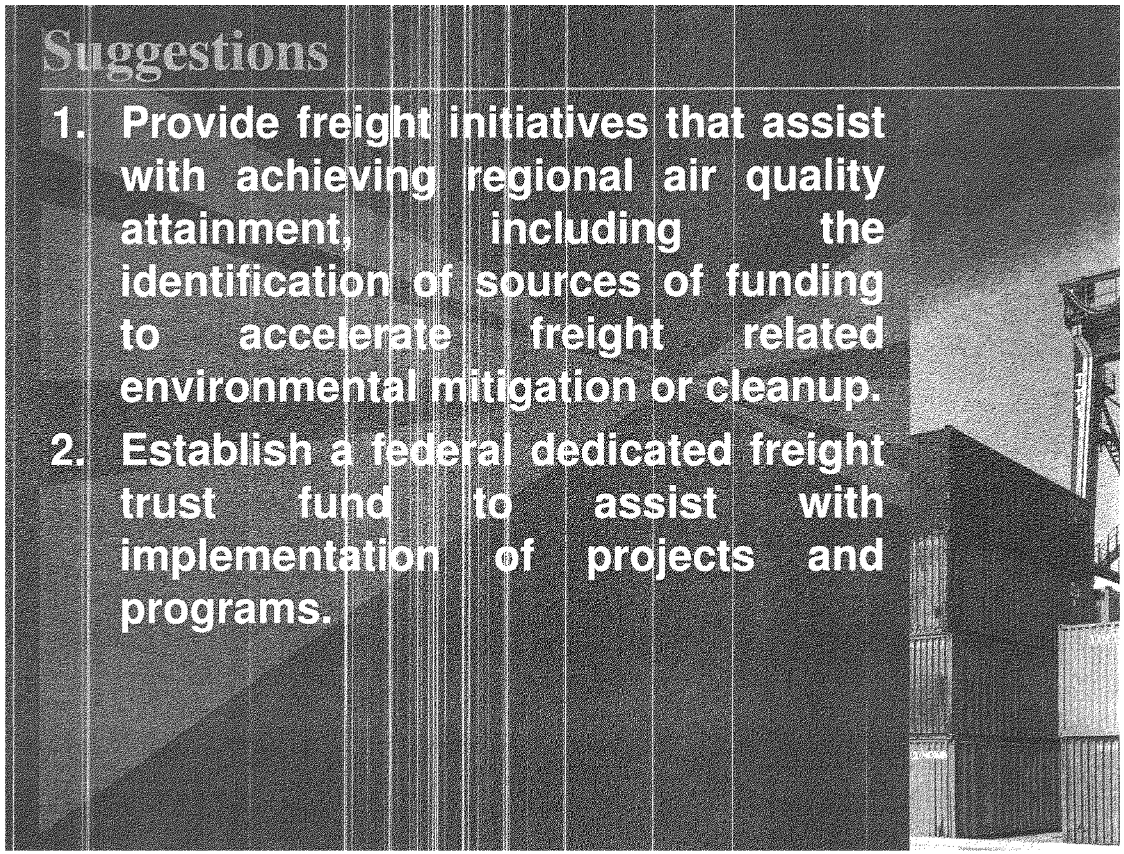
As the Subcommittee begins to draft the transportation re-authorization bill, SCAG is committed to working with members of the Subcommittee and staff in providing additional information concerning goods movement economic, employment, health, air pollution, and congestion reduction related issues.

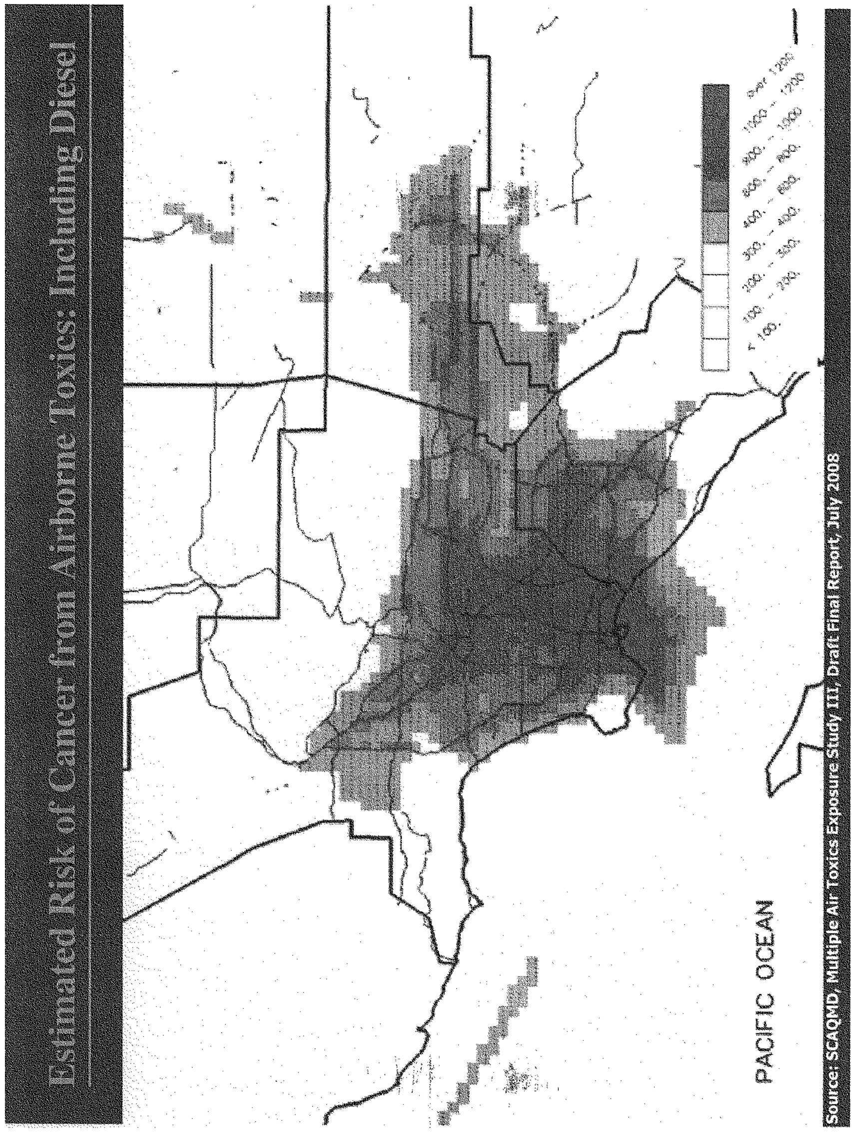
Thank you for the opportunity to submit written comments on this federal transportation matter so important to our 168 cities' economic viability, health and mobility!

Thank You!

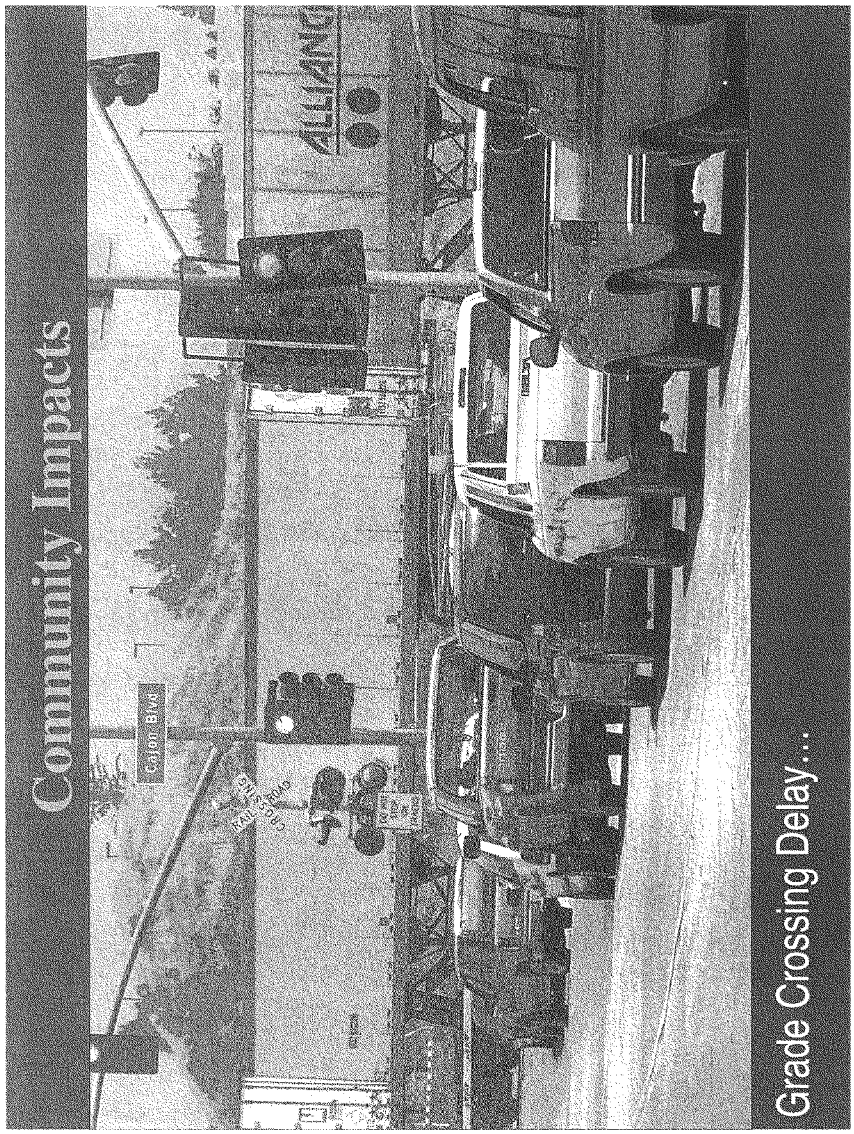
SCAG looks forward to
working with
the Committee & staff
on development
of this legislation!



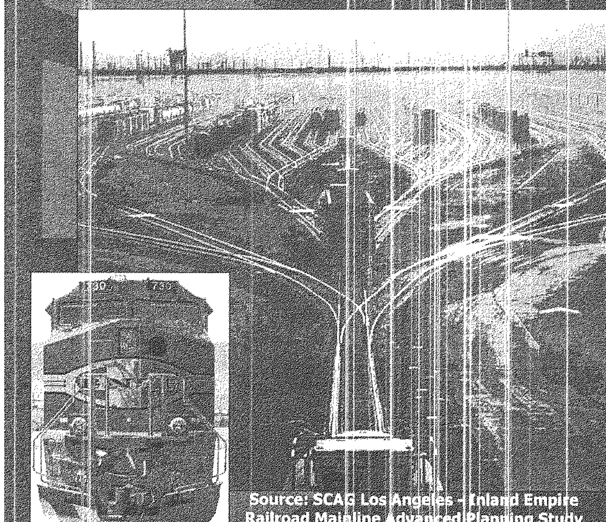

Suggestions
1. Provide freight initiatives that assist with achieving regional air quality attainment, including the identification of sources of funding to accelerate freight related environmental mitigation or cleanup.
2. Establish a federal dedicated freight trust fund to assist with implementation of projects and programs.


Estimated Risk of Cancer from Airborne Toxics: Including Diesel
over 1200
1000 - 1200
800 - 1000
600 - 800
400 - 600
300 - 400
200 - 300
100 - 200
< 100
PACIFIC OCEAN
Source: SCAQMD, Multiple Air Toxics Exposure Study III, Draft Final Report, July 2008


Air Quality & Climate Change Challenges
Source: Caltrans District 7

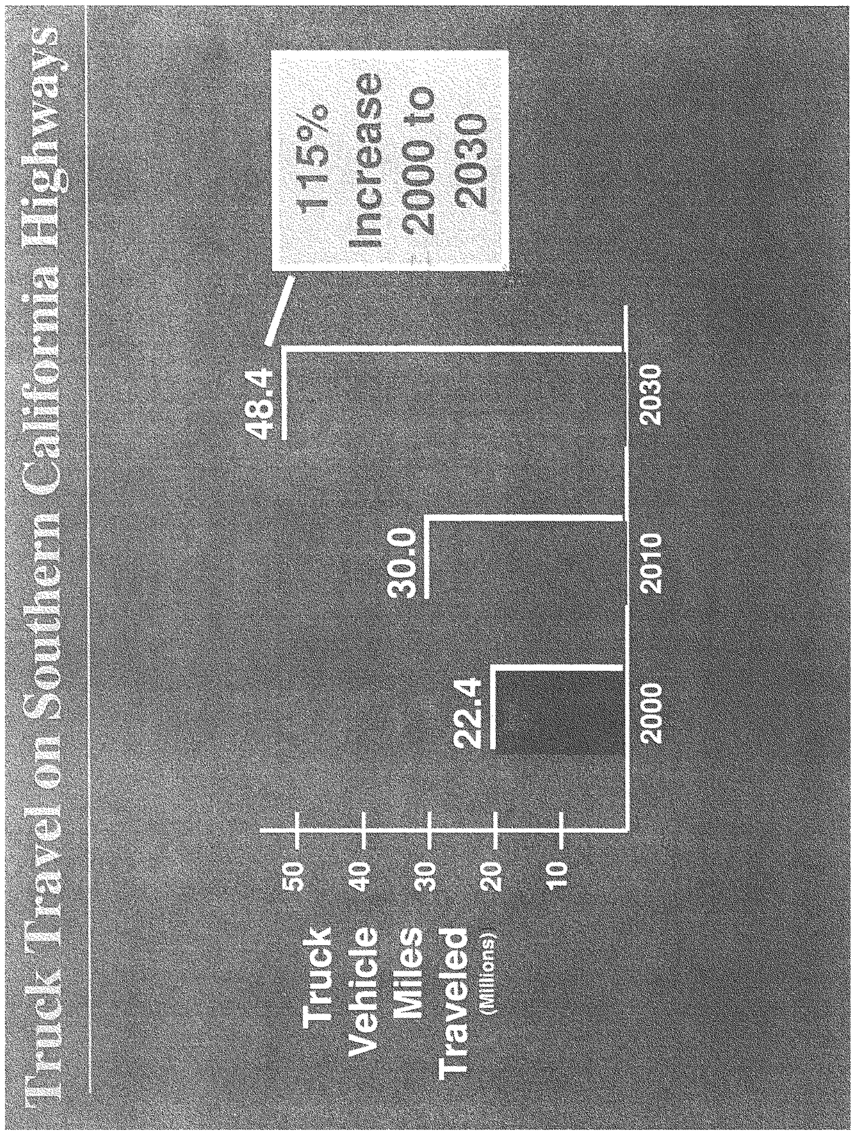

Community Impacts
Cajon Blvd
RAIL ROAD CROSSING
Grade Crossing Delay…

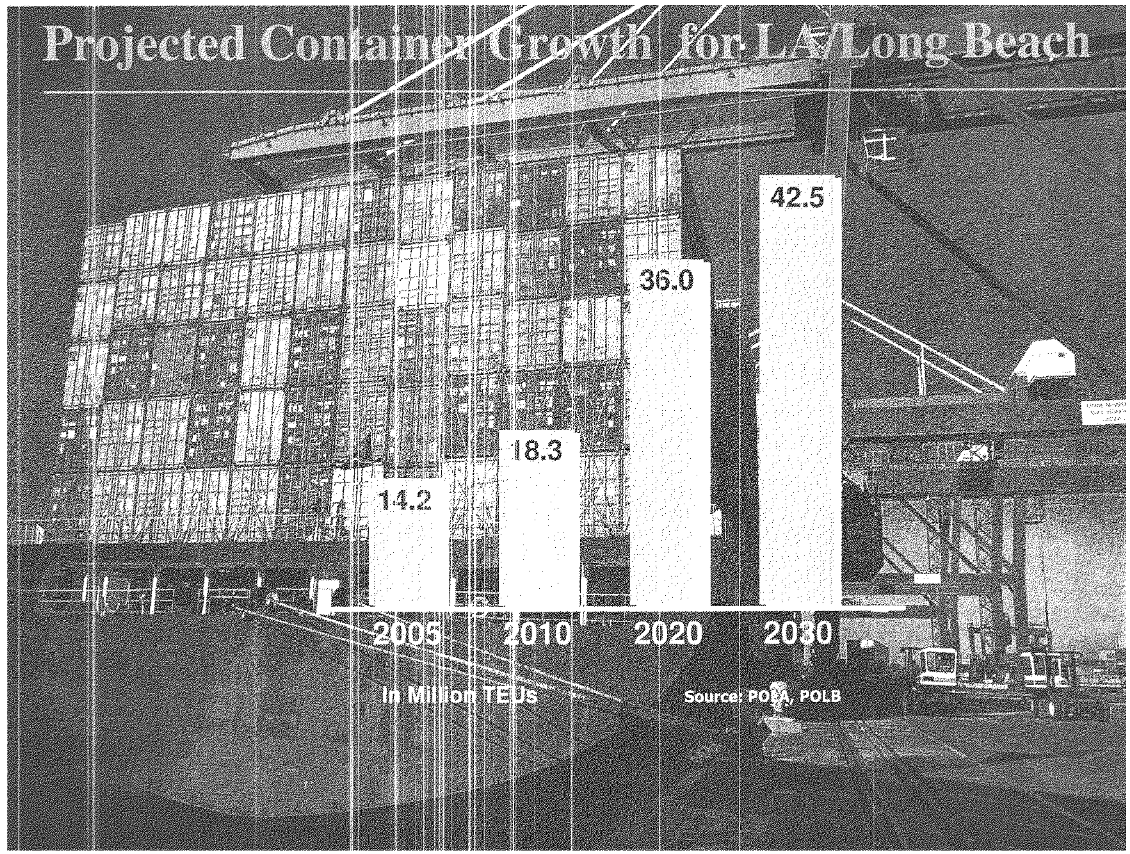
Rail Congestion

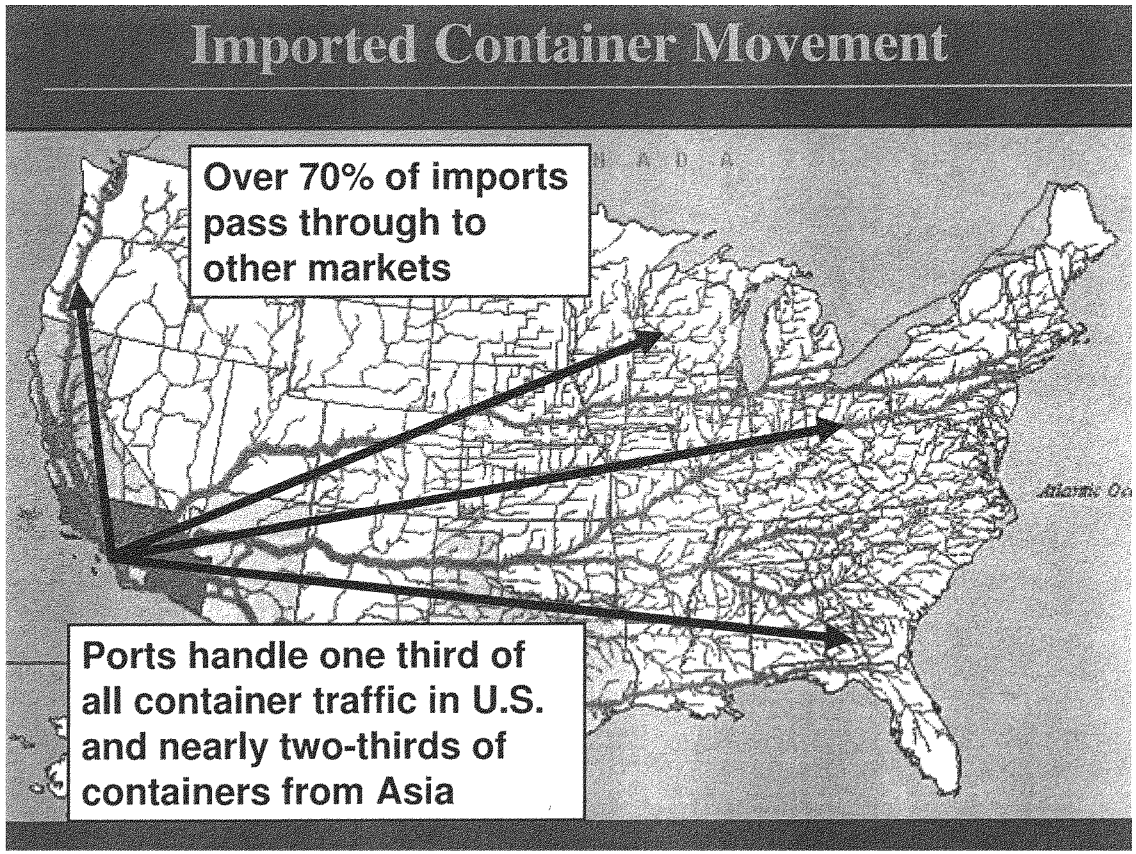


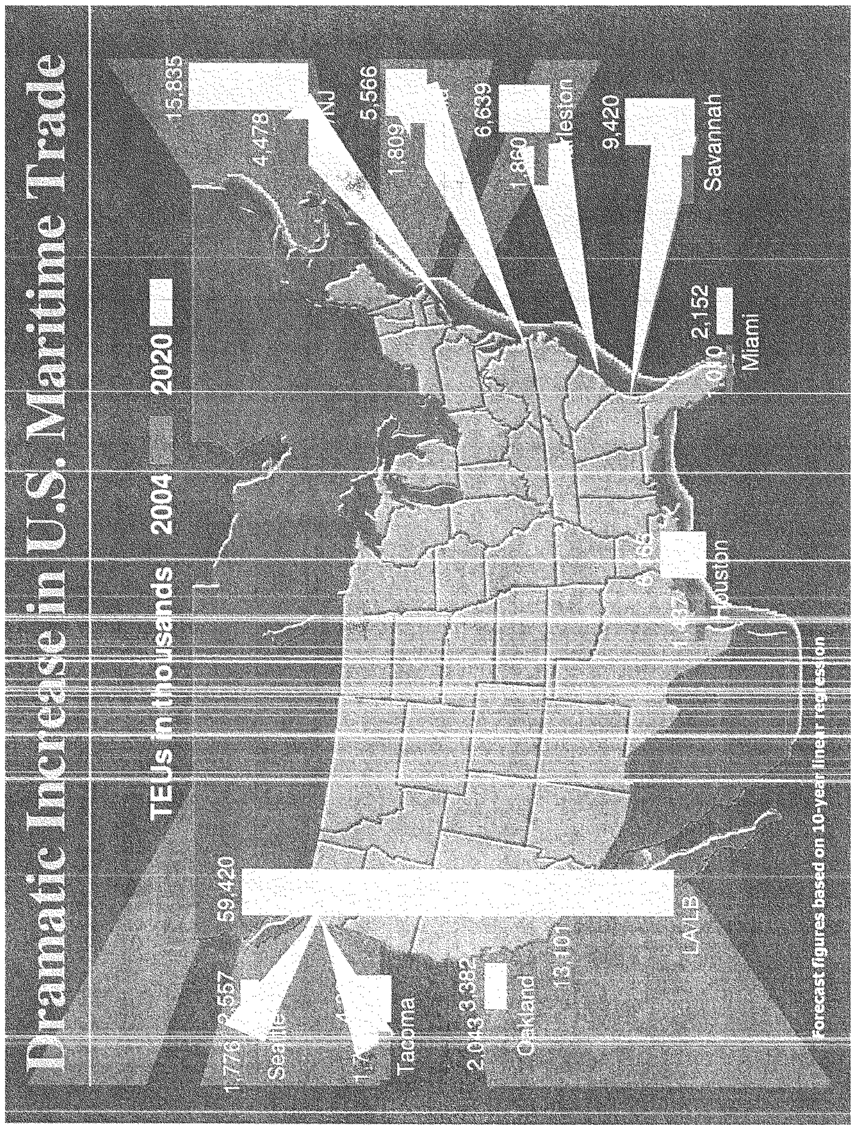
Source: SCAG Los Angeles - Inland Empire Railroad Mainline Advanced Planning Study

Year	Freight Trains per Day
2000	112
2010	165
2025	250
	123% Increase


Truck Travel on Southern California Highways
Truck Vehicle Miles Traveled
(Millions)
50
40
30
20
10
22.4
30.0
48.4
2000
2010
2030
115% Increase 2000 to 2030


Projected Container Growth for LA/Long Beach
14.2
18.3
36.0
42.5
2005
2010
2020
2030
In Million TEUs
Source: POLA, POLB


Imported Container Movement
Over 70% of imports pass through to other markets
Ports handle one third of all container traffic in U.S. and nearly two-thirds of containers from Asia


Dramatic Increase in U.S. Maritime Trade
TEUs in thousands
2004
2020
1,776
2,557
Seattle
Tacoma
2,043
3,382
Oakland
13,101
59,420
LA/LB
6,165
1,437
Houston
1,010
2,152
Miami
15,835
4,478
5,566
1,809
6,639
1,860
9,420
Savannah
Forecast figures based on 10-year linear regression

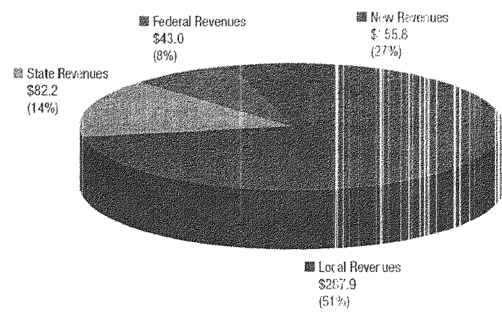

Goods Movement in Southern California
Significant job benefits outweighed by significant challenges to local communities, including:
• Traffic congestion impairs local goods to market and commuters to employment
• 50% air pollution in Southern California related to goods movement (trucks, diesels, ships)

SCAG 2008 Regional Transportation Plan

- Invest over $531.5 billion in the region's transportation infrastructure
- Fund thousands of regionally significant transportation improvements
- Reduce over 2 million person hours of delay per year
- Reduce average daily delay per person by 5 minutes
- Increase average daily transit passenger miles by 1.9 million
- Increase annual transit trips by 27 million
- Add over 150,000 jobs per year
- Return $2.21 in benefits for every $1 invested

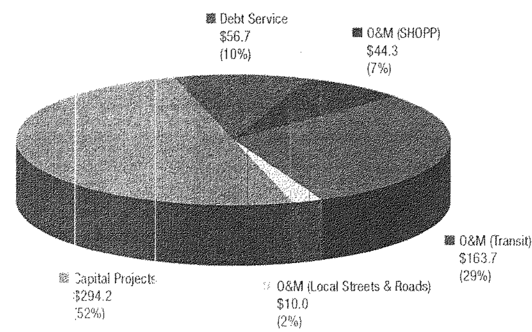
Revenues

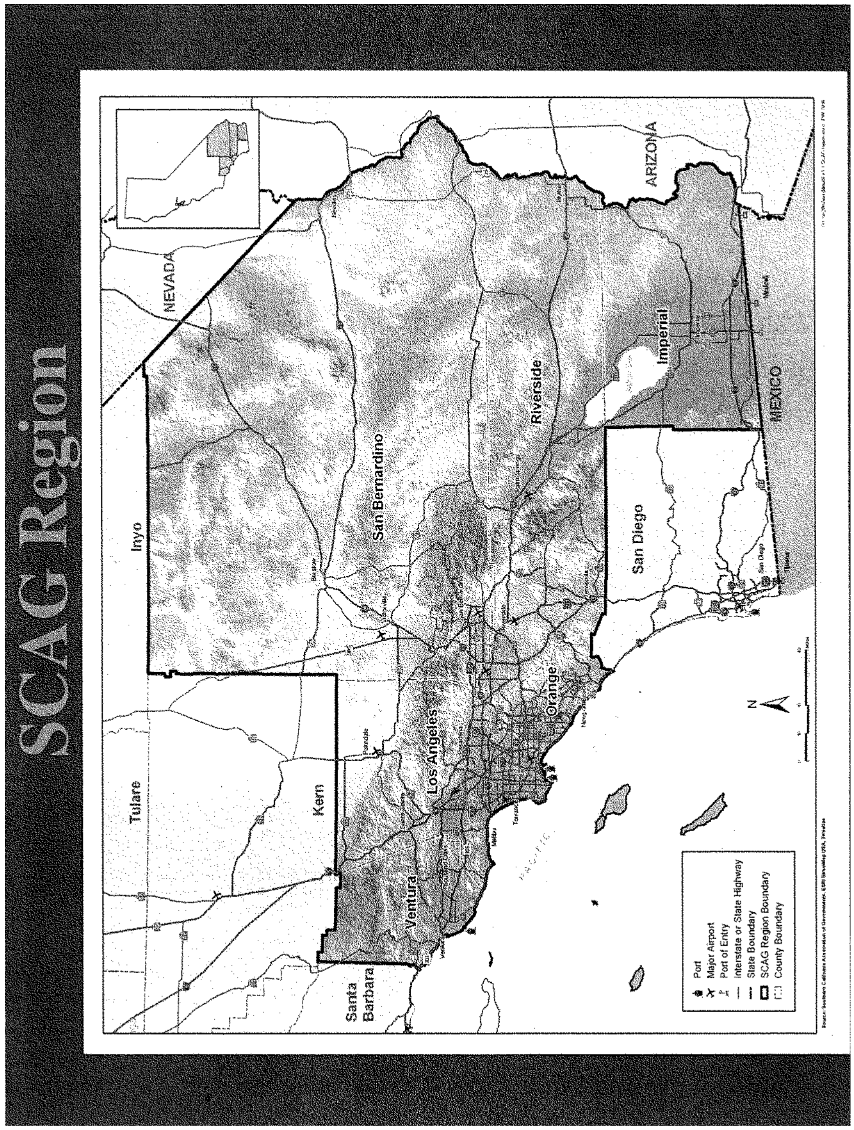
$568.9 BILLION, FY2007-2036



Expenditures

$568.9 BILLION, FY2007-2036




SCAG Region
Tulare
Kern
Inyo
NEVADA
San Bernardino
Santa Barbara
Ventura
Los Angeles
Orange
Riverside
San Diego
Imperial
ARIZONA
MEXICO
Port
Major Airport
Port of Entry
Interstate or State Highway
State Boundary
SCAG Region Boundary
County Boundary

T & I Freight Subcommittee Field Hearing on Freight Challenges-Feb 20 '09

Hasan Ikhrata
Executive Director

SOUTHERN CALIFORNIA
ASSOCIATION of GOVERNMENTS

SOUTHERN CALIFORNIA
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Transportation
Mike Ten, South Pasadena

March 4, 2009

Honorable Peter A. DeFazio
U. S. House of Representatives
Chairman, House Transportation and Infrastructure
Subcommittee on Highways and Transit
B-370A RHOB
Washington, DC 20515

Dear Chairman DeFazio:

RE: Supplemental SCAG Testimony-February 20th LA Field Hearing

Thank you for inviting SCAG to testify before the February 20, 2009 joint field hearing of the Committee on Transportation and Infrastructure's Subcommittee on Highways and Transit and Subcommittee on Railroads, Pipelines, and Hazardous Materials. The hearing was aptly titled and the testimony certainly provided the Subcommittee with an understanding of the freight challenges in Southern California. It also provided an important forum for discussion of the regional impacts of goods movement. I appreciated the opportunity to join several of my regional partners in discussing the freight challenges facing our communities along the Southern California trade corridor.

As I mentioned in my testimony, the Southern California region bears a higher national proportion of the health/air quality impact of moving goods to and from the ports of the San Pedro Bay through inland ports to the rest of the country. The public health impact is sobering, with premature death on the rise, and an increased risk of cancer, respiratory illnesses and heart disease.

During the question period, I referenced a 2006 health impact study by the California Air Resources Board (ARB), which found goods movement to be "the dominant contributor to transportation emissions in the state," with air pollution from international trade and goods movement being "a major public health concern." The report estimates the aggregate health impact to be approximately $200 billion for the 15-year period between 2005 and 2020. I fully agree with the study that reducing these health impacts as quickly as possible is essential for the health impacts of our 19 million residents. I have attached the Executive Summary of the ARB's "Emission Reduction Plan for Ports and Goods Movement in California" for your information. The full report is available at:
http://www.arb.ca.gov/planning/gmerp/march21plan/march22_plan.pdf.

There was also a healthy discussion regarding the facts related to the impacts of container fee(s) and potential for diversion to other ports. That healthy discussion led to the discussion of "tipping point" container fee diversion. I referenced in my testimony an independent analysis SCAG had conducted by University of California Berkeley professor, Dr. Robert C. Leachman. The 2005 Port and Modal Elasticity Study analyzes the elasticity of port demands to determine what levels of fees would induce traffic diversion to other ports or induce shifts in modal shares. While the study concluded that import volume is elastic with respect to container fees, it found that "import volume is much more elastic with respect to congestion than with respect to container fees." It further determined that "without congestion relief, in the long run even a small container fee would drive some traffic away from the San Pedro Ports." The study found that "a container fee in the range of $190 - $200 per FEU (forty-foot equivalent unit) is relevant for the Congestion Relief Scenario." This amount applied to imports over 30 years would fund some $20 billion in improvements to port access infrastructure. In addition, there was differing testimony as to what constituted the baseline when looking at a $200 fee. Those assumptions are clarified in the report and support my testimony. I have attached the Executive Summary of the study for your review. The full report is available at: http://www.scag.ca.gov/goodsmove/pdf/FinalElasticityReport0905.pdf.

Your Subcommittee has seen the current job and tax benefit related goods movement information nationwide to warrant a defined federal partnership. Our 188 cities continue to recommend that there should be a strong federal partnerhip role for freight/goods movement programs. Businesses in our cities have trouble now getting goods-to-market locally (due to current congestion not future congestion). They experience and see the documentation that the current port congestion is unhealthful for their children. They believe that those impacts should be addressed/mitigated now and the ports/shippers should participate in a portion of those costs (similarly like the gas tax). They do not buy the argument that mitigation is based upon future additional port container growth (200% growth vs. 300% growth is irrelevant). This is why SCAG continues to believe that addressing goods movement congestion and mitigation is one of our region's top priorities. Your committee's leadership in establishing a dedicated firewalled freight trust fund are important cornerstone programs in the surface transportation reauthorization legislation.

SCAG appreciates your leadership on this critical issue as you move forward with the upcoming federal surface transportation authorization bill. SCAG and its regional partners can be a resource to you and your staff. Please do not hesitate to contact me at 213/236-1944 should you have any questions or need additional information.

Sincerely,

Hasan Ikhrata
Executive Director
Southern California Association of Governments

CC: Committee Members

Attachments: Executive Summary of SCAG 2005 Container Fee Diversion Study
Executive Summary of ARB Emission Reductions for Ports and Goods Movement in California

PROPOSED

Emission Reduction Plan for Ports and Goods Movement in California

Release Date: March 21, 2006
Board Consideration: April 20-21, 2006

California Environmental Protection Agency
Air Resources Board

Executive Summary

Air pollution from international trade and all goods movement in California is a major public health concern at both regional and community levels. These activities are a key contributor to the State's economic vitality, but this prosperity comes at a price. Goods movement is now the dominant contributor to transportation emissions in the State. The staff of the Air Resources Board (ARB or Board) has developed this proposed plan to identify and initiate specific actions necessary to reduce these emissions and protect public health.

This plan updates our December 2005 draft plan in several important ways. Most significantly, the plan now includes domestic as well as international goods movement, the strategies would meet the 85% diesel particulate matter (PM) risk reduction target, the port truck strategy has been further developed, and the health analysis is updated. The impacts of the expanded scope and refined analyses are summarized in the "What's New" section of the plan and reflected throughout the document.

The emission reduction plan is part of the broader Goods Movement Action Plan being jointly carried out by the California Environmental Protection Agency (Cal/EPA) and the Business, Transportation & Housing Agency (BT&H). Cal/EPA and BT&H's Phase 1 Action Plan released in September 2005 highlighted the air pollution impacts of goods movement and the urgent need to mitigate localized health risks in affected communities. The Phase I Action plan established four specific goals for addressing this problem: reduce emissions to 2001 levels by 2010; continue reducing emissions until attainment of applicable standards is achieved; reduce diesel-related health risks 85% by 2020; and ensure sufficient localized risk reduction in each affected community. The draft Phase II Action Plan (February 2006) retained these goals and explicitly references this plan as a key component.

Successful implementation of the ARB emission reduction plan will depend upon actions at all levels of government and partnership with the private sector. No single entity can solve this problem in isolation. The basic strategies to reduce emissions include regulatory actions, incentive programs, lease agreements, careful land use decisions and voluntary actions. The measures address all significant emission sources involved in international and domestic goods movement including trucks, locomotives, marine vessels, harbor craft, and cargo handling equipment.

Since ARB staff released the draft *Emission Reduction Plan for Ports and International Goods Movement* on December 1, 2005, we have held community meetings, sought scientific peer review of its health risk assessment methodology and conclusions, and reviewed public comments from the general public, affected industries, the Cal/EPA and BT&H Goods Movement Action Plan work groups, local air districts and other stakeholders. ARB's Governing Board will consider approval of this proposed plan at a public meeting on April 20-21, 2006 in Long Beach, California.

Specific actions to reduce goods movement emissions are already underway. Rules for sources under ARB's direct regulatory authority have been adopted and more are on the way. Likewise, the U.S. Environmental Protection Agency (U.S. EPA) is working on national regulations affecting marine vessels, locomotives and harbor craft, scheduled for promulgation this year. Together, ARB staff, U.S. EPA staff and other state representatives are exploring a potential "Sulfur Emission Control Area" (SECA) designation for parts of the U.S. coastline, which would require all visiting vessels to use lower sulfur fuels. A significant amount of existing incentive funds has been applied to goods movement emission sources and ARB has prioritized continued funding on this source of statewide significance. Finally, several local entities are pursuing elements of this emission reduction plan through their own ordinances, regulations, lease agreements, environmental mitigation requirements, and voluntary efforts. Staff expects all of those activities to continue.

Public Health Assessment

As part of the emission reduction plan, ARB staff estimated the public health impacts of the goods movement system in California. Health impacts of pollutants commonly associated with emissions from goods movement include premature death, cancer risk, respiratory illnesses, and increased risk of heart disease. Particulate matter, primarily from diesel engines, and gases that form ozone and particulate matter in the atmosphere, are key pollutants associated with these health effects. The large body of scientific research on these pollutants forms the basis for air quality standards and risk assessments used in ARB programs.

In the draft plan, ARB staff estimated that emissions from current (2005) ports and international goods movement activities result in approximately 750 premature deaths per year. With the addition of emissions from domestic goods movement, the new estimate of premature deaths for *all* goods movement is 2,400 annually, mostly from particulate pollution. With implementation of the plan, an estimated 820 premature deaths would be avoided in 2020 compared to 500 in the draft plan

Since many communities in California exceed State standards by a large margin, the estimate of premature deaths remaining after plan implementation is still very significant. However, achieving the emission reduction goals of this plan would be a major milestone of progress towards meeting California's stringent State standards. Meeting the 85% risk reduction target for diesel particulates would reduce health risk substantially in the communities most impacted by diesel particulate pollution.

The economic valuation of these health effects is substantial. For example, the standard value of a life ended prematurely is $7.9 million today, rising to $8.6 million by 2020. For the 15-year period between 2005 and 2020, staff estimates an aggregate health impact equivalent to approximately $200 billion in present value dollars. Reducing these health impacts as quickly as possible is essential.

Emission Inventory

The emissions associated with ports and all goods movement are categorized by source and shown in Table 1 for 2001 and 2020. This plan evaluates the following pollutants: diesel particulate matter (diesel PM), nitrogen oxides (NOx), reactive organic gases (ROG), and sulfur oxides (SOx). For each category, staff estimated 2001 "baseline" emissions, current (2005) levels and future forecasts for 2010, 2015 and 2020. The future forecasts include the benefits of existing requirements and assumed growth rates. Without further action, ship emissions will increase through 2010 and beyond, making this the single most challenging category to address. Truck, rail, cargo handling and harbor craft emissions are expected to decrease continuously from current levels, but not at a rate fast enough to meet public health goals.

Table 1
2001 and 2020 Statewide Emissions
from Ports and Goods Movement
(tons per day)

Source	Diesel PM		NOx		ROG		SOx	
	2001	2020	2001	2020	2001	2020	2001	2020
Ships	7.8	23.3	95	254	2	7	60	180
Harbor Craft	3.8	1.8	75	39	8	4	<1	<1
Cargo Handling Equipment	0.8	0.2	21	6	3	1	<1	<1
Trucks	37.7	6.2	655	255	56	23	5	1
Transport Refrigeration Units	2.5	0.1	22	28	13	4	<1	<1
Locomotives	4.7	4.5	203	139	12	12	8	<1
Total	**57.3**	**36.1**	**1071**	**721**	**94**	**51**	**74**	**181**

The ship inventory (baseline and growth forecast) tracks with the June 2005 Port of Los Angeles report, adjusted to include all other ports in California. The emission inventory includes all ship emissions within 24 nautical miles of shore. Off-shore emissions are most important from the standpoint of regional ozone and fine particulate matter (PM2.5) levels. Dockside emissions are especially important in terms of health risk to nearby communities. Ship emissions estimates for 2020 have slightly increased compared to the draft plan.

Emission estimates and growth factors were calculated separately for harbor craft (tug boats, ferries, fishing boats, other vessels) and cargo handling equipment. The harbor craft inventory has been revised downward since the draft plan to include only the emissions within 24 nautical miles of the California coast and to better reflect fleet turnover to cleaner engines under existing emission standards.

With the expanded scope of the plan, the most significant emission inventory changes are for trucks and locomotives. Adding the domestic component and incorporating the latest testing data increased truck emissions by three to ten-fold (depending on the pollutant and year) compared to the draft plan. Nearly all goods are moved by truck at some point, whether imported through the ports, from other states, Mexico, or Canada, whether generated and consumed within California, or whether generated and exported from California. Locomotive emissions are also significant and growing. Including all rail trips in this plan increased locomotive emissions by a factor of two to three from the draft plan. In addition to statewide emissions estimates, ARB staff has included regional goods movement emissions analyses for South Coast, San Francisco Bay Area, San Joaquin Valley, San Diego, and Sacramento (see Appendix B – Regional Analyses).

<u>Emission Reduction Targets</u>

As noted above, the Phase I and II Goods Movement Action Plans include goals to reduce goods movement-related emissions over time. This plan defines several additional targets for each emission source category, based on staff's assessment of technological feasibility and probable timing. In every case, the emission reduction targets are inclusive of anticipated growth. When implemented, they will result in a net *decrease* in emissions.

This plan also anticipates what the potential attainment needs of the South Coast air basin will be with respect to the national 8-hour ozone and PM2.5 standards. For ports and international goods movement sources, the plan seeks to reduce NOx emissions by 30% in 2015 beyond current control levels, and an additional 50% beyond current control levels in 2020. These NOx targets are based on very preliminary "carrying capacity" estimates that will be refined through modeling as part of the upcoming State Implementation Plan (SIP) process. We did not revise this target with the inclusion of domestic goods movement. The goal in the draft plan was intended to be a preliminary step in the attainment planning process. Once the South Coast region has an ozone attainment target and firm attainment date, the goods movement target can be revisited.

The plan now explicitly recognizes the need for statewide application of the plan strategies, especially in the San Joaquin Valley. A qualitative goal has been added to reflect the need for 2015 and 2020 NOx reductions to aid in attainment of federal and State air quality standards. No additional regional targets have been added, but the plan specifies the anticipated reductions from goods movement emission sources in each region. During SIP preparation, final regional reduction targets will be developed, all source categories will be more closely assessed, and a complete list of SIP measures will be proposed taking into account technological feasibility and cost. This will occur through a public process involving ARB, U.S. EPA, local air districts, metropolitan planning organizations and all other stakeholders. New SIPs for ozone and PM2.5 are due in 2007 and 2008, respectively.

Emission Reduction Strategies

Expanding the universe of sources to cover ports and all goods movement increases overall emissions of diesel PM, NOx, ROG by two to three-fold in 2001 and 2005. When the new plan strategies would begin implementation by 2010, the gap begins to decrease and continues to do so through 2020. The plan is relatively more effective in reducing total goods movement emissions than the international goods movement portion, primarily due to measures already in place to reduce future truck emissions. The percent emission reduction that this plan would achieve by 2020 is greater for each pollutant than the draft plan -- diesel PM is reduced 79% compared to 44% in the draft plan, while NOx decreases 63% over this time period compared to 55% previously. SOx shows the smallest change (78% reduction now versus 73% before) because both versions of the plan included all ships, with roughly the same uncontrolled emissions in later years. Table 2 shows the emission trend for each pollutant with implementation of the plan strategies.

Table 2
Statewide
Trends in Emissions from Ports and Goods Movement with Full Implementation of Plan Strategies
(tons per day)

Pollutant	Year					
	2001	2005	2010	2015	2020	% Reduction 2001-2020
Diesel PM	57	53	32	17	12	79%
NOx	1,071	1,080	807	544	393	63%
ROG	94	90	71	50	39	58%
SOx	73	94	42	16	16	78%

Ships are the most challenging emission sources in the goods movement system. The vessels that transport goods in and out of California harbors have little or no emissions control and run on high emitting bunker fuel. Unless that changes, ship emissions will continue to increase as trade expands. Ocean going ships are the only sector that does not meet the 2010 goal for reducing diesel PM, NOx, and ROG emissions back to 2001 levels. Instead, this plan would achieve that goal by 2015. Ships are projected to lower SOx emissions to 2001 levels by 2010 with implementation of a new ARB regulation requiring lower sulfur fuels for auxiliary engines. The plan proposes a mix of strategies for ocean going ships that would reduce projected emissions from this category 50% or more in 2015 and 70% or more in 2020.

Commercial harbor craft were an early focus for ARB and air districts given proximity to coastal communities. More than $17 million in Carl Moyer Program funds have been used to clean up commercial harbor craft to date. In 2004, ARB adopted a regulation requiring harbor craft to use cleaner diesel fuel statewide starting in 2007. Later this year, ARB will consider a regulation to clean up existing harbor craft propulsion and auxiliary engines via replacement, rebuild, add-on controls, and/or alternative fuels. Shore power for harbor craft is also under consideration. The plan targets a 70% plus reduction in this category by 2020.

Cargo handling equipment poses a major health risk to near-port communities due to the location of the emissions. On December 8, 2005, the Board approved a new regulation to reduce these emissions. The regulation will accelerate the introduction of cleaner technologies beginning in 2007 with increasing benefits in 2010 through 2015. The overall strategy relies on implementation of new engine standards that phase in from 2007-2015. Overall, emissions from cargo handling will continue to decline through 2020 and beyond. The last element of the strategy would be to step up diesel PM control to the 85% level in the future as additional verified retrofit technologies become available. By 2020, emissions from this sector will be reduced by over 80% for the key pollutants.

Trucks are the largest contributor to port-related NOx and the largest on-shore source of diesel PM. Existing regulations are reducing these emissions each year but very significant impacts remain. Cleaning up the older, short-haul truck fleets (including those serving ports), reducing traffic congestion and idling, routing trucks away from neighborhoods, and providing the cleanest diesel fuel are components of the overall truck strategy. Recent ARB actions include anti-idling rules, controls for transport refrigeration units, community-based truck inspections, low sulfur fuel requirements, and reducing excess NOx from 1993-1998 trucks. The primary new strategies in this plan are to apply the best available control technology to the entire truck fleet in private ownership, with a targeted program to modernize the subset of trucks serving ports. The plan targets an 88% reduction in diesel PM, and about a 60% reduction for NOx and ROG by 2020.

Locomotives are subject to existing federal standards and the two memoranda of understanding negotiated with the ARB in 1998 and 2005. The plan proposes new strategies to upgrade engines in switcher locomotives and to retrofit diesel PM controls on existing engines. There are at least two technologies that could provide 95% percent control for diesel PM and over 70% for NOx from switchers by 2010: diesel-electric hybrids and multiple off-road diesel engine configurations. Particulate retrofits have not been used in California rail yards yet but they have been introduced in Europe. Both major railroads are testing locomotives equipped with diesel particulate filters right now. A third element of the strategy relies on U.S. EPA adoption of cleaner new engine standards (Tier 3), more stringent rebuild requirements, and national idling limit devices. ARB staff is recommending federal standards that would achieve 90% control of diesel PM and NOx for new engines. A comprehensive program to bring these cleaner locomotives to California could convert 90% of the fleet by 2020. The plan targets an 85% reduction or better in PM by 2020 for all pollutants.

The plan includes two additional strategies that are conceptual in nature and would be implemented by other agencies and segments of the goods movement industry. These are improved land use decision-making and site specific mitigation at the project or community level.

In 2005, ARB recognized the importance of land use decision-making with the approval of our guidance document "Air Quality and Land Use Handbook: A Community Health Perspective." This document recommends that local government consider the health impacts of air pollution in land use permitting and planning processes. A key recommendation is to provide appropriate separation between air pollution sources, like ports and rail yards, and sensitive land uses, like homes and schools.

The other overarching strategy is mitigation tailored to address existing community problems or the impacts of new projects. Environmental review provisions of State and federal law provide the legal framework for development of environmental mitigation where government approvals are required for a new project. For major expansions related to goods movement, development of a community benefits agreement may be a mechanism to address environmental and other community impacts. The concepts outlined in the plan for statewide application -- especially use of cleaner engines and fuels – may be feasible earlier in targeted situations. This provides opportunities for site specific mitigation prior to full implementation of the strategies on a statewide basis. This would help mitigate community impacts as quickly as possible with a priority on the most impacted areas. Mitigation of existing impacts near rail yards is an example of the need to address health risk issues in specific communities as well as on a statewide basis.

With the revised emission inventory and strategies, the plan would reduce combined emissions of the four pollutants by 163 tons per day in 2010; 375 tons per day in 2015; and 530 tons per day in 2020.

The complete list of plan strategies along with implementation timeframes is shown in Table 3.

Table 3
List of Strategies to Reduce Emissions from Ports and Goods Movement

Strategy	Status (Adopted or New Strategy)	Implementation Could Begin		
		2006-2010	2011-2015	2016-2020
SHIPS				
Vessel Speed Reduction Agreement for Southern California	2001	✓		
U.S. EPA Main Engine Emission Standards	2003	✓		
U.S. EPA Non-Road Diesel Fuel Rule	2004	✓		
ARB Rule for Ship Auxiliary Engine Fuel	New (2005)	✓		
Cleaner Marine Fuels	New	✓	✓	✓
Emulsified Fuels	New	✓	✓	✓
Expanded Vessel Speed Reduction Programs	New	✓	✓	✓
Engines with Emissions Lower than IMO Standards in New Vessels	New	✓	✓	✓
Dedication of Cleanest Vessels to California Service	New	✓		
Shore Based Electrical Power	New	✓		
Extensive Retrofit of Existing Engines	New		✓	✓
Highly Effective Controls on Main and Existing Engines	New		✓	✓
Sulfur Emission Control Area (SECA) or Alternative	New		✓	
Expanded Use of Cleanest Vessels in California Service	New		✓	
Expanded Shore Power and Alternative Controls	New		✓	
Full Use of Cleanest Vessels in California Service	New			✓
Maximum Use of Shore Power or Alternative Controls	New			✓
COMMERCIAL HARBOR CRAFT				
Incentives for Cleaner Engines	2001-2005	✓		
ARB Low Sulfur Diesel Fuel Rule	2004	✓		
ARB Rule to Clean Up Existing Engines	New	✓		
Shore Based Electrical Power	New	✓		
U.S. EPA or ARB New Engine Emission Standards	New		✓	
CARGO HANDLING EQUIPMENT				
ARB Low Sulfur Diesel Fuel Rule	2003	✓		
ARB/U.S. EPA Tier 4 Emission Standards	2004	✓		
ARB Stationary Diesel Engine Rule	2004	✓		
ARB Portable Diesel Equipment Rule	2004	✓		
Incentives for Cleaner Fuels	2001-2005	✓		

Strategy	Status (Adopted or New Strategy)	Implementation Could Begin		
		2006-2010	2011-2015	2016-2020
CARGO HANDLING EQUIPMENT, continued				
ARB Rule for Diesel Cargo Handling Equipment	New (2005)	✓		
ARB Rule for Gas Industrial Equipment	New	✓		
Upgrade to 85 Percent Diesel PM Control or Better	New		✓	
Zero or Near Zero Emission Equipment	New			✓
TRUCKS				
ARB/U.S. EPA 2007 New Truck Emission Standards	2001	✓		
Vehicle Replacement Incentives	2001-2005	✓		
ARB Low Sulfur Diesel Fuel Rule	2003	✓		
ARB Smoke Inspections for Trucks in Communities	2003	✓		
Community Reporting of Violators	2005	✓		
ARB Truck Idling Limits	2002-2005	✓		
ARB Low NOx Software Upgrade Rule	2005	✓		
ARB International Trucks Rule	New (2006)	✓		
ARB Private Truck Fleets Rule	New	✓	✓	
Port Truck Modernization	New	✓	✓	✓
Enhanced Enforcement of Truck Idling Limits	New	✓		
LOCOMOTIVES				
ARB Low Sulfur Diesel Fuel Rule	2004	✓		
ARB 2005 Agreement with Railroads to Cut PM Statewide	2005	✓		
Idle Enforcement Training	2006	✓		
Upgrade Engines in Switcher Locomotives	New	✓		
Retrofit Diesel PM Control Devices on Existing Engines	New	✓		
Use of Alternative Fuels	New	✓		
More Stringent National Requirements	New		✓	
Concentrate Tier 3 Locomotives in California	New		✓	✓
OPERATIONAL EFFICIENCY				
Efficiency Improvements	New	✓	✓	✓
Transport Mode Shifts	New	✓	✓	✓
LAND USE DECISIONS	New	✓	✓	✓
PROJECT AND COMMUNITY SPECIFIC MITIGATION	New	✓	✓	✓
PORT PROGRAMS TO REDUCE EMISSIONS	Ongoing/New	✓	✓	✓

Health and Economic Impacts

The strategies outlined in this plan will provide significant statewide health benefits and in the communities adjacent to ports, rail yards, intermodal facilities, distribution centers, and highways. These strategies are projected to reduce health impacts by 50% in 2020 after accounting for growth, as compared to a no further action baseline. Table 4 shows the health benefits in 2020, expressed as the number of cases avoided in that year with the plan strategies. We recognize that the health impacts that would remain after plan implementation are still very significant. But achieving the goals in this plan would clearly advance our efforts to meet California's health protective standards for particulate matter and ozone, as well as cut the health risk from diesel PM in communities highly impacted by goods movement.

Table 4
Health Benefits[1] of New Plan Strategies in 2020

Health Outcome	Cases[2] Expected without Plan in 2020	Cases[2] Avoided with Plan in 2020
Premature Death	1,700	820
Hospital Admissions (respiratory causes)	1,500	530
Hospital Admissions (cardiovascular causes)	580	300
Asthma and Other Lower Respiratory Symptoms	42,000	21,000
Acute Bronchitis	3,400	1,800
Work Loss Days	250,000	130,000
Minor Restricted Activity Days	2,800,000	1,200,000
School Absence Days	860,000	270,000

[1] Does not include the reduction in contributions from particle sulfate formed from SOx emissions, which is being evaluated with several ongoing emissions, measurement, and modeling studies.
[2] Ranges and uncertainty bounds can be found in Appendix A.

The projected health benefits from the plan strategies also have an economic benefit, as shown in Table 5 below.

Table 5
Value of Health Benefits from New Plan Strategies in 2020
(present value)

[corrected]

Health Outcome	**Value in 2020** (in millions)	**Uncertainty Range**[1] (in millions)
Premature Death	$3,700	$850 to $8,800
Hospital Admissions (respiratory causes)	$11	$5 to $20
Hospital Admissions (cardiovascular causes)	$8	$4 to $15
Asthma and Other Lower Respiratory Symptoms	$0.2	$0.06 to $0.4
Acute Bronchitis	$0.4	-$0.1 to $1
Work Loss Days	$15	$10 to $22
Minor Restricted Activity Days	$39	$18 to $70
School Absence Days	$16	$5 to $32
Total	**$4,000**	**$900 to $9,000**

[1] Range reflects statistically combined uncertainty in concentration-response functions and economic values, but not in emissions or exposure estimates.

By 2020, the total cumulative cost to implement the new plan strategies is $6-10 billion in present value dollars. Table 6 shows the range of cumulative costs.

Table 6
Cumulative Costs to Implement Plan Strategies
(present value)

Year	**Range of Cumulative Cost** (in billions)	
	Low End	**High End**
2007 - 2010	$2	$2
2007 - 2015	$4	$6
2007 - 2020	$6	$10

To derive a benefit-cost ratio, we looked at the cumulative benefits from health effects avoided (including premature death, hospitalization due to respiratory and cardiovascular causes, asthma and other lower respiratory symptoms, and acute bronchitis) and the economic value of those benefits over the 2005-2020 timeframe of the plan, in present value dollars.

Table 7
Benefit-Cost Ratio for Plan Strategies Through 2020
(present value)

	Cumulative Benefits and Costs
Cumulative Premature Deaths Avoided by Plan Strategies	7,200
Cumulative Economic Value of All Health Effects Avoided	\$34 – \$47 billion
Cumulative Costs to Implement Plan Strategies	\$6 - \$10 billion
Benefit-Cost Ratio	**3-8 to 1**

Thus, for every \$1 invested to implement these strategies, \$3 to \$8 in economic benefits are realized by avoided health effects. Premature deaths avoided account for over 95 percent of the estimated economic value of all health benefits of the plan.

Plan Performance

ARB staff has evaluated whether the emission reduction plan is sufficient to meet the numerical goals set forth in the introduction above.

The first objective is to stop emissions growth. In Southern California, the Board of Harbor Commissioners set a goal of "no net increase" in emissions from the Port of Los Angeles using a 2001 baseline. This plan applies the same goal statewide. Staff calculated the reductions needed to meet the 2010 target on a statewide basis and for local air districts with the greatest port and goods movement activity -- South Coast, San Diego, San Francisco and the San Joaquin Valley. In every case, the 2010 target will be achieved, and in some geographical areas emissions will be reduced well below 2001 levels.

With respect to reducing the statewide health risk of diesel PM from ports and goods movement-related sources 85% by 2020, the plan now meets that goal. Staff estimates that the plan will achieve a 79% mass reduction in goods movement-related diesel PM by that date and a corresponding 86% exposure-weighted risk reduction.

For the South Coast NOx reduction targets, the picture is good. Compared to the 30% reduction target by 2015, the plan provides for 48% control. Similarly, for the 50% reduction target in 2020, the plan provides 67% control.

Vision for the Future

Meeting the public health challenge posed by goods movement requires a combination of innovative and readily available strategies. Government will do its part but cleaner technology and operational efficiencies must become the industry standard. The draft plan envisions that emissions reductions will be reduced at each step in the goods movement pathway – from ship to shore to truck or locomotive to the final destination. New emission standards for engines, cleaner fuels, performance standards and incentives, fleet upgrades and retrofits are all part of the picture.

Timing is crucial. There is already a public health threat that needs to be abated as quickly as possible while we prepare for even greater growth in international trade. ARB's strategy provides several near-term reductions, with longer term measures to provide a cleaner goods movement system by 2020. Steady progress is also needed. The proposed plan provides for reductions in statewide port and goods movement emissions after accounting for projected growth.

Staff's long term vision is an economically vibrant, environmentally sustainable, non-polluting goods movement industry that enhances the quality of life for all Californians.

Staff Recommendation

ARB staff recommends that the Board approve the *Proposed Emission Reduction Plan for Ports and Goods Movement in California* as a framework for action to protect the residents of California from the harmful effects of air pollution from goods movement operations.

Final Report
Port and Modal Elasticity Study

Prepared for

Southern California Association of Governments
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Sept. 8, 2005

Funding: The preparation of this report was financed in part through grants from the United States Department of Transportation (DOT) – Federal Highway Administration and the Federal Transit Administration – under provisions of the Transportation Equity Act of the 21st Century

EXECUTIVE SUMMARY

This study determined the economic viability and impact on demand for San Pedro Bay Port services of assessing additional port user fees to fund the improvements to transportation infrastructure likely required to insure efficient and environmentally sound access to the ports. Today such user fees already exist in the form of fees for the Alameda Corridor rail line. Other major infrastructure improvements may be required to accommodate further traffic growth, and user fees are one possibility for funding such improvements. The Port and Modal Elasticity Study analyses the long-run elasticity of port demands as a function of access fees, determining what levels of fees would induce traffic diversion to other ports or induce shifts in modal shares (truck vs. rail) at the San Pedro Bay (SPB) Ports. These shifts also may depend upon the point in the overall logistics supply chain at which user fees are assessed.

Methodology and Observations:

1. A long-run elasticity model was developed for imports at the SPB Ports. This model allocates imports to ports and modes so as to minimize total inventory and transportation costs from the point of view of importers. Current capacities, contractual obligations and other short-run impediments to shifting traffic among ports and modes are not considered in the long-run model.
2. The long-run model was exercised for two scenarios: As-Is, and Congestion Relief. In the As-Is Scenario, fees are assessed on imports at the SPB Ports without any improvements to access infrastructure. In the Congestion Relief Scenario, average transit time from the SPB Ports to store-door delivery points in the hinterland of the ports is assumed to be reduced by one day, and the standard deviation of this transit time is assumed to be reduced by 0.4 days. The standard deviations of transit times for intermodal rail movements out of Southern California are assumed to be reduced by 0.1 days.
3. A container fee of $192 per forty-foot equivalent unit (FEU) applied to imports over 30 years would be sufficient to retire bonds funding $20 billion in improvements to SPB Ports access infrastructure. Dedicated truck lanes from the SPB Ports to the trans-loading warehouse districts are estimated to cost $16.5 billion. Improvements to main-line rail infrastructure adequate to accommodate 2025 traffic levels at year 2000 transit times are estimated to cost $3.4 billion. Thus a container fee in the range of $190 - $200 per FEU is relevant for the Congestion Relief Scenario.

We conclude that:

1. San Pedro Bay import volume is much more elastic with respect to congestion than with respect to container fees. Import volume is nevertheless elastic with respect to container fees.
2. Without congestion relief, in the long run even a small container fee would drive some traffic away from the San Pedro Ports.
3. A $60 per FEU fee on inbound loaded containers at the SPB Ports would cut both total import volume and total trans-loaded import volume at the SPB Ports by approximately 6%.

4. With congestion relief, San Pedro Bay imports are relatively inelastic up to an import fee value of about $200 per FEU. At this fee level, total imports via the SPB Ports are estimated to decline by 4% or less, while total trans-loaded volume would rise by an estimated 12.5%. The latter suggests a significant increase in economic activity in Southern California.
5. Fees greater than $200 per FEU will significantly diminish imports via the SPB Ports, even if predicated upon congestion relief.

We recommend that:

1. A complete and comprehensive list of effective infrastructure projects be formulated to determine construction cost.
2. The financing cost and term be calculated for these intended investments.
3. Should other (direct) funding be unavailable or inadequate to fully cover cost, that a container fee exclusively used for retiring the bonds for said improvements be uniformly imposed on all imported containers.
4. The practical point of collection is at the dock to be paid by the importer.
5. Further research on this subject be carried out by the consultant. More engagement with importers to confirm or correct model parameters would improve the accuracy of the analysis. It also is desirable to develop a short-run elasticity model, accounting for capacity and congestion at other ports and in various channels.

The Project was financed in part through grants from the United States Department of Transportation – Federal Highway Administration and the Federal Transit Administration – under provisions of the Transportation Equity Act of the 21st Century and additional funding was provided by the California State Department of Transportation.

The analyses and conclusions expressed herein are solely those of the consultant and do not necessarily reflect the views of SCAG, other agencies sponsoring this project, nor any stakeholder in Asian – US maritime trade.

Written Testimony

of

Dr. Geraldine Knatz

Executive Director

The Port of Los Angeles

on

Confronting Freight Challenges in Southern California

at

The Metropolitan Transportation Authority

Submitted to the

United States House of Representatives

Committee on Transportation and Infrastructure

Subcommittees on

Highways & Transit

The Honorable Peter DeFazio

Chairman

&

Railroads, Pipelines, and Hazardous Materials

The Honorable Corrine Brown

Chairman

February 20, 2009

I. Executive Summary

Under the leadership of Los Angeles Mayor Antonio Villaraigosa and our Board of Harbor Commissioners, the Port of Los Angeles has been confronting freight challenges and implementing bold measures to meet these challenges. It is important always to remember that what we are confronting here in the Southern California Region is *America's* freight challenges. We have made positive strides recently in confronting freight challenges in Southern California and seeking solutions at the local and regional level:

1. **We are working together as a region now more than ever before:** Whether pursuing federal stimulus funding, cleaning our environment, or implementing a regional cargo fee to support trade corridor infrastructure, we are working together, collaboratively, as a region.

2. **We are making progress – growing and growing green:** Our environmental initiatives are already having a significant impact:

   - We produced the same emissions in 2005 that we did in 2000 despite a 40% increase in cargo; and comparing our air emissions inventory in 2007 to 2006, despite only a one percent decrease in cargo, we saw a 34-percent decrease in Sulfur Oxide (SOx) emissions, a nine percent decrease in Nitrogen Oxide (NOx) emissions, and a 20-percent decrease in Diesel Particulate Matter (DPM) emissions. Year over year greenhouse gas emission levels also dropped between eight and eleven percent in 2007.
   - With the October 1, 2008 ban of pre 1990 trucks at the Ports, we removed 350 tons of emissions from the air.
   - Now, with the Federal Maritime Commission finally allowing the Clean Truck Fee to proceed, we will be able to continue to fund our Clean Truck Incentive Program, which with local Port of Los Angeles funding has already put replaced approximately 1,600 more dirty diesel trucks with 2007 EPA compliant trucks.

   We are making progress on infrastructure as well:

   - We approved three Environmental Impact Reports in 2008 after a period of more than seven years when no EIR's were approved.
   - We successfully developed and adopted a local Infrastructure Cargo Fee (ICF) to fund projects in the port area.
   - We are now making progress in developing and implementing a regional ICF to fund freight projects in the region. We did not proceed with the regional Infrastructure Cargo Fee last year in deference to the efforts of California State Senator Alan Lowenthal. His bill was vetoed last fall for the third time by the Governor. We have thus renewed our efforts to develop a regional fee at the local level.

Nevertheless, there remain significant challenges to overcome, and it is in these areas that we hope the House Transportation and Infrastructure Committee, the full Congress and new Administration can continue to demonstrate leadership in making strategic federal investments to support the Southern California Trade Corridor system and the local and regional solutions we are already implementing:

1. **We need more funding:** California contributed to its ports with the passage of Proposition 1B in 2006, providing funding for port and trade corridor transportation, air quality, and security infrastructure, but the state budget crisis has stalled all of that funding and threatens it permanently. Even with state Proposition 1B funding and now the American Recovery & Reinvestment Act of 2009, there is still not adequate federal funding for infrastructure and environmental initiatives. Authorization by Congress of the next federal surface transportation bill must address the continued, urgent, and long-term funding needs, making sure that ports and trade corridors have dedicated and significant funding sources, especially nationally significant trade corridors like the Ports of Los Angeles and Long Beach and their regional partners.
2. **We need revamped freight policy:** To achieve the federal support needed by our Port, there must be a dedicated national freight program and greater integration of transportation, trade, and environmental policy. The new program, policy integration, and funding all must be part of the next surface transportation act authorization.

II. Background & Overview of the San Pedro Bay Ports

The Ports of Los Angeles and Long Beach – which we refer to as the San Pedro Bay Port Complex – are the #1 and #2 busiest container seaports in the United States, respectively, and combined make the fifth busiest port complex in the world. Nearly 45% of the nation's imported containerized cargo comes through our Ports. We handle more than $260 billion a year in trade throughout California and the nation. In the Southern California region, goods movement industries connected to our Ports provide a half a million jobs and produce billions in state and local tax revenues. Our publication, *"America's Gateway: A National Goods Movement Corridor Economic Impact Study,"* has been distributed to every member of the Transportation and Infrastructure Committee. This Study demonstrates the significant economic impact that the Ports of Los Angeles and Long Beach have on every state in the Union. On a national basis, our Ports generate more than 3.5 million jobs and impacts at least one business in every congressional district in the U.S. that either imports or exports goods through our Port Complex.

Given the nation's current economic conditions, our trade volumes are down; however, overall international trade through our Ports has grown by roughly seven percent per year. Currently, the two Ports handle 15.8 million TEU's of cargo. The unconstrained market demand forecast projects we will handle close to 60 million TEUs by 2030. However, current capacity estimates for the year 2030 are closer to 40 million TEU's. These figures are important because close to half of the containers that move through our two Ports have origins or destinations east of the Rocky Mountains. This growth trajectory creates tremendous challenges for our Port Complex and its infrastructure.

III. Update on Collaborative Regional Efforts to Grow and Grow Green

We have submitted testimony previously (August 4, 2008) to your colleagues on the House Committee on Transportation & Infrastructure Subcommittee on the Coast Guard and Maritime Transportation discussing primarily our environmental initiatives. This testimony will provide an update on our environmental initiatives and discuss our infrastructure funding efforts as well:

Clean Air Action Plan (CAAP): The overall goal of the CAAP, which was enacted in 2006, was to cut emissions in half by 2012. The Ports have made significant progress toward this goal:

- **Clean Truck Program:** On October 1, 2008, the Port of Los Angeles and Port of Long Beach launched the most ambitious air-pollution cleanup in the nation – the landmark Clean Truck Program (CTP). The immediate effect was a successful ban from the Ports of 2,000 dirty-diesel trucks built before 1989, removing substantial amounts of harmful NOx and PM emissions from the air, 350 tons of emissions in total. When fully implemented in 2012, the CTP will reduce harmful truck emissions by 80% by taking over 50,000 dirty-diesel trucks off the road. Despite fears that CTP would aversely affect the drayage market, the program already includes 609 approved agreements with licensed motor carriers (LMCs). Over 29,000 trucks have paid the registration fee or submitted complete information for listing in the registry, and another 39,640 trucks have started the process to gain approval as a LMC (as of 1/8/09). With the recent action by the Federal Maritime Commission (FMC) acknowledging that the Ports can proceed with our program, we will begin collecting the Clean Truck Fee this week to provide incentives to Licensed Motor Carriers to clean up their fleets ahead of the next ban, which takes effect on January 1, 2010, banning all pre 1994 trucks. The goal is to have a sustainable truck fleet of 2007 U.S. EPA compliant trucks by January 1, 2012.
- **Low Sulfur Fuel Incentive Program:** The Ports have also begun providing local funding to pay for the cost differential between low sulfur fuel and bunker fuel to be utilized by all marine vessels within 40 miles of shore.
- **Alternative Maritime Power (AMP):** The vision is to have all of our berths capable of allowing for shore-side production of electrical power or Alternative Maritime Power (AMP; also referred to as "cold-ironing"). In 2004, the Port of Los Angeles had the first berth in the world with AMP power, and at least two more should come on line this year. The total cost of providing AMP at all of our berths would be $100 million, and we are planning to pursue federal funding for these efforts.

- **Technology Advancement Program (TAP):** The goal of the TAP is to fund the advanced technology needed to achieve our environmental goals. The benefits of this entrepreneurial strategy have already been significant:
  - We have the cleanest short-line rail line in the world.
  - We have produced the world's first hybrid tug boat.
  - We have funded the development of the first electric drayage truck manufacturer, who is producing its trucks in the Los Angeles area and therefore also contributing to the revitalization of America's manufacturing jobs base.
- **Future Initiatives:** Looking ahead, the Port continues to seek additional ways to achieve our environmental goals:
  - **Clean Tech Development Center:** Building on the success of the TAP, we are working with our local and regional chambers of commerce and labor partners to develop a center to assist in the development and expansion of clean tech companies that will deliver good, "green-collar" jobs while also addressing fundamental port challenges.
  - **Greenhouse Gas Emission Plan:** The Port of Los Angeles will be releasing a Greenhouse Gas Emissions Plan later this year. The first plan of its kind for any port in the world, it will set out how we will continue to move forward on greening the port to meet California's AB 32 guidelines, which the Obama Administration may make the nation's guidelines.
  - **Rail:** We have focused extensively on trucks and marine vessels. One of the next transportation modes that we plan to examine closely and see how we can "green" will be rail. Already, in 2007 we worked with our local rail partner and commissioned the first of a new fleet of "Tier 2" clean diesel locomotives, which produce 70% less diesel particulates and 46% less NOx.

Regarding infrastructure, the Port of Los Angeles in partnership with the region has made the following progress:

- **The Port of Los Angeles approved three EIR's in 2008 and plans to move these projects forward to development in 2009:** Last year we were able to bring three major EIR's to the Board for approval and this year plan to move forward with these significant infrastructure projects. These projects directly contribute to the economy of the entire region; though they also of course heighten the need for investment in our supporting infrastructure, a subject on which we have also been making progress.
- **Local & Regional Infrastructure Cargo Fee (ICF):** In response to the fact that many of our projects were not yet ready-to-go and the sudden and extreme downturn in the economy, the Port of Los Angeles postponed until July 1, 2009 and reduced the dollar value of the local ICF that was set to begin on January 1, 2009. Nevertheless, the Port

continues to move the local ICF forward and is now looking once again at the regional ICF to help fund railroad crossings and other vital infrastructure projects throughout the Alameda Corridor and Alameda Corridor East.

- **State and Federal Funding:** Last year the Southern California Consensus Working Group leveraged local funding resources to secure the programming by the California Transportation Commission of new State bond revenues from the Trade Corridor Improvement Fund, totaling $1.6 billion. While significant, this action by the State is only a downpayment on meeting our goods movement needs in Southern California. On the federal front, the final economic stimulus package also contains several potential sources of funding which we hope to tap into as a region. Though given the fact that the stimulus could only allocate additional funding to pre-existing programs, and the fact that our pre-existing federal programs do not look at nationally significnat trade coorridors in a comprehensive, mult-jurisdictional way.

IV. Congressional Actions to Support Increased Federal Investments Supporting the Southern California Gateway and Trade Corridor System

To support the local and regional efforts of the Port of Los Angeles, Port of Long Beach, and our regional partners throughout Southern California and the nation, we would recommend that Congress take bold action. We can and have provided a list of important projects which are representative of the type of projects that we think Congress should be prioritizing. In addition to focusing on projects, we need to focus on policy principles and programs. With regards to freight and trade corridor funding in the next authorization of the surface transportation act, we support the efforts of our association partners such as the American Association of Port Authorities (AAPA), the American Association of State Highway and Transportation Officials (AASHTO), and the Coalition for America's Gateways and Trade Corridors (CAGTC), as well as our Southern California regional partners, and recommend the following principles be considered in the next surface transportation reauthorization:

1. **Establish a national vision with long-term planning:** For nationally important trade corridors, it is essential that we have a national vision and corresponding organizational changes and funding levels, including reestablishing a national multimodal freight directorship within the Office of the Secretary.

2. **Integrate freight infrastructure policy with national trade policy as well as environmental policy to target reductions of emissions and greenhouse gases and expedite nationally important projects:** The U.S. Department of Transportation should establish coordination protocols with the U.S. Environmental Protection Agency and U.S. Department of Energy to ensure simultaneous and continuous investments in freight related infrastructure and environmental programs targeted to reducing emissions from containerized ships, railroad engines, and trucks. A major focus must

be on the promotion of zero emission container movement technologies. The added benefit of this coordination could lead to expedited environmental approval and development of nationally important projects like those around our Port. Similarly, while U.S. policies promote international trade, they also create an "unfunded trade mandate" for gateway regions such as our Ports, which should be addressed with additional funding and planning in the development of trade agreements.

3. **Institute fundamental changes to existing federal transportation planning and funding systems:** We should consolidate the existing 108 federal programs into 10 multimodal and strategic programs, and utilize performance/merit-based project selection to maximize the return on federal dollars in these tough economic times.
4. **Implement a new federal funding account dedicated to the investment in freight related infrastructure, with priority allocations to projects of national significance:** The new program should select projects through merit-based criteria that identify and prioritize projects with a demonstrable contribution to national freight efficiency. Priority funding allocations should be directed to projects of national significance and projects sponsors who have instituted local user fee based systems such as local and/or regional cargo fees. If Congress decides to make cargo fees part of the next authorization, the fees must be applied to all trade gateways, be returned to the gateways where collected as much as possible, and not disadvantage or be redundant of any local or regional fees self-help regions have already enacted.
5. **Increase funding for Section 1301, Projects of National & Regional Significance (PNRS), focusing on already identified projects and new nationally important mega-projects:** Several components of the Southern California trade corridor are identified within the PNRS program: I-710 corridor, the Gerald Desmond Bridge, and the Alameda Corridor East. Funding for these projects of regional and national significance must be increased in the next authorization.

On the environmental front, we recommend that Congress increase funding as much as possible for programs that will support efforts to green the freight industry. Specifically, we recommend increased funding for the Diesel Emissions Reduction Act (DERA) and for transportation electrification programs such as those enacted in last year's Energy Independence Act and funded in the stimulus.

It is also essential that Congress continue to support the efforts of the Ports of Los Angeles and Long Beach and their respective cities in their dealings with the Federal Maritime Commission (FMC). The Ports and their cities and regional partners such as the South Coast Air Quality Management District deliberated extensively on the development of the Clean Trucks Program to achieve specific environmental objectives. The current FMC has sought at every turn to obstruct the implementation of the CTP, potentially jeopardizing a program that is an essential environmental initiative and a central component of every EIR that has recently been approved or is in process at the port for vital infrastructure projects.

We also recommend Congress enact and fund new initiatives such as the Green Port Initiative first considered two years ago. HR 2701 (2007), which passed the House as the Transportation, Energy Security and Climate Change Mitigation Act of 2007, contained Section 404, the "Green Port Initiative":

> "The Secretary of Transportation shall develop and implement a green port initiative to promote the use of technologies in United States ports and shipyards to reduce air emissions including particulate matter, nitrogen oxides, sulfur oxides, and carbon monoxides. The program may include:
>
> (A) Use of electric and low-emission vehicles for cargo handling equipment;
>
> (B) Use of electric shore power and low pollution auxiliary engines for vessels in port;
>
> (C) Use of energy efficient lighting and other electrical products in ports;
>
> (D) Use of best management practices to decrease emissions;
>
> (E) Use of technology and best management practices to prevent pollution of the waters in ports:
>
> (F) Use of other energy efficient or low emission technologies that the Secretary considers necessary."

Enactment of this initiative would be an ideal way to fund the numerous and necessary environmental initiatives at the Port of Los Angeles.

Conclusion:

Southern California is America's trade corridor. Even with the recent economic crisis, trends suggest that the Ports of Los Angeles and Long Beach will continue to be the most important trade gateway for the country for decades to come. Being America's number one trade corridor means significant challenges for the region's environment and infrastructure. While the Ports and their regional partners have made significant strides in dealing with these challenges, the federal government must increase funding and policy support for the Southern California trade corridor to keep American competitive.

THE PORT
OF LOS ANGELES

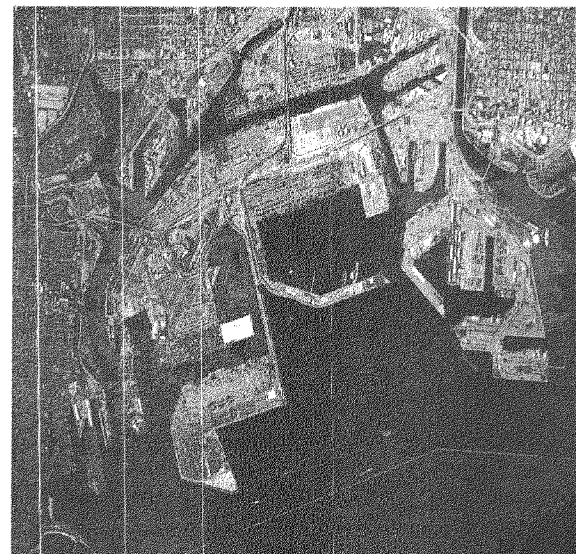
Confronting Freight Challenges in Southern California

February 20, 2009

THE PORT OF LOS ANGELES

San Pedro Bay Ports

- Nation's #1 and #2 U.S. container ports (5th largest complex worldwide)
- Trade gateway for 43% of US containerized imports (handles 40% of nation's containerized trade)
- L.A. alone sustains 919,000 jobs regionally ($39 BILLION in wages and tax revenues)



THE PORT OF LOS ANGELES

Infrastructure & Development

Proposed Projects	ICF Funding (millions)	Total Cost (millions)
Gerald Desmond Bridge (TCIF)	$525.6	$1,125.2
SR-47 Expressway (TCIF)	$173.8	$687.0
I-110 Connectors- Phase 1 (TCIF)	$21.1	$80.0
S. Wilmington Grade Sep. (TCIF)	$19.8	$73.1
I-110 Connectors- Phase 2	$24.0	$24.0
Navy Way Interchange	$43.0	$43.0
Ports Rail Systems- Phases 1(TCIF) & 2	$929.6	$1,085.0
TOTAL (local)	**$1,736.9**	**$3,117.3**
Alameda Corridor East (TCIF)	TBD	$4,000
Colton Crossing (TCIF)	TBD	$300
TOTAL		**$7,417.3**

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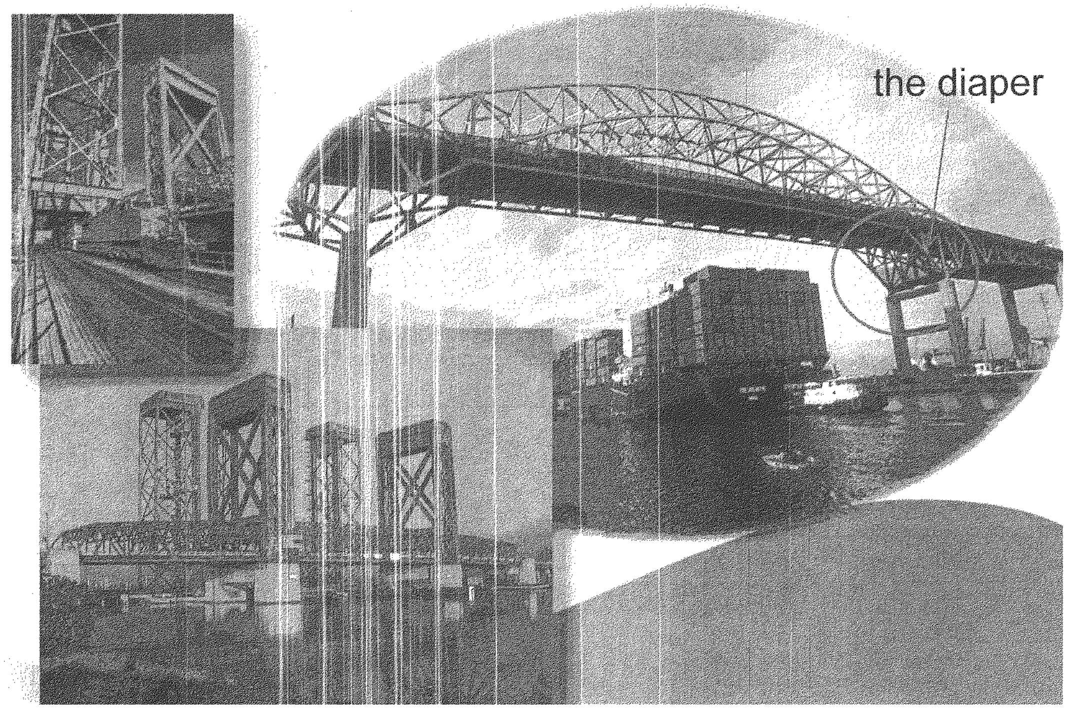
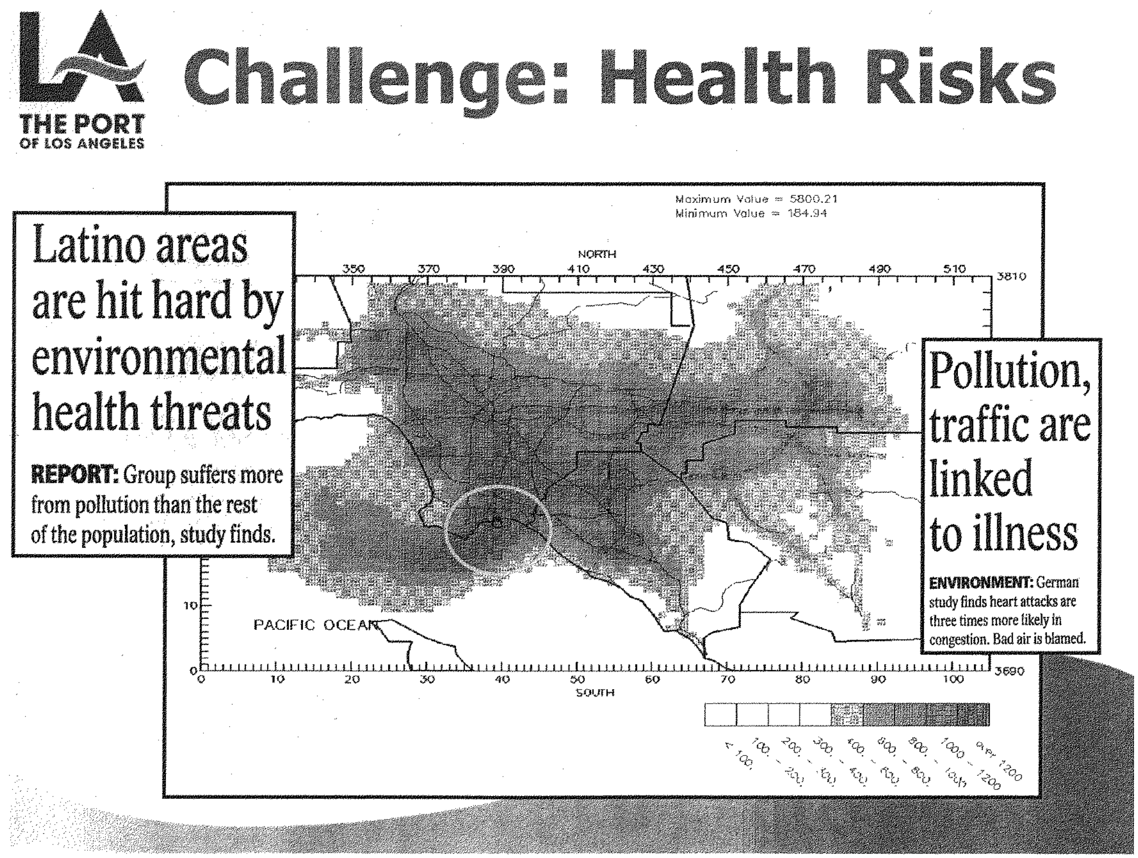
OF LOS ANGELES

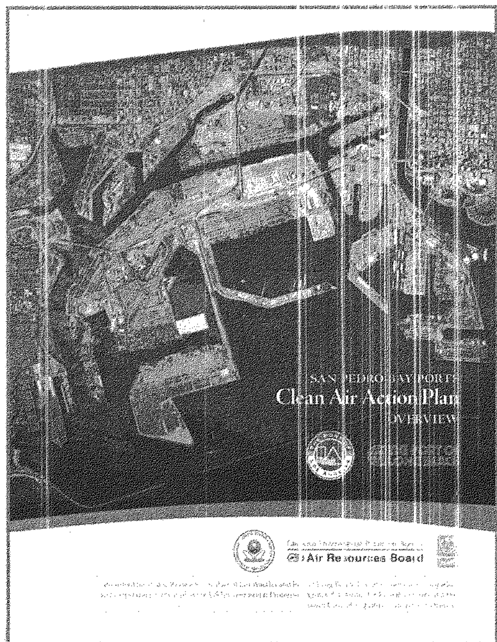
Infractructure [Crisis in] Development




THE PORT OF LOS ANGELES
Challenge: Health Risks
Latino areas are hit hard by environmental health threats
REPORT: Group suffers more from pollution than the rest of the population, study finds.
Maximum Value = 5800.21
Minimum Value = 184.94
NORTH
SOUTH
PACIFIC OCEAN
Pollution, traffic are linked to illness
ENVIRONMENT: German study finds heart attacks are three times more likely in congestion. Bad air is blamed.

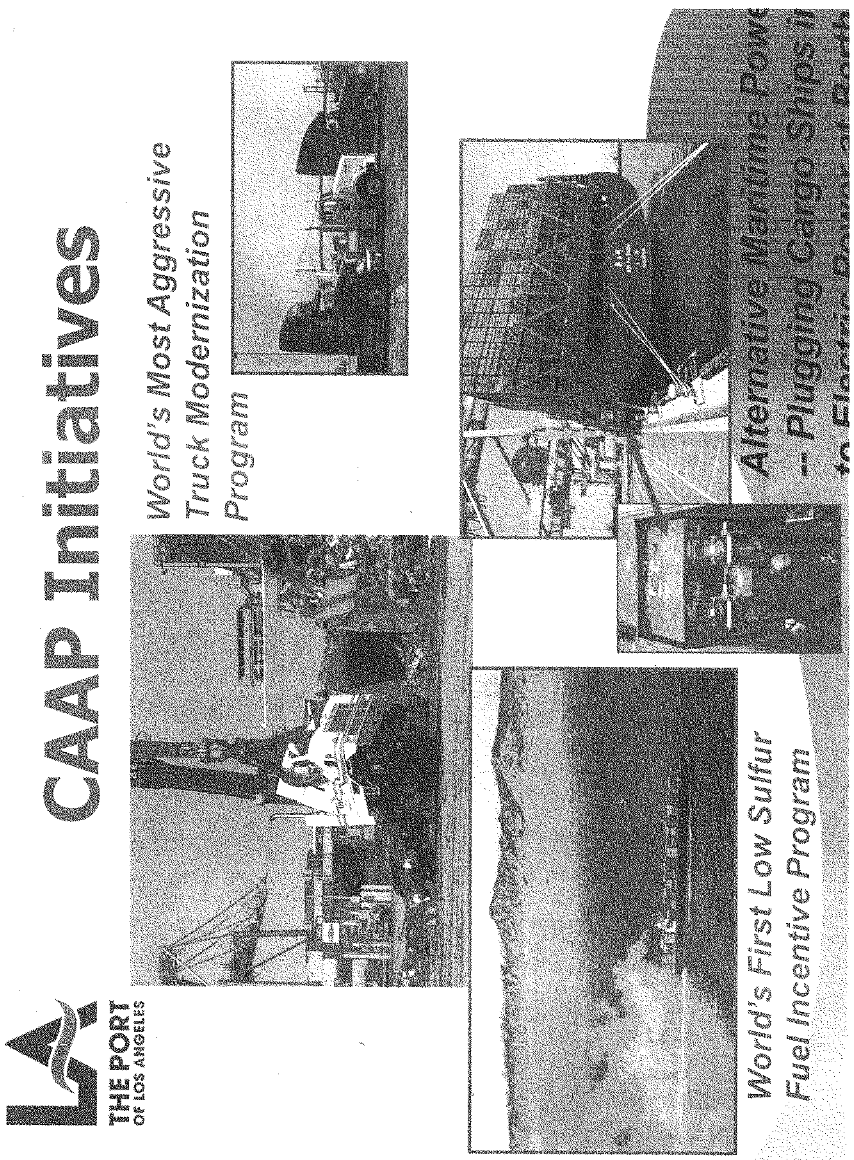
THE PORT OF LOS ANGELES

Solution: San Pedro Bay Ports Clean Air Action Plan



CAAP GOALS

- ✓ Reduce Port Pollution 47% to 52% in 5 years
- ✓ Set consistent project-specific & source-specific standards
- ✓ Minimize health risks to the community
- ✓ Enable "green growth" development


THE PORT
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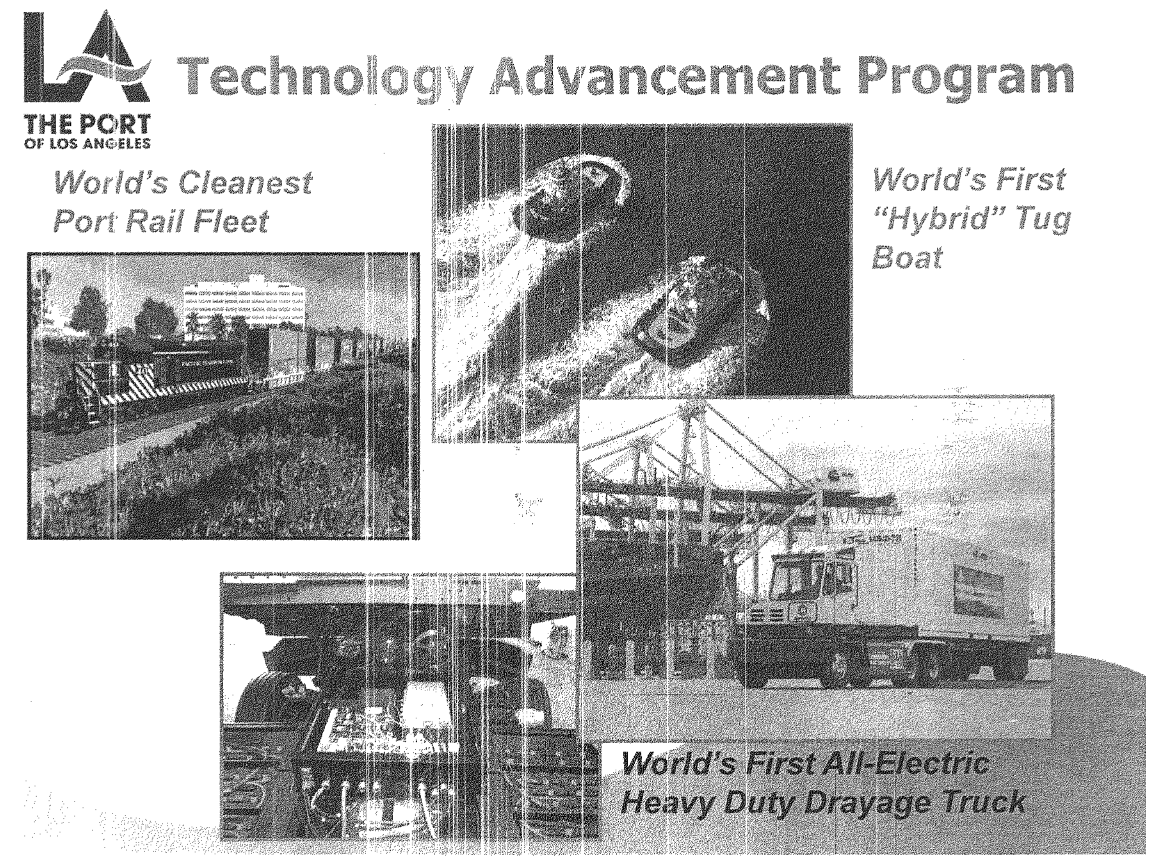
CAAP Initiatives
World's Most Aggressive
Truck Modernization
Program
World's First Low Sulfur
Fuel Incentive Program
Alternative Maritime Powe
-- Plugging Cargo Ships i


THE PORT OF LOS ANGELES
Technology Advancement Program
World's Cleanest Port Rail Fleet
World's First "Hybrid" Tug Boat
World's First All-Electric Heavy Duty Drayage Truck

THE PORT OF LOS ANGELES

Clean Trucks Program

- 16,000 big rigs to meet 2007 EPA standards
  - →Diesel trucks = 25% of port air pollution
- Cut port-related truck emissions by 80% by 2012

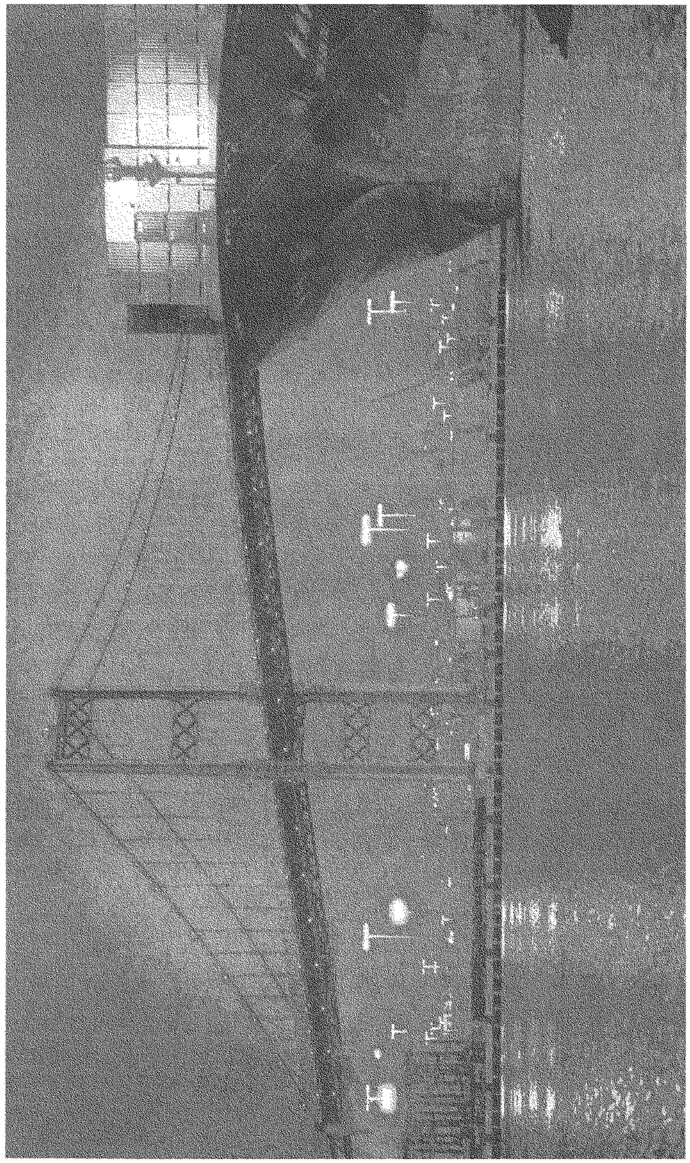
THE PORT OF LOS ANGELES

Conclusions

- ✓ This is our parents' infrastructure…
- ✓ We should be building for our grandchildren!
- ✓ Surface Transportation Reauthorization equals Opportunity
- ✓ Create a dedicated, long-term strategy that will address freight needs

Thank You!

THE PORT OF LOS ANGELES



BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
SUBCOMMITTEE ON RAILROADS, PIPELINES AND HAZARDOUS MATERIALS

JOINT FIELD HEARING ON

CONFRONTING FREIGHT CHALLENGES IN SOUTHERN CALIFORNIA
FEBRUARY 20, 2009

TESTIMONY OF

CHUCK MACK, DIRECTOR
PORT DIVISION
And
INTERNATIONAL VICE PRESIDENT

International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, D.C. 20001
(202) 624-6800

TESTIMONY
Chuck Mack, Director, Port Division and International Vice President
International Brotherhood of Teamsters

Committee on Transportation and Infrastructure's
Subcommittee on Highways and Transit
Subcommittee on Railroads, Pipelines and Hazardous Materials
Joint Field hearing titled, "Confronting Freight Challenges in Southern California"

Thank you, Mr. Chairman and members of the Sub-Committee on Railroads, Pipelines and Hazardous Materials and the Subcommittee on Highways and Transit for the opportunity to present testimony regarding freight challenges in Southern California. My name is Chuck Mack and I am an International Vice President of the International Brotherhood of Teamsters and Director of the union's Port Division.

There are many ways to define the freight challenges facing Southern California. Most stakeholders in freight transportation – both business interests and public entities like ports – will define these challenges almost exclusively in terms of bricks and mortar, the physical infrastructure needed to move freight by truck, train, ship or plane. Too often, unfortunately, the challenges facing the workers who actually move the freight and residents who live in impacted communities are neglected and left out of the equation. While investing in critical infrastructure is vital to the future of this country, prioritizing physical infrastructure projects assumes and depends on their efficient use by the transportation companies utilizing that particular mode (i.e., rail, ports, highways, airports). In other words, inefficient freight operations – that generally also push externality costs like pollution, security and road safety onto communities and workers – can contribute to poor infrastructure decision-making.

For example, the lack of any meaningful trucking regulation has produced a fragmented, largely non-asset based industry that relies on many more trucks than is necessary to efficiently do the work. The result is more congestion and pollution while demand for more highways continues to grow. To explain, let's start with the business model for short haul drayage. Port trucking relies on "independent contractor owner operators" to haul freight, producing only one driver per truck. As a result, the industry needs more trucks because companies cannot slip seat and put multiple shifts of drivers in each truck because the trucking companies do not own the trucks and equipment under their operation. The absence of regulation has brought standards down across the board. Earnings for truck drivers has plummeted by over 30 percent over the past 30 years while overall employment has increased by 75 percent. This is not surprising since the Teamsters represent ten percent of trucks drivers today in this country, down from over sixty percent before deregulation.

Still, the Teamsters represent hundreds of thousands of transportation workers across the country who depend upon the movement of freight for their livelihood. Without a robust and vibrant freight system, our members who drive trucks, are rail employees, or work in warehouses would be out of work. But in recent years we have become acutely aware that the health of our members, their families and the communities they live in are at risk because of the deadly diesel pollution spewing from dirty trucks, ships, cranes and other equipment. Unless port operations – particularly port trucking – and our whole global supply chain is made environmentally sustainable, our global economy will be at risk and transportation workers will suffer disproportionately from poor health, asthma, cancer and other respiratory illnesses.

Based on our analysis and experience in the industry and work with public health and environmental justice groups, we believe that the road to clean air and a sustainable freight system begins with good jobs. The transportation sector accounts for one-third of greenhouse gas emissions. Trucking alone accounts for five percent of greenhouse gas emissions. Exhaust from diesel equipment (i.e., ships, trucks, cranes, and trains) used for goods movement is responsible for over 3,700 premature deaths annually in California alone. For example, areas within the Inland Empire (mainly located in the Riverside and San Bernardino counties of Southern California), which is the largest concentration of warehouse facilities in the country, have some of the worst air quality in the world, let alone the country. Our participation in the Coalition for Clean & Safe Ports with the Natural Resources Defense Council and over 30 other local, state and national organizations, many of whom are here with us in the audience today, like the Sierra Club, the American Lung Association, the Coalition for Clean Air, the Long Beach Alliance for Children With Asthma and others has produced a sophisticated understanding of what needs to be done to create a sustainable transportation system.

All ports, including LA and Long Beach, with few exceptions need to concentrate on establishing more on-dock rail. The Port of Tacoma may have the highest percentage of on-dock rail with an estimated 70 percent of imports going directly onto rail, greatly reducing the number of trucks needed to serve the port. Still, the 300 plus trucks that do serve Tacoma are as dirty and decrepit as the ones serving LA and Long Beach because the business model is the same.

Since the dirty port trucking industry is the most challenging impediment to growth, I would like to go through why the Port of Los Angeles' recently enacted Clean Trucks Program is so important, and why the American Trucking Association's lawsuit against both LA and Long Beach to block their programs is so wrong headed, disappointing, and reveals how they will oppose any real effort that will hold them accountable for the pollution their trucks create.

Port trucking is a dirty diesel business because for too long, trucking companies and their shipper clients have been allowed to squeeze out more profits on the backs of over 20,000 workers across California who keep our global economy moving. The result is the oldest trucks on the road end up at the ports. In fact the average port truck is nearly fifteen years old and poorly maintained and produces at least ten times the diesel pollution as a new, properly maintained 2007 diesel truck. And the 2000 port trucks that were made before 1989 produce at least 60 times the pollution as a new truck. Just ten percent of the port trucking fleet puts the equivalent of 120,000 new diesel trucks on the road. No wonder data from the California Air Resources Board shows that pollution from port trucks kills two people each and every week. Failure to clean up port trucks will cost the region nearly $6 billion in premature deaths, hospital admissions, respiratory illnesses and lost school and workdays over the next ten years.

Here's why – port drivers are currently required to own their truck in order to get hired by a trucking company. But so-called trucking companies at the port currently skirt their responsibilities as legitimate employers and cheat the state out of millions in payroll taxes by hiring these owner operators as "independent contractors."

But let me be clear: Port drivers are not small business owners. They are severely underpaid workers who must sign leases that usually force them to haul for only one company, with no ability to negotiate rates, a fact that has led the attorney general to launch an industry-wide investigation. In fact last week, California's attorney general filed complaints against two companies for illegally classifying their drivers as independent contractors and denying them workman's compensation, unemployment insurance, and coverage of wage and hour and health and safety laws that protect employees in this country from abuse by their employers. Their misclassification pins them with all the responsibility to buy and maintain trucks. They receive no health care, no social security, not even worker's compensation. They are paid only by the load, not the trip, traffic, or time, and only bring home on average $29,000 a year. Fuel, insurance, road taxes and routine maintenance eat up half to seventy percent of their earnings.

It should come as no surprise that labor unrest is a pervasive feature of the port economy throughout North America, particularly here in southern California. In the nearly three decades since deregulation, drivers in US ports have struck, staged convoys and shut down the ports to protest their conditions related to the legal fiction that they are independent businesses, not workers. This frequent unrest adds additional costs to business, workers and the community, costing port stakeholders millions of dollars.

Los Angeles and Long Beach were the sites of two major strikes that lasted several months in 1988 and 1995, involving thousands of misclassified drivers who halted all economic activity. With diesel costs soaring, more recently hundreds of drivers parked their trucks in protest in Oakland. There have also been several "wildcat" strikes involving hundreds of drivers over the past few months here in the San Pedro ports.

The Los Angeles Clean Trucks Program is the only comprehensive, sustainable program that economists and environmentalists agree will clean the air in the long term and will better equip the industry for today's rapidly changing global economy.

Fundamentally, what the Port of LA is trying to achieve with their Clean Trucks Program is to minimize the amount of equipment and hardware by maximizing the use of labor. Only a company-based system that enables the Port to hold trucking companies accountable for their operations is capable of achieving this fundamental objective. If companies are responsible for the costs of owning and maintaining the trucks operating under their authority, they will have economic incentives to maximize the hours each truck is in service. An owner operator system prevents these efficiencies from occurring because the owner of the truck is limited in the number of hours he can work, notwithstanding that the owner operator system makes drivers akin to sharecroppers on wheels.

Minimizing the number of trucks serving the port by maximizing their hours of service will reduce the number of trucks, reduce congestions and wait times, increase operational efficiencies through more load matching.

Finally, the ports need a program so they can achieve a greater level of security at the port. The Transportation Worker Identification Credential has taken years to get off the ground, and it is unclear when it will actually be operational. In the meantime, the ports need to be able to identify who the drivers are in case there is a problem. The Clean Trucks Program will enable them to register drivers and require trucking companies to be held responsible for their workforce.

Not surprisingly, industry lobbyists are trying to block any meaningful regulation. In particular, the American Trucking Association has sued LA and Long Beach to block continued implementation of the ports' Clean Trucks Programs. The ATA also successfully urged the Federal Maritime Commission to use its powers under the Shipping Act for the first time by also suing both Southern California ports in an attempt to enjoin key elements of the programs. The Teamsters Union urges this Committee to provide whatever support it can to ensure the successful ongoing implementation of the Los Angeles Clean Trucks Program for the health of our communities, the workers at the ports, and for the future health of our economy.

Port trucking is one important link in the global supply chain; it may also be the chain's weakest link. Port trucking's weaknesses demonstrate how our freight challenges extend far beyond the need for physical infrastructure investment to the needs for freight transportation companies to meet higher environmental, safety, security and labor standards. The Port of LA is setting an example for how we can meet our freight challenges not just in Southern California, but across the country. In order to meet our freight challenges, we hope this Committee will look into ways of establishing national standards for freight transportation operations based on the Port of LA model.

Written Testimony of the Riverside County Transportation Commission (RCTC)

Respectfully submitted to the Subcommittee on Highways & Transit and the Subcommittee on Railroads, Pipelines & Hazardous Materials

"Beyond the Ports: A Regional Perspective on Goods Movement Challenges and Solutions from the Inland Empire"

Good morning Chairman DeFazio and Chairwoman Brown, thank you for visiting Southern California and for the opportunity to testify before your subcommittees.

Background

Riverside County, CA Profile

Riverside County is California's fourth most populous county and home to more than two million residents or roughly five and half percent of California's population. In recent years, Riverside County has been noted for exceptional growth. This growth took place in population, housing starts, and employment with all of these factors breaking previous records.

Along with significant growth have come significant environmental challenges requiring a significant commitment to mitigating growth-related impacts. Riverside County is facing crisis-level problems in terms of traffic congestion, air quality, water availability and the ability to provide needed public services. The challenge has been exacerbated with the recent economic crisis as many residents dream of owning a new home has turned nightmarish. The unemployment rate in Riverside County has reached 10 percent and notices of default and foreclosures impact more than 10 percent of the overall housing market.

Freight Impacts

Prior to the economic downturn, one area of economic growth that did fuel job growth was in the logistics industry. Located only 55 miles east of the Ports of Long Beach and Los Angeles, the Inland Empire and Riverside County have proven to be attractive locations for warehousing and distribution facilities. Riverside has proven especially attractive because the county is served by the main line for both the Burlington Northern Santa Fe and Union Pacific Railroads.

Another concern is truck traffic as Riverside County is home to Interstates 10 & 15 and State Routes 60, 71, 86S and 91. All of these corridors are significant truck routes which are also key route for local residents and commuters.

While the investment in this industry and the job growth that it provided is welcome, it once again points out the need for mitigation. Job and industry growth comes with a price that often impacts local residents who are faced with traffic delays at grade separations, worsening air quality and worsening noise.

Railroad Grade Separations

The impact of delays caused by freight trains traveling through Riverside County is rapidly becoming one of the area's most pressing transportation concerns. In 2003, 68 million tons of rail freight passed through Riverside County; less than five percent either originates or ends locally, resulting in enormous congestion, safety and air quality impacts for local residents. The cumulative impact of freight rail growth makes quality of life issues a top priority for communities that are faced with traffic delays, disruptions to public safety and emergency responses and an increase in harmful emissions.

For Riverside County, the most important mitigation need is the construction of railroad grade separations which will provide enhanced safety, improved public safety response times, a reduction in harmful emissions by eliminate idling at crossings, and noise reductions. Given the preponderance of rail facilities in the county, there are 20 priority crossings within the county. The Riverside County Transportation Commission has identified funding for as many as 12 of the crossings, however there remains a funding shortfall of more than $550 million.

The Challenges & Solutions

At-grade rail-highway crossings

Funding and constructing railroad grade separations will provide needed mitigation for freight rail impacts and is a top priority for Riverside County. There are 61 at-grade rail crossings in Riverside County, many of which are located in busy residential and commercial areas. Hundreds of trains per day stifle local economic activity and create harmful air pollution near heavily populated areas. In 2006, the Riverside County Transportation Commission (RCTC) developed a funding strategy to serve as a blueprint for advancing many of these needed grade separation projects. The plan was updated in 2008 to reflect the progress which has taken place in the past two years. A handful of projects have recently begun construction and many more are in various stages of project development. Moreover, there has been welcome funding from the Proposition 1B bond measure which was approved by California voters in 2006 and has resulted in $152.7 million being allocated to 12 railroad grade separations in Riverside County.

Coexistence of Freight and Passenger Rail

Freight rail growth has also impacted public transit service in Southern California. Specifically the impact has been to Metrolink, which is a service operated under a joint powers authority consisting of transportation agencies in five California counties. For years, Metrolink schedules have been compromised by freight rail traffic. While that has proven to be inconvenient, the real and tragic impact of freight and passenger rail conflicts was seen in the tragic Metrolink crash with a Union Pacific freight train in Chatsworth. In 2008, Congress approved the Rail Safety Improvement Act of 2008 which addresses some of the long-term safety concerns of passenger and freight rail using the same tracks, but it should be an important goal of Congress, the private freight railroads and commuter rail operators to develop a system that includes the capacity to serve multiple interests. It is a top priority of the Southern California region to implement positive train control (PTC) by the federally mandated deadlines, as well as identify opportunities to double track those areas of the system where freight and passenger trains share just a single track.

The Solutions

RCTC Grade Separation Funding Strategy

As mentioned previously, funding and constructing railroad grade separations will provide needed mitigation for freight rail impacts and is a top priority for Riverside County. In 2006, the Riverside County Transportation Commission (RCTC) developed a funding strategy to serve as a blueprint for advancing many of these needed projects. The Commission undertook a funding strategy up-date in 2008 that reflects a number of changes and a great deal of progress which has taken place in the past two years. A handful of projects have recently begun construction and many more are in various stages of project development. Moreover, there has been welcome funding from Proposition 1B which was approved by voters in 2006 and has resulted in $152.7 million being allocated to 12 railroad grade separations in Riverside County.

The impact of delays caused by freight trains traveling through Riverside County is rapidly becoming one of the area's most pressing transportation concerns. Grade separating the 20 highest priority projects in Riverside County will:

• Stop 277 tons of air pollutants and 544.3 tons of greenhouse gases from being emitted annually in the worst air basin in the nation in 2030 (see page 27 for public health effects);
• Eliminate projected doubling of gate crossing wait times of 74 hours, 36 minutes per day in 2030;
• Eliminate 33 potential accident sites in a 10 year period;
• Eliminate a projected increase in auto/truck traffic delay at crossings resulting from a 60% increase in rail traffic and 61% increase in vehicular traffic: and
• Connect the Alameda corridor and the Ports of Los Angeles and Long Beach to the transcontinental rail network creating a faster, more efficient method for distributing an estimated $392.7 billion worth of trade by the year 2030.

While significant local progress has been made through RCTC's Grade Separation Funding Strategy, the federal government is needed as an important funding partner.

National Freight Trust Fund

Grade separation funding should be pursued in the next federal transportation authorization bill as well as annual federal appropriations bills. Authorization bills offer the opportunity to create new programs or fund existing programs at higher levels. Authorization legislation holds the potential to provide large sums of money towards projects such as Alameda Corridor East, similar to the Projects of National and Regional Significance funding from SAFETEA-LU. Goods movement is one of the key focuses of Congress in the next authorization bill, and RCTC will advocate with regional partners for programmatic language that funds grade separations at a level commensurate with the federal government's responsibility for facilitating interstate commerce and trade. The authorization bill should provide most of the funding gap identified in the 2008 Funding Strategy.

One mechanism to provide funding for this need will be through the creation of a National Freight Trust Fund. The creation of this kind of program will need a dedicated funding source that could be generated through an import/export fee on containers, growth in customs revenues or through an increase in the federal taxes on diesel fuel that would be dedicated to freight sources. Regardless of the funding source, RCTC would urge Congress to make the need financial and philosophical investment in an ongoing investment in freight infrastructure and mitigation to ensure quality of life concerns while creating needed jobs.

Congress has received several proposals worthy of further vetting on the issue of raising revenue for a national goods movement program. Legislation introduced in the 110th Congress by Riverside County's own Rep. Ken Calvert creates a fire-walled goods movement fee at all ports of entry that treat all modes equally. Rep. Laura Richardson, who ably represents Southern California on both of the subcommittees holding this hearing, has also introduced legislation on this topic. Rep. Adam Smith of Washington State has also put forward a concept for a new goods movement program. National organizations such as the Coalition for Americas Gateways and Trade Corridors have also developed detailed proposals on how Congress can craft a new national strategy for dealing with goods movement.

Southern California Unity

Given the location of two major lines and multiple freeway corridors, Riverside County's freight impacts are more acute than the rest of the nation, however much of Southern California shares Riverside's concerns. The transportation agencies in the region recently banded together to speak in a single voice when California officials looked to prioritize freight-related projects for the voter-approved Proposition 1B program. The freight component which was known as the Trade Corridor Improvement Fund (TCIF), separated the state into various trade corridors. The Southern California corridor consisting of public transportation agencies in Los Angeles, Orange, San Bernardino, Ventura, Riverside and the ports themselves banded together with a slate of projects to compete for the lion's share of the TCIF funding. The issue of providing capacity and mitigation for goods-movement related transportation is felt by all of Southern California.

A significant project that requires federal funding is the multi-county corridor of railroad grade separations for what is known as the Alameda Corridor East. The Alameda Corridor East can be considered the downstream impact area of the original Alameda Corridor itself, which only extends from the ports to downtown L.A. It includes crossings in the San Gabriel Valley area of Los Angeles County, San Bernardino County, and grade crossings in Riverside County that are located in the communities of Corona, Riverside, Banning, the Coachella Valley as well as a number of highly populated unincorporated communities. The project was named specifically as a Project of National and Regional Significance (PNRS) in SAFETEA LU and received funding of $155 million in the original legislation. While that funding was welcome and appreciated, it only begins to pay for the true cost of the project.

The overall concern is that since Southern California is home to the Ports of Long Beach and Los Angeles, which are our nation's largest ports, all of Southern California should be considered as part of the port complex. It is with this understanding that the transportation agencies in Southern California have banded together to seek federal and state funding. Moreover, much of these impacts have been created and exacerbated by federal trade policies, which makes a federal investment in these improvements more than appropriate.

Conclusion

RCTC applauds both Subcommittees' interest in the topic of freight-related transportation needs. Riverside County and Southern California are uniquely and acutely affected by goods movement issues. The Riverside County Transportation Commission, along with its transportation partners and communities throughout the area, urge that Congress make a significant and ongoing investment in addressing the need for added freight capacity, but also for needed mitigation. By addressing both needs, the nation can begin to address its economic needs while maintaining a commitment to local residents and the environment. The challenges we face in Riverside County are proof to Congress that we cannot continue to just push the bottleneck somewhere else. We need a national solution to solve local problems.

RCTC stands ready to work with Congress to reach these goals and appreciates the opportunity to participate in today's hearing.

Testimony of

JOE RAJKOVACZ
REGULATORY AFFAIRS SPECIALIST
OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION

Before the

UNITED STATES HOUSE OF REPRESENTATIVES
JOINT FIELD HEARING OF THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE'S
SUBCOMMITEE ON HIGHWAYS AND TRANSIT AND,
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS

Regarding

CONFRONTING FREIGHT CHALLENGES IN SOUTHERN CALIFORNIA

FEBRUARY 20, 2009

****

Submitted by

Owner-Operator Independent Drivers Association
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Good morning, Chairman DeFazio, Chairwoman Brown, Ranking Members Duncan and Shuster, and distinguished sub-committee members. Thank you for inviting me to testify on a subject critical to not only the people of California, but to everyone in the United States as California is the gateway through which many of our nation's goods must flow.

My name is Joe Rajkovacz and I have been involved in the trucking industry for more than 30 years. First as an employee truck driver, next as a small business owner operator, and finally as Regulatory Affairs Specialist for the Owner-Operator Independent Drivers Association (OOIDA), a position I currently hold. Prior to joining the staff and board at OOIDA, I owned my own truck and trailer and made a living hauling produce for nearly two decades between the upper Midwest and California. It is that experience, in addition to my current role with OOIDA, which gives me a unique perspective on the subject of "Confronting Freight Challenges in Southern California."

As you are aware, OOIDA is a national trade association representing the interests of small business trucking professionals and professional drivers on matters that affect the trucking industry. The Association actively promotes the views of small business truckers through its interaction with state and federal regulatory agencies, legislatures, the courts, other trade associations and private entities to advance equitable business environments and safe working conditions for commercial drivers. OOIDA currently has more than 160,000 members who collectively own and operate more than 240,000 individual heavy-duty trucks. About 5,500 of our members live in "the Golden State" and thousands more are involved in the movement of freight to, from and around California.

Mr. Chairman, we are at a critical point in our nation's history. As we are all well aware, the US economy has receded, jobs are being lost by the thousands, small businesses are closing their doors, and families are struggling to survive. At no other point in this country's short history have our finite resources, both economic and environmental, been so strained as we as a nation try to find new approaches to solving our nation's ailments. Examining how freight is moved in the United States, particularly in California, with its dense population, environmental obstacles, and once thriving ports has perhaps never been so relevant and critical to the future of our nation as it is today.

As we anticipate the writing of a new highway bill, we must not underestimate the importance of freight movement in the United States' road to recovery. We must rather take advantage of the opportunity before us, have the courage to effectuate change and recognize that the time is upon us to make significant investments where needed and address inefficiencies in the supply chain that have bogged down the system for decades.

An efficient and reliable freight transportation system is essential to a strong US economy. But right now, our national system, like California's, suffers from substantial traffic congestion and bottlenecking, a crumbling infrastructure, and an erosion of available funds to help mitigate the concerns. All the while, enhanced environmental awareness, has forced governments at all levels to reevaluate existing practices in some instances without regard for repetition or overlap of regulation and the effect that such repetition will have on small businesses or jobs. In addition, meaningful assistance that will help offset environmental regulations such as increased access to truck parking, uniform idling regulations, and additional funding for auxiliary power units is often not prioritized. Meanwhile, large motor carrier interests, who have been trying to force mechanical and operational changes for decades in the industry in the name of reducing competition, are trying to take advantage of heightened environmental sensitivity and promote agendas which will not bring about positive change and moreover will produce ancillary effects such as diminished safety and additional strain on a deteriorating infrastructure.

Now is the time for our industry to come together and recognize that in order to move forward we must abandon the stigmas, self-serving agendas, and archaic ideology that inhibit efficiency. In addition, we must apply enhanced creativity, and communication, in an effort to bring about change. We must work together and look toward ideas like those being developed by the members of the American Highway Users Alliance that seek to establish a New Freight Program as well as the creation of a New Freight Fund. We must recognize that the policies passed in our nation's ports, no matter how well intended, could potentially have a profound negative impact on the US supply chain as ports in Canada and Mexico become increasingly viable competitors.

For small business owners, unquestionably the backbone of this industry, the time for us to put aside our differences in the transportation industry and work together to develop solutions is now, or else we risk exhausting our resources without the possibility of replenishment.

Unique geographical features of California combined with its large population have created profound environmental challenges for local governing bodies. The California Air Resources Board has recently instituted sweeping regulations targeting emissions from diesel engines, the primary source of propulsion for heavy duty trucks. Additionally, both the gateway ports of Long Beach and Los Angeles have embarked upon an even more aggressive strategy than the state to clean the air from the estimated 17,000 drayage trucks servicing both ports.

While reasonable people recognize that the freight industry must do its part to help "clean the air" it is important that measures instituted do not needlessly overlap or over burden the trucking industry with little environmental gain or favor one market participant at the expense of all others. Although OOIDA applauds the objectives of San Pedro Ports and has worked hard to open the lines of communication with port officials to ensure that their regulations do not unnecessarily impede the free flowing movement of goods, the model adopted in Southern California, which faces its own distinct challenges, should not be perceived as medicinal to all problems faced by ports throughout the United States and further mimicked.

If ports throughout the US are permitted to unduly restrict access and needlessly increase operational costs of long-haul truckers, the supply chain could react by diverting cargo shipments to other ports, especially ports located outside the United States. Mexico currently has an operational deep water port located in Lazaro Cardenas with rail service into Kansas City. Canada also has a new deep water port located at Prince Rupert with rail service to Chicago. With a widened Panama Canal that could encourage diversions to east coast ports thus avoiding use of the over-land bridge originating in Southern California, Southern California cannot assume its dominant position in freight movement is a *fait accompli* and will remain unchallenged. There are many moving parts to initiatives coming out of the ports and striking a balance is imperative.

Under the guise of environmentalism many so called "Green" initiatives are being used by their proponents to further an agenda that promotes a bottom line. These initiatives only divert time, energy, and resources from other more worthy ideas and programs. For example, a coalition of large businesses, operating under the name "AgTec" has claimed that higher permissible weights for trucks is a panacea for addressing environmental concerns. The Coalition has been trying to persuade local regulators in California, such as the San Joaquin Valley Air Pollution Control Board, to endorse an increase of truck size and weight on state highways without advertising the well known detriments such as diminished highway safety and further burdening already deteriorating highways in Southern California. It is no secret that California faces budget shortfalls and additionally the Federal Highway Trust Fund cannot keep up with financial demands made upon it. However these agenda items, coupled with the continued promotion of speed limiting trucks are the sorts of tired policies that only consume precious resources, detract from efficiency in freight movement, and jeopardize highway safety.

But as we turn from failed models and look toward more creative approaches to improve freight movement, we must also examine inefficiencies within the supply-chain which encumber truckers and in the end require more trucks and drivers to accomplish a set of given work than could otherwise be accomplished with fewer trucks if the time spent loading and unloading were reduced. Since deregulation of the trucking industry in 1980, our industry has had a long spiral downward in how both shippers and receivers treat drivers. In fact, it is estimated that drivers spend as much as 44 hours in uncompensated time at loading docks. Since our time represents no cost to them, they are actually encouraged to abuse it regardless of the hidden ancillary societal costs-such as increased congestion, potential hours of service violations, and a tremendous cost to consumers.

In a recent presentation at the Transportation Research Board (TRB) by the Federal Motor Carrier Safety Administration (FMCSA) entitled, "*Motor Carrier Efficiency Study Update*," the study provided some results that are easily recognizable to most truckers, but may be surprising to people outside of the industry. The Phase I Results showing inefficiencies in the trucking industry listed "Time Loading/Unloading" and "Empty Miles" as the two greatest factors contributing to inefficiencies in trucking today. The financial numbers associated with these inefficiencies are staggering. FMCSA pointed out that potential gains to carriers by making improvements to time spent loading and unloading could be worth as much as $3 billion annually while the potential gains to carriers by decreasing the number of "empty miles" could be as much as $2.7 billion annually. These study results should give the trucking industry and Congress substantial pause when it comes to making industry improvements.

While truckers actually are sticklers for appointments and show up on time, many shippers and receivers are indifferent to the amount of time spent by a driver at the docks or apathetic to whether the truck is being released into rush hour traffic. If somehow, a trucker's time spent loading and unloading actually represented a potential cost to shippers, shippers and receivers would have an incentive to be more aware and more efficient. While I think a return to a federally mandated detention regulation is the answer, those with a vested self-interest in continuing the abuse will claim that this would cause costs to increase. But, if the regulation is done right, that would only be true for those foolish enough to abuse a driver. A return to this type of federal policy would actually be a strong inducement for everyone to become more efficient and goods to flow more freely.

Conversely, the San Pedro Ports actually offer a constructive model for diverting truck traffic to off-peak hours, which is the sort of creative approach that should be promoted. The ports "PierPass" exhibits a model for removing trucks from congested daytime highway conditions and over burdened terminals, by allowing the trucks to enter during off peak hours. When I drove, I actually enjoyed the ability to move about during nighttime hours without excessive traffic delays and the loss of productivity that results from just idling in traffic. Whether businesses are incentivized or otherwise encouraged to conduct their shipping and receiving operations off-peak, this sort of strategy offers tremendous potential benefits. Less traffic congestion, less emissions associated with that congestion, more carrying capacity for existing infrastructure without needing to build out. These are all real tangible and achievable results, yet one more piece needs to be in-place for this strategy to work: available truck parking.

Southern California, much like many other states, especially with large metropolitan regions, has become excessively unfriendly towards trucks and offers very few opportunities for a truck to park. Parking is at such a premium in California, that drivers even refer to the truck stops located in Ontario, off the 10 freeway as "Camp Ontario" but despite the nomenclature, if a driver doesn't arrive by early afternoon, availability to park doesn't exist. This further exacerbates the conditions on the state highways as many communities in southern California have instituted bans on commercial truck parking and eliminate the driver's ability to remove the truck from the highway and park.

It is simply incongruent to continue to allow the elimination of truck parking while trying to formulate strategies that seek to improve the efficiency of goods movement. If the trend continues, Southern California could be perceived as unfriendly towards trucks and drivers could refuse to accept freight coming here from around the nation. Right now, New York City holds the title as the least desirable destination to which to haul freight as evidenced by the rates which exceed other major markets by two or three fold. Should southern California not adequately address this important issue, there is little hope to reduce traffic congestion, accidents, and realize meaningful improvements in air quality.

As an Association, we have taken proactive steps to try to solve the truck parking crisis in California but unfortunately, our efforts have been unsuccessful. Over the past 19 months, I have personally met with CalTrans numerous times to promote public/private partnerships and the idea of selling-off state right-of-ways in the trade corridors to build additional truck parking facilities. It is my understanding that these ideas, despite our productive meetings, have been abandoned.

Lastly, truckers have for years bemoaned California's split speed limit for cars and trucks. Simply allowing trucks to operate at higher posted speeds would dramatically reduce transit times and increase the efficient use of both the driver, equipment, and potentially, in some instances, reduce the number of both drivers and trucks needed to haul freight. For example; an increase of 10 MPH between the California/Nevada state line on I- 15 and Ontario, reduces transit time by 30 minutes.

In conclusion, many of the concerns Southern California faces in terms of freight movement, are not unlike those faced by the US as whole. If California does not abandon out of date ideology then the market will adjust accordingly and problems will continue to be exacerbated. It is my hope that the industry, the state, and the federal government can start seriously examining some of the challenges that we face in order to bring about meaningful reform to freight movement while addressing our environmental priorities.

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STATEMENT

Of the Hon. Dave Spence
City Council Member, City of La Canada-Flintridge
President, Governing Board, San Gabriel Valley Council of Governments

Appearing before a joint hearing
of the Subcommittee on Railroads, Pipelines & Hazardous Materials and the Subcommittee on Highways and Transit of the House Transportation and Infrastructure Committee regarding
"Confronting Freight Challenges in Southern California"
on Friday, February 20, 2009 in Los Angeles, California

Thank you, Chairwoman Brown, Chairman DeFazio and members of the Rail and Highways & Transit Subcommittees. My name is Dave Spence and I am a former Mayor and current Council member from the City of La Canada Flintridge. I am also the President of the Governing Board of the San Gabriel Valley Council of Governments (SGVCOG), a California joint powers authority which represents two million California residents living in 31 incorporated cities and Los Angeles County unincorporated communities. SGVCOG is the parent agency of the Alameda Corridor-East Construction Authority.

The global economic crisis and national recession have slowed the volumes of international trade traveling through the Southern California, particularly through the gateways of the San Pedro Bay ports, which saw volume decreases of double digits in the final months of 2008.

However, even with the current downturn in trade, which is likely to be cyclical in nature, the impact of goods movement continues to impose a heavy burden on our transportation infrastructure as well as on the health of our residents. Among the Californians who are exposed to dangerous levels of diesel emissions, more than 80 percent reside in our five Southern California counties. More than 1,200 residents of Southern California die prematurely every year due to the effects of goods movement.

Despite the downturn, the Ports of Los Angeles and Long Beach remain the busiest container ports in the country and are among the busiest in the world. Inland from the ports, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties are the nation's leading international commerce gateway, handling 44 percent of the nation's containerized imports and 86 percent of California's port throughput, including 90 percent of its imports and 75 percent of its exports. This preeminence reflects Southern California's competitive advantage derived from its unique combination of large regional markets, extensively developed deep-water ports, location on the Pacific Rim and proximity to the California-Mexico border crossings, and the nation's largest concentration of logistics and supply chain facilities, many located in the Inland Empire to the east of Los Angeles.

Approximately three-quarters of the container-based goods handled by the San Pedro Bay ports are destined for markets outside the Southern California region. As a result, Interstates 710, 5, 10, and 15, four of the freeways in the region that are most heavily traveled by trucks, collectively carry some 103,000 total trucks per day. As for goods carried by rail, upwards of 100 trains a day traverse the region – and more than 90% of this rail traffic from the ports heads east. The air quality mitigation strategy shared by the Ports and the regional and state air quality agencies is, among other measures, to increase the share of freight carried by rail, therefore the number of freight trains is sure to increase.

Located to the immediate east of the Interstate 710 freeway and east of the terminus of the Alameda Corridor rail expressway, which together carry virtually all of the container traffic going to and from the ports, the San Gabriel Valley, with its 2 million residents and 31 cities, is at the crossroads – some say ground zero – for this onslaught of freight traffic on its path eastward to the rest of the nation. Three east-west freeways transecting the San Gabriel Valley, Interstate 10, Interstate 210 and the 60 freeway, have heavy truck traffic. The San Gabriel Valley Council of Governments supports a reasonable and equitable distribution of truck traffic on all the major east-west highway routes.

To increase safety and relieve congestion at rail crossings in the San Gabriel Valley in the face of the growth in freight traffic, the San Gabriel Valley Council of Governments more than a decade ago established the Alameda Corridor-East (ACE) Construction Authority. In recognition that it would be cost-prohibitive to grade separate all 54 crossings in the Valley, the ACE Construction Authority program called for building grade separations at 20 of the busiest crossings in the Valley and safety improvements at 39 grade crossings.

The federal TEA-21 authorizing legislation moved the ACE-San Gabriel Valley Project from a plan to a reality with substantial funding support for the ACE Project as National High Priority Corridor. Later, the SAFETEA-LU legislation provided support for the ACE Project as a Project of National and Regional Significance. Altogether, the ACE Project has received a total of $218 million in Federal funds. Since then, the State and local governments have stepped up considerably in supporting the ACE Project, committing $536.5 million in State funds, $688.9 million in Los Angeles County Metropolitan Transportation Authority funds and $21.6 million in City/County funds. The Union Pacific Railroad has contributed $23.7 million. Total funds committed are $1.488 billion, and we are deeply appreciative of this support from all quarters. Far from your conventional 80/20 Federally funded project, the Federal funding share of our project at this point stands at just under 15%.

ACE has made timely, significant and cost-effective progress toward project completion. Safety improvements have been completed at 39 grade crossings, five grade separation projects have opened to traffic, three grade separation projects are under construction and another two grade separation projects are prepared to start construction this year. The San Gabriel Trench project, which will lower the railroad in a 2-mile trench with street bridges constructed at four busy crossings, is progressing through design and is already approximately 70% funded from non-Federal sources. Another six ACE grade separation projects remain unfunded.

While recognizing the fiscal constraints imposed by the national recession and threats to traditional revenue sources, we are hopeful that the Federal commitment to goods movement infrastructure can again be reinforced with a new authorization of the federal transportation program this year.

Given the intense competition for an already overstretched Highway Trust Fund, we urge the establishment of a Freight Trust Fund as Congress deliberates the authorization of a new federal transportation program. We are a founding member of the Coalition for America's Gateways and Trade Corridors which has worked with Congress and your Committee in particular to seek a permanent Freight Trust Fund specifically designated for freight projects, which often have difficulty competing for funding with traditional highway projects because freight projects often involve multiple modes, typically cross between state and local jurisdictions and often are constructed in phases.

The Coalition for America's Gateways and Trade Corridors supports the establishment of a Federal Freight Trust fund along the following principles:

- Revenue should be assessed based on benefit from the freight transportation system
- Increases in goods movement should yield increases in revenue
- All potential funding mechanisms should be considered, including traditional highway user fees, tolls, custom and cargo fees
- The federal Freight Trust Fund should be dedicated, firewalled and sustained
- Funding priority should be given to federally designated Projects of National and Regional Significance
- Funding should be available for multi-jurisdictional projects
- Funding should be distributed based on objective, merit-based criteria
- Funding should be available to support approved projects through to completion, similar to the process available to projects with approved Full Funding Grant Agreements

At the state level, we have worked with legislative leaders and other stakeholders for the past three years to establish the concept of a cargo container user fee to support the construction of goods movement infrastructure projects and the implementation of clean air programs. We have not met with success, but the bill author, Senator Alan Lowenthal of Long Beach, has indicated he will continue to work with the regional stakeholders and the Administration in seeking a consensus to create a sustaining fund to benefit freight projects and clean air programs. At the regional level, the Ports of Long Beach and Los Angeles are also exploring an Infrastructure Cargo Fee for the benefit of regional projects, such as grade separations and rail improvements, beyond the immediate vicinity of the Ports.

In closing, we applaud Congress for appropriating $1.5 billion program in the American Recovery and Reinvestment Act of 2009 for a new competitive grant program for surface transportation projects with nationally or regionally significant impact, including freight rail transportation projects. Federal highway funds are traditionally are distributed on a formula basis, a process not well suited to allocating monies to freight infrastructure projects. We view this discretionary program as a very important step forward in providing an opportunity for freight projects to compete for funding, particularly in Southern California, which has not received the federal funding support needed to keep pace with the growth in freight traffic.

The ACE Construction Authority has three grade separation projects which could compete for American Recovery and Reinvestment Act funding through the discretionary program or formula programs. The ACE Construction Authority could obligate federal funds within 180 days of enactment of the bill for construction of the Baldwin Avenue Grade Separation Project in the City of El Monte. The project environmental document has been approved and property is being acquired. This $68.1 million project would create 783 direct and indirect jobs. The ACE Construction Authority could obligate funds within 360 days to start construction of the Nogales Street Grade Separation Project in the City of Industry. The environmental document for this project is being finalized prior to commencing property acquisition. This $81.8 million project would create 1,473 jobs. The third project, the San Gabriel Trench Grade Separation Project in the City of San Gabriel, is a regionally significant transportation enhancement project that would lower the railroad in a trench with street bridges built at four busy crossings. Federal stimulus funds could be obligated for this project within the timeframes set forth in the recovery act. And, as noted above, approximately 70% of the $498 million project cost is already committed in non-Federal funds. This project would create 8,964 jobs.

Thank you very much for inviting me to share our progress today. I thank the Members of both Subcommittees for the interest and support you have shown.

The Port of
LONG BEACH

The Written Statement of

Richard Steinke

Executive Director

Port of Long Beach

Before the

House Committee on Transportation and Infrastructure

Subcommittee on Highways and Transit

and the

Subcommittee on Railroads, Pipelines and Hazardous Materials

United States Congress

"Freight Challenges in Southern California"

February 20, 2009

Mister Chairman and Madam Chairwoman. Members of the Committee. My name is Richard Steinke and I am the Executive Director of the Port of Long Beach. Thank you for the opportunity to speak before the House Committee on Transportation and Infrastructure's Subcommittee on Highways and Transit and the Subcommittee on Railroads, Pipelines and Hazardous Materials to discuss an issue that is vital to the Port, the State of California and the nation - "Confronting Freight Challenges in Southern California".

As the second largest containerized seaport in the United States, the Port of Long Beach is a major gateway for U.S.-Asian trade and a recognized environmental leader, with industry-leading programs such as the award-winning Green Port Policy. The Port is also an innovative provider of state-of-the art seaport facilities and services that enhance economic vitality and improve the quality of life and the environment. Combined with our neighbor, the Port of Los Angeles, we are the fifth largest port complex in the world. In 2008, the Port of Long Beach handled more than 6.4 million containers, also known as TEUs for Twenty Foot Equivalent Units. Combined with Los Angeles, both ports handled over 14 million TEUs, which represented over 40 percent of all containerized goods entering United States ports. Although volumes were down significantly at the Port of Long Beach, from 2008 to 2007 (20 percent), it is essential that solutions to the nation's ailing transportation and rail systems be addressed.

The ports of Long Beach and Los Angeles, also known as the San Pedro Bay Ports, are the leading gateways for goods entering the U.S. from foreign markets. Port operations support approximately 1.4 million jobs nationally and provide consumers and businesses with billions of dollars in goods each year. About $4 billion a year is spent in the U.S. for port-industry services and trade valued annually at more than $100 billion moved through the Port of Long Beach in 2008.

Consumer products such as clothing, shoes, toys, furniture and electronics enter the Port before making its way to store shelves throughout the country. In addition to containerized cargo, the Port of Long Beach handles a diverse cross-section of specialized cargo that include: petroleum, automobiles, cement, lumber, steel and other products. A majority of the consumer products and some bulk cargo entering Long Beach, are transported from the port via rail and truck throughout the region and to destinations around the country.

In 2007, the ports of Long Beach and Los Angeles and the Alameda Corridor Transportation Authority commissioned a Trade Impact Study which found that goods entering the San Pedro Bay Ports end up making its way to every Congressional District in the United States. In particular, the study looked at the jobs, state and local taxes generated directly and indirectly by goods moving through the port complex to solidify that we are truly "America's Ports".

Due to the geographic location of the port complex, the ports of Long Beach and Los Angeles are well positioned in relation to the transportation and rail infrastructure system that transports products throughout the region and the country. Both ports are expected to meet the growing demand for international cargo which is estimated to reach over 35 million TEUs by 2020. These forecasts take into consideration construction of new West Coast Ports in Canada and Mexico, a new set of canal locks in Panama, currency fluctuations, and economic changes in the United States and Asia. Cargo forecasts are rarely accurate and have been consistently under-predicting growth for the last 20 years. The San Pedro Bay Ports' cargo growth rates are not restrained by external factors, but by limits to terminal facilities, transportation and rail infrastructure. A combination of deteriorating infrastructure, insufficient rail capacity due to terminal logistics issues, as well as community opposition to port projects, will make it challenging to meet the freight needs of the future. That is why as a catalyst for innovative environmental and goods movement programs, the Port has worked closely with the Port of Los Angeles, as well as regional and national transportation and air quality agencies to develop and implement a comprehensive environmental and transportation infrastructure system to address freight issues in Southern California.

Clean Air Action Plan

In November 2006, the Long Beach and Los Angeles Board of Harbor Commissioners approved the Clean Air Action Plan (CAAP), a Plan to reduce emissions associated with port operations by more than forty five percent over a five year period. In order to mitigate the environmental impacts of freight movement, the CAAP is the most comprehensive air quality mitigation plan being implemented at any seaport complex in the world. The CAAP is expected to cut particulate matter pollution, nitrogen oxide and sulfur oxides from source categories that include ocean going vessels, harbor craft, cargo handling equipment, railroad locomotives and heavy-duty trucks. As part of the CAAP, over the next five years, the San Pedro Bay Ports will require 16 switching locomotives and thousands of pieces of cargo handling equipment be replaced or retrofitted to meet or emit below USEPA emissions standards, require cargo and cruise ship terminals to be equipped with shore-side electricity, replace almost 17,000 drayage trucks operating at the port, as well as look at new technologies to help further reductions from freight/port-operations.

Freight Movement

Due to the environmental impacts related to cargo movement, the demand for foreign goods, the Port's geographic location near national highway and rail systems, as well as the forecasted increase in cargo movement through the San Pedro Bay Ports, the Port faces a number of challenges in the coming years. These challenges to freight movement also include a failing surface transportation infrastructure system, the need for improved rail infrastructure, a lack of investment in the nation's goods movement industry and the need for a national freight policy. Although there are significant challenges to freight movement in Southern California, the Port remains dedicated to looking at new and innovative ways to implement a comprehensive freight mobility plan that will move goods efficiently, while also mitigating the environmental impacts of freight movement.

In an effort to improve the efficiency of freight movement, the Port of Long Beach has taken a number of highway, rail and transportation factors into consideration.

Rail Infrastructure

Cargo transported via rail has significant environmental benefits and as a result the Port has encouraged terminal operators to place more cargo on rail. Transporting containers via rail has become the optimal form of goods movement for most industries. From manufacturing, retail, construction and automotive to petrochemical, technology and agriculture, hundreds of industries require reliable and dependable shipments of products. The primary source of transport for these goods from the port complex is by rail through the Alameda Corridor and out of California by the transcontinental rail systems operated by Union Pacific or the Burlington Northern Santa Fe Railway.

As a significant intermodal and environmental mitigation project, the twenty mile long grade separated Alameda Corridor, connects the ports of Long Beach and Los Angeles to the intercontinental rail yard in downtown Los Angeles. Since opening in 2002, the Alameda Corridor has been a successful method to transport cargo because it eliminated over 200 rail crossings, providing congestion relief and improving the efficiency of cargo movement from the ports to the rest of the nation. Every train using the Alameda Corridor can eliminate 700 to 750 truck trips from local freeways.

Portions of the existing rail and transportation system within and adjacent to the Port complex is becoming constrained and will worsen due to cargo growth, as well as community concerns about port growth and implementation of new port terminal enhancement projects. To off-set some of these concerns, the CAAP requires any new rail yard developed or significantly redesigned at the San Pedro Bay Ports to operate the cleanest available technology for switcher, helper, and long-haul locomotives, utilize idling shut-off devices and exhaust hoods and use only ultra low sulfur diesel or alternative fuels. In addition, together with the Port of Los Angeles, the Port of Long Beach completed the *San Pedro Bay Ports Rail Study Update* in 2006 to address the current and future rail capacity issues. In particular, the *Study* identified rail system deficiencies, substantiated the actions required to meet rail yard demand and the need to develop a Rail Enhancement Program.

As part of the *Study*, the Rail Enhancement Program was developed to coordinate conceptual improvements to port rail projects through a phased implementation plan. Both ports analyzed the complex's rail infrastructure needs and looked at ways to maximize capacity and utilization of rail systems like on-dock rail. Currently rail yards at or adjacent to the port complex have the combined throughput capacity to handle at least 30 percent of the Port cargo during the forecasted growth period between 2015 and 2030. Even after maximizing the potential on-dock rail yards proposed in the demand for intermodal rail service there will be a shortfall in rail yard capacity by at least 2010. That is why both ports recommend that in order to develop a more comprehensive rail system, rail yard capacity be developed on-dock and at near-dock facilities in the vicinity of the Alameda Corridor and south of the I-405 Freeway.

Various mainline, system and operational improvements will be required within the port complex to accommodate the projected train volumes. The total cost for rail improvements is estimated at over one billion dollars split nearly equally between rail yard projects and rail network infrastructure projects. Even with the development of infrastructure improvements outlined in the Rail Enhancement Program, the rail network is expected to suffer increasing train delays that will increase operating costs and potentially disrupt cargo flow.

The Ports have developed and are continuing to pursue development of on-dock rail yards so that cargo can be loaded onto trains at the marine terminal without generating truck trips on the local roadways and freeways. Because there are not any other West Coast ports to accommodate the current and projected cargo volumes, not taking action to improve rail capacity cannot be an option. The impacts to local communities and the region's highway system would be onerous and in agreement with Long Beach Mayor Bob Foster, the Port believes that our local communities and infrastructure system should not bear the environmental and congestion burdens of goods moving through the region to the rest of the nation.

Transportation Infrastructure

In line with freight rail, major investments are needed to improve the transportation infrastructure system in Southern California. From the recent Ocean Boulevard/Terminal Island Freeway – an efficiency project that removed traffic signals and created an elevated interchange between Ocean Boulevard and the Terminal Island Freeway between both ports – to roadway improvements, the Port continues to look at ways to meet the freight needs of the region. The Port has worked with the Port of Los Angeles and transportation agencies in a five county area to look at identifying a complete list of projects that will reduce congestion and move goods more efficiently. In addition, because neither the San Pedro Bay Ports nor the Southern California transportation agencies could afford these investments alone, in October 2007 twenty agencies (including USDOT, USEPA, Caltrans, ports etc.) signed the historical Southern California

National Freight Gateway Collaborative Agreement to plan and implement critical projects for inclusion in a national freight policy for the upcoming transportation authorization.

The Gerald Desmond Bridge Replacement Project, a prime example of deteriorating infrastructure at the Port, speaks to the many freight challenges seen in Southern California. The Port is currently proposing to replace the 40-year old Gerald Desmond Bridge with a new, six-lane cablestayed bridge adjacent to the current site. Designated by the U.S. Congress as a part of the National Highway System and the Federal Strategic Highway Network, the Bridge has also been identified by the State of California as a candidate for replacement, with a low "sufficiency" rating. While the Bridge does not pose an immediate traffic hazard on users, its physical condition is fast deteriorating and the cost for routine maintenance is becoming more prohibitive. In addition, its vertical clearance is among the lowest in any large commercial seaport in the world. As a critical structure serving the San Pedro Bay Ports and the cities of Long Beach and Los Angeles, the Bridge is designated part of State Route 710, with about 75 percent of the bridge traffic traveling to and from the I-710. The replacement project is expected to improve reliability, while reducing congestion and bottlenecks. It can therefore be said that the Gerald Desmond Bridge, affectionately known as the "Bridge to Everywhere", which moves almost 25 percent of the Ports' containers, will result in significant improvements to the region and nation's freight system.

In an effort to look at system-wide transportation infrastructure needs, the Port has also taken an active partnership and financial role in discussions to improve the I-710. Similar to the Gerald Desmond Bridge Replacement Project, the I-710 Corridor is a vital link in the transportation system. Serving as a critical commuter and goods movement connector, the I-710 connects the San Pedro Bay Ports to various highway systems and distribution centers throughout the region. This vital freeway has seen significant increases in truck and commuter traffic, which is expected to continue to grow and possibly exceed capacity due to the expected increases in cargo movement and population growth.

As part of the Port's transportation and environmental programs, we are also looking at new technologies to assist in meeting the freight challenges of Southern California. In particular, the Board of Harbor Commissioners has requested staff to look at implementing a Zero Emissions Container Mover System demonstration project that will allow goods to move from the terminals to a near-dock railyard, while considerably reducing emissions. The Port is also working with terminal operators to implement the use of cold ironing and environmentally friendly cargo handling equipment such as electric rubber tire gantries and electric clerk trucks as a way to improve efficiency and mitigate harmful pollution.

Due to reductions in funding from the federal and state government, the ports of Long Beach and Los Angeles found it necessary to consider implementation of the Infrastructure Cargo Fee (ICF), a fee to be assessed to beneficial cargo owners, to pay for regionally and nationally significant transportation infrastructure projects. The ICF is expected to raise a total of $1.4 billion to fund critical goods movement projects within the harbor complex. The Infrastructure Cargo Fee will provide funds for upgrades to the ports' aging rail and bridge infrastructure, reduce congestion, expedite goods movement and improve air quality. The Ports will levy this fee on each loaded import or export container moved through the Ports' terminals by truck or rail. Because the program will be pay-as-you-go, the amount of the ICF will fluctuate based on that calendar year's projected funding needs for the list of approved projects that include, but are not limited to: replacement of the Gerald Desmond Bridge; construction of an interchange to allow the removal of a traffic light at Navy Way and Seaside Avenue; improvements to access the Harbor Freeway from the Port of Los Angeles; replacement of the Schuyler Heim drawbridge; elevated expressway between Ocean Boulevard and Alameda Street at Pacific Coast Highway; among others. It is anticipated that the fee would begin at $6 per loaded TEU in mid-2009 and will range over a period of seven years between $10 to $18 per TEU depending on the projects that need to be funded. The ports will end collection of the Infrastructure Cargo Fee once the approved list of projects is completed and paid for. The ports will use the ICF revenue to match funds from California's voter approved Proposition 1B and federal funds, to help pay for major port-related transportation infrastructure and air quality improvements. The revenues from the fee program will provide the "private" component of a public-private partnership.

In order to move goods more efficiently from the San Pedro Bay Ports to regions across the nation, additional investments must be made to fund regionally and nationally significant transportation infrastructure projects. Countries such as Canada and Mexico are making significant financial investments in their seaports and transportation systems, providing them with a significant competitive advantage in the international goods movement industry. Also, the Surface Transportation Board's recent approval of the merger between Canadian National Railway and the Elgion Joliet and Eastern Railway – a line that the Canadian National Railway states will significantly reduce the transit time for goods moving from the Port of Prince Rupert to the Chicagoland area – has the potential to impact the nation's economy, result in job loss and divert cargo away from U.S. ports. It is our hope that the economic stimulus package recently approved by Congress and the upcoming transportation authorization legislation will make similar types of investments in seaports and the freight/rail infrastructure system.

The Port of Long Beach looks forward to working closely with the Committee and other key stakeholders on the upcoming transportation authorization legislation, to develop a national freight policy that will aid U.S. seaports and to develop a comprehensive list of critically needed transportation and rail projects and to discuss alternative sources to fund projects that will allow goods that fuel our economy to continue moving.

Thank you again for allowing me to speak before the Committee on this important topic of "Confronting Freight Challenges in Southern California".

Testimony
of
Robert W. Turner
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1400 Douglas Street
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February 20, 2009

Before the United Sates House of Representatives
Committee on Transportation and Infrastructure
Subcommittee on Railroads, Pipelines, and Hazardous Materials
Subcommittee on Highways and Transit

Confronting Freight Challenges in Southern California

Chairman DeFazio, Chairwoman Brown, members of the subcommittee, my name is Bob Turner, and I am Senior Vice President of Union Pacific Corporation. I appreciate the opportunity to be here today to talk about the freight challenges confronting Southern California.

Union Pacific is a long-time citizen of Southern California. Not only has our name been well known here for decades, but our merger with the Southern Pacific in 1996 made us the largest freight railroad serving California. This state is enormously important to Union Pacific; twenty-five percent of all of our freight either starts or finishes in California. In fact, the LA Basin, with over 1,000,000 carloads per year, accounts for about 10% of our entire business. While international container traffic is the most visible business, we also provide a number of critical raw materials for Southern California, including ethanol for California's fuel requirement, finished vehicles for the California market, a wide array of construction and building materials, and the chemicals used to purify the public water supply in this region.

While our business is primarily the safe and efficient movement of freight, we also share tracks with a number of commuter trains in the LA Basin. While commuter rail provides an important resource to commuters and significant public benefits, the timing of commuter travel and the need for coordination of the national freight network, creates the potential for conflict. Amtrak trains on a few routes add more potential congestion.

We have a very healthy and robust relationship with Metrolink and service on the LA-Riverside line has improved substantially in recent years. We work closely with Metrolink to keep passenger and freight moving on time. We also understand that there is great public interest in increased commuter service. However, taking rail capacity from freight to provide rail capacity for passengers is not the answer to America's urban congestion problems, as it would only shift thousands of trucks onto the highways. Freight rail provides enormous public benefits too: reduced truck traffic, enhanced energy efficiency, lower emissions, and essential support of the local communities. The real answer is to grow railroad capacity for both freight and passenger service. This concept was recognized in the recently passed rail safety legislation, which provides additional funds for new passenger capacity, as well as in the stimulus legislation.

The tragic accident in Chatsworth late last year showed the danger that sometimes exists when passenger rail and freight rail operate on the same tracks. We are committed to working with passenger systems, not only in California, but also across our system to implement Positive Train Control to improve the safety and reliability of both systems. However it is important to note that the technology required to operate in real-time is incredibly complex and expensive—perhaps exceeding $6 billion. It will take the cooperation of all of the freight railroads, all of the commuter railroads, Amtrak, and the federal government to meet this very aggressive schedule of implementation at the end of 2012 in Southern California and 2015 nationwide.

Freight railroads invest in their own infrastructure. This is very evident when you look at our investments in the Los Angeles/Long Beach areas during the last five years. I have attached a chart which shows in great detail that we not only have invested significantly in this region, but we have also invested east of here all the way to El Paso and beyond so that the goods destined for California and the goods leaving California will move efficiently and safely to the major terminals across the country. We have very efficient routes from Southern California to the southeast part of the United States and the Midwest, and we are investing in a number of facilities to handle freight once it arrives in those regions. In addition, we have the most efficient north-south route between Southern California and the Pacific Northwest, which keeps hundreds of trucks off a very busy Interstate 5 each day.

As the nation's only privately funded transportation system, operating a 140,000-mile network, railroads must attract vast amounts of private investment to meet the large capital demands necessary to support our infrastructure. In fact, last year, the two largest railroads each spent almost as much to operate, maintain and expand their infrastructure as did the State of California on its highway system. Other modes of transportation rely on government funding to support their infrastructure. Our ability to facilitate this private investment in transportation infrastructure is a tremendous asset and benefit to our country. If we were not able to attract this investment, the government would have to find the billions of dollars necessary to fund our network in addition to those of our competitors (trucks and the inland waterways for barges), or alternatively would have to spend vastly more on highways to handle the business we carry, thereby forcing an even heavier burden on taxpayers.

A recent Department of Transportation study projects total freight transportation demand will increase 92% from 2009-2035, with an 88% increase in demand for rail service during that same time period. Other studies conclude the same thing. Moreover, a September 2007 study (The National Rail Freight Infrastructure Capacity and Investment Study) found that Class I railroads need $135 billion in investment to expand their network capacity by 2035 to keep pace with DOT's forecasted demand. This equates to over $4.5 billion annually for capacity expansion for the next 27 years. Of course, we also need to spend vast amounts to maintain and renew existing infrastructure. Today, on an annual basis, our industry is spending less than 40% of this amount for new infrastructure capacity. We all know that studies that project growth this far into the future may not be 100% accurate, but let's assume, for the sake of argument, these studies are off by 50%. We are still not now able to attract enough investment in infrastructure to reach the level that the nation needs us to invest.

One reason we must spend so much is that we must replace existing assets that have come to the end of their useful life and replace assets destroyed by natural events such as fire, floods, and earthquakes. Let me give you a few examples of these costs, because they are staggering.

Because we operate outdoors, we are constantly battered by Mother Nature, and these costs can be astounding. For instance, in 2005, our Salt Lake City to Los Angeles line in Nevada was destroyed by a flood. To rebuild this asset, it cost us $87 million. In the same year, we spent some $30 million to rebuild our line from Los Angeles to Santa Barbara. That line is used almost entirely by Amtrak and Metrolink. Nevertheless UP paid all of the costs of rebuilding that line in a very short time enabling the prompt return of normal operations. The others using that line reimbursed none of that cost. Similarly, a fire destroyed a large bridge in Sacramento in 2007, and we had to spend $14 million to replace it and we completed it in two weeks. Most recently, we had a mudslide on a line in Oregon that wiped out a significant portion of our railroad. The slide was as wide as a football field and the equivalent height of the Sears Tower. This took months to repair at a cost of over $100 million. All of this must be done using private dollars.

These are some big numbers associated with some big projects. Equally staggering are the day-to-day numbers. For example, Union Pacific wears out two miles of track every day – 365 days a year. At a cost of $450,000 to $600,000 per mile for replacement rail, this adds up very quickly. It costs on average $2.5 million per mile to build new track, and this figure does not included the cost of acquiring land or environmental issues that may need to be addressed. As I mentioned previously, a requirement to install a vital train management system will add to these costs.

Union Pacific is also investing in safety and in the well being of our communities where we operate.

We move freight very safely. Nothing is more important to railroads than the safety of our employees, our customers, and the communities we serve, and our safety record is excellent. From 1980 to 2007, the last full year for which data is available, railroads have reduced the overall train accident rate by 71% and our employee casualties by 80%, with 2007 being a record year for safety. Today, railroads have lower employee injury rates than other modes of transportation and most other major industry groups – including agriculture, construction, manufacturing, and even some types of retail activity.

We are also part of your communities. In 2008 Union Pacific employed over 5,500 Californians in jobs with great pay and great benefits, had a California payroll of over \$420 million, purchased nearly \$170 million worth of goods and services and donated over \$1.7 million to community organizations in this state.

Our investments are making a difference. Our customer survey results show that we are now consistently achieving best-ever results with our customers. This creates value for them and allows them, in tough times, to maintain viability until the economy is on solid footing to grow. We are investing in fuel efficient freight locomotives for both long distance trains and for yard work. We are improving our use of on-dock loading of international goods in the ports. This will not only improve our customer service but also will lower the impact on Interstate 710 as fewer trucks will need to haul containers from docks to near-dock facilities.

California's environmental practices, a go-it-alone mindset on local regulations, and higher than average port fees, make this a relatively difficult and expensive place to do business.

During the last two years, we've seen shippers direct goods that once came through this region to other routes and ports. International trade is very cost-sensitive, and it will typically flow to the lowest cost route. If this is a concerted strategy to divert traffic from this region, that is one thing, if not, in a period of economic uncertainty, this region cannot afford to be the higher-cost alternative.

Streamlining permits for construction and expansion also would reduce the cost of rail expansion and improve rail service. For example, Union Pacific has had a proposal to expand our intermodal container transfer facility on the table for four years. This project is estimated to cost about $400 million and would increase the freight infrastructure in this region while reducing the environmental impact of our facilities on our neighbors.

There are also many opportunities for public/private investments that would enhance the mobility of freight and passengers while reducing congestion on crowded highways. Government should adopt policies that drive freight to the rails, recognizing that the public benefits in doing so are significant. The recently passed economic stimulus bill contained a new transportation program for projects of regional and national significance. This program will enhance the ability of public/private partnerships to move forward and leverage the private dollars that we can bring to the table.

I know this Committee understands that freight rail is vital to the health of this region and our nation. We offer huge societal benefits that need to be maximized, and while we are currently dealing with the economic downturn, we have a great future. I look forward to working with you to fully develop a vibrant rail system in this country.

This concludes my testimony. I will be happy to answer any questions you may have.

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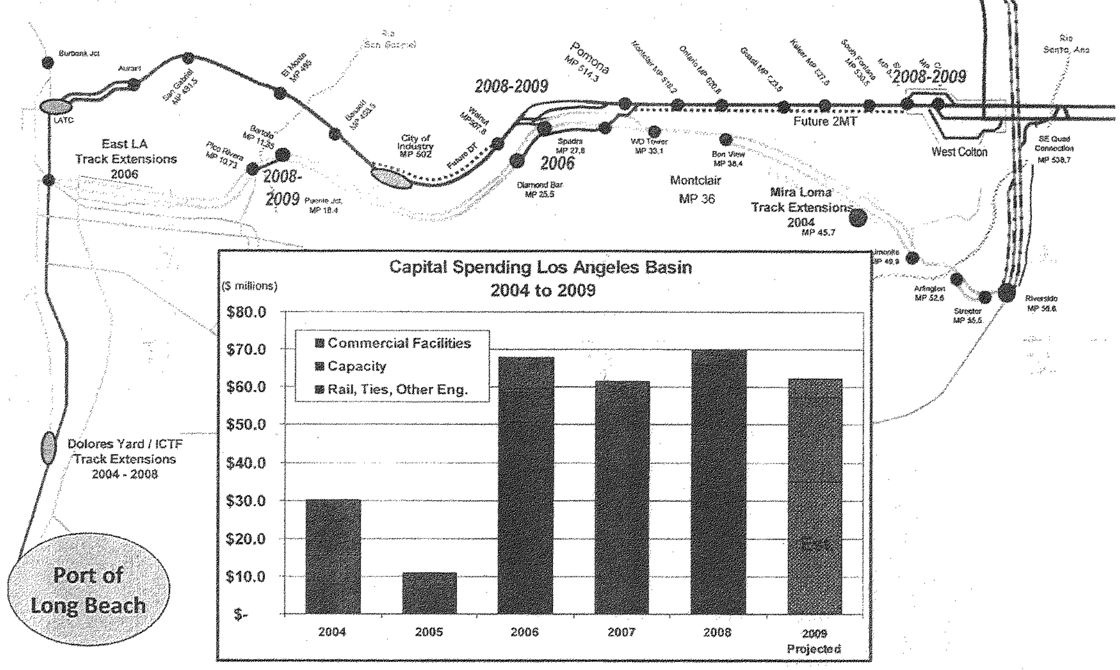
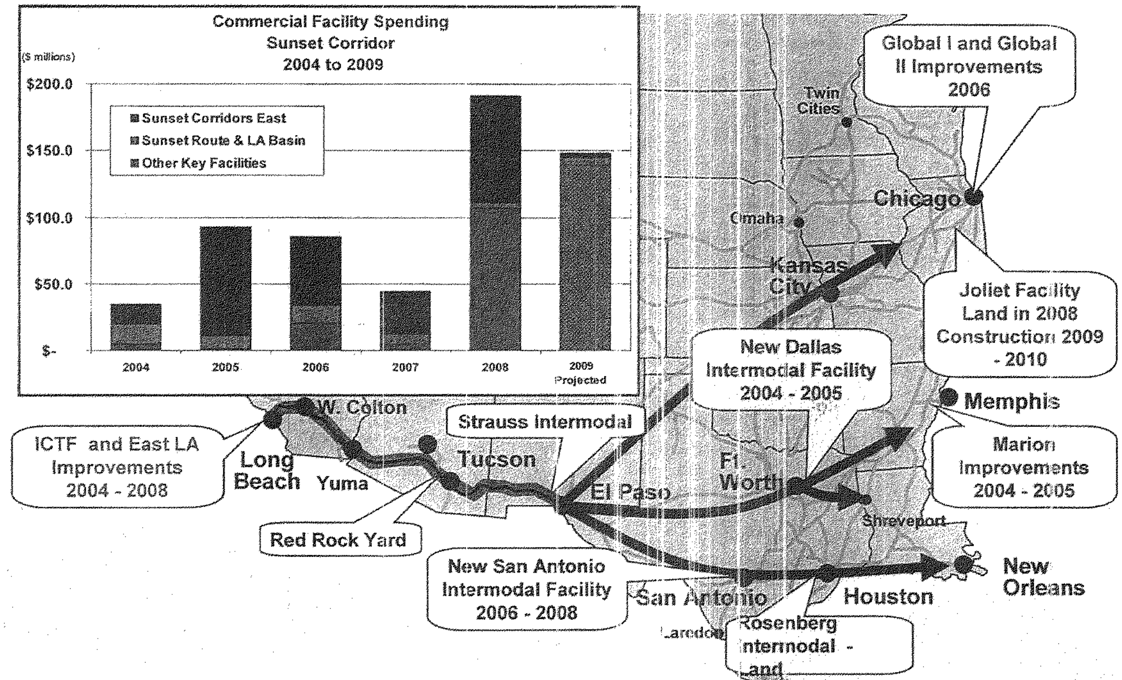
LA Basin Capital Spending 2004-2009



BUILDING AMERICA®

Sunset Corridor Commercial Improvements
2004 - 2009



BUILDING AMERICA®

US West Coast Fees

Applicable to marine container intermodal loads

	Timing	$/FEU	Who Pays	LA/LB	Oak	Sea/Tac
• ICTF Gate *on dock excluded	In effect	$30*	OCarrier	$ 30	N/A	N/A
• Alameda Corridor	In effect	$ 37	BCO	$ 37	N/A	N/A
• Clean Truck *on dock excluded	Oct '08	$ 70*	BCO	$ 70	N/A	N/A
• LA/LB Infrastructure	Jan '09	$ 30	BCO	$ 30	N/A	N/A
• Lowenthal Bill	Jul '09	$ 60	BCO	$ 60	$ 25**	N/A
• Total				$227	$ 25	$ 0

- LA/LB Incremental to Oakland via UP terminal — $202
- LA/LB Incremental to Oakland via on dock — $102 (Oakland dray offset by on dock loading costs)
- LA/LB Incremental to Sea/Tac via UP terminal — $227
- LA/LB Incremental to Sea/Tac via on dock — $127 (Seattle dray offset by on dock loading costs)

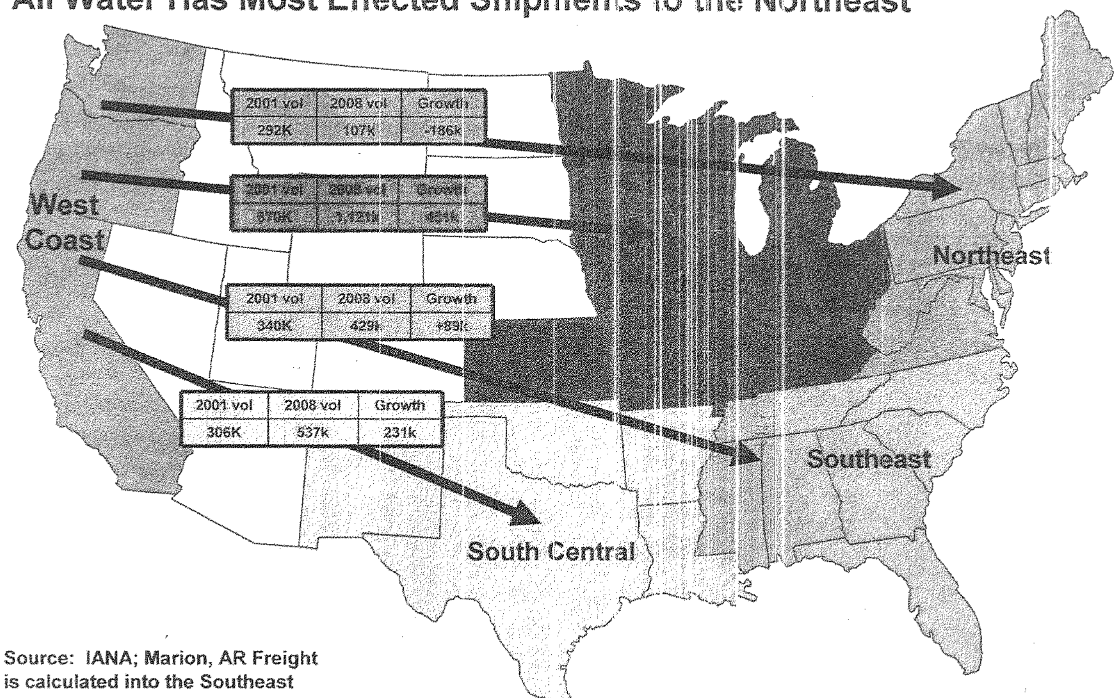
Increased on dock in LA/LB is crucial to reduce impact of LA/LB fees by $100/FEU

**Per Port of Oakland, Lowenthal authorizes up to $30/TEU ($60/FEU), allowing Oakland to charge $12.50/TEU($25/FEU). Ports of LA/LB will charge the full $30/TEU($60/FEU).

BUILDING AMERICA®

International Volume Growth 2001 to 2008 (UP + BNSF)

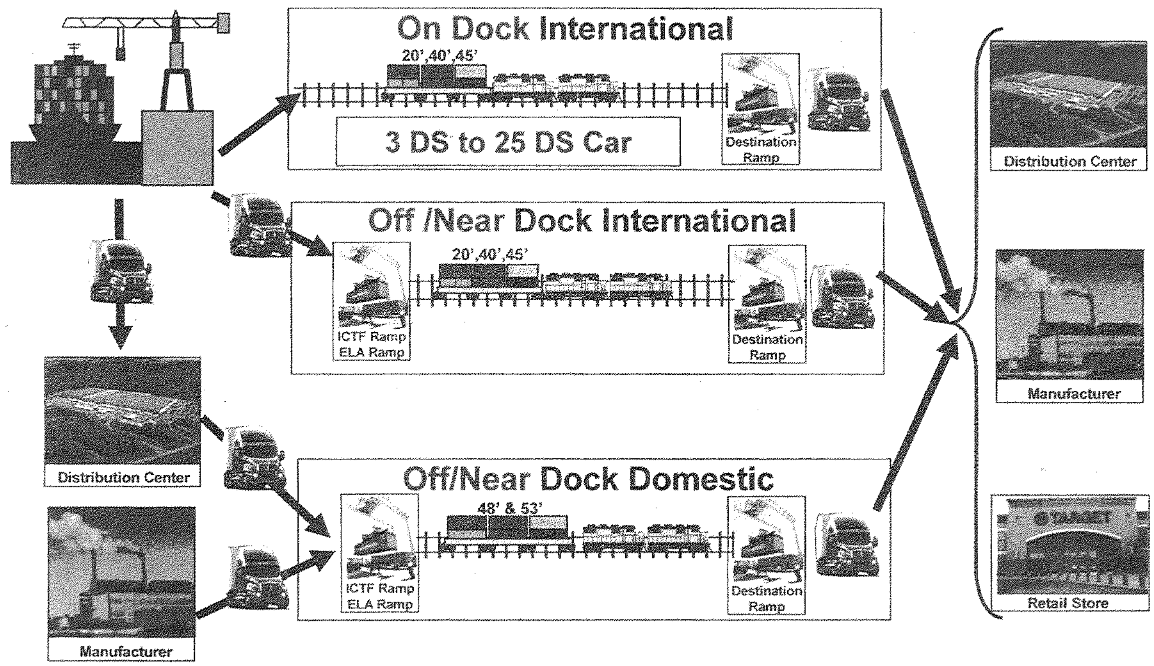
All Water Has Most Effected Shipments to the Northeast



Source: IANA; Marion, AR Freight
is calculated into the Southeast

 BUILDING AMERICA®

Use of On-Dock Facilities - *Improved*



BUILDING AMERICA®

TESTIMONY OF

Michael Mendez

Chairman, I-5 Consortium Joint Powers Authority (I-5 JPA)

BEFORE THE

Subcommittee on Highways and Transit and Subcommittee on

Railroads, Pipelines and Hazardous Materials

House Committee on Transportation and Infrastructure

HEARING ON

"Confronting Freight Challenges in Southern California"

February 20, 2009

10:00 a.m.

Metro, Third Floor Board Room

One Gateway Plaza

Los Angeles, CA

Thank you, Chairman DeFazio, Chairwoman Brown, and members of the Subcommittee for the honor of allowing the I-5 JPA to provide written testimony regarding the challenges associated with freight movement in Southern California.

My name is Michael Mendez and I am Chairman of the I-5 Consortium Joint Powers Authority (or I-5 JPA). The I-5 JPA was created over 17 years ago and represents the residents and businesses along I-5 in six (6) cities including Commerce, Downey, Santa Fe Springs, Norwalk, La Mirada and Buena Park.

Our mission is to "Protect cities while increasing capacity and improving safety and efficiency of the I-5 by working with transportation authorities to design I-5 corridor improvements that will not cause economic and social disruption of communities." Corridor capacity, traffic flow and air quality issues along I-5 are intricately linked to the freight challenges that are being experienced. This is why the I-5 JPA felt it so critically important to submit testimony to the Subcommittee.

We are in complete support of and work very closely with the Gateway Cities Council of Governments (Gateway COG), who will summarize various key points relative to the COG region, as part of the hearing. But we also want to emphasize the ongoing and necessary efforts to expand I-5 from I-605 north to I-710. The project will widen the highway from existing 6 and 8 lane portions to 10 lanes, or 5 lanes in each direction, including a High Occupancy Vehicle (HOV) lane. This will relieve traffic congestion and help respond to the #1 public health issue raised at community meetings, the deleterious effect on air quality in the region that results from this congestion.

The I-5 JPA has been successful in helping secure full funding for the I-5 expansion south of I-605 into Orange County. This six (6) mile stretch of I-5 is anticipated to break ground and begin construction within the next 18 months. This is crucial to passenger and goods movement, as well as to our economy in terms of creating jobs necessary to construct this more than $1.4 billion widening initiative. Interstate 5 has already been expanded in Orange County, and this final segment, from I-605 north to I-710, is the final portion requiring expansion, necessary to help alleviate the congestion and improve air quality in southeast Los Angeles County.

We recommend that the Committee consider the I-5 Corridor expansion project when discussing the re-authorization of SAFETEA-LU. We hope that this #1 priority of the I-5 JPA and the Gateway Cities COG will rise to the top of the priority list. Based on the need from the passenger and goods movement perspectives, as well as the health and safety benefits associated with improving air quality resulting from improved traffic flow, we believe this warrants that top priority.

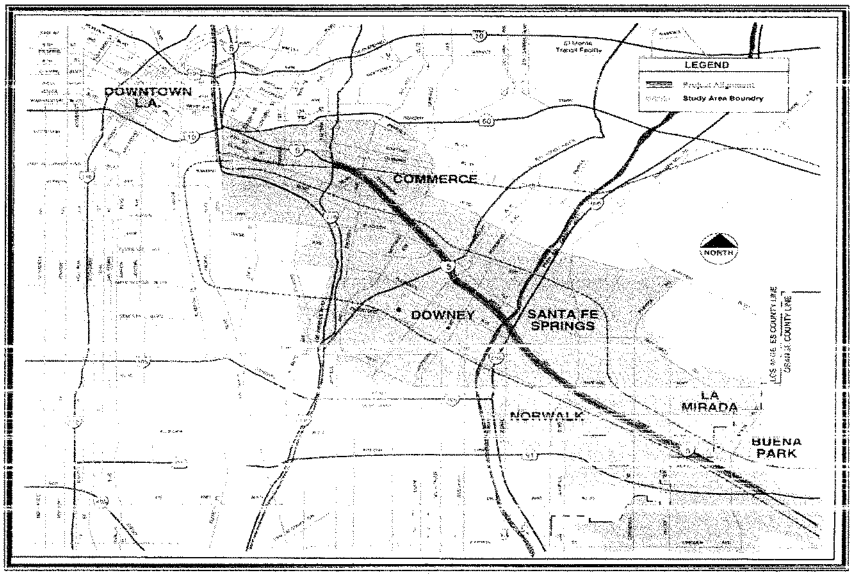
Continuing to fund the I-5 expansion, particularly from I-605 north to I-710, is in the nation's interest because of the continuity with I-5 to the south, where the highway has been widened or is fully funded to be widened. This segment will soon be complete, but serious congestion remains in the LA County portion represented by the cities of the I-5 JPA. I-5 is an interregional highway of national significance, included on the national defense highway system. Moreover, it is used for commercial goods movement, passenger/commuter traffic, connecting the U.S. with Mexico/Canada, and this segment also includes two major interchange to interchange connections (I-605/I-5 and I-710/I-5) which are also major goods movement corridors.

From the freight perspective, there are more than 25,000 trucks a day that use the I-5 freeway. Additionally, there are many warehouses and other businesses that service the freight movements and distribution from the Ports of Los Angeles and Long Beach along the Corridor.

Additionally, Interstate 5 is nearly complete through Orange County just south of the Los Angeles County border, and the improvement in traffic flow is dramatic. Caltrans is completing the final design and is in the process of acquiring the necessary property to construct the improvements south of I-605. The environmental document for the freeway between I-605 and the county line to the south was complete in 2007, and we have pushed for timely delivery of the design and property acquisition so that the Project can be built as soon as possible. Finally, with the new freeway design developed with the input of the I-5 JPA and the cities, there is no opposition to proceeding with these freeway improvements. We believe this consensus makes the I-5 a great candidate project for this new transportation initiative.

In conclusion, we hope that our testimony will complement that submitted by the Gateway Cities COG, as well as provide additional justification when considering the Transportation Reauthorization bill, which we hope will include funds for I-5.

We are thankful for the Committee's interest in this matter, and the time taken to come to Los Angeles, not only to hear testimony, but to possibly visualize and experience our highways and critical freight corridors. I know this will help you to better understand the issues at hand and challenges we face on a daily basis. Thank you.



Interstate 5 Consortium Cities Joint Powers Authority

Cities of Commerce, Downey, Santa Fe Springs, Norwalk, La Mirada and Buena Park, California

I-5 Freeway Corridor Status Report

February, 2009

Project Description –

1. Expand the I-5 freeway between the County line and I-605 freeway by adding 4 or 6 lanes to the existing 6 lanes and modernizing the freeway
2. Expand the I-5 freeway between the I-605 freeway to the I-710 freeway by adding 2 to 4 lanes to the existing 8 lanes and modernizing the freeway, including 1 car-pool lane in each direction
3. Improve local arterial highways and improve commuter rail service in the JPA area

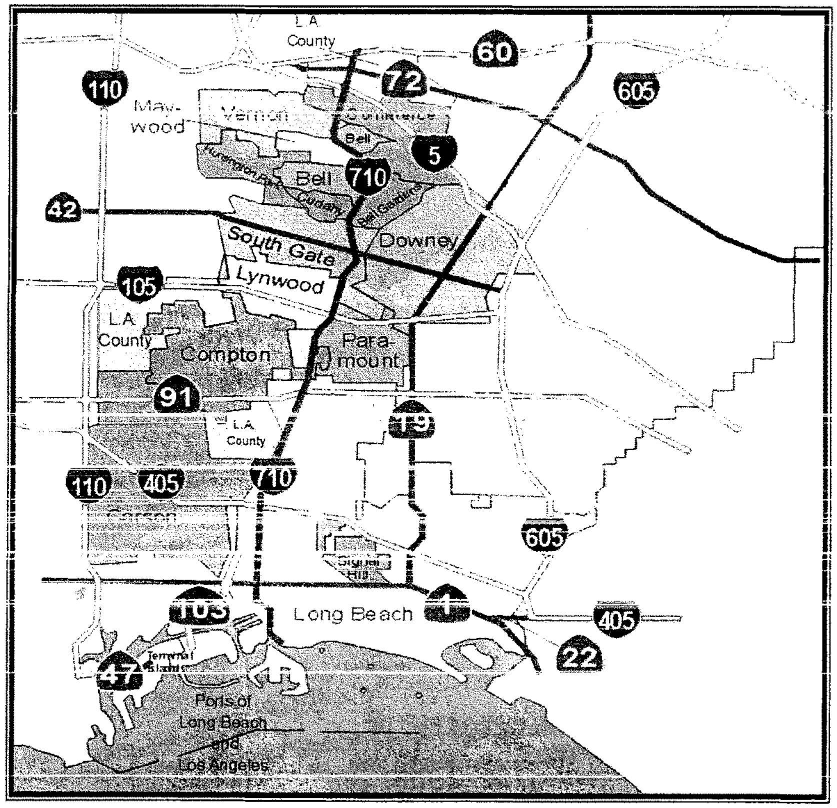
I-5 Freeway Status Report Summary
February, 2009

Projects:

Projects	Status:
I-5 North Orange County (Buena Park) (SR-91 to Artesia Blvd.)	Construction complete in '09
I-5/Carmenita Rd. Interchange	R/W Acquisition underway Construction starts '10
I-5 South (I-605 to County Line)	Funding Completed '07 R/W Acquisition starts '09 Construction starts (entire stretch) '10/'11
I-5 South EIR/EIS (I-605 to SR-91)	Certified Spring, '07
I-5 North EIR/EIS (I-605 to SR-60)	Began EIR '07
I-5/I-710 Alternatives Analysis Study	Completed
I-5/I-605 Interchange Study	Completed '08 (ongoing analysis continuing)

Other Major Accomplishments-I-5 Freeway

Value Engineering Workshop (I-605 to Artesia Blvd.)	Completed
Cooperative Agreements (All) (I-605 to Artesia Blvd.)	Completed
Established I-5 Steering Committee and Subcommittees and began meetings	Completed/Ongoing
Expanding Transit Services (Metrolink)	Ongoing



Cities of Long Beach, Signal Hill, Carson, Bell, Bell Gardens, Commerce, County of Los Angeles, Compton, Cudahy, Downey, Huntington Park, Lynwood, Paramount, Maywood, South Gate, Vernon

I-710 Freeway Corridor Status Report
February, 2009

Project Description (see attached map) – I-710

- Expand the I-710 freeway between the Ports (Ocean Blvd.) and SR-60 freeway to 10 general purpose lanes and modernize freeway.
- Add adjacent freight movement corridor next to freeway from ports (Ocean Blvd.) to rail yards in Commerce and Vernon.
- Improve local arterial highways.

2008

I-710 Major Corridor Study

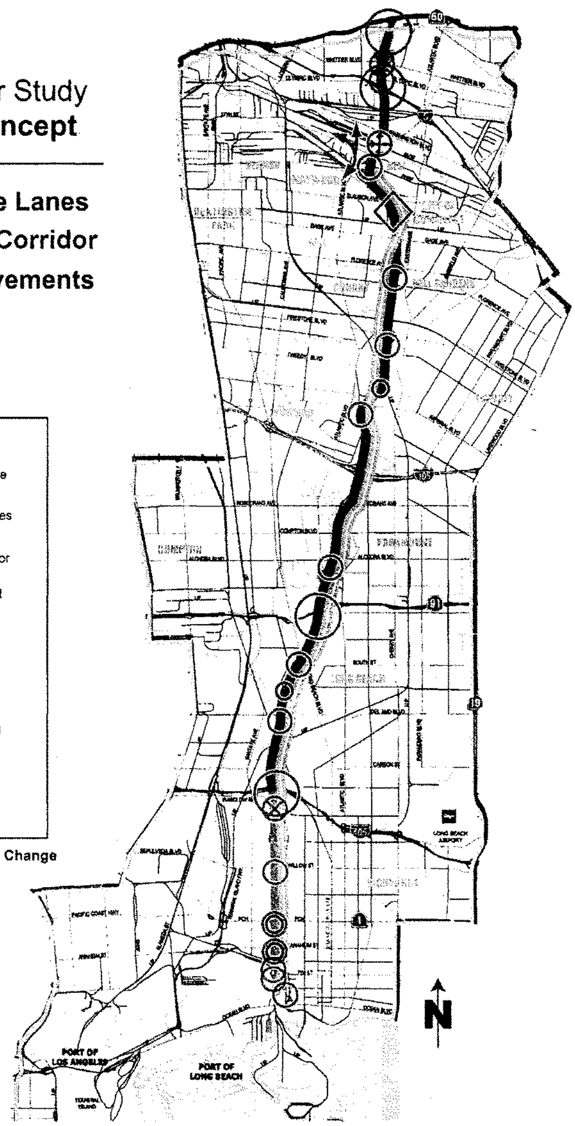
Hybrid Design Concept

- **10 General Purpose Lanes**
- **Freight Movement Corridor**
- **Interchange Improvements**

LEGEND

- Add One Mixed Flow Lane (Each Direction)
- Add Two Mixed Flow Lanes (Each Direction)
- Freight Movement Corridor
- Interchange Improvement
- New Interchange
- Eliminate Interchange
- Interchange to be studied to remain open
- Direct rail yard access
- Truck Ingress/Egress

Preliminary Concepts, Subject to Change



Source: Jerry Wood, Consultant, in association with MMA, Inc. and Nolan Consulting, Inc., April 2004, Updated April, 2006

I-710 CORRIDOR STATUS REPORT

PREPARED BY GATEWAY CITIES COUNCIL OF GOVERNMENTS

South East Los Angeles County, California

February, 2009

- Planning documents, preliminary engineering and environmental documents completed for Gerald Desmond Bridge – currently being revised and updated.

- The I-710 Major Corridor Study was completed and approved by the community groups, the city councils, the I-710 Oversight Policy Committee (OPC) and the Los Angeles County Metropolitan Transportation Authority (MTA) by the beginning of 2005.

- New governance structure developed for the I-710 Environmental Document oversight and management, including continuing community participation program. (see attached structure)

- Funding ($30M) secured for EIR/EIS – started Feb. '08.

- I-5/I-710 Interchange Alternatives Analysis Study completed and has been processed through and approved by two local community groups

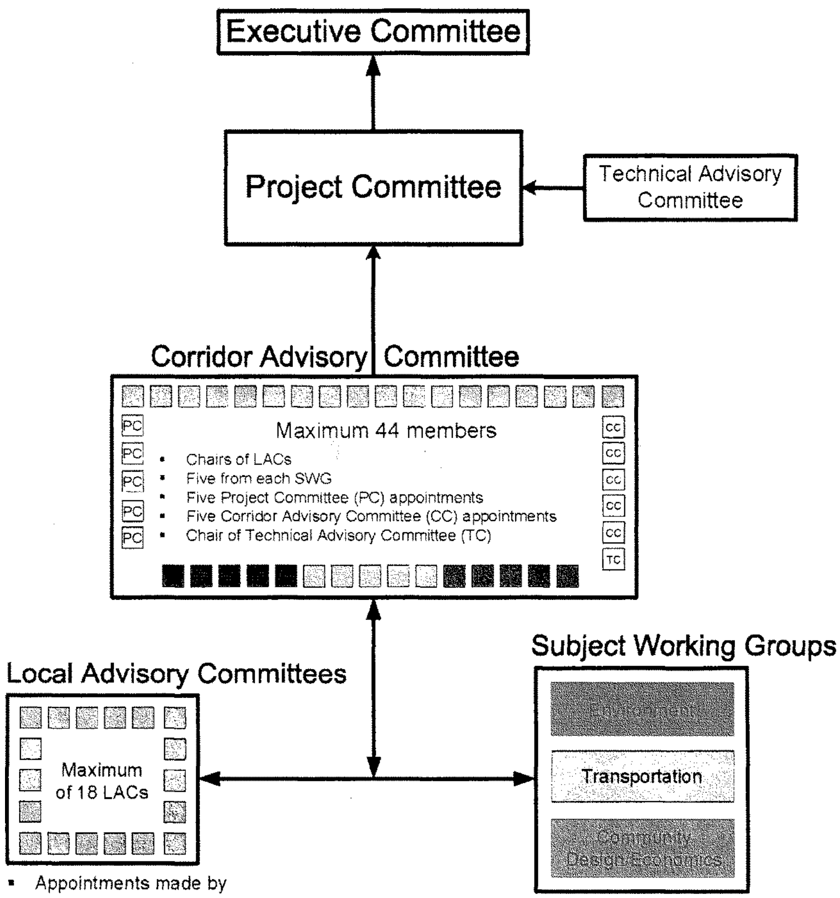
- Development of Air Quality Action Plan Framework completed in '07

- I-710 Freeway Near-Term Project funding secured to begin detailed studies at Shoemaker Bridge with I-710 Interchange at Anaheim St. and Pacific Coast Highway in the City of Long Beach.

- ITS Integration Plan for Goods Movement completed May '08

Community Participation Framework

for the I-710 EIR/EIS



- Appointments made by city councils/county supervisor
- LAC chairs serve on Corridor Advisory Committee

Each SWG includes:

- One rep from LACs
- One rep from TAC
- Maximum 10 appointments by PC
- Maximum 29 members per SWG

TRUCK INSPECTION FACILITIES
STATUS REPORT
PREPARED BY
GATEWAY CITIS COUNCIL OF GOVERNMENTS

South East Los Angeles County, California

February, 2009

STATUS

- Completed Florida State Department of Transportation facility inspection of the Florida state of the art "Weigh-in-Motion Facility"
- Developed concept for Commercial Vehicle Enforcement Strategies and obtained input and preliminary approval of CHP and Caltrans
- Prepared Commercial Vehicle Enforcement Strategies report (June, 2008)

PRIMARY OBJECTIVES

- Implement permanent truck inspection facilities on I-710 and I-405
- Implement automated truck inspection and enforcement system per the commercial vehicle enforcement strategy

NEXT STEPS

- Obtain local approval for sites for permanent truck inspection facilities
- Obtain changes to state law to allow for enforcement.
- Process Commercial Vehicle Enforcement Strategies report through Gateway Cities, Caltrans and CHP
- Secure funding for planning and design
- Secure funding for construction

GATEWAY CITIES COUNCIL OF GOVERNMENTS

AIR QUALITY ACTION PLAN
STATUS REPORT

February, 2009

HEALTH AND AIR QUALITY IN I-710 FREEWAY CORRIDOR

1. Number one I-710 Freeway Corridor issue is health and air quality
2. Environmental Justice priority
3. Many families are now 3rd and 4th generation asthmatic
4. Communities approved I-710 mainline improvements concepts contingent upon air quality was improvement prior to construction
5. Air Quality Improvement Programs have to be included as project implementation strategies

STATUS

- San Pedro Bay ports implementing Clean Air Action Plan for ports
- Beginning to replace 16,000 older trucks in 2009
- GCCOG prepared a Framework Development Plan for the Air Quality Action Plan for the I-710 Corridor (June, 2007)
- I-710 EIR/EIS that was initiated in February, 2008 includes an air quality ***and*** a health risk assessment for the project. This is the first health risk assessment for a California freeway.
- Railroads have completed studies (with CARB) for air quality improvements and strategies for railyards in Gateway Cities
- AQMD adopted numerous new regulations for air quality improvements
- GCCOG developed near-term air quality strategies lists

Intelligent Transportation System (ITS)
For Goods Movement - Status Report
February, 2009

Gateway Cities Council of Government (GCCOG)
Southeast Los Angeles County, California

ITS Mission Statement

To improve safety and mobility of people and goods on freeways and arterial highways; to enhance economic competitiveness; and to improve the quality of the environment of residents for today and in the future by using technology to address traffic congestion, roadway deficiencies, pavement degradation and traveler information by serving commuters, tourists and commercial vehicles.

NEEDS STATEMENT

In addition to 26 million people in the Southern California Basin, the congested freeways in South Los Angeles County will also have to deal with an estimated 100,000 trucks per day in the year 2030 to handle approximately 45% of the nation's cargo that enters the U.S. via the two ports.

STATUS

- Prepared ITS Strategic Plan
- Prepared ITS Research of other agencies ITS Programs
- Finished ITS Integration Plan for GCCOG area (August, 2008)
- Formed ITS Working Group
- Prepared approach for truck fleet modernization communication program Pilot demonstration project
- Prepared RFQ/RFP and scope of work to implement truck fleet modernization communication program pilot demonstration project
- Began development of ITS Implementation Plan

NEXT STEPS

- Begin preparation of ITS Implementation Plan
- Secure funding for ITS Implementation Plan
- Secure funding for initial ITS Projects
- Continue ITS Working Group
- Implement truck fleet modernization communication program pilot demonstration project

Written Testimony of the Transportation for America Coalition

Respectfully submitted to members of the House Subcommittee on Highways and Transit and the House Subcommittee on Railroads, Pipelines, and Hazardous Materials

Joint Field Hearing Confronting Freight Challenges in Southern California

February 20, 2009

The members of the Transportation for America Coalition would like to thank the Committee on Transportation and Infrastructure for holding this joint hearing on the freight challenges currently facing Southern California. Functional, safe, and efficient transportation systems are one of the cornerstones upon which this country was built. America's economic strength and the health of its citizens depend on our ability to connect people with opportunity and on our ability to move products to market quickly, safely, and efficiently.

The transportation challenges Southern California faces illustrate the broader goals we face as a nation regarding efficient goods movement, regional air quality control, and sustained economic competitiveness. At the same time, the leadership and cooperative spirit shown through various planning initiatives in the region demonstrate the extent of the opportunities that exist nationwide to create a 21st century transportation system that enhances economic opportunity for all, creates jobs, and elevates our position in a competitive global economy.

Growing Freight Demand

Over the last few decades, the development of globalized, trade-dependent supply chains has led to substantial growth in the demand for efficient, long-distance freight movement. The U.S. transportation system moved, on average, 53 million tons of freight worth $36 billion each day in 2002; a figure which is expected to grow to 102 million tons by 2035.[i] At the same time, our national investment in the efficiency and capacity of our freight infrastructure has remained uncoordinated and lagged behind the national demand. Between 1980 and 2006, road infrastructure capacity increased 4.5% while railroad route miles actually decreased 23.6%.[ii]

Congestion in the goods movement system is forecast to spread from larger urban areas and a few intercity routes to large stretches of intercity highways in both urban and rural areas. Without operational improvements or shifts to other modes between now and 2035, recurring peak-period congestion is forecast to slow traffic on 20,000 miles of the highway system and create stop-and-go conditions on an additional 45,000 miles.[iii] Congestion on the mainline railroad network is also forecast to spread significantly, without additional investment. By 2035 thirty percent of the rail network, or 16,000 miles, will experience unstable flows and service break-down conditions.[iv]

Without immediate investments in the national freight infrastructure, regions like Southern California will soon be burdened with a freight transportation system that is outmoded, over-capacity, dependent on imported petroleum, and incapable of efficiently linking the US national economy into the global economy. To ensure federal leadership in shaping future transportation investments, members of the Transportation for America Coalition have proposed establishing a National Infrastructure Commission, which would be tasked with identifying transportation investments of national priority. Among other things, this body would focus on multimodal intercity corridors of national significance, including a national intercity rail network and key freight corridors co-located where possible with electricity infrastructure.

Strategic interstate design and intelligent transportation technologies have been underutilized in addressing chokepoints in key freight corridors. Freight should be given increased priority in regional planning efforts and the future management of transportation corridors. Recognizing the need for a regional approach, the Southern California Association of Governments jointly funded, and approved, a comprehensive goods movement analysis looking at the Southern California trade corridor impacts and benefits. Similar planning efforts should be undertaken across the country, particularly in regions where energy efficient modes of freight, such as rail and barge, have traditionally received less attention and funding in the federal transportation program highway capacity expansion. Freight planning should be incorporated into regional transportation plans that are then evaluated against a set of national transportation objectives such as reduced energy use and greenhouse gas emissions, improved access, mobility and safety. Including public health assessments as part of the National Environmental Protection Act (NEPA) review of major proposed transportation investments should also be required.

Transportation for America applauds the Port of Los Angeles and the Port of Long Beach for their efforts to use rail as the primary means of increasing goods movement through the region in a sustainable, efficient manner. New measures such as the Alameda Corridor-East (ACE) Project will soon begin to ease freight congestion (as well as improve safety), but additional support at the federal level will be required. Only 20 of the 54 grade crossings in the ACE Project will be separated, slowing movement of both trains and trucks, due to insufficient funding for the project.[v] In the near future, this underinvestment in freight infrastructure will increase rail congestion and hamper regional growth.

Energy and the Environment

As was witnessed during the record energy price spikes last summer, the freight industry is one of the first sectors of the economy to be affected by volatile energy prices, with price fluctuations posing ramifications for the cost of all retail products and the US economy. Further, the U.S. independent trucking industry is currently in decline due to the effects of higher fuel costs on small truckers and their inability to charge higher prices in a weak economy.

To address these energy concerns and mitigate against an increasingly uncertain energy future, urgent freight transportation investments are required. At the federal level, these efforts must include new national incentives to create efficient connections from ports and distribution centers to national freight corridors, including state-of-the-art intermodal facilities to transfer freight between rail and truck, expanded cross-country rail freight mainlines, and improvements in the condition of short line railroad track. Railroads provide an essential alternative to less efficient, oil-dependent, heavy-duty trucks. Railroads are, on average, three or more times more fuel-efficient than trucks and have a smaller carbon footprint. Every ton-mile of freight moved by rail instead of truck reduced GHG emissions by two-thirds or more.[vi]

In addition to addressing the goods movement industry's dependence on petroleum products, regions like Southern California must also confront the environmental issues associated with freight networks that damage air quality. The movement of goods in California is responsible for 30% of smog-forming nitrogen oxides and 75% of the total diesel PM emissions. Trucks are by far the biggest contributor to this diesel pollution, contributing two-thirds of the diesel Particulate Matter (PM).[vii]

Ports, in particular, play a significant role in Southern California and the recently adopted San Pedro Bay Ports Clean Air Action Plan is a national model for reducing polluting air emissions at the Port of Los Angeles and the Port of Long Beach. In five years under the Plan, diesel PM from all port-related sources would be reduced by a total of 1,200 tons per year. NOx emissions would be reduced by 12,000 tons per year. SOx emissions would be reduced by 8,900 tons a year. Transportation for America supports this initiative, as well as similar 'greening' efforts by ports and marine terminals around the nation.

Reducing emissions while keeping our economy moving requires a transportation system that provides a variety of fast, cost-effective options for the movement of goods. We need a national freight policy that simultaneously addresses the energy security and environmental impacts of freight traffic and facilities to target federal investments where they are the most efficient and effective. Port infrastructure improvements, such as mechanisms for reducing pollution from ships, trucks, trains, cargo-handling equipment, and harbor craft and increasing the efficiency of shifts between marine, truck, and rail modes, not only benefit the economy but the climate the environment as well.

Environmental Justice

Our reliance on a single petroleum-based mode of transportation has disproportionately damaged low-income and minority communities across the country. Pollution from the freight transportation sector is concentrated around the ports, highways, rail yards, railroad tracks, warehouses, and distribution centers. Historically, these facilities have been located in low-income and minority communities and these residents and workers are the most likely to experience related health impacts.

Transportation for America believes targeted investments in a national green freight system, including ports, railroads, interstate highways, and inland waterways, provide an opportunity to improve the efficiency of goods movement while addressing historical environmental justice issues and expanding economic opportunity for all.
Highways, freight facilities, and other transportation investments have disproportionately benefited some and burdened others, often with little community input into the decision-making process. Indeed, many transportation projects and plans are still developed without meaningful involvement from those within the affected communities, leading to

projects that detract from quality of life, public health, safety, and personal mobility. This is more than an equity issue. Our nation has an interest in opening the doors of opportunity wide to all people.

The construction, maintenance, and operation of transportation services and facilities comprise a large and growing component of the American economy. While the federal transportation program has been seen, in part, as a jobs bill, there has been little or no strategic thinking about creating sustainable jobs that reflect modern energy efficiency and climate change realities. Creating good, green jobs in our nation's freight distribution centers that benefit the families living in surrounding areas should be a key component of any freight improvement plans.

The regional economic benefits of the freight movement system include trade and logistics transactions, business taxes and revenues, and job creation. These economic benefits must be available equally among residents and workers of our freight system. To compete effectively in a global economy, the nation must renew our commitment to egalitarian access to the benefits of a national transportation program.

Conclusion

The challenge of freight movement in the United States is a critical national issue that requires forward-thinking, innovative national policy. To that end, we hope the House Transportation and Infrastructure Committee, the full Congress, and new Administration can continue to demonstrate leadership by making strong, strategic investment to support congestion relief initiatives, green ports research and development, and continued rail construction and management.

Transportation for America is made up of a growing and diverse coalition of organizations from a variety of disciplines, from real estate developers to environmental and public health groups. We are focused on creating a national transportation program that will take America into the 21st Century by modernizing our infrastructure and building healthy communities where all people can live, work and play. To that end, we are proposing a national platform of transportation reform that seeks to ensure all Americans have ample and affordable options for living and commuting. More information about the Coalition may be found at www.t4america.org

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[i] U.S. Department of Transportation, Federal Highway Administration, Office of Freight Management and Operations, Freight Analysis Framework, version 2.2, 2007.

[ii] U.S. Department of Transportation, Federal Highway Administration, Office of Freight Management and Operations, Freight Facts and Figures 2008. Table 3-1. Miles of Infrastructure by Transportation Mode: 1980- 2006.

[iii] Ibid.

[iv] Association of American Railroads, National Rail Infrastructure Capacity and Investment Study prepared by Cambridge Systematics, Inc. (Washington, DC: September 2007), figure 4.4, page 4-10.

[v] Alameda Corridor-East Construction Authority. www.theaceproject.org/

[vi] U.S. EPA. Inventory of US Greenhouse Gas Emissions and Sinks: 1990- 2006.

[vii] California Air Resources Board, 2006. "Emissions Reduction Plan for Ports and Goods Movement in California." April 20, 2006. Figure II-2, p.15 and Table 1, P.ES-3.

TESTIMONY of

THE WATERFRONT COALITION

Before

THE HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE FIELD HEARING

In

LOS ANGELES, CA

FEBRUARY 20, 2009

On behalf of the Waterfront Coalition (TWC) I submit these comments to the House Transportation and Infrastructure Committee for its hearing on goods movement through the ports of Los Angeles and Long Beach.

By way of background, the Waterfront Coalition represents manufacturers, retailers, exporters, agricultural producers as well as transportation providers moving freight through America's blue water ports and along the nation's freight infrastructure network. Our members move an impressive amount of cargo through Southern California and are dedicated to making sure that the twin ports as well as the region's system of roads, highways, bridges, tunnels and rails are able to efficiently facilitate the movement of freight in an environmentally responsible manner.

I would like to thank the Committee for holding this hearing concerning goods movement through the ports of Los Angeles and Long Beach. Efficient goods movement through the twin ports and the region is vital to our members' supply chains and the nation's economy. Despite the current business climate and its impact on cargo volumes moving through the ports and the region, in the medium and long term, volume growth will return. When it does, the ability of the region's freight network will remain inadequate to handle freight volumes. The resulting congestion will lead to supply chain delays that result in empty shelves for retailers and lost sales for manufacturers and exporters reaching markets overseas. These supply chain costs harm future employment growth here in the U.S. and the competitiveness of our exporters overseas.

The Waterfront Coalition believes there is a way forward out of this capacity crisis. The ports of San Pedro Bay together comprise one of the nation's premier – if not the premiere – intermodal freight gateways. Their marine terminals deliver products across the country and overseas. Since southern California's twin ports are one of the largest containerized international cargo facilities, their capacity needs suggest the development of a national strategy to address freight mobility infrastructure needs. However, building your way out of the crisis will not solve these problems. Industry must also identify business practice changes to make better use of infrastructure provided. Finally, many of our members are also committed to ensuring that the future goods movement industry in the region as well as across the country operates in an environmentally responsible manner by deploying equipment that significantly reduces particulate matter and greenhouse gas emissions.

1. National Freight Policy

It is the view of the Waterfront Coalition that understanding the region's goods movement infrastructure needs must be viewed as part of a national strategy to address freight mobility. A significant share of the nation's international cargo traffic transits through the region with benefits accruing to both the Los Angeles region and the entire country. Also, congestion delays well outside of southern California trickle through the network to impact goods movement through the region. For example, rail congestion in important interchanges such as Chicago result in rail delays for cargo moving in and out of southern California's rail yards and marine terminals. For these reasons a national approach to goods movement infrastructure planning remains the most effective means for addressing the region's goods movement infrastructure needs.

Defining the components of a national freight program is no easy task but is clearly needed to meet the goods movement needs of southern California and the needs of other regions. Any national freight program must, above all, include a rational procedure for identifying and ranking the most worthy freight projects around the country. Too often funds originally intended to meet freight infrastructure needs are allocated to projects with little, if any, impact on the movement of commerce. For this reason, the Waterfront Coalition supports the final rule for the Projects of National and Regional Significance that was finalized this past November by the Department of Transportation. The final rule outlines the criteria by which freight projects may be eligible for federal funding including a demonstration of congestion relief and national economic benefits. The rule also calls on the Secretary of the Department of Transportation to rank eligible projects in terms of those most critical to the economy. This is just one example of a rational approach to defining a national freight policy.

Adequately funding these projects will prove even more difficult. Transportation infrastructure needs are increasing at the same time as Highway Trust Fund deposits are diminishing. Already, we are seeing transfers from the general revenue into the Highway Trust Fund just to keep the Fund solvent. Clearly, we need to identify a quick and lasting funding solution. In order to meet current needs to address freight mobility, we propose an increase in the federal diesel tax paid by motor carriers with the increase from the current rate going into a special account to fund the national freight program. An increase in the diesel tax paid by motor carriers is not controversial and has been supported by the American Trucking Associations. This special account is necessary to prevent the transfer of funds paid by motor carriers to fund other transportation initiatives beyond the scope of moving freight.

We fully recognize that, within a decade, new technologies will come on line that will significantly reduce or eliminate diesel as an energy source used by truckers. As a near to long term funding solution, we support the concept of a user fee to help generate additional revenues, along with the increase in the diesel tax, deposited into the special freight account. However, establishing a truly equitable and workable user fee that may be applied fairly to each and every user of freight infrastructure identified as a part of the national freight program is no easy task. Container fees, manifest fees and vehicle miles traveled fees are all concepts that have been proposed as a way forward. However, such fees either unfairly burden only one segment of all freight users while giving many others a free ride. In other instances the administrative costs of managing the system remain quite high. Included in an appendix to this testimony is a digest of the many problems associated with existing federal freight user fee proposals.

As a way forward, we encourage your Committee to consider establishing a technical working group within the Office of the Secretary of Transportation to investigate a truly workable framework for a freight user fee and how to establish and administer such a fee.

2. Efficient use of Existing Infrastructure
We cannot solely build ourselves out of this freight capacity crisis. Shippers and transportation providers must make needed business practice changes to make efficient use of freight infrastructure. The Waterfront Coalition was formed to bring about these very changes to the way the industry uses infrastructure, specifically infrastructure in the maritime transportation system. Here in southern California we were instrumental in working with truckers, shippers and marine terminals to establish a program in 2005 to extend the hours of truck gate operations beyond normal 9 am to 5 pm operations. This program, known as PierPass, has successfully moved roughly forty percent of port truck traffic to non-traditional hours when trucks do not compete with commuters along southern California's road and highways. The program allows truckers to earn more money by performing more trips and reduces congestion delays for shippers allowing many businesses to make on-time delivery guarantees. Still yet, the program alleviates traffic congestion for commuters and truckers while significantly reducing idle related emissions.

Needless to say, the PierPass program is very popular among port customers and local communities. Despite the success of the program, an effort is underway by marine terminal operators in southern California to cut back the program by eliminating truck gate hours to only a few nights a week owing to weak cargo volumes. According to the plan, marine terminals operators are scheduled to eliminate the Saturday gate operation that has proven to be the most popular and effective extended hour among shippers and truckers. Such a move would only add to congestion by forcing trucks and cars to use the infrastructure during commuting hours and increase supply chain costs to our members moving truck borne freight through the region. In our view, current economic conditions should not be a reason to increase traffic congestion.

3. Clean Trucking
We have also been highly supportive of efforts to reduce harbor truck emissions in California. Our members understand the need to invest in equipment and technologies that reduce particulate matter and greenhouse gas emissions from harbor trucks. In California, we supported the California Air Resources Board standard on trucks that includes a rolling ban on older dirtier trucks. The ban is designed, over time, to encourage drayage providers to identify the most efficient investment decision to reduce emissions without harming many small businesses and independent drivers involved in moving much of the nation's commerce.

In addition to endorsing the state truck standard, the Waterfront Coalition also called for a policy to bring trucks serving the ports of Los Angeles and Long Beach into compliance quickly. Specifically, we supported a fee imposed on motor carriers that operated equipment that did not meet the 2007 U.S. EPA emission standard for trucks. The fee would increase based on the model year of equipment and was designed to encourage truckers to meet the new rule and do so quickly.

Unfortunately, the port of Long Beach adopted a fee structure that discourages the use of efficient, clean burning equipment after October 1, 2008. This provision will penalize shippers and license motor carriers who want to comply with the Port's drayage emissions standards by but have not been able to due so for a variety of market related issues and/or from the uncertainties around the program itself. By granting full exemption from the Clean Truck Fee after October 1, 2008, for privately funded, emission compliant trucks, the Port will give shippers and license motor carriers the financial incentive to continue their effort to purchase or support the purchase of emission compliant trucks for their drayage business.

The Waterfront Coalition is dedicated to promote a fleet of "green" harbor trucks in other major ports located in non attainment areas. Much like California, we support the adoption of statewide standards on trucks based on the model year of the equipment. This policy allows drayage providers to identify the most efficient investment decision to comply with the rule. We also encourage decision makers in these other ports not to include provisions that regulate the composition and size of the drayage market. These provisions do nothing to directly reduce truck emissions, while forcing out of the industry many hardworking small business owners.

I appreciate the opportunity to provide these comments and our vision of a national freight policy. If you have any questions or comments I may be reached at (202) 861-0825.

Sincerely,

Robin Lanier
Executive Director

APPENDIX: The Shortfalls of Existing User Fee Proposals
As previously stated, we encourage your Committee to consider establishing a technical working group within the Office of the Secretary of Transportation to investigate a truly workable framework for a freight user fee and how to establish and administer such a fee.

The following appendix outlines shortfalls with existing fee proposals:

1. Customs Duty and Customs Fee Set-Asides: First, a user fee defined as such does not include all users of the freight system. The fee would only fall on importers that pay duty and Customs fees. Domestic freight, exporters, and importers that have duty-free access would not contribute. Also, over half of all import tariff revenue is collected from low cost footwear and apparel. In our view, these taxes are highly regressive and the consumers of these products alone should not pay for freight infrastructure.

Second, it has been the stated policy of the United States since the inception of the General Agreement on Trade and Tariffs to gradually eliminate trade tariffs. In our view, it would be a misguided policy to rely on a declining source of revenue to meet the growing need for freight mobility infrastructure.

2. Fee on Declared Import and Export Value. Once again, a fee imposed on the value of international commerce to fund national freight infrastructure would exclude domestic freight shippers that use the network. Also, the value of goods is not indicative of the cost borne to transportation infrastructure for its use.

The American Association of State Highway and Transportation Officials (AASHTO) recently endorsed a freight funding policy calling for a $10 billion annual freight program. Undefined freight user fees would fund seventy percent of the program, or $7 billion annually. According to our estimates, a fee on the value of all imports and exports to pay for $7 billion per year in freight fees would represent a tax of about .2%. This represents a considerable burden to those importers that currently do not pay import tariffs and cargo owners moving low-margin exports. Similar fees levied on exporters, such as the Harbor Maintenance Tax, have been deemed unconstitutional by the Supreme Court. Given legal issues surrounding such a fee on exports, this tax increases once it is only applied only to imports.

3. Container Fee. Once again, a user fee defined as such would not include all users of the system. The fee would force a very small segment of road users to fund national transportation infrastructure. It is our understanding that international freight represents roughly 10% of the 20 billion tons of freight moved along the U.S. transportation network. Maritime freight represents only 5% of the 20 billion tons each year after excluding air cargo, cross-border truck cargo, and pipelines. The percentage of containerized trade is even smaller after excluding bulk, breakbulk, and other non-containerized maritime cargoes. Relying on a very small segment of total shipments moved along the U.S. transportation system to fund freight infrastructure is not only

unfair but also an unwise source of revenue.

A container fee to raise $7 billion each year, as called for in the AASHTO proposal, would be quite large. According to the U.S. Department of Transportation, the U.S. imported and exported about 14.5 million containers (FEUs). Only a container fee on the magnitude of almost $500 would generate this revenue. This number is truly striking when you consider that the spot market price of moving a container from Asia to the U.S. West Coast is about $1500. A $500 container fee could very well put many companies out of business with a disastrous impact on U.S. global competitiveness.

4. Manifest or Waybill Fee. This concept has the potential to capture the most freight truck users. Given the complexities and variety of contracts for carriage, we believe a better definition would be an "origination fee" that does not single out one shipping document. While the origination fee concept is promising, there are many daunting challenges in establishing a fee collection and payment mechanism that may take many years to create. Consider the following transactions:

- **Trucking Contracts using Electronic Transactions.** Assessing an "origination fee" on many domestic moves involving consumer products could be complicated by the fact many moves are originated by an electronic interchange that does not involve any shipping document. Often retailers and product suppliers communicate by way of electronic transmission of inventory control data. Shared logistics software then notifies a contracted trucking company to move product to a retailer's store or consolidation center. This electronic interchange does not generate any shipping document and the information shared between motor carrier, product supplier and retailer is proprietary. It would be quite difficult for an agency of the government to tap into this electronic interchange for the purpose of collecting a fee. It is even more difficult to determine which entity in this transaction remains the party responsible for paying and collecting the fee.

- **Fees on International Transactions.** Assessing an origination fee on trucking moves involving international cargo could also be quite complicated. Frequently cargo owners contract with ocean carriers, brokers or other logistics providers to manage the entire supply chain from point of foreign manufacture to the store or warehouse in the U.S. The logistics provider or broker, as opposed to the beneficial cargo owner, is often considered the shipper of record on these "store door" transactions. As such, the shipper of record would be the entity contracting for trucking services and not necessarily the beneficial cargo owner.

- **Fees on Internal Trucking or the Use of Private Fleets.** Assessing the fee on internal trucking moves would be quite difficult given the fact that a shipping document or purchase order is not generated. Private fleets or internal trucking accounts for almost half of all trucking moves in the U.S. and should not be exempt from the fee.